

Definition

The tax on non-reusable plastic packaging is an indirect tax levied on the use in Spanish territory of non-reusable packaging containing plastic, whether it is empty or whether it is presented containing, protecting, handling, distributing and presenting goods.

The tax, **with effect from 1 January 2023**, is regulated in Chapter I of Title VII of Law 7/2022 of 8 April on waste and contaminated soils for a circular economy (Articles 67 to 83).

Target scope

Non-reusable packaging containing plastic is included in the target scope of this tax insofar as it is designed to contain, protect, handle, distribute and present goods, whether it is presented empty or in the form in which it is presented for the function for which it was designed. For tax purposes, plastic that forms an integral part of the good is ruled out of the definition.

In addition, the target includes semi-finished plastic products intended for the production of such packaging and products containing plastic intended to enable it to be closed, marketed or presented.

Territorial scope

The tax will be applied throughout Spanish territory, without prejudice to the foral tax regimes of “concierto” and “convenio económico” in force, respectively, in the territories of the Basque Country and the Comunidad Foral de Navarra and to the provisions of international treaties and conventions that have become part of the domestic legal system.

Taxable amount

The taxable amount of the tax is the **quantity of non-recycled plastic, expressed in kilograms, contained in the products subject to the tax.**

The amount of recycled plastic contained in the products subject to the tax must be certified by an entity duly accredited to issue the corresponding certification.

False or incorrect certification constitutes a serious specific tax offence punishable by a proportional fine of 50% of the tax not paid and a minimum of 1,000 euros (this percentage may be increased by 25% in the case of repeated offences).

On a transitional basis, during the 12 months following the implementation of the tax on 1 January 2023, it will also be possible to prove the quantity of non-recycled plastic contained in the products subject to the tax by means of a declaration of responsibility signed by the manufacturer.

There are two considerations in this regard. Firstly, that where the taxed product is composed of plastic and other materials, the product is only taxed on the non-recycled plastic it contains. Secondly, when other plastic elements are incorporated into the taxable product and become part of it, the product is only taxed on the non-recycled plastic contained in the incorporated elements.

Tax rate and tax liability

0.45 per kilogram of non-recycled plastic contained in the taxed products. Finally, the gross tax liability results from applying the tax rate to the tax base.

Implications for Swiss exporters

Unless established in an EU country and carrying out the goods transaction from there, Swiss exports (considered from Switzerland or Liechtenstein to Spain) fall under the scope of **export** and not intra-community acquisition. This means that **the**

importer is the taxpayer and the tax becomes due **when the import duties are accrued** in accordance with customs legislation.

In case the Swiss manufacturer exported the goods from a Member State of the EU to the Balearic Islands or the Peninsula, it would be treated as an intra-community acquisition. If the destination was Canary Islands, Ceuta or Melilla, the place of origin would have to be the Spanish part of the Iberian Peninsula or the Balearic Islands for it not to be considered an export. The implications of it being an **intra-community acquisition** are that the taxable person is the intra-community acquirer and the tax becomes chargeable **on the 15th day of the month following that in which the transport or dispatch to the acquirer begins** or at the time of issue of the invoice, if this is earlier.

As a summary, in no case, unless the Swiss company is manufacturing the goods directly in the Spanish territory, the Swiss company is the taxpayer, so its role would restrict to conveying the necessary information to the taxpayer in Spain. In case the Swiss company is manufacturing the products in Spain, it would be treated as another company that produces its goods in Spain, regardless of the country of which the capital comes from.

Information to convey by Swiss exporters

In cases of importation of products subject to the tax, the tax shall be **settled by customs in accordance with the provisions on customs debt in the customs regulations**.

In the case of importation, **the import SAD (Single Administrative Document) shall state the kilograms of non-recycled plastic contained in the products subject to the tax** and, where applicable, whether the exemption applies because the total weight of non-recycled plastic contained in the imported products does not exceed 5 kilograms per month. **Therefore, the Swiss exporter must let the importer know this information at the time of the production of the SAD.**

Finally, in cases of manufacture or intra-Community acquisition of products subject to the tax, taxpayers (manufacturers or intra-Community purchasers) are obliged to submit a tax return for the tax due and pay the tax debt. In these cases, the settlement period is monthly or quarterly, depending on the VAT settlement period, depending on the volume of transactions or other circumstances provided for in the tax regulations.

Changes to the Plastic Packaging Tax by 2024 (standard UNE-EN 15343:2008)

As of 1 January 2024, significant changes will be implemented in the scope of the Plastic Packaging Tax, in accordance with the provisions of article 77, point 3, of Law 7/2022 on Waste and Contaminated Soil for a Circular Economy ([Ley 7/2022 de Residuos y Suelos Contaminados para una Economía Circular](#)). These changes focus on the way of accrediting the recycled plastic contained in the products subject to this tax, introducing the **compulsory certification by means of the UNE-EN 15343:2008 standard**.

The big novelty for 2024 is that from now on, both plastic manufacturers and importers will be required to provide accredited certification of the recycled component.

According to the new regulation, the accreditation of recycled plastic can only be established by means of a specific certificate (code 1135 in box 44 of the [SAD \(Documento Único Administrativo](#) or DUA in Spanish)) issued by an accredited entity. This certificate must comply with the standards established in the [UNE-EN 15343:2008 standard](#), entitled "Plastics. Recycled plastics. Traceability and conformity assessment of plastics recycling and recycled content".

The rule establishes that the amount of recycled plastic in the products affected by the tax must be certified by an entity duly accredited to issue certifications. In the case of chemically recycled plastic, the accreditation will be carried out by means of a certificate issued by an accredited or authorised entity for such purposes.

The certifying bodies must be accredited by the National Accreditation Body ([ENAC](#)) or by the national accreditation body of any other member state of the European Union, in accordance with [Regulation \(EC\) No. 765/2008 of the European Parliament and of the Council](#).

Certification of packaging according to location

Certification will depend on the location of the packaging manufacturer:

- For packaging manufactured **in Spanish territory**, the certifying entities must be accredited by ENAC.
- In the case of **packaging manufactured in other member states of the European Union**, the accreditation must come from the national accreditation body designated in accordance with Regulation (EC) No. 765/2008.
- If the packaging is manufactured **outside the European Union**, the certification can be carried out by any accreditor with which ENAC has an international recognition agreement.

Importantly, **31 December 2023 marks the end of the 12-month transitional period**, during which accreditation of the amount of recycled plastic could be done by means of a responsible declaration signed by the packaging manufacturer. **From that date, certification under UNE-EN 15343:2008 will be mandatory**, marking a significant step towards promoting sustainability and the circular economy in the handling of plastic packaging.

Useful links

- Excise duty on non-reusable plastic packaging provided by the Spanish tax office: https://sede.agenciatributaria.gob.es/Sede/en_gb/impuestos-especiales-medioambientales/impuesto-especial-sobre-envases-plastico-reutilizables.html
- Official legislation passed on the State's Bulletin (in Spanish): "Ley 7/2022, de 8 de abril, de residuos y suelos contaminados para una economía circular.": <https://www.boe.es/buscar/act.php?id=BOE-A-2022-5809>
- Video summary of the tax (in Spanish): https://sede.agenciatributaria.gob.es/Sede/en_gb/ayuda/manuales-videos-folleto/videos/impuesto-especial-sobre-envases-plastico-reutilizables.html

EXCISE DUTY ON NON-REUSABLE PLASTIC PACKAGING

Date: 15.12.2024

Language: English

Number of pages: 5

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