

UK ESH Webinar Series - Plastics Packaging Tax Update

Anita Lloyd and Caroline Almond

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Anita Lloyd

Director, Birmingham

T +44 121 222 3504

E anita.lloyd@squirepb.com



Caroline Almond

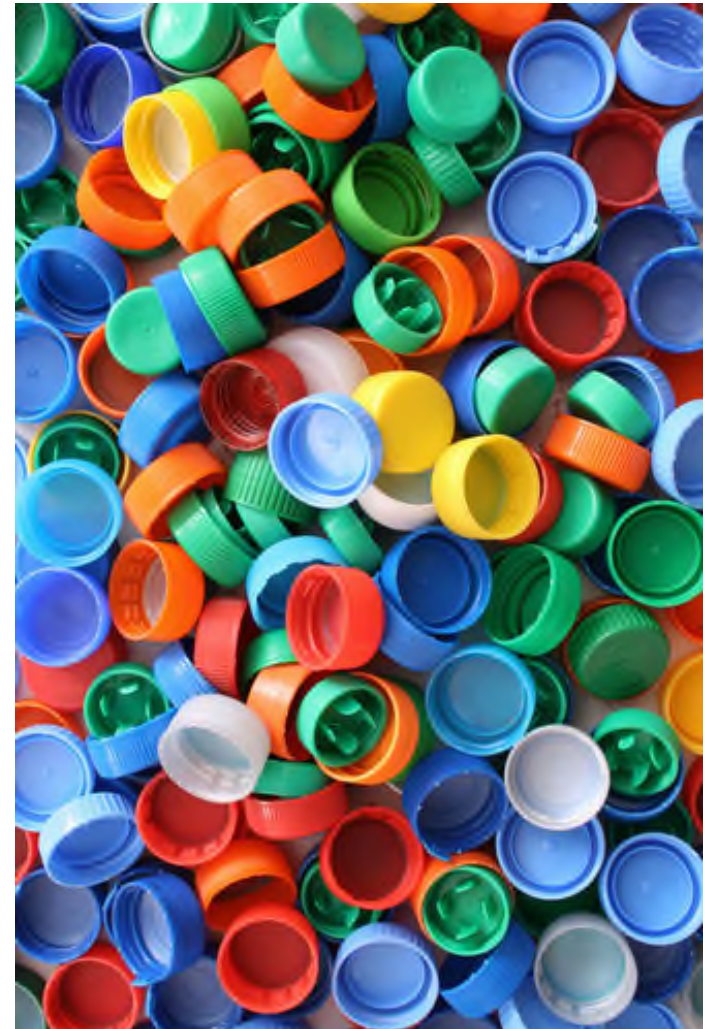
Senior Associate, Birmingham

T +44 121 222 3544

E caroline.almond@squirepb.com

The Proposed UK Plastic Packaging Tax

- Background
- How will the Plastics Tax work?
- What will count as packaging?
- What is “Recycled”?
- Who is liable for the Tax?
- Timing and Procedure
- Exemptions
- Enforcement and Penalties
- Next Steps



- 2018 Budget - government announces a new proposed tax on plastic packaging to increase the use of recycled plastic.
- February 2019 - first plastic consultation launched.
- 2020 Budget - government announces further details of the tax, and some changes in response to feedback from the first consultation.
- March 2020 – government launches a further consultation on the policy design for the tax, which sets out more detail on how it will operate - under consultation until 20 August 2020 (extended by 3 months due to COVID-19).
- April 2022 – new tax to apply to plastic packaging manufactured in or imported into the UK containing less than 30% recycled plastic.

How will the Plastics Tax work?

- The tax will apply to all “plastic packaging” imported into or manufactured in the UK that does not contain 30% recycled content.
- Tax is set at a flat rate of £200 per tonne.
- 'Plastic' is defined as a material consisting of a polymer within the meaning of Article 3(5) of Regulation (EC) No 1907/2006, to which additives or other substances may have been added, with the exception of cellulose-based polymers that have not been chemically modified.
- The proposal is to use a modified version of the definition of “plastics” from the EU Directive on single use plastics. Essentially all types of plastics are covered, including compostable and bio-plastics. The only exception is “cellulose based polymers that have not been chemically modified”.

