19 Collection of tax on sugar-sweetened drinks

19.1 The Sugar Sweetened Drinks Tax (sugar tax) was introduced in May 2018 under the Finance Act 2017.[1] The tax is one of a number of measures aimed at tackling obesity in Ireland by reducing the consumption of sugar in the form of sweetened drinks. Accordingly, the main purpose of the tax is to change behaviour rather than raise substantial revenues i.e.

- by encouraging individuals to either reduce the volume of sugar-sweetened drinks they consume or to switch to healthier alternatives, and
- by incentivising industry to reformulate drinks products to reduce the levels of added sugar.

19.2 The tax applies to water-based and juice-based drinks containing added sugar and having a total sugar content of five grams or more per 100 ml.[2] The scope of the tax was extended in January 2019 to include certain plant-based protein drinks and other drinks containing milk fats.[3] Products liable to the tax may be in ready-to-consume or concentrated form. The applicable tax rate is determined by the total sugar content of the drink. The current rates in place are

- **Band 1:** €16.26 per hectolitre (i.e. 100 litres) where there is between 5g and 7.99g of sugar per 100 ml — this equates to a tax of 5 cents on a standard 330 ml can and 8 cents on a 500 ml bottle
- **Band 2:** €24.39 per hectolitre where there is 8g or more of sugar per 100 ml — equating to a tax of 8 cents on a 330 ml can and 12 cents on a 500 ml bottle.

19.3 The Office of the Revenue Commissioners (Revenue) is responsible for administering the tax, which is self-assessed and operates as an excise duty. In 2023, Revenue collected €5.7 billion in net excise duty, of which €29 million related to receipts from the sugar tax.

19.4 In August 2023, the Department of Health issued a request for tender for an external evaluation of the sugar tax to assess the extent to which it has achieved its policy objectives. The Department has indicated that the evaluation report is due to be published imminently.

19.5 This examination focuses on

- the systems and procedures Revenue has in place to facilitate the assessment and timely collection of the sugar tax
- whether Revenue has adequate systems in place for identifying those liable to the tax and following up on possible non-compliance.

1 The tax was introduced following a commitment given in the Healthy Weight for Ireland: Obesity Policy and Action Plan (2016 – 2025) which was published in September 2016.

2 Drinks that do not contain added sugar (for example, fruit juices with no added sugar) are not liable for the tax, even if their natural sugar levels are high.

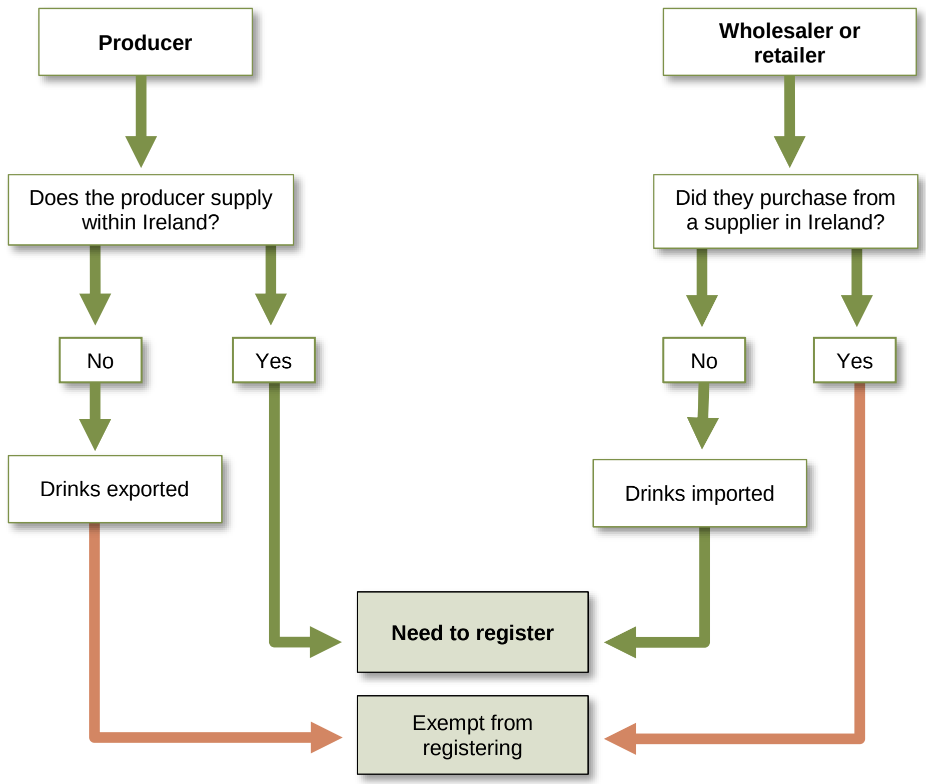
3 The tax applies to plant-based protein drinks if the calcium level is less than 119 mg per 100 ml.

