

1. What is the plastic packaging tax and who does it apply to?

The tax applies to “finished” plastic packaging components (PPC) produced for commercial purposes in the UK or imported into the UK, containing less than 30% recycled plastic by weight. Where the plastic packaging is produced in the UK, the producer is liable to pay. Where the plastic packaging is imported, the person on whose behalf it is imported is liable. Tax will be charged at £200 per metric tonne of chargeable PPCs. There is a *de-minimis* threshold of 10 tonnes of PPC per year – below this level, you do not need to register/account for the tax.

2. What is a PPC?

A PPC is a component that is designed to be suitable for use (whether alone or in combination with other products) in the containment, protection, handling, delivery or presentation of goods at any stage in the supply chain (i.e. it is “packaging”), and that contains more plastic by weight than any other single substance.

3. When is a PPC considered “finished”?

PPC is considered “finished” if it has undergone its “last substantial modification” or, where it has undergone a substantial modification when it is packed or filled, it is finished after its “last substantial modification” before being packed or filled. Where the PPC is imported filled with goods, it is always considered finished at the point of import. For imported unfilled packaging, the importer will need to assess whether it is finished at that stage.

4. What is a “last substantial modification”?

“Substantial modification” means a changing of the shape, structure, thickness or weight, by any process of production other than blowing or forming from a pre-form, cutting, labelling and sealing. Examples of “substantial modifications” include extrusion, moulding, forming, layering and laminating, moulding and printing.

5. What is plastic and recycled plastic?

“Plastic” means a material consisting of a “polymer” (other than a cellulose-based polymer that has not been chemically modified) to which additives or other substances may have been added. The definition of polymer is the same as used for the purposes of REACH chemical regulation (namely the “3 monomer plus 1” rule).

“Recycled plastic” is plastic that has been reprocessed from recovered material by a chemical or manufacturing process, so that it can be used either for its original purpose or for other purposes. This excludes organic recycling (e.g. composting).

6. What is recovered material?

Recovered material can include both “pre-consumer plastic” and “post-consumer plastic” that:

- Has been collected and recovered as a material input, in lieu of new primary material, for a recycling or a manufacturing process
- Would otherwise have been disposed of as waste or used for energy recovery



7. What is pre-consumer plastic and post-consumer plastic?

“Pre-consumer plastic” is plastic that is:

- Recovered from waste generated in a manufacturing process
- Processed by a reprocessing facility

However, this does not include plastic that is reused in the same process in which it was generated as scrap and from which it was recovered. HMRC Guidance has clarified that scrap plastic, which is reprocessed by melting and extrusion into pellets, is not caught by this proviso, and can be treated as recycled plastic even if fed back into the same process.

“Post-consumer plastic” is plastic:

- That is generated by households or by commercial, industrial or institutional facilities in their role as end-users of the product
- That can no longer be used for its intended purpose (this includes returns of plastic from the distribution chain)

8. What sort of items are in scope of the tax?

[HMRC Guidance](#) provides detailed examples of items that are in (and out of) scope for the tax. These include:

- Single-use bottles (even if they can be reused) and caps
- Plastic bags (except bags for life)
- Product labels
- Medical device packaging
- Pallet wrap, shrink wrap, and film around a box to protect the box and the contents
- Temperature controlled packaging used to transport pharmaceutical or food products
- Trays designed to contain and protect food, such as “ready meal” trays

9. What is excluded from the scope of the tax?

Certain PPCs will not come within the scope of the tax. There are seven specific exemptions and exclusions:

- Transport/tertiary packaging and transport containers for delivery of goods into the UK
- Packaging used for stores on international aircraft, ship and rail journeys
- The immediate packaging of a medicinal product
- Components permanently designated or set aside for use other than in the containment, protection, handling, delivery or presentation of goods
- Where the packaging function is secondary to the storage function
- Where the packaging is an integral part of the goods
- Where packaging is designed primarily to be reused for the presentation of goods

Tax liability may also be deferred if the PPC is intended to be exported from the UK, or reclaimed on actual export.

10. What are examples of items not in scope of the tax?

As noted above, there is a detailed HMRC guidance note with many examples. These include:

- Plastic cutlery
- Bags for life
- Drinks bottles designed to be reused
- DVD cases
- Nappies
- Sales display shelves and presentation stands
- Toy and storage boxes
- When used to prevent damage of multiple sales units or grouped packaging imported into the UK – pallet wrap and plastic pallets

11. What are businesses obliged to do?

Businesses are required to self-assess whether they are liable to pay the tax and keep records of this for audit purposes. Liable businesses must register with HMRC within 30 days of becoming liable, submit quarterly tax returns via an online platform, and make a quarterly electronic payment (where applicable). Note that even if all of your packaging has more than 30% recycled content, you will still need to register and submit nil returns.

Importers will need details of plastic packaging contents from overseas manufacturers. Records should show:

- Breakdown by weight of the materials used to manufacture plastic packaging
- Data and calculations used to determine if packaging is predominantly plastic and how much recycled plastic it contains
- Weight of exempted plastic packaging and reason for exemption

12. What should business do to prepare?

If you have not yet started assessing whether you are liable for the tax, you should urgently assess whether you are manufacturing or importing PPC and, if so:

- Review data records of:
 - Packaging manufactured, imported and handled
 - The total weight of that packaging
 - The recycled content of that packaging
- Identify any aspects of the packaging and/or supply chain where there is uncertainty as to whether it is within scope of the tax
- Identify whether any non-recycled plastic used could be replaced with recycled plastic so as to fall outside of the scope of the tax
- Put systems in place to manage packaging data, register for the tax and complete tax returns

If you knew at the start of the month that you would surpass the 10-tonne threshold within the month of April 2022, you should have registered for the tax by 30 April 2022. Otherwise, you must register within 30 days of identifying that you have imported 10 tonnes in the period back to 1 April 2022, or will do so in the next 30 days. The first return will be due at the end of July, covering April to June.

13. What are the consequences of non-compliance?

It is an offence for a person to:

- Be knowingly concerned in, or take steps with a view to, evading the tax (evasion)
- Either:
 - Produce or provide (or cause to be produced or provided) or otherwise make use of any document that is false and do so intending to deceive
 - Make a false statement known to be false, or made recklessly (misstatement)

The penalty if convicted is a maximum of 12 months' imprisonment (for evasion) or six months' imprisonment (for misstatement) and/or a maximum fine of £20,000 or (if greater) three times the total of the amounts of tax that was, or was intended to be, evaded.

Monetary civil penalties may also be issued for other more administrative types of non-compliance – either a fixed £500 penalty or a daily penalty of £40 for each day of non-compliance.

14. Is there anything that non-manufacturers/importers should do?

Even if you are not directly liable for the tax, it can affect you and your supply chain. The legislation does provide for secondary and joint and several liability for other people in the supply chain in some situations. You may need to carry out supply chain due diligence to confirm the tax point and that the tax has been paid.

Contracts should factor the tax into pricing and specify whether prices are inclusive or exclusive of the tax. Entities in the supply chain will, in due course, have to provide invoices that state the amount of the tax that has been paid on the packaging (this requirement has been delayed to allow companies to update their systems).

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How We Can Help

Please get in touch with us if you have any other questions about plastic packaging tax – our expert team will be happy to assist.