
STATUTORY INSTRUMENTS

2022 No. 117

The Plastic Packaging Tax (General) Regulations 2022

PART 7

CHAPTER 1

Secondary liability and assessment notices

Interpretation

46. In this Part, “Schedule 9” means Schedule 9 to the Act (plastic packaging tax: secondary liability and assessment notices and joint and several liability notices).

Secondary liability and assessment notices: factors that may be taken into account

47.—(1) This regulation applies for the purposes of determining the factors the Commissioners may take into account in considering whether to give a secondary liability and assessment notice to R(1) under paragraph 2(1) of Schedule 9.

(2) The Commissioners may take into account—

- (a) the relationship between R and P, including—
 - (i) whether R and P are connected persons within the meaning of section 1122 of the Corporation Tax Act 2010(2);
 - (ii) whether R and P have any contractual or commercial relationship;
- (b) whether R has conducted sufficient due diligence in order to make themselves aware of P’s compliance with any requirement relating to plastic packaging tax, including whether R has—
 - (i) required any information or evidence from P;
 - (ii) kept any information or evidence which relates to P;
 - (iii) assessed the reliability or veracity of the information or evidence under sub-paragraphs (i) or (ii) with reasonable care;
 - (iv) included any contractual terms in relation to ensuring the payment of plastic packaging tax in their commercial agreements with P;
- (c) the circumstances of the production, importation, transportation, storage or supply of, or R’s dealing with, a chargeable plastic packaging component, including—
 - (i) R’s reasons for having possession or control of the chargeable plastic packaging component;
 - (ii) R’s conduct, including any refusal by R to disclose to the Commissioners the intended use of the chargeable plastic packaging component;

(1) In this Chapter, “P” and “R” have the meaning given in paragraph 1 of Schedule 9 to the Act.

(2) 2010 c. 4.

- (iii) R's intended use of the chargeable plastic packaging component;
 - (iv) the content of any document or other information relating to the chargeable plastic packaging component;
 - (v) the extent of R's knowledge about P failing to pay plastic packaging tax;
 - (vi) the use or condition of the chargeable plastic packaging component, including any change to that use or condition;
 - (vii) the use or condition of any goods contained, handled, delivered or presented in or by the chargeable packaging component;
 - (viii) the number of chargeable plastic packaging components produced, imported, transported, stored, supplied or otherwise dealt with;
 - (ix) the open market price of the chargeable packaging component at the time that R deals with it;
 - (x) the open market price of the goods contained, handled, delivered or presented in or by the chargeable packaging component at the time that they are first contained, handled, delivered or presented in or by that component; and
- (d) any other circumstance that appears to the Commissioners to be relevant.
- (3) The Commissioners may prescribe for the purposes of paragraph (2)(b) the factors they may take into account in considering whether due diligence checks carried out by R are sufficient.

Secondary liability and assessment notices: applications to revoke or reduce amount

48.—(1) An application under paragraph 5(1) of Schedule 9 by R must be made in writing in the form and manner prescribed by the Commissioners and contain the information in paragraph (2).

(2) The information that must be supplied by R under paragraph (1) is—

- (a) an explanation of why the revocation or reduction is appropriate;
- (b) for an application under paragraph 5(1)(a) of Schedule 9, an explanation of how R has taken all reasonable steps to establish that P had paid or intended to pay all the plastic packaging tax which P was liable to pay at the relevant time;
- (c) for an application under paragraph 5(1)(b) of Schedule 9—
 - (i) a calculation of the reduced amount that R claims it would be just and reasonable for R to pay; and
 - (ii) an explanation of why the reduced amount is just and reasonable.

(3) The steps taken by R which are to be regarded as reasonable for the purposes of paragraph 5(1)(a) of Schedule 9 may include such further steps as the Commissioners may prescribe.

(4) An officer of HMRC may by notice in writing require P or R—

- (a) to provide information; or
- (b) to produce a document,

if the information or document is reasonably required by the Commissioners for the purposes of determining whether a revocation or reduction of a secondary liability and assessment notice is appropriate.

