Sugar Sweetened Drinks Tax

Chapter 1 of Part 2 of Finance Act 2017

Non-Statutory Consolidated Document

For Reference Purposes Only
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Sugar Sweetened Drinks Tax (SSDT) is provided for in Chapter 1 of Part 2 of Finance Act 2017. These provisions have been amended several times since 2017 by Finance Acts. The 2017 Act and subsequent amending Acts are published in the Irish Statute Book.

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

This non-statutory consolidation of Chapter 1 of Part 2 of Finance Act 2017 has been prepared by Revenue for reference purposes. All amendments to date have been incorporated and these are annotated in the sidenotes. While every care has been taken in its preparation, Revenue can assume no responsibility for the accuracy, completeness or up to date nature of the information provided.

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Interpretation

35.—In this Chapter and in *Schedule 4*—

"accounting period" means a period of 2 calendar months or such other period as the Commissioners may prescribe for the purposes of payment and returns under *section 39*;

"added sugar" means—

(a) sugar, or

(b) substances containing sugar, except for juices,

that is or are combined with other ingredients in the production or manufacture of prepacked ready to consume sugar sweetened drinks or prepacked concentrated sugar sweetened drinks;

Inserted by S33 FA 2018

"calcium content" means the number of milligrams of calcium per 100 millilitres of sugar sweetened drink in ready to consume form;

"CN Code" means a Community subdivision to the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987[1] as amended by Commission Implementing Regulation (EU) No. 1821/2016 of 6 October 2016[2];

"Commissioners" means the Revenue Commissioners;

"concentrated" means a prepacked liquid or solid that requires preparation before consumption as a beverage;

"exporter" means a person who supplies sugar sweetened drinks on a commercial basis outside the State where the sugar sweetened drinks have been acquired in the State by that person;

"food information" has the meaning assigned to it by Article 2 of Regulation (EU) No. 1169/2011[3] on the provision of food information to consumers;

"food supplement" has the meaning assigned to it by the European Communities (Food Supplements) Regulations 2007 (S.I. No. 506 of 2007);

[1] OJ No. L256, 7.9.1987, p.1
[2] OJ No. L294, 6.10.2016, p.1
[3] OJ No. L304, 22.11.2011, p.18–63

"first supplied", where express provision is not made in this behalf, means the first time a supply is made within the State by a supplier;

"juice" means any fruit or vegetable juice falling within CN Code heading 2009 that does not contain added sugar;

"label" has the meaning assigned to it by Article 2 of Regulation (EU) No. 1169/2011 on the provision of food information to consumers;

"officer" means an officer of the Commissioners;

"prepacked" has the meaning assigned to it by Article 2 of Regulation (EU) No 1169/2011 on the provision of food information to consumers;

"preparation" means the addition of water, ice or carbon dioxide, or any combination of these substances, in a manner detailed on the label, packaging or accompanying documentation of the sugar sweetened drink, to give rise to a beverage that is ready to consume;

"prescribed" means prescribed by regulations made by the Commissioners under *section 45*;

"ready to consume" means intended for direct consumption by a consumer;

"related company" has the meaning assigned to it by the Companies Act 2014;

"sugar" has the meaning assigned to it by Annex 1 of Regulation (EU) No.1169/2011 on the provision of food information to consumers;

"sugar content" means the number of grams of sugar per 100 millilitres of sugar sweetened drink in ready to consume form;

Definition substituted by S33 FA 2018

"sugar sweetened drink" means—

(a) a prepacked, ready to consume beverage, containing added sugar and which falls within CN Code heading 2009 or 2202 other than—

(i) beverages falling within CN Code subheading 2202 91 00,

(ii) alcohol free wines falling within CN Code subheading 2202 99 19,

(iii) beverages falling within CN Code subheading 2202 99 11, 2202 99 15, 2202 99 91, 2202 99 95 or 2202 99 99 where the food information set out on the label or packaging of, or the accompanying documentation for, the beverage concerned indicates a calcium content of 119 milligrams or more per 100 millilitres,

(iv) food supplements, or

(v) products exempted by the European Union (Provision of Food Information to Consumers) (Amendment) (No. 2) Regulations 2016 (S.I. No. 559 of 2016) from requirements to provide specific food information on labels, packaging or accompanying documentation,

(b) a prepacked, concentrated substance in liquid or solid form, containing added sugar, which requires preparation before consumption by the final consumer and which, after such preparation, has the same characteristics as a beverage which falls within CN Code heading 2009 or 2202 other than-

(i) substances which when prepared have the same characteristics as a beverage falling within CN Code subheading 2202 99 11, 2202 99 15, 2202 99 91, 2202 99 95 or 2202 99 99 and a calcium content of 119 milligrams or more per 100 millilitres as can be ascertained from the food information set out on the label or packaging of, or the accompanying documentation for, the substance concerned,

(ii) food supplements, or

(iii) products exempted by the European Union (Provision of Food Information to Consumers) (Amendment) (No. 2) Regulations 2016 (S.I. No. 559 of 2016) from requirements to provide specific food information on labels, packaging or accompanying documentation,

or

(c) a beverage prepared from a substance referred to in paragraph (b) and which is ready to consume;

"supplier" means—

(a) except where *paragraph (b)* applies, a taxable person within the meaning of section 2 of the Value-Added Tax Consolidation Act 2010, or