Registration for sugar tax

19.6 Registration in respect of sugar tax liabilities is processed through Revenue's Online Service (ROS). In general, sugar tax on a drinks product is only paid once in the State. This means that if the sugar-sweetened drink is produced and sold in Ireland, only the producer is required to register and pay the tax. If the drink is imported and sold in Ireland, it is the wholesale or retail importer who must register and pay the tax.

19.7 Figure 19.1 provides an overview of the registration requirements for the tax, where relevant drinks are supplied within Ireland.

Figure 19.1 Registration requirements for suppliers making a first supply of sugar-sweetened drinks in Ireland



Source: Office of the Comptroller and Auditor General

19.8 Where sugar-sweetened drinks sourced in the State are supplied on a commercial basis outside the State (i.e. exported), the exporter can register to claim a repayment from Revenue of any sugar tax that may have already been paid on the drinks.[1] Producers established in the State delivering supplies solely outside the State are not required to register for the sugar tax.[2]

19.9 Registration applications for suppliers are automatically processed via ROS without caseworker intervention.[3] Registration applications for exporters are reviewed by a Revenue caseworker prior to being approved. This review includes verifying the information provided on the application form by cross-checking it with data that may already be held on Revenue systems in relation to the supplier in question. It may also involve requesting supporting documentation and/or visiting the trader's premises.

1 Supplied outside the State means distributed to another EU member state or third country.

2 Some producers are also excluded from registration if they are exempt under EU food labelling obligations as a result of small scale production.

3 This is also the case for most other tax heads e.g. income tax and corporation tax.

19.10 As of March 2024, there were 189 active registrations for the sugar tax — 169 suppliers and 20 exporters.[1] The majority of those companies (83%) registered in 2018 or 2019, with the remaining 17% registering between 2020 and 2023.

19.11 There were 129 registrations cancelled over the period 2018 to 2023, of which

- 58% were due to the companies in question having ceased trading
- 29% related to companies that never traded
- 5% represented companies no longer liable to the tax because their products are below the sugar content limits.

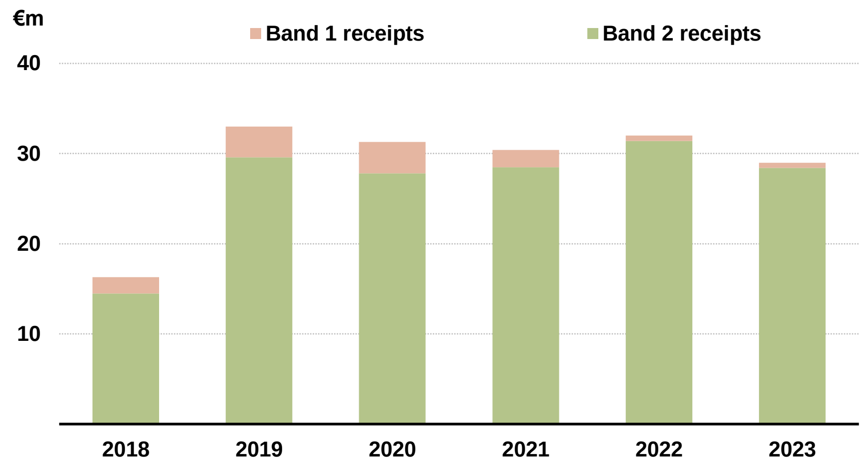
The remaining 8% (11 registrations) were cancelled for various reasons, the most common of which was that the company in question had registered in error for the tax.

