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New tax on single-use plastic packaging

The Official Gazette of the Spanish State has published the Act on Waste and Contaminated Land, imposing new environmental taxes

Legal flash

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Act 7/2022, of April 8, 2022, on Waste and Contaminated Land introduces a new **tax on single-use plastic packaging** which will **enter into force on January 1, 2023**.

- The tax is levied on (i) the **manufacture**, (ii) the **importation**, and (iii) the **intra-EU acquisition** of the following products, included in the objective scope of the tax:
 - **Single-use packaging** containing **plastic**
 - **Semi-finished plastic products** intended for the **manufacture of packaging**
 - **Products containing plastic intended to seal** single-use packaging, and for its marketing and presentation
- The **tax base** is calculated on the amount of unrecycled plastic (in kilograms) contained in the above products.
- The **tax rate** is fixed at **€0.45 per kilogram**.



New environmental taxes imposed under the Act on Waste and Contaminated Land

The Official Gazette of the Spanish State has published [Act 7/2022, of April 8, on Waste and Contaminated Land for the Circular Economy](#) (the “AWCL”), to meet the new targets set in two EC directives: Directive (EU) 2018/851, of May 30, 2018, on waste; and Directive (EU) 2019/904, of June 5, 2019, on the reduction of the impact of certain plastic products on the environment. Click [here](#) to find out more in our legal flash on the most significant measures approved under the AWCL.

The AWCL introduces very different measures with the aim of preventing and reducing waste generation and its adverse effects. These measures include the approval of two taxes that will enter into force **on January 1, 2023**: (i) **tax on single-use plastic packaging**, discussed in this legal flash; and (ii) **tax on landfill, incineration and co-incineration of waste**. Click [here](#) to find out more about this second tax in our legal flash.

Other European countries, including the United Kingdom and Italy, have recently approved similar measures, also imposing tax on plastic packaging. On April 1, 2022, the United Kingdom’s plastic packaging tax took effect, and is levied on finished plastic packaging containing less than 30% recycled plastic content that is produced in or imported into the United Kingdom.

Tax on single-use plastic packaging

This new tax is levied on **the use**, in the **territory where the tax is charged**, of **single-use packaging containing plastic**, and it taxes the **manufacture**, the **importation**, and the **intra-EU acquisition** of the following products:

- i. **Single-use packaging containing plastic**, regardless of whether it is empty or filled.
- ii. **Semi-finished plastic products intended for the manufacture of single-use packaging** (e.g., preforms and thermoplastics), **and products containing plastic intended to seal single-use packaging, and for its marketing and presentation**.

The tax is to be paid by those responsible for the manufacture, the importation, and the intra-EU acquisition of these products. The AWCL regulates several **tax exemptions and non-taxability**. Among other cases, the tax is not levied on the manufacture of **products intended to be sent outside the territory where the tax is charged**. Likewise, exemptions apply to **small imports and the intra-EU acquisition of packaging** when the total weight of the unrecycled plastic does not exceed **5 kilograms per month**, and to containers designed for the packaging and distribution of **medicines, sanitary products, meals for special medical uses, infant formula used in hospitals and sanitary hazardous wastes**.



The **tax base** is calculated on the **amount of unrecycled plastic** (in kilograms) contained in the above products, applying a **fixed rate of €0.45 per kilogram**. A **deduction and refund** system is also established in some cases.

Taxpayers must submit self-assessments with the same frequency as self-assessments for VAT (monthly or quarterly), except in the case of imports.

The AWCL subjects manufacturers and intra-EU purchasers to **certain accounting obligations** and **the requirement to keep stock records**.

It also regulates **invoicing requirements** for the sale and delivery of products subject to the tax and the **impact** of the tax by the manufacturer on the first sale or delivery it makes.

Before starting their activity, taxpayers must **register** in a **national tax census** and **taxpayers that are not established** in Spain must appoint a representative to act on their behalf before the Spanish tax authorities.

Finally, the approved regulation also lays down a specific **infringement and penalty regime** for this tax.

Conclusions

Despite the seemingly simple structure of this tax regulation, its practical implementation is likely to be more complex, as applying it will require changes to company management systems.

The tax liability is widespread, as it is imposed **not only on manufacturers and distributors of packaging, but on those making intra-EU acquisitions or imports into Spain of these plastic containers (regardless of whether they contain anything)**. It will be necessary to carry out a **case-specific analysis of the formal and material impact of these new provisions on businesses and distribution chains**.

For additional information, please contact our *Knowledge and Innovation Group* lawyers or your regular contact person at Cuatrecasas.

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