

SUGAR-SWEETENED DRINKS TAX

Public Consultation

11 October 2016



An Roinn Airgeadais
Department of Finance

Sugar-Sweetened Drinks Tax

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1. Introduction

The Minister for Finance, Michael Noonan TD, invites interested parties to make submissions in relation to a tax on the production and importation of sugar-sweetened drinks (SSD).

This follows from the Minister's announcement in Budget 2017 that we would seek to introduce an SSD tax in 2018 after a public consultation, making good on the commitment in the Programme for a Partnership Government (PfPG) for a tax on sugar-sweetened drinks.

The Minister takes advice on the rationale for, and proposed structure of, the tax from the Department of Health (DOH). The proposed tax forms one key part of the Government's comprehensive action plan, "A Healthy Weight for Ireland," to tackle the obesity and overweight problem in Ireland. The SSD tax's effectiveness will depend on the scope and the rate of the tax and the response of industry in reformulating their ingredients by reducing added-sugar in their products.

The objective of this consultation is to determine how the tax will operate in practice. This consultation will seek input from stakeholders, including SSD producers, in terms of how to impose the new tax in a way which ensures that the health objectives of the tax are met, that Revenue is enabled to collect it efficiently, fairly and effectively, and that compliance with the tax is not overly onerous on producers. The tax must also be designed so that it is compliant with EU State aid rules. Finally, the design of the tax must take into account cross-border issues, and so should complement the proposed soft drinks industry levy which is due to be imposed in the UK from April 2018.

The consultation period will run to **5pm on Tuesday 3rd January 2017**. Any submissions received after this date may not be considered.

2. Background

2.1 Department of Health Proposal

The Department of Health proposes that the sugar-sweetened drinks tax should apply to water-based and juice-based drinks which have an added sugar content of 5grams/100ml and above. Most soft drinks and energy drinks have an added sugar content of circa 10-11 grams of sugar per 100ml.

Structure of tax: A volumetric rate imposed at a specific amount per hectolitre is the tax structure most likely to deliver on the PfPG goals of raising revenues while tackling obesity. A volumetric tax is easier to impose and administer, and has a greater price impact on multipacks, large volume SSD bottles and cheaper 'own-brand' SSD products than an ad valorem tax calculated as a percentage of the price of the product.

Exclusions: First, by specifying added sugar, the DOH proposal excludes pure fruit juices with natural sugar content of over 5grams/100ml. Second, the proposal also excludes soft drinks, energy drinks and sports drinks that have a sugar content lower than 5grams/100ml, e.g. diet drinks. Third, the proposal excludes all dairy-based sugar-sweetened drinks with both naturally occurring sugar and with added sugar, irrespective of the level their sugar content. Finally, the proposal applies only to pre-packaged drinks.

DOH Health's key rationale: the reduction of consumption of added-sugar in drinks.

- The focus is on drinks as opposed to foods because (i) of the poor satiating effect of drinks as opposed to sugary foods, (ii) these drinks have no nutritional value and (iii) practical implementation issues.
- DOH proposes to reduce consumption of sugar in drinks because of the scientifically established link to obesity and related diseases.
- DOH focus on added sugar as opposed to naturally occurring sugar reflects the policy goal of encouraging reformulation of products by the drinks industry.
- The exclusion of dairy-based products with high levels of added sugar is justified on the basis that dairy drinks occupy an entirely distinct part of the healthy eating guidelines and the food pyramid as opposed to water-based sugar sweetened drinks. Dairy products are a recommended part of children's diets, fulfilling a specific nutritional role.
- The DOH has also cited dental health as a rationale for their proposal.

2.2 United Kingdom Proposal

The UK is currently undertaking an in depth consultation period with industry to design their soft drinks industry levy in a way which is practical and efficient for collection, and not too onerous on industry in terms of systems of declaration. Given the highly integrated nature of the UK and Irish soft drinks markets in terms of production and supply, similar structures and timings may be beneficial.

The United Kingdom government announced a 'soft drinks industry levy' in the March 2016 budget. The levy is a tax on sugar-sweetened drinks to be implemented from April 2018 onwards, after a period of consultation with stakeholders.

- It will apply to sugar-sweetened drinks only, not foods. Small producers, pure-fruit juices and milk-based juices will be exempted.
- It will similarly consist of a two-band approach as set out above in the DOH proposal.
- From an Irish perspective, the imposition of a sugar-sweetened drinks tax in the UK removes concerns that an Irish tax would encourage cross-border shopping in Northern Ireland, provided that the taxes are set at similar levels and implemented at similar times.

2.3 Administration of Tax

The Revenue Commissioners advise that, as in any new tax, key practical requirements for the introduction of a sugar-sweetened drinks tax include clear identification of the product to be taxed, the point at which the tax becomes liable and the person liable to pay the tax.

Where the source (natural or added), or quantity, of sugar present in a drink determine its liability to tax, this information should be discernible and objectively verifiable to taxpayers and Revenue.