Sugar tax receipts

19.12 Revenue collected €172 million in net sugar tax receipts between 2018 and 2023 (see Figure 19.2). Net annual receipts — that is, after repayments — decreased from €33 million in 2019 to €29 million in 2023. The majority of the decrease was in respect of drinks taxed under Band 1 (i.e. the lower rate) where net receipts reduced from €3.4 million to €0.6 million over that period.[2] In line with the objectives of the tax, decreases in the tax take are likely to be due either to changes in consumer behaviour (i.e. choosing drinks with lower sugar content) or to manufacturers reformulating their products.

19.13 An open consultation process with relevant suppliers ran from October 2016 to January 2017, prior to the introduction of the tax in May 2018.[3] Interested parties were invited to make submissions. The objective of the consultation was to determine how a tax on sugar-sweetened drinks would operate in practice. The proposal was that the tax would apply to water-based and juice-based drinks with an added sugar content of at least 5g per 100 ml. Accordingly, it is possible that some manufacturers had already reformulated their product to reduce the sugar content below the threshold of 5g of sugar per 100 ml in advance of the introduction of the tax.

Figure 19.2 Net receipts from the sugar tax broken down by tax band, 2018 – 2023[a]



Source: Revenue Commissioners

Note: a The tax was introduced on 1 May 2018 so receipts for 2018 are for May to December.

1 There are 176 companies in total registered for the tax, 13 of which are registered as both a supplier in the State and an exporter.

2 Revenue publishes data on its website in relation to volumes declared and taxes collected under each of the bands for the sugar tax.

3 The public consultation process was facilitated by the Department of Health and the Department of Finance.

Forecasting of sugar tax receipts

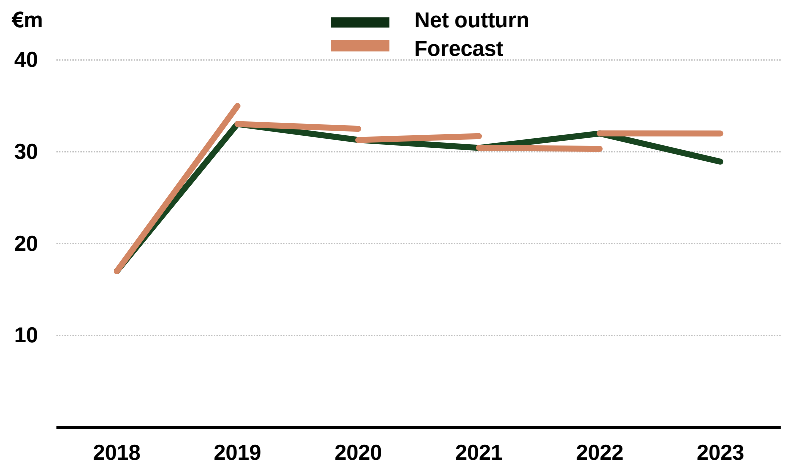
19.14 The Department of Finance (the Department) prepares forecasts for excise duty receipts as part of the annual budgetary process. The original forecast for net excise duty receipts for 2023 was €6.3 billion. In the Stability Programme update in April 2023, the forecast for excise duty receipts was revised downwards to €5.8 billion. The reduction in forecast was mainly due to policy changes regarding the extension of reduced excise duties on fuel.

19.15 Revenue uses the annual forecast for overall excise duty prepared by the Department and apportions it over the different constituent taxes e.g. carbon tax, alcohol tax and sugar tax. Revenue then prepares monthly forecasts for these taxes and measures the percentage deviations from the forecast on a net and cumulative basis over the remainder of the year. Revenue's internal forecasts takes account of prior year performance, recent trends in taxpayer returns and typical payment patterns.

19.16 Revenue does not investigate the rationale for trends in consumption of a taxable product. Revenue stated that evaluating the policy objective is the responsibility of the Department, but that it supports the Department in that regard, as required.

19.17 Figure 19.3 shows Revenue's forecasts for the sugar tax versus actual net receipts over the period 2019 to 2023. The annual variance from forecast ranged from 4% to 10% over the period, with net receipts falling slightly short of the forecast in each year, apart from 2022.

