

## UK Plastic Packaging Tax: A New Measure to Reduce Plastic Waste

May 17, 2021

The Finance Bill 2021 sets out a more sustainable and environmentally friendly tax system by legislating to implement a plastic packaging tax (the “Tax”). The new Tax will encourage the use of recycled plastic within packaging and provide an economic incentive for businesses to use recycled material when producing plastic packaging. It is estimated that the Tax could lead to the use of recycled plastic in packaging increasing by approximately 40 percent, which would be equivalent to carbon savings of nearly 200,000 tonnes in 2022 to 2023. The increased demand for recycled plastic should result in greater recycling and collection of plastic waste, helping to reduce the UK’s carbon footprint and build a more environmentally sustainable economy.

### The Charging of the New Tax

Plastic packaging containing less than 30 percent recycled plastic content that is produced in or imported into the UK (“Chargeable Plastic Packaging”) will be taxable at £200 per tonne. Where Chargeable Plastic Packaging is manufactured in the UK, the Tax will be payable by the manufacturer and, where Chargeable Plastic Packaging is imported into the UK, the Tax will be payable by the person on whose behalf it is imported. A plastic packaging component will be taken to have less than 30 percent recycled plastic content unless it is shown otherwise. The recycled content of a component will be based on the weight of the plastic material within a component, compared to the amount of recycled content. For these purposes, recycled plastic is plastic that has been reprocessed from recovered material by means of a chemical or manufacturing process, other than organic recycling, in order to be used for its original purpose or for other purposes.

The Tax will not be chargeable on plastic packaging where:

- it has 30 percent or more recycled plastic content;
- it is made of multiple materials of which plastic is not proportionately the heaviest when measured by weight;
- less than 10 tonnes of plastic packaging are manufactured and/or imported by a business annually;
- it is manufactured or imported for use as immediate packaging of human medicines;
- it is in use as transport packaging to import products into the UK; or
- it is exported, filled or unfilled, unless it is in use as transport packaging to export products out of the UK.

The Tax will be paid by reference to accounting periods determined in accordance with regulations by HM Revenue and Customs (HMRC).

The liability for this Tax can be deferred where Chargeable Plastic Packaging is intended to be a direct export. The deferral period is 12 months, beginning the day the Chargeable Plastic Packaging is manufactured or imported. The liability will be cancelled if the Chargeable Plastic Packaging is exported before the end of the deferral period.

The manufacturer or importer liable for the Tax must state that the Tax has been paid on its invoices.

This Tax is likely to impact UK producers of plastic packaging, importers of plastic packaging, business customers of producers and importers of plastic packaging and, less significantly, consumers who buy goods in plastic packaging in the UK. As the Tax will have a minimal impact on the price to consumers, it is unlikely to act as a deterrent to buying ready-made meals or unhealthy foods that are often packaged in plastic and so probably will not assist in the campaign against obesity

## Registration and