(b) an accountable person for the purposes of Part 2 of the Value-Added Tax Consolidation Act 2010,

who supplies sugar sweetened drinks;

"supply" means the supply of a quantity of sugar sweetened drink to another person, other than—

(a) the supply or self-supply of a beverage prepared from a prepacked concentrated sugar sweetened drink for private domestic use,

(b) the supply of sugar sweetened drinks between related companies, or

(c) the supply of a beverage prepared from a prepacked concentrated sugar sweetened drink which has already been supplied in the State;

"tax" means sugar sweetened drinks tax within the meaning of *section 36.*

Charging and rates of sugar sweetened drinks tax

36.— (1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as sugar sweetened drinks tax, shall be charged, levied and paid at the rates specified in *Schedule 4* on each sugar sweetened drink, with a sugar content of 5 grams or more per 100 millilitres, supplied in the State by a supplier.

(2) For the purposes of the charge to sugar sweetened drinks tax, the sugar content of a sugar sweetened drink shall be that which is stated in, or can be ascertained from, the food information set out on the label or packaging of, or the accompanying documentation for, the drink concerned.

(3) Notwithstanding *subsection (2)*, where a sugar sweetened drink is first supplied in a concentrated form or in a ready to drink form prepared from a concentrated form, then the sugar content shall be ascertained on the basis of the sugar content of the ready to consume beverage resulting from preparation in accordance with manufacturer's or producer's instructions provided on the label, packaging or accompanying documentation for the concentrated sugar sweetened drink concerned.

Liability to pay sugar sweetened drinks tax

37.—Tax shall be charged at the time the sugar sweetened drink is first supplied in the State by a supplier and that supplier shall be accountable for and liable to pay the tax charged.

Registration of sugar sweetened drinks suppliers and exporters

38.—(1) Before making a supply of a sugar sweetened drink, being the first supply of the sugar sweetened drink by the supplier, a supplier shall (if not already so registered) register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise require.

(2) An exporter who intends to claim relief under *section 40* shall, prior to the first export of sugar sweetened drinks, register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise require; a reference in this Chapter to a registered exporter is a reference to an exporter who is registered with the Commissioners in accordance with those procedures.

Returns and payment by sugar sweetened drinks suppliers

39.—(1) For the purposes of *section 37*, a supplier shall within one month after the end of an accounting period, in respect of the sugar sweetened drinks supplied in that accounting period, furnish to an officer a return in such form as the Commissioners may require showing—

(a) the quantity of ready to consume sugar sweetened drinks supplied by the supplier in that period, and

(b) the quantity of ready to consume beverages that would result from the preparation of the quantity of concentrated sugar sweetened drinks supplied by the supplier in that period.

(2) The supplier shall, in accordance with the return under *subsection (1)* and by the time that return is due, pay the amount of tax due in respect of the accounting period concerned.

Relief from sugar sweetened drinks tax for supplies made outside the State

40.—Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from the tax shall be granted to a registered exporter in respect of any sugar sweetened drinks that are shown to the satisfaction of the Commissioners to have been supplied outside the State by that registered exporter.

Returned sugar sweetened drinks

41.—Subject to such conditions as the Commissioners may prescribe or otherwise impose, a repayment of tax may be granted in respect of any sugar sweetened drinks, for which tax has been paid, that are shown to the satisfaction of the Commissioners to have been returned to the liable supplier.

Repayments of sugar sweetened drinks tax

Amended by S31 FA 2018

42.—(1) Where a supply qualifies under *section 40 or 41* a repayment of that tax shall be made to the relevant person.

(2) (a) Claims for repayment under *subsection (1)* shall be in such form as the Commissioners may direct and shall be submitted to the Commissioners within a period of not less than 1 month and not more than 6 calendar months after the end of the accounting period in which the supplies were made.

(b) Except where the Commissioners may in any particular case otherwise allow, a repayment may not be made unless the claim is made within 6 calendar months following the end of the period in respect of which the claim for repayment is made.

Records

43.—Every supplier and exporter of sugar sweetened drinks shall maintain such records for such periods as the Commissioners may prescribe and shall produce those records for inspection to a Revenue officer where the officer so requests.

Offence and penalty

44.—(1) It is an offence under this subsection for any person to contravene or fail to comply with any provision of this Chapter, or any regulation made under *section 45,* or any condition imposed under this Chapter, or under such regulation in relation to such provision.

(2) Without prejudice to any other penalty to which a person may be liable, a person guilty of an offence under *subsection (1)* shall be liable on summary conviction, to a class A fine.

(3) Where an offence under *subsection (1)* is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or who purported to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) Where the affairs of a body corporate are managed by its members, *subsection (3)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager.

Regulations

45.—The Commissioners may, for the purposes of managing, securing and collecting the tax, or for the protection of the revenue derived from it, make regulations.

Care and management

46.—The tax imposed by this Chapter is placed under the care and management of the Commissioners.

Commencement

47.—This Chapter comes into operation on such day as the Minister for Finance may appoint by order.

S36 FA2017

Schedule 4

Sugar Content	Rate of Tax
At least 5 grams per 100 millilitres but less than 8 grams per 100 millilitres	€16.26 per hectolitre
8 grams or more per 100 millilitres	€24.39 per hectolitre