



Clauses 42 to 85 and Schedules 9 to 15 Plastic Packaging Tax

Executive Summary

Clause 69 introduces a requirement for non-resident taxpayers to appoint a UK resident tax representative. We would like exceptions to be considered in the regulations implementing this requirement.

Clause 71 introduces rules for groups if they are bodies corporate. We would like the rules to be similar to VAT groups, where membership extends beyond merely bodies corporate.

Plastic Packaging Tax (Clauses 42 to 85)

At Budget 2018, the Government announced the introduction of a new tax, the Plastic Packaging Tax, which from April 2022 will apply to plastic packaging manufactured in or imported into the UK containing less than 30% recycled plastic. Clause 102 of Finance Bill 2019-20 enabled HMRC to prepare for the introduction of this tax before being formally provided for in this Finance Bill. This legislation broadly mirrors the draft legislation in the draft published on 20 November 2020¹.

Clause 42 – Introductory

Clauses 43 to 46 - Charging of plastic packaging tax

Clauses 47 to 50 - Interpretation of main terms etc

Clauses 51 to 53 - Deferrals, exemptions and credits

Clauses 54 to 58 – Registration

Clause 59 – Secondary liability and joint and several liability notices

Clauses 60 to 67 – Administration and enforcement

Clauses 77 to 81 – Offences and penalties

Clauses 82 to 85 - General

Schedules 9 to 15

Overview

These clauses introduce the new regime for calculating the plastic packaging tax (PPT), which will apply to all purchases and imports of plastic that does not meet the minimum threshold of recycled content from 1 April 2022, though it is noted that further details will be provided for by future regulations. PPT has been the subject of external consultation in 2019 and 2020, to which the CIOT has submitted responses to those questions that focussed on the administrative aspects of the tax²,

³.

1. Government policy papers 'Introduction of a new plastic packaging tax' [20 November 2020](#)
2. CIOT submission on Plastic Packaging Tax consultation on [13 May 2019](#).
3. CIOT submission on Plastic Packaging Tax consultation via the prescribed HMRC response form on [20 August 2020](#).

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CIOT comments

As this legislation broadly mirrors the draft legislation of November 2020, we have not felt it necessary to comment on each of these clauses. Our comments reflect our areas of expertise in tax administration but not in the economics of recyclable versus non-recyclable plastic production; from our perspective of the administrative aspects of the tax, we have no reason for thinking that it won't achieve its objectives, subject to the further regulations that will be published in due course.

Clauses 68 to 76 – Miscellaneous

Overview

These eight clauses introduce additional miscellaneous provisions to the PPT that were not the subject of earlier consultation,

CIOT comments

From our perspective looking at the administrative aspects of the tax, we think that the legislation achieves its objectives, subject to the content of future regulations. Several situations arising in the miscellaneous clauses were suggested in the CIOT's earlier submissions^{1,2} such as the considerations for groups of businesses, disaggregation and transfer of a going concern and we welcome that these have been included in legislation to provide clarity for businesses. Clause 69 did not form part of the earlier general consultations, but was the subject of discreet consultation with specified stakeholders (not the CIOT). Our comments are as follows:

- Clause 69 Tax representatives of non-resident taxpayers
 - a) The clause sets out at subsection (1) that the Commissioners may by regulations make provision requiring that every non-resident taxpayer appoint a person resident in the UK to act as the non-resident taxpayer's tax representative for PPT.
 - b) We would like future regulations to consider whether exceptions may apply, for example if the non-resident taxpayer has history of a prescribed period of compliant behaviour with other UK taxes or has an internationally recognised accreditation such as being an Authorised Economic Operator or local country equivalent.
 - c) It can be common for non-resident taxpayers to outsource the completion of UK tax returns to UK tax agents to ensure their good compliance with UK obligations. It should be noted that for the majority of UK tax agents, it would not be usual business practice to act with a joint and several liability for the taxes that they administer, so the requirement to be a tax representative would be a barrier to taking on such business. Where a non-resident has outsourced its VAT/customs duty/excise duty compliance to a UK tax agent, it would appear sensible to similarly outsource the PPT compliance to the same tax agent as they will have details of the imports into the UK, but the mandatory tax representation responsibilities will be a barrier to this and there will be increased opportunity for errors where UK tax compliance must be provided by separate tax agents and tax representatives.

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- d) The CIOT appreciates that the PPT seeks to decrease the amount of plastic not containing a minimum of 30% recycled content in the UK and the mandatory appointment of a tax representative by non-resident taxpayers will be a disincentive to manufacturing (in the UK) or importing taxable plastics, though sometimes this will be unavoidable. For a non-resident taxpayer with good compliance history of other UK taxes and/or an international accreditation of secure import/exports, this mandatory representation will increase costs and risks of errors as described in (b) and (c) above.
 - e) Subsection (6) appears to be missing the word 'and' at the end of (b).
 - f) For subsection (8)(a), we would like to see greater explanation of what constitutes a place of establishment in the future regulations. For example, if a large non-resident business has a presence in the UK, be it a large branch or a small sales office, would the presence be enough to remove the obligation to appoint a UK tax representative? Business will require clarity on the definition of 'established place of business' with regards to this legislation.
- Clause 71 and Schedule 13: Groups of companies

Overview

These rules allow two or more bodies corporate to form a group for PPT purposes so that they report and account for PPT as a single body with joint and several liability.

CIOT comments

The grouping conditions state that bodies corporate may form a PPT group. As noted in our submission in 2020³, the requirement for a group member to be a corporate body for VAT grouping was changed by Schedule 18 Finance Act 2019, which extended it to individuals and partnerships (including Scottish partnerships) that control the other bodies in a VAT group, with effect from 1 November 2019. It isn't clear why these updated rules for VAT should not also apply to PPT.

The Chartered Institute of Taxation

The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 19,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

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**Chartered Institute of Taxation
Finance Bill 2021**

The Chartered Institute of Taxation
11 May 2021

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