



Chartered
Institute of
Taxation.

Alcohol Duty Part 2

Executive Summary

It is unclear why flavoured beers are being treated differently from beers.

1. Treatment of flavoured beers

- 1.1. Although the CIOT does not normally comment on the rates of taxation, we want to raise the question of why flavoured beers (officially termed 'beer-based beverages') are being taxed differently to beers.
- 1.2. Paragraph 4(3)(b) of Schedule 6 sets the upper alcohol strength band for beer-based beverages as 'not exceeding 5.5%' abv (alcohol by volume) whereas the band for beer is 3.5%-8.5% abv. Above 5.5% the business pays an increased tax band as it is classified as 'other fermented products' (para 12 of Schedule 6), which is the same band as 'made-wine' products. (The rates of duty per litre of alcohol in the product are set out in table 2 of schedule 7 - Beer is £21.01 but other fermented products is £24.77.)
- 1.3. Excise specialists tell us that doing this will have a damaging impact on brewers of flavoured craft beers, artisan flavoured beers, and also imports of craft flavoured beers. As well as increased costs it will increase administration and complexity for UK breweries and importers, as these businesses will have to operate an additional tax band. Taxing flavoured beers the same as beers would be simpler to understand and would mean fewer bands (a key objective of the reform).
- 1.4. While 'not exceeding 5.5%' is the current legislative position for flavoured beers set out in The Alcoholic Liquor Duties (Beer-based Beverages) Order 1994, a CJEU judgment in 2018¹ ruled that an EU Directive² which predated that Order should be interpreted as saying that flavoured beers should be treated as beers for the purposes of excise duty. The UK can of course now legislate to diverge from EU law but we do not believe this is the intention here. If the government's intention is to preserve the

1. CJEU Case C-30/17 Kompania Piwowarska S.A. EU:C:2018:325 (Fourth Chamber, 17 May 2018): "39. Directives 92/83 and 92/8 aim to impose a minimum level of excise duty per hectolitre of beer, whether or not it is flavoured, which is higher the more its alcohol content increases."

2. Article 2 of Directive 92/83 provides: For the purposes of this Directive, the term "beer" covers any product falling within CN code 2203 or any product containing a mixture of beer with non-alcoholic drinks falling within CN code 2206, in either case with an actual alcoholic strength by volume exceeding 0,5% vol.

existing position then beers and flavoured beers should be treated the same, and consequently the wording of Schedule 6 needs amending.

- 1.5. The existing position could be retained by removing paragraph 4(3)(b) from Schedule 6.

2. The Chartered Institute of Taxation

- 2.1. 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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The Chartered Institute of Taxation
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