

Alcohol Duty Review: Further technical detail consultation response template

It is recommended that you read the full consultation response document before completing your response. Please note that the text boxes used in this template can be expanded to accommodate additional text.

Guidance for respondents

- Please try to answer all questions (even if it is just to say that you do not have an opinion) as this will assist with our analysis.
- You are not limited to only answering the questions asked and we will also consider written submissions provided to the consultation.
- There is no word limit on responses.

Responses should arrive no later than **21 October 2022**, with early responses encouraged where possible. If you need an extension, please contact the review team via the email address below.

For further information on how we handle your personal data, please read the Data Protection Notice in Annex C of the consultation response document.

Please send your response to:

HMTVATandExcisePolicy@hmtreasury.gov.uk

Please enter “**Alcohol Duty Review consultation response**” in the subject line.

General Information

1. Full name (including title)

Chartered Institute of Taxation

2(a). Mark the statement below [X] as applicable.

[X] I have read the Data Protection Notice (Annex C of the consultation document) and understand that any information submitted may be published or disclosed.

[] I would like the information I have provided to be treated as confidential.

If you would like the information provided to be treated as confidential please explain why

n/a

2(b). Are you responding (please mark the relevant box [X]):

[] as an individual (please complete 3 to 4 below)

[X] on behalf of an organisation / company (please complete 5 to 8 below)

If you are responding as an individual:

3. E-mail address

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4. Address

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If you are responding on behalf of an organisation / company:

5. Organisation / Company

Chartered Institute of Taxation

6. Position within Company / Organisation

Technical Officer

7. E-mail address

technical@ciot.org.uk

8. Address

30 Monck Street, London SW1P 2AP

9. If you are responding on behalf of an alcohol business please mark the relevant boxes below with an x (please mark all that apply)

9(a). Type of alcohol business:

☐ producer ☐ importer ☐ excise warehouse/bottler

9(b). Type(s) of alcohol your business is involved with:

☐ beer ☐ cider ☐ made-wine ☐ spirits ☐ wine

9(c). Size of business (no of employees):

☐ 0-9 ☐ 10-49 ☐ 50 - 249 ☐ 250+

9(d). Amount of alcohol produced/imported per year (hectolitres):

Beer

☐ 0-5000 ☐ 5001 – 60,000 ☐ 60,001 – 200,000 ☐ 200,001 +

Cider

☐ 0-5000 ☐ 5001 – 60,000 ☐ 60,001 – 200,000 ☐ 200,001 +

Made-wine

☐ 0-5000 ☐ 5001 – 60,000 ☐ 60,001 – 200,000 ☐ 200,001 +

Spirits

☐ 0-5000 ☐ 5001 – 60,000 ☐ 60,001 – 200,000 ☐ 200,001 +

Wine

☐ 0-5000 ☐ 5001 – 60,000 ☐ 60,001 – 200,000 ☐ 200,001 +

10. If you are not responding on behalf of an alcohol business please mark the relevant box below with an x

☐ Retailer ☐ Member of public ☐ publican ☐ health group ☐ economic group

☒ other

If other please advise

An educational charity, whose primary purpose is to promote education in taxation.

Consultation questions

Please provide your response in the boxes below. Make sure to note the “Guidance for respondents” provided above before completing.

Draught Relief – dispense mechanism

1. Does the dispense system criteria outlined in the draft legislation adequately distinguish between on and off trade containers? Is there an opportunity for eligible containers to be diverted to the off-trade?

We support the change made to section 8(3) that reduces the size of a large container from 40 to 20 litres based on the consultation feedback, thereby expanding accessibility to the relief to smaller producers, though note that this threshold will exclude 19 litre (5 US gallons) ‘corny kegs’ from accessing the relief. It is not clear why this particular size has been excluded. However, the CIOT appreciates that there must be a fair balance between the rights of producers and the rights of HMRC being able to set thresholds that prevent evasion via diversion to the off-trade.

2. Do the dispense system criteria outlined in the draft legislation capture ‘bag in a box’ formats? If not, are there design criteria for ‘bag in a box’ formats used in the on-trade which distinguish them from containers used in the off-trade?

We note from the consultation feedback that ‘bag in a box’ containers are generally 20 litres in size so by setting the threshold at 20 litres, more producers can access the draught relief, providing all other criteria is met, increasing accessibility to small cider producers using this container size.

The question about the design criteria for bag in a box is outside of our technical expertise.

3. Other than the fact they are pressurised, designed to be connected to a dispense mechanism and the size of the containers, are there any other distinguishing characteristics of draught containers which can be easily identified at the duty point and which would ensure that the product can only be sold in the on-trade?

This question is outside of our professional expertise.

4. Is defining a dispense system necessary to ensure the relief only benefits the on-trade? Would removing this requirement and relying on the container size be sufficient to ensure products were not diverted to the off-trade?

This question is outside of our professional expertise.	
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Small Producer Relief

Structure

5. Would the proposed design of the Small Producer Relief (SPR) as outlined in the consultation response achieve the Government's objective of providing a more general form of relief to small producers in a way that is consistent with the Alcohol Review's wider objectives?

