



CHANGES TO THE SOFT DRINKS INDUSTRY LEVY

Issued 4 September 2026

ICAEW welcomes the opportunity to comment on the draft legislation for the changes to the soft drinks industry levy, published by HMRC on 13 July 2026, a copy of which is available from this [link](#).

This response raises three technical points on the draft Finance Bill 2026-27 clauses implementing changes to the Soft Drinks Industry Levy: an apparent omission in the drafting of the "plant-based milk substitute" definition, an incorrect cross-reference in the Clause 3 heading, and a concern that the lactose determination regime lacks the objective standards the government's own consultation identified as necessary.

This response of 4 September 2026 has been prepared by ICAEW's Tax Faculty.

Internationally recognised as a source of expertise, ICAEW's Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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ICAEW

Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
T +44 (0)1908 248 250 F +44 (0)20 7920 0547 icaew.com

The Institute of Chartered Accountants in England and Wales (ICAEW) incorporated by Royal Charter (RC000246)
Registered office: Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK

COMMENTS ON DRAFT LEGISLATION

Clause 2(4)(d) – new section 29(6)(a): incomplete definition of "plant-based milk substitute"

1. The new s29(6)(a) defines a "plant-based milk substitute" by reference to a numbered list of conditions:
 - (i) is derived from a plant;
 - (ii) does not contain any ingredients falling within subsection (2)(a) or (b) other than a single ingredient from that plant; and
 - (iv) meets such other conditions as may be specified.
2. The sequence omits sub-paragraph (iii) entirely, moving directly from (ii) to (iv). As this definition determines whether a drink qualifies for exclusion from "added sugar ingredients" under new s29(3)(b) – and therefore whether it falls within scope of the levy at all – we would ask HMRC to confirm whether a condition has been left out of the drafting by mistake, and if so, to correct this before the Bill is introduced. Businesses will need certainty about the complete set of conditions to self-assess their liability with confidence.

Clause 3 – heading reference to "section 62A"

3. The heading to clause 3 reads "Soft drinks industry levy: amendments consequential on section 62A etc." No section 62A appears elsewhere in the draft clauses, and the accompanying explanatory note describes clause 3 as consequential on section 2. We assume this is a drafting error and would ask for the heading to be corrected to avoid confusion when the clause is read alongside its explanatory material.

Clause 3(2) – new regulation 4B: absence of an objective standard for lactose determinations

4. New regulation 4B allows the Commissioners to determine the quantity of lactose in a soft drink where a liable person has not provided "sufficient evidence" of that quantity, with the determined amount being whatever the Commissioners consider "reasonable in all the circumstances."
5. The government's April 2025 consultation proposed a specific, formula-based lactose allowance – 4.8g per 100ml (the average lactose content of semi-skimmed milk) multiplied by the drink's percentage milk content, with prescribed rounding to one decimal place – and separately asked stakeholders what controls should be put in place to ensure this calculation was applied consistently. The draft legislation takes a different approach and Regulation 4B itself sets out no calculation method, no defined evidential standard and no indication of how HMRC will exercise its discretion in practice. We note that the accompanying policy paper does set out categories of evidence where HMRC may request and illustrative fallback methods where evidence is unsatisfactory or unavailable. However, the policy paper confirms that HMRC does not currently intend to make this framework part of the regulations, and it states that its own content may be updated following this consultation and stakeholder feedback.

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For more information, please contact: taxfac@icaew.com

6. As the lactose allowance is central to how milk-based drinks will be brought into scope, and there is not yet an established practice for evidencing lactose content for SDIL purposes, we are concerned that leaving this framework entirely outside the legislation is likely to cause uncertainty and disputes between HMRC and liable persons from the outset of the extended scope. We would ask HMRC to confirm that the evidential framework and fallback methodology described in the policy paper will be carried through into finalised guidance ahead of 1 January 2028.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory.** Tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament. A clear statutory basis ensures legitimacy, accountability, and public trust in the tax system.
2. **Certain.** As far as possible, the application of tax rules and compliance processes should be certain. Taxpayers should not normally need to resort to the courts to understand how the rules apply to their affairs.
3. **Simple.** The tax system should be easy to understand for all taxpayers and advisers. Complexity undermines trust, creates unfairness, and discourages compliance.
4. **Easy to administer.** Tax liabilities should be straightforward to administer for HMRC, agents, and all taxpayers. Taxes should be designed to work effectively in a digital environment, while administration must remain accessible to those with limited digital capability.
5. **Properly targeted.** Anti-avoidance rules and other targeted measures should be proportionate, clearly defined, and carefully scoped to achieve their policy objective without undermining simplicity or certainty. Poorly targeted measures add complexity and uncertainty, harming compliance.
6. **Stable.** Changes to the tax system should only be made when clearly justified by economic, social, or environmental goals. Transparent, purposeful reforms build confidence and move the system toward greater coherence and long-term stability.
7. **Subject to proper consultation.** Other than in exceptional circumstances, tax changes should be subject to open and meaningful consultation. Adequate time for stakeholder input improves policy quality, practicality, and public trust.
8. **Regularly reviewed.** Tax rules, reliefs, and policy-driven interventions should be subject to regular, transparent review to assess whether they remain relevant, effective, and aligned with current policy goals. Outdated or unjustified provisions should be reformed or repealed to maintain coherence.
9. **Fair and accessible.** The tax system should be fair and accessible in design and in operation, ensuring equitable treatment of taxpayers. Revenue authorities must exercise their powers proportionately, and all taxpayers should have timely access to HMRC assistance, independent appeal, and redress.
10. **Efficient.** The tax system should raise revenue in a way that minimises unnecessary distortions, compliance burdens, and resource misallocation. While all taxes affect behaviour to some degree, tax design should avoid cliff edges, unintended incentives, or inefficiencies that reduce economic wellbeing unless these serve a clearly defined policy aim.

For more information, please see [Ten Tenets for a Better Tax System | ICAEW](#)