What will count as packaging? (1)

- All “mainstream” plastics including compostable / biodegradable materials.
- Empty packaging imported into the UK.
- Packaging around finished goods imported into the UK.
- Empty packaging manufactured in the UK.
- If packaging is made of mixed materials (eg plastic coated card), then it depends if plastic is the greatest material by weight. If it is predominantly composed of plastic, then the whole weight of the packaging is within scope of the tax. If not, then none of the material is within scope.



What will count as packaging? (2)

- Packaging will cover all actual packaging (materials for the containment, protection, handling, delivery and presentation of goods), but also products which are sold to end-users for use as packaging (e.g. cling film).
- This is different from the scope of the producer responsibility packaging waste regime, which does not include items sold for use as packaging by the consumer.
- Packaging which is used to transport imported goods, such as plastic crates and pallet-wrap is excluded.

What is 'recycled'?

- Recycled is defined by reference to an international standard (ISO) on environmental claims about products.
- Recycled plastic is any plastic made from post-consumer plastic waste, and/or pre-consumer plastic waste (but excluding scrap or regrind).
- All forms of recycling (except for scrap and regrind) will be covered, including chemical reduction of plastic to its component monomer chemicals and then using that to make 'new' plastics.
- The 30% recycled content test based on a mass balance calculation – the mass of recycled plastic, divided by the mass of all plastic inputs, multiplied by 100.
- Importers of packaged goods will likely be reliant upon their overseas packaging suppliers to provide this information.

- Plastic packaging will be presumed not to contain 30% recycled content unless it can be proved otherwise.
- If you plan to incorporate recycled content into your plastic packaging and avoid the tax, you will need to be able to produce evidence of this recycled content, if audited.
- The consultation indicates that the regime will not be prescriptive about types or sources of recycled plastic that qualify (save that scrap/regrind reprocessed on site will not qualify), nor what evidence is required.
- However, it will be important to have robust evidence of recycled content (eg product specifications, contracts, certificates), and to carry out due diligence on suppliers.



Who is liable for the tax?

- Directly
 - Importers of finished goods in plastic packaging;
 - Importers of empty plastic packaging; and
 - Plastic packaging manufacturers.

- Indirectly
 - Businesses selling or handling products in plastic packaging; and
 - Consumers.

Who is liable for the tax?

- For packaging manufactured in the UK, the manufacture of packaging/converting of material into packaging is the tax point - So the manufacturer/convertor will be liable to pay the tax.
- In some cases there could be multiple manufacturers in the supply chain. In general, the principal item manufacturer will be responsible and those undertaking further ancillary processing (e.g. laminating, printing, cutting or forming) will be disregarded.
- It can be more complex for imported plastic packaging because of the use of intermediaries such as freight forwarders and agents, but the tax point will be when the packaging is first commercially exploited in the UK – i.e. the moment when it enters free circulation in the UK.



- The tax will start in April 2022 (presumably from the start of the tax year, which would be 6 April).
- If, based on the previous 12 months, a company has imported more than 10 tonnes of plastic packaging, it will need to register for the tax by that date. There will be an HRMC online portal for this.
- The tax will be accounted for by making quarterly returns, in a similar way to VAT.
- This is a self-assessment tax, so the obligated company won't need to submit all the evidence that was used to work out its tax liability, but it will need to be able to produce this if audited by HMRC.

There are exemptions from the tax for:

- Small operators - companies that manufacture or import less than 10 tonnes of plastic packaging within a 12 month period;
- Intermediate packaging around medicines (specific reference is made to not exempting any packaging around medical devices or other products); and
- Exports - exported packaging will be relieved from the tax, either by never crossing the tax point (eg being kept under customs supervision) or by an exemption (being considered by HMRC), or by a credit.

- Enforcement will be similar to other taxes.
- HMRC will have inspection and audit powers, and will be able to impose financial penalties.
- Consultation notes that the Government is considering additional criminal penalties for failure to register for the tax, or for fraudulent evasion.
- Government also considering cross-over into other regimes where there are requirements to be a “fit and proper person” to undertake specified activities (for example to hold certain waste permits), so that if a company fails to comply with this tax regime, it could have other authorisations revoked.



- Two main things to consider at the moment:
 - whether you wish to raise any issues about the design of the scheme with the government, by responding to the consultation (open until 20 August 2020), for example if you think that the tax will disproportionately impact your business because you cannot use a recycled product; and
 - reviewing the recycled content of your current packaging products that will be affected by the tax, and if not already 30% recycled, investigating what steps you can take to switch to greater than 30% recycled content.



Questions?



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Director, Birmingham

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Senior Associate, Birmingham

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