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STATUTORY INSTRUMENTS

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**2022 No. 117**

**The Plastic Packaging Tax (General) Regulations 2022**

**PART 3**

**Deferrals and credits**

**CHAPTER 1**

**Plastic packaging components intended for export**

**Cancellation of liability**

**9.** For the purposes of section 51(1)(b) of the Act, a person must have sufficient evidence of—

- (a) the fact that the component has been exported;
- (b) the weight of the component that has been exported; and
- (c) the day on which it was exported, and

keep a record in writing of that evidence.

**Direct export condition: further conditions**

**10.** The further conditions specified for the purposes of section 51(2)(c) of the Act are that the person—

- (a) before or at the time of production or importation, holds sufficient evidence that they intend to export a chargeable plastic packaging component; and
- (b) keeps a record in writing of that evidence.

**Meaning of sufficient evidence**

**11.** The Commissioners must prescribe what constitutes “sufficient evidence” for the purposes of this Chapter.

**CHAPTER 2**

**Tax credits**

**Interpretation**

**12.** In this Chapter—

- “case 1” refers to the case in section 53(1)(a) of the Act (tax credits)(1);
- “case 2” refers to the case in section 53(1)(b) of the Act(2);
- “liable person” means—

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(1) Section 53(1)(a) of the Act relates to a component that is exported from the United Kingdom.

(2) Section 53(1)(b) of the Act relates to a component that is converted into a different packaging component.

- (a) a person who is registered under section 56 of the Act (notification of liability and registration) at the time that case 1 or case 2 applies to a chargeable plastic packaging component; or
- (b) any other person, where the Commissioners are satisfied that that person is entitled to a tax credit under section 53 of the Act.

**Tax credits: meaning of sufficient evidence**

13. The Commissioners must prescribe what constitutes “sufficient evidence” for the purposes of this Chapter.

**Entitlement to tax credit**

14. Where case 1 or 2 applies in respect of a chargeable plastic packaging component and the direct export condition<sup>(3)</sup> is not met in respect of that component, a liable person is entitled to a tax credit if that person—

- (a) is liable to pay plastic packaging tax in respect of the chargeable plastic packaging component;
- (b) has sufficient evidence that case 1 or 2 applies and they have kept a record of that evidence;
- (c) makes a claim for a tax credit in accordance with regulation 15; and
- (d) where case 2 applies, a person is liable to pay plastic packaging tax in respect of the different packaging component.

**Claim for a tax credit: conditions, form etc.**

15.—(1) A claim for tax credit must—

- (a) be made by a liable person;
- (b) be included in the return for the accounting period in which a liable person first has sufficient evidence that case 1 or 2 applies to a chargeable plastic packaging component; and
- (c) comply with such other requirements as to its form and manner as the Commissioners may prescribe.

(2) For the purposes of paragraph (1), the liable person may, in the return, deduct the credit amount from the amount of plastic packaging tax otherwise payable by them in respect of an accounting period.

(3) No claim may be made for a tax credit in respect of a chargeable plastic packaging component after the end of the period of 2 years beginning with the day on which the charge to tax arose in respect of that component.

**Records for tax credit claims**

16.—(1) A liable person who makes a claim for a tax credit must keep evidence of the following matters in respect of the claim—

- (a) the total of the credit amounts for cases 1 and 2, shown separately;
- (b) their grounds for claiming that case 1 or case 2 applies to the chargeable plastic packaging component;

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(3) The “direct export condition” has the meaning given by section 51(2) of the Act. Regulation 10 of these regulations sets out the further conditions specified under section 51(2)(c) of the Act.

- (c) the accounting period in which they first have sufficient evidence that case 1 or 2 applies to the chargeable plastic packaging component;
- (d) where plastic packaging tax has been paid on the chargeable plastic packaging component in respect of which the tax credit claim is made, evidence of the amount, date and manner of that payment;
- (e) where case 2 applies, evidence as to whether a charge to plastic packaging tax has arisen in relation to the different plastic packaging component; and
- (f) such other information as the Commissioners may prescribe.

(2) A liable person must keep such records for a period of 6 years beginning with the day that the tax credit claim is made.

### **Payment of tax credit claims**

**17.**—(1) Where the tax credit claimed by a liable person exceeds the amount of plastic packaging tax due from them for an accounting period, the Commissioners must repay the excess to the liable person.

- (2) The Commissioners are not liable to make any repayment under paragraph (1)—
  - (a) if any return the liable person is required to make has not been made;
  - (b) to the extent that a tax credit has previously been claimed in respect of the chargeable plastic packaging component to which the repayment relates.

### **Repayment of tax credits**

**18.**—(1) Where a person has benefitted from a tax credit (whether or not payment has been made under regulation 17) to which they were not entitled, or to which they have ceased to be entitled, that person must repay the amount to the Commissioners.

(2) The amount due to be repaid by a person under paragraph (1) is to be recoverable on the basis that is an amount of plastic packaging tax due from them, payable on the day on which the person first benefitted from the tax credit.

### **Cessation of business etc.**

**19.**—(1) Where a liable person is no longer liable to pay plastic packaging tax as a result of becoming a member of a group<sup>(4)</sup> under section 71 of the Act (groups of companies)—

- (a) that person remains entitled under this Chapter to tax credits in respect of plastic packaging tax charged on chargeable plastic packaging components in relation to accounting periods that began before the day on which they cease to be liable; and
- (b) the representative member of the group is not so entitled.

(2) The Commissioners may prescribe the form and manner in which, and the conditions on which, tax credits may be claimed by a person who—

- (a) has ceased to carry on business; or
- (b) is no longer liable to pay plastic packaging tax, including under paragraph (1)(a),

where they have ceased to be registered.

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(4) “Group” and “representative member of a group” have the meaning given by section 71 of, and Schedule 13 to, the Act.