Figure 19.3 Revenue's forecast for sugar tax receipts versus net outturn, 2019 – 2023[a]



Source: Revenue Commissioners

Note: a The outturn figures are net of sugar tax repayments.

Compliance

Identifying potential liable suppliers

19.18 In June 2018, Revenue established an action group to review registrations for the sugar tax and recommend potential methods for identifying unregistered suppliers. The group requested the Large Corporates Division (LCD) to review its case base, and it also requested non-LCD cases to be reviewed using other methods of data analysis to identify risks and uncover unregistered traders through an EU data sharing portal.

19.19 In August 2018, as part of the review of LCD cases, a letter issued to 63 LCD groups informing them of their potential obligation to register for the tax. In the event that the companies within the group were not liable to the tax, the letter requested the provision of details of the companies supplying them with sugar-sweetened drinks.

19.20 For the 63 groups contacted

- a response was received from 41 groups — 11 indicated that at least one company in their group was already registered for the tax and the remaining 30 confirmed that their group was not liable for the tax at that time
- of the 22 groups that did not respond to the letter
  - three were no longer trading
  - seven were already registered for the tax
  - one was not liable for the tax at that time
  - for the remaining 11 cases, after an initial follow up letter, there was no further follow up by Revenue, but it stated that these cases were deemed to be low risk by caseworkers.

19.21 The supplier information provided by the groups that responded to the letter identified three companies currently within the LCD case base that were potentially supplying sugar-sweetened drinks that may have been liable to the sugar tax. Upon review, Revenue confirmed that

- two of the companies do not sell or supply products that meet the criteria for the tax and therefore are not required to register
- one was deemed unlikely to be making a first supply as it purchases direct from Irish suppliers (and is therefore making second supplies only).

19.22 A working group formed as part of the review of non-LCD cases identified a number of criteria under which prospective unregistered sugar tax cases may be detected. Revenue's Research, Analytics and Information Management branch applied the criteria to identify 392 Irish traders who were unregistered for the tax but had obtained goods in 2017 from suppliers of sugar-sweetened drinks. Of those cases, 26 were prioritised by Revenue for intervention. Letters issued to 23 of those traders requesting a self-review of their registration requirements. As a result of these contacts, five of the traders had registered for the sugar tax by the end of 2019, with one further trader registering in 2020.

19.23 In relation to the remaining three cases of the 26 initially prioritised, Revenue stated that Covid-19 impacted on its organisational priorities and resources over the course of 2020 and 2021 and that post-Covid-19, it re-prioritised its business focus. Given the passage of time and the fact that the data upon which the review was based was outdated, Revenue did not revisit this work.

19.24 Revenue has stated that compliance work in relation to the sugar tax is incorporated where appropriate into comprehensive compliance interventions. For example, the retail branch in Medium Enterprises Division opened an investigation in 2023 involving a review of a number of tax heads, including the sugar tax.

19.25 In July 2023, Revenue's Medium Enterprises Division commenced a pilot compliance project focusing on wholesalers. Three cases were selected for review following information provided by LCD relating to a change in a supply chain which may have implications for the sugar tax. The aim of this project is to determine whether the relevant companies are liable for the sugar tax and, if not, whether the suppliers they are purchasing from are required to register. The project is expected to be completed by the end of March 2025.

19.26 In late 2023, Revenue's Business Division examined a sample of its registered case base for the sugar tax. Ten cases were selected for review in order to assess the compliance risks present for the sugar tax and VAT, alongside those ordinarily present in cash-based businesses. Of those ten cases

- one case had intra-EU acquisitions over €1 million, but nil VAT and sugar tax returns — this case was escalated to the VAT high-risk team for follow up and is ongoing
- two cases are ongoing in the form of level 2 risk reviews seeking to verify the accuracy of the returns submitted.

The Business Division separately examined a further case, arising through VAT compliance activities, where soft drinks sourced outside the State were destined for supply within the State. This case is ongoing.