To minimise the compliance burden on taxpayers and for administrative efficiency, and in common with other excises, liability to pay the tax should fall at the earliest possible point in the distribution chain. Under this approach, the tax will be collected from a limited number of traders who are manufacturers and importers of sugar-sweetened drinks, thereby reducing tax administration and compliance costs.

2.4 Purpose of Consultation

The purpose of this consultation is to ensure that the SSD tax is implemented so that the tax:

- Achieves the public health objectives as set out in the Government's comprehensive strategy to tackle the obesity problem in Ireland, 'A Healthy Weight for Ireland.'
- Is collectable without posing an undue burden on retailers, producers or importers.
- Minimises cross-border impact as much as possible.
- Does not conflict with EU State aid rules.

Furthermore, this consultation seeks to assess the impact the tax may have on exchequer receipts and on business in general.

The Department is seeking positive contributions on achieving the above outlined objectives of the tax from business, individuals and other stakeholders.

3. The Consultation Questions

The purpose of this section is to set out the questions relating to the proposed SSD tax on which we are inviting your views. In responding to this consultation you are invited to:

- Give your views on the specific questions set out below.
- You do not have to answer every question – you may choose to answer any or all of the questions.
- Provide details of any issues or concerns you feel should be considered in dealing with the issues being addressed.
- Provide details of relevant issues not covered in this paper.
- Where appropriate, provide some analysis of the regulatory and/or financial impact of the proposed approach.
- Your views are important as they may help to confirm what works with the proposed legislation and will also help to identify further considerations.
- Where possible, please provide suggested alternative courses of action in relation to any identified difficulties.

Question 1

The tax will apply to water-based and juice based drinks with an added sugar content of above 5 grams per 100ml. It will not apply to milk-based drinks. Are there drinks on the market which do not fit neatly into these categories, which may be of concern for producers from a compliance point of view?

Question 2:

Naturally occurring sugar will not be included within the scope of the tax. Do producers have the mechanism for identifying and declaring the added sugar content as opposed to the naturally occurring sugar content of their drinks?

Question 3:

It is intended that the tax will be collected at first point of import or production. What compliance issues does this present for producers?

Question 4:

The tax will apply to pre-packaged drinks products only. This presents difficulties in relation to drinks which are intended to be consumed as a diluted level. Is there scope to declare the sugar contents of these particular products at their intended consumption levels, at the early point of import or production?

Question 5:

What do respondents consider to be an 'added sugar'? What would they define as necessary to include in this definition in order to cover the types of sugars typically added to soft drinks?

Question 6:

If you are a very small producers of SSDs, what concerns do you have regarding being included in the SSD tax?

Question 7:

In relation to milk-based drinks, should there be a minimum milk content in order for a drink to be defined as milk-based?

Question 8:

Are there particular cross-border issues that you envisage will exist if the Irish SSD tax does not closely align with the UK soft drinks industry levy?

Question 9:

How integrated are the production systems for soft drinks across borders in the UK and Ireland? Does the cross-jurisdictional nature of production of soft drinks present particular difficulties to producers?

Question 10:

Is there a system whereby producers can track their individual products, for example in the case of a product recall being necessary? Would it be possible to integrate this system with the SSD tax, to allow the Revenue Commissioners to audit whether products for sale to the consumer have been subject to the tax?

Question 11:

More broadly, do you have any concerns from a health perspective about which products are included and excluded by the scope of the tax?

Question 12:

Producers may be required to provide regular documentation to verify the added sugar contents of their produce to the Revenue Commissioners. We anticipate that this information will already form part of industry production methods. How costly a task would this be for producers?

Question 13:

Those who are liable to pay the tax will be required to register and submit returns. Are respondents aware of any data sources that can be relied upon to support compliance and/or reduce administration burden on businesses? (e.g. traceability records)

Question 14:

Are there circumstances where soft drinks may become spoiled or unfit for use after the bottling process and if so, can producers advise the extent that this occurs and the quantities involved?

Question 15:

Are you involved in any export or re-export trade in soft drink or SSD and if so, do you see any difficulties posed to those transactions?

Question 16:

What “black-market” or other tax evasion activity do you consider might be directly caused by introducing a SSD tax?

4. The Consultation Process

§ Consultation Period

The consultation period will run from **Tuesday 11th October to 5pm on Tuesday 3rd January.**

Any submissions received after this date may not be considered.

§ How to Respond

The preferred means of response is by e-mail to: ssd.tax@finance.gov.ie

Alternatively, you may respond by post to:

Public Consultation on a tax on Sugar-Sweetened Drinks,
Tax Policy Division,
Department of Finance,
Government Buildings,
Upper Merrion Street,
Dublin 2, D02 R583

Please include contact details if you are responding by post. When responding, please indicate whether you are contributing to the consultation process as a professional adviser, representative body, corporate body or member of the public.

§ Freedom of Information

Responses to this consultation are subject to the provisions of the Freedom of Information Acts. Parties should also note that responses to the consultation may be published on the website of the Department of Finance.

§ After the Consultation

Responses received will be taken into consideration when finalising the Department's policy choices for each of the options specified in this paper.

§ Queries

Please email ssd.tax@finance.gov.ie should you have any queries.

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