

Cider insider

SIMON MCKIE applauds the Government's decision not to increase the rate of cider duty.

In the dying days of the previous Government, in his search for additional tax revenue, Alistair Darling announced in his March Budget that he was raising cider duty rates by 10% above inflation, giving an overall rise of over 13%. The spin put on the proposal was that the rise was designed to combat teenage binge drinking, which was associated with 'white ciders', i.e. drinks with only minimal apple juice content and a high proportion of alcohol derived from glucose. In his Budget speech, Mr Darling said:

'There is a long-standing anomaly which has meant cider has been under-taxed in comparison to other alcoholic drinks. I intend to correct this. So duty on cider will increase by 10% above inflation from midnight on Sunday. In September changes will be made to the definition of cider to ensure specific strong ciders are taxed more appropriately.'

It became apparent that what was proposed by the final sentence was an across the board increase in duty on cider with an alcohol content above a limit which was still to be decided.

In fact, the differential rates of duty applied to cider and other alcoholic drinks was a long-standing arrangement and reflected the importance of cider making to the rural economies of the South West and of the three counties of Herefordshire, Worcestershire and Gloucestershire, and to the tourist industry in those areas.

What is cider?

There is no exhaustive statutory definition of cider. The excise duty definition is restrictive, referring to cider and perry and then excluding certain drinks which would otherwise fall into the term under its ordinary English definition. The *Oxford*

KEY POINTS

- Plan to increase cider duty rate.
- Effect on craft cider makers.
- How much water in cider?
- New Government rescinded duty increase.



English Dictionary defines cider as 'a drink made from the juice of apples ... expressed and fermented'. It may come as some surprise, therefore, for the reader to learn that most commercial cider consists mainly of water rather than apple juice. A research paper published in 2004 by the Food Standards Agency calculated from published data that the mean juice content of cider produced in the UK was just 31%, and revealed that the lowest proportion of apple juice found in the ciders analysed by the authors was 7%.

Over the last ten to 15 years there has been a remarkable revival in England and Wales of the making of 'fine' or 'craft cider' by small and medium-sized cider makers competing with the large industrial producers on quality rather than price. Craft cider, by contrast to most cider made by the largest producers (industrial cider), is made from undiluted apple juice or with only minimal dilution. The final alcohol content of craft cider is normally determined by the naturally occurring sugar in the apple juice and will usually be in the range of 6% to 8.4%. That is higher than most industrial cider. Cider with an alcoholic strength exceeding 5.5% already bears a higher rate of duty than weaker cider, and cider of a strength exceeding 7.5%, a higher rate again. Cider with strength of 8.5% or more is charged at the higher rates applicable to 'made wine'.

Craft cider making requires a larger proportion of apples and is more labour intensive than industrial cider making and, because it is carried out on a smaller scale, cannot benefit from the economies enjoyed by the industrial cider producers. A 13% rise in cider duties coupled with the proposal for a further increase on 'strong' cider threatened to make much commercial craft cider making economically unviable.

High alcohol cider will only be bought by teenage binge drinkers if it is cheap. It can only be made sufficiently cheaply if its apple juice content is even lower than normal industrial cider. Craft cider is not a drink for binge drinkers and, therefore, imposing penal duties in this way would not have achieved the former Government's declared aim. Doing so risked destroying an increasingly successful craft industry which makes a high quality product in an environmentally friendly way.

Change of plan

The Conservative Party immediately announced that it would rescind the additional 10% rise in duty and would review the definition of cider so as to impose a higher duty on those types associated with binge drinking, while protecting ordinary and craft cider.

On 27 July 2010, the Government fulfilled the Conservatives' pledge by making the 'Alcoholic Liquor Duties (Definition of

Cider) Order 2010', ironically under a power conferred by s 65 of Mr Darling's last Finance Act, providing a new definition of cider for excise duty purposes. Any cider which does not fall within this definition will fall within the definition of made wine and thus suffer the higher rate of duty.

At first sight, the new definition appears to be designed to ensure that, to be cider, a liquor must have been made from ingredients which are at least 35% apple and/or pear juice. In fact, at least under HMRC's gloss on the definition given in amendments to Customs Notice 162, it will be fairly easy to fall within the new definition with an apple (or pear) juice content of 23% and it is theoretically possible to do so with a juice content of 12%.

The major industrial producers can continue to sell cider which is mostly water, which many people appear to like, without suffering a duty penalty and many craft cider makers have been saved from ruin.

The Government deserves at least two cheers for stepping back from its predecessors' ill-judged attack. ■

Simon McKie is a designated member of McKie & Co Advisory Services LLP, tel: 01373 830956, e-mail: simon@mckieandco.com. His book, *Making Craft Cider: A Ciderist's Guide*, will be available from Shire Publications Ltd www.shirebooks.co.uk, tel: 01206 256002, and from good bookshops early next year.

TAXATION

Taxation in three minutes – free weekly e-newsletter

Our weekly executive summary highlights the most essential points of the latest issue's feature articles.

All of the key highlights, top jobs and events delivered to your inbox every week.

Just go to www.taxation.co.uk to sign up for free



SOLUTIONS FOR KNOWLEDGE-DRIVEN PROFESSIONALS

Client Development | Research & Knowledge Solutions | Practice & Productivity Management | Risk & Compliance