Whilst the SPR may achieve a more general form of relief to small providers, we note that industry feedback has highlighted that this may come at the cost of increasing bureaucracy with the proposed current safeguards. As one of the key objectives for the review is increasing simplicity for alcohol producers, we would welcome further consideration to simplify the design of the SPR, balancing that with due considerations for evasion prevention. Specific ways to simplify the design would be outside of the CIOT's professional expertise due to it requiring specific industry knowledge.

6. Do you agree that the Government should use an average ABV of 4.5% as the basis for converting the current Small Brewers Relief (SBR) thresholds for use in SPR? If not, what would you propose as an alternative and why?

The CIOT does not normally comment on the setting of tax rates.

7. Do you agree that the maximum size for businesses to qualify for the relief should be 4,500 hectolitres of pure alcohol? If not, what would you propose as an alternative and why?

This question is outside of our professional expertise.

8. Do you agree with how production under licence should be treated for SPR? If not, how do you think production under licence should be treated?

This question is outside of our professional expertise.

Small Cidermakers' Exemption

9. Do you agree with the Government's proposal to replace the Small Cidermakers' Exemption with a 100% reduction in duty (giving the effect of a zero rate) for the smallest cidermakers within the broader SPR scheme?

The CIOT does not normally comment on the setting of tax rates.

10. Do you agree that this 100% reduction in duty should apply to producers producing 5 hLpa or less per year? If not, what would you propose as an alternative and why?

This question is outside of our professional expertise.

11. Do you agree that this 100% reduction in duty should be expanded to cover all products below 8.5% ABV rather than just apple and pear cider?

The CIOT does not normally comment on the setting of tax rates.

Effective rates and tapers

12. Do you agree with the proposed effective rates set out in the response document for draught and non-draught beer, cider, wine and made-wine and spirits for products below 3.5% ABV, and at or above 3.5% but below 8.5% ABV?

The CIOT does not normally comment on the setting of tax rates.

13. Do you agree with the proposed models for the new SPR tapers?

The CIOT does not normally comment on the setting of tax rates.

14. If not, what would you propose as alternatives and why? Please provide supporting information on your production volumes, strengths and costs via the small producer survey

The CIOT does not normally comment on the setting of tax rates.

Mergers and Acquisitions

15. Do you agree with the proposed transitional arrangements for small producers that merge with one or more other small producers? If not, which parts of the mergers and acquisitions rules do you disagree with? How do you think they should be changed?

In principle, the CIOT supports that transitional arrangements are introduced to allow producers time to move towards the new combined production volumes. It will be for industry to feedback on whether the proposed three-year period is an adequate adjustment period and whether the proposed calculations provide simplicity and clarity for the proposed arrangements.

16. Do you agree that if a producer's production drops and the transitional arrangements provide a less generous SPR rate than the usual rules, the transitional arrangements should terminate?

We agree that producers should not have to bear more tax than necessary if the SPR results in a less generous position based on a drop in production.

If a drop in production is due to temporary circumstances and an intention to increase production in the remainder of the three-year transition period remains, and the SPR would result in the better position compared to the usual rules, will any exception apply that allows the use of the SPR rules in any remaining periods where temporary circumstances applied?

17. Do you agree with the proposals for de-merger situations?

The CIOT agrees in principle that if small producers are no longer connected, de-merger rules should apply.

Sub-section (5) prevents the use of SPR if two de-merged small producers re-merge at a later date. It is not clear why that the connected parties must be prevented from using the SPR if they remain within the transitional period intervals (unless it was for intended tax avoidance purposes), though it will be for industry to comment on the reasons and likelihood as to why this may happen.

Other SPR questions

18. Do you agree that the connectedness test to determine whether businesses are economically cooperating should be, as now for SBR, (i.e. linked to s. 1122 of the Corporation Tax Act 2010)? If not, what would you suggest as an alternative?

We agree in principle that the connectedness test should remain the same.

19. Do you agree that compounders and rectifiers of duty-suspended spirits should be excluded from SPR?

This question is outside of our professional expertise.

Administration and implementation

20. Do you agree with the proposed “small producer year” running from 1 February to 31 January? If not, please propose an alternative.

Industry specialists are best placed to answer this question as they are directly impacted.

21. When do you think the most appropriate time would be to introduce the new small producer relief?

Industry specialists are best placed to answer this question as they are directly impacted.

Miscellaneous

22. Do you agree with changing the name of the ‘made-wine’ Category to ‘other fermented products’? If not, what do you suggest as an alternative?

Yes – it is clearer and aligns with the CN/HS classification of “Other fermented products” under heading 2206.

23. Do you agree with the removal of the strength limit of 8.5% from the definition of cider?

The CIOT does not normally comment on the setting of tax rates.

24. Do you agree with the proposed approach to the mixing of 2 or more alcoholic products per the draft clauses?

Yes; it clarifies existing law (s66A ALDA) and other parts of the law.

25. Do you agree that the facility brewers currently have to offset drawback claims against duty due on their monthly return should be extended to producers of all alcoholic products?

The CIOT very much supports measures that bring greater simplicity to the tax system, particularly in this case if the industry supports the increased availability to be able to offset drawback claims against duty by more producers.

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. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.