19.27 In July 2024, a compliance project commenced by the retail and wholesale branches in Medium Enterprises Division is focusing on taxpayers who are not registered for the sugar tax but potentially should be, based on a number of factors such as business description, activity on Revenue's Automatic Import System and the VAT Information Exchange System. As part of this compliance project, 160 letters issued via ROS requesting taxpayers to self-review whether they should be registered for the sugar tax. The letter also requested that if the taxpayer is not liable to the tax, they provide details of the companies supplying them with sugar-sweetened drinks.

Payment and return compliance

19.28 Returns for the sugar tax are to be submitted bi-monthly via ROS. In line with self-assessment principles, taxpayers are not required to submit supporting documentation with a return. Registered suppliers that have not made supplies of any relevant products during the period are required to submit a 'nil' return.

19.29 For 2023, the average ‘due month’ return and payment compliance rate for sugar tax was 81%, while the average ‘due month plus one’ compliance rate was 91%.[1] Compliance in relation to sugar tax returns and payments is managed by the Collector General’s Division in Revenue. The following compliance checks are carried out bi-monthly by the Collector General’s Division

- confirming that a return is submitted by those registered for the tax
- confirming that the tax due has been paid within the specified time period.[2]

19.30 Where a taxpayer fails to make a return by the specified due date, the Collector General’s Division can raise an estimate which is issued to the taxpayer by post and a payment is requested within ten days. The taxpayer is also still obliged to submit a return. If no action is taken by the taxpayer within ten days of the date the estimate is issued, the Collector General’s Division issues a final demand letter requesting payment within ten days from the date of that letter. If no action is taken following receipt of a final demand letter, the case is referred to the sheriff.[3] Similar to other tax heads, late payments of the sugar tax are subject to interest and penalties.

19.31 During 2023, 133 estimates were raised by the Collector General’s Division with 59 (i.e. 44%) subsequently escalated to final demand letters. Of the 59 final demand letters issued

- 58 submitted a return and made a full/partial payment of the amount due
- one case totalling almost €13,800 (including interest and penalties) was referred to the sheriff for enforcement.

Compliance interventions

19.32 As part of Revenue’s compliance work, caseworkers in each of the divisions review cases based on risk. Between 2018 and 2023, Revenue carried out 126 interventions on the sugar tax. Figure 19.4 shows the number of interventions in each year and the resulting yield.

Figure 19.4 Sugar tax interventions and the resulting yields, 2018 – 2023

Year	Number of interventions carried out	Number of yielding interventions	Yield €
2018	12	—	—
2019	47	—	—
2020	31	1	7,210
2021	16	2	85,415
2022	10	2	333,364
2023	10	—	—
Total	**126**	**5**	**425,989**

Source: Revenue Commissioners

1 Revenue reports both ‘due month’ and ‘due month plus one’ compliance rates in its annual reports and considers taxpayers in both cohorts to be compliant.

2 Revenue guidelines state that payments should be made by the taxpayer by the end of the month following the return period.

3 The amount outstanding must be in excess of €500 to be referred to the sheriff.

19.33 Of the 126 interventions carried out, there were five interventions (4%) which yielded almost €426,000 (including interest and penalties). Of the five yielding interventions

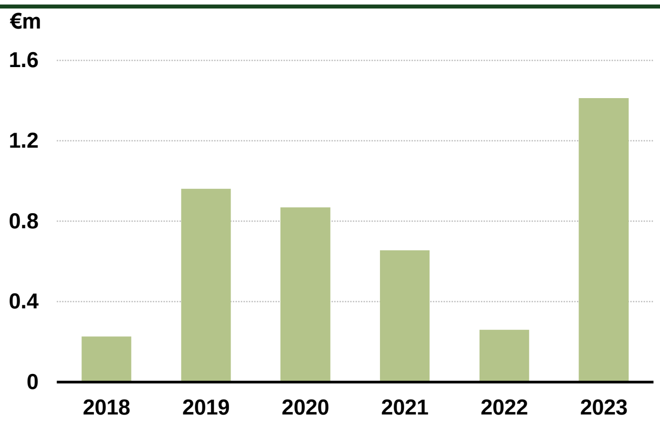
- one arose on foot of a repayment claim — other issues were identified when assessing the repayment claim which resulted in a yield of almost €244,000 (including interest)
- one arose following an onsite check at an event which identified a supplier that was not registered for the tax and was also found to be a non-filer for income tax[1]
- three were unprompted qualifying disclosures totalling €175,000 (including interest and penalties).