CHAPTER 2

Joint and several liability notices

Joint and several liability notices: factors that may be taken into account

49.—(1) This regulation applies for the purposes of determining the factors the Commissioners may take into account in considering whether to give a joint and several liability notice to R(3) under paragraph 10(1) of Schedule 9.

- (2) The Commissioners may take into account—
- (a) what business R carries out, including whether R is involved in transporting, storing or otherwise dealing with a chargeable plastic packaging component;
 - (b) the relationship between R and P, including—
 - (i) whether R and P are connected persons within the meaning of section 1122 of the Corporation Tax Act 2010;
 - (ii) whether R and P have any contractual or commercial relationship;
 - (c) the circumstances of the production, importation, transportation, storage, supply of, or R's dealing with, a chargeable plastic packaging component, including—
 - (i) R's reasons for having possession or control of the chargeable plastic packaging component, including transporting, storing or otherwise dealing with the component;
 - (ii) R's knowledge of P's lack of intention to pay plastic packaging tax;
 - (iii) R's conduct, including any refusal by R to disclose to the Commissioners the intended use of the chargeable plastic packaging component;
 - (iv) R's intended use of the chargeable plastic packaging component;
 - (v) the content of any document or other information R has kept relating to the chargeable plastic packaging component;
 - (vi) the use or condition of the chargeable plastic packaging component, including any change to that use or condition;
 - (vii) the use or condition of any goods contained, handled, delivered or presented in or by the chargeable packaging component;
 - (viii) the number of chargeable plastic packaging components produced, imported, transported, stored, supplied or otherwise dealt with;
 - (ix) the open market price of the chargeable packaging component at the time that R deals with it;
 - (x) the open market price of the goods contained, handled, delivered or presented in or by the chargeable packaging component at the time that they are first contained, handled, delivered or presented in or by that component; and
 - (d) any other circumstance that appears to the Commissioners be relevant.
- (3) In a case where paragraph 10(2) of Schedule 9 applies, the Commissioners may also take into account whether R has conducted sufficient due diligence in order to make themselves aware of P's compliance with any requirement relating to plastic packaging tax, including whether R has—
- (a) conducted any checks in relation to P's compliance with any such requirement;
 - (b) required any information or evidence from P;
 - (c) kept any information or evidence which relates to P;

(3) In this Chapter, "P" and "R" have the meaning given in paragraph 9 of Schedule 9.

- (d) assessed the reliability or veracity of information or evidence under sub-paragraphs (b) or (c) with reasonable care; and
 - (e) included any contractual terms in relation to ensuring the payment of plastic packaging tax in their commercial agreements with P.
- (4) The Commissioners may prescribe for the purposes of paragraph (3) the factors they may take into account in considering whether due diligence checks carried out by R are sufficient.

Joint and several liability notices: notifications and applications to revoke

- 50.**—(1) A notification made by R under paragraph 13(1) of Schedule 9 must—
- (a) be made in writing in a form and manner prescribed by the Commissioners; and
 - (b) include the following information—
 - (i) an explanation of why the revocation is appropriate and, in particular, why paragraph 10(2)(a) or (3)(a) of Schedule 9 do not apply, or have ceased to apply, to R; and
 - (ii) if relevant, the day on which either of those paragraphs ceased to apply to R.
- (2) An application made by P under paragraph 14(1) of Schedule 9 must—
- (a) be made in writing in a form and manner prescribed by the Commissioners; and
 - (b) include an explanation of why the revocation is appropriate and, in particular, why the conditions in paragraph 10(2) or (3) of Schedule 9 do not apply to R —
 - (i) in relation to anything done or not done by P; or
 - (ii) in relation to the intention of P.
- (3) An officer of HMRC may by notice in writing require P or R—
- (a) to provide information; or
 - (b) to produce a document,

if the information or document is reasonably required by the Commissioners for the purposes of determining whether a revocation of a joint and several liability notice is appropriate.