Repayments

19.34 Relief from the tax is available to exporters of sugar-sweetened drinks. To qualify for a repayment, the exporter must have purchased drinks in the State on which sugar tax has already been paid and then exported the drinks to another EU member state or third country. The company must also be registered with Revenue as an exporter of sugar-sweetened drinks.

19.35 Repayments totalling €4.4 million were made to 14 companies over the period 2018 to 2023 (see Figure 19.5).[2]

Figure 19.5 Sugar tax repayments, 2018 – 2023[a]



Source: Revenue Commissioners

Note: a The year in which the repayment was made is shown, rather than the year to which the claim relates.

1 This was a multi-agency operation carried out with the Private Security Authority.

2 There were 154 repayment claims in total submitted by the 14 companies over that period. Some companies received repayments in more than one year.

19.36 Applications for repayment of sugar tax are made via ROS, with all applications being reviewed by Revenue staff prior to being approved. Revenue guidelines state that

- repayment claims must be submitted within six months of the end of the accounting period in which the exports were made
- a second approval is required for all repayment claims in excess of €50,000.[1]

19.37 As part of this examination, a sample of 101 repayment claims — totalling €1.9 million — submitted to Revenue between 2018 and 2023 was reviewed in April 2024. The main findings were

- All repayment claims over €5,000 were sent for second approval despite the individual claim amounts being below the €50,000 limit specified in the Revenue guidelines. Of those
  - Three claims totalling almost €25,000, relating to one taxpayer, were approved at higher executive officer (HEO) level in a timely manner. However, in April 2024, two of the claims had been awaiting second approval since March 2023 and the third claim had been awaiting second approval since August 2023.
  - Three claims totalling almost €46,000, relating to one taxpayer, received in October/November 2023 were not reviewed by a caseworker until March 2024 and were awaiting secondary approval at the time of testing. Revenue stated that the reason for the delay in reviewing the cases was that the assigned caseworker had been issued a second work identification number in error and was not aware of the claims awaiting review under the second identification number.[2]
- One repayment claim for €6,300 received in April 2023 was reviewed by a caseworker the following month. However, the caseworker did not adhere to the correct procedure to approve and finalise the case, so it remained with a 'review' status on Revenue systems. As a result, the repayment had not been processed at the time of testing (April 2024). The same issue was noted in three other claims for less significant amounts (€340 in total) received between August and December 2022. Those claims had been reviewed by caseworkers in January 2023 but repayments had not been processed by April 2024.
- One claim for almost €9,000 received in October 2022 was approved at HEO level in November 2022 and appeared to have received a second approval in April 2023. However, the payment had not been made by April 2024. Following investigation, Revenue stated that the delay in payment of this claim was due to a technical issue affecting some second-level approvals by caseworkers from outside relevant work groups. While it appeared in those cases that the second approval had been successful, the repayments did not issue.
- Two claims totalling just over €4,000 were paid despite being submitted more than six months after the end of the accounting periods in which the exports were made, and therefore ineligible for repayment. While ROS rules prevented the late repayment claims from being submitted online, hard copy claims submitted by the taxpayer in question were manually inputted onto Revenue systems and approved for payment. Revenue has acknowledged that these payments were made in error.

1 The second approval must be at assistant principal level or above.

2 Revenue stated that employees may need separate work identification numbers if their work requires them to be members of different work groups. The same username cannot be duplicated across two work groups. Managers oversee the allocation of work identification numbers and advise any changes to divisional network security.

19.38 In response to the above examination team findings, Revenue stated that it has taken remedial action for the issues highlighted by the audit and repayments issued between April and July 2024 to the taxpayers in question, with the exception of one case (the claim for €6,300). That claim is on hold pending completion of a level 2 risk review which is being carried out to address compliance risks arising with the case.

19.39 The sample testing highlighted that Revenue guidance does not accurately reflect the actual system and work processes in place for approval of repayment claims. In particular, Revenue has clarified that all repayment claims in excess of €5,000 require second approval at the claim stage and that repayments in excess of €50,000 are automatically stopped at the payment stage for manual approval by a caseworker before issuing. Revenue has acknowledged that confusion and lack of clarity and staff misunderstanding around approval requirements had led to delays in repayments to some taxpayers.

19.40 As the sugar tax operates as an excise duty, if repayment is not made by Revenue within 93 days of receiving a valid claim, interest becomes payable to the claimant.[1] In response to a query raised by the examination team, Revenue stated that interest totalling just over €1,730 was due in relation to eight of the claims reviewed during the examination. Revenue confirmed that it paid the amounts due in August 2024.

Conclusions and recommendations

19.41 The sugar tax was introduced on 1 May 2018. Rather than being primarily a revenue generating measure, the tax aims to influence producer and/or consumer behaviour to reduce the consumption of sugar in sweetened drinks. The tax is one of a number of measures aimed at tackling obesity in Ireland.

19.42 The collection of the sugar tax is administered by Revenue. The tax operates as an excise duty and is administered on a self-assessment basis.

19.43 Net receipts for the sugar tax totalled €172 million between 2018 and 2023, with annual net receipts decreasing from €33 million in 2019 to €29 million in 2023. The majority of the decrease since 2019 was in respect of drinks taxed under Band 1 (i.e. the lower rate). The exact extent to which this decline in receipts is attributable to either product reformulation by manufacturers or to changes in consumption patterns is difficult to determine.

19.44 For 2023, the 'due month' sugar tax payment and tax return compliance rate was 81%, while the 'due month plus one' compliance rate was 91%. Revenue aims to maximise return and payment compliance rates through the raising of estimates, issuing of final demands and, where appropriate, enforcement action. Additionally, between 2018 and 2023, Revenue carried out 126 compliance interventions, five of which yielded approximately €426,000 in relation to the sugar tax.

Approval of repayments

19.45 Relief from the tax is available to exporters of sugar-sweetened drinks by way of a repayment. Repayments totalling €4.4 million were made over the period 2018 to 2023.

19.46 Revenue guidelines state that claims should be submitted by the taxpayer within six months of the end of the accounting period in which the exports were made and that claims for amounts in excess of €50,000 should be sent for secondary approval.

1 Section 105D of the Finance Act 2001 as inserted by Section 98 of the Finance Act 2003 and as amended by Section 121(3) of the Finance Act 2007.

19.47 A review of a sample of repayment claims conducted in April 2024 as part of this examination noted delays in making some repayments; two claims that had been paid despite being invalid because they had been submitted more than six months after the end of the relevant accounting period; and errors on the part of caseworkers in processing some claims.

19.48 The examination team's review highlighted that Revenue guidance did not accurately reflect the actual system and work processes in place for repayments of the sugar tax. Revenue has now clarified that all repayment claims in excess of €5,000 require second approval at the claim stage and that repayments in excess of €50,000 are automatically stopped for manual approval by a caseworker before issuing. Revenue has acknowledged that confusion around approval requirements has led to delays in finalising repayments to some taxpayers.

Recommendation 19.1

Revenue should review the approval process for sugar tax repayment claims and update its guidance as needed to ensure that the process is clear for all caseworkers processing and approving sugar tax cases.

Accounting Officer's response

Agreed

In June 2024, Revenue undertook a review of the process for approving repayment claims for the sugar tax following which the tax and duty manual for sugar tax was updated and published at the end of July 2024.

Timeline for implementation

Implemented July 2024.

Recommendation 19.2

Revenue should consider implementing system enhancements to

- prevent or alert caseworkers not following the correct procedure for claim approval and finalisation, and
- highlight repayment claims that have not been finalised within a set time period.

Accounting Officer's response

Agreed

System enhancements that will add efficiency and accuracy value to the claim approvals process have been identified and are currently in development. The tax and duty manual will be re-reviewed and updated, as necessary, to take account of system changes once released.

Timeline for implementation

System changes expected to be in place by end September 2024. Tax and duty manual will be further updated as soon as possible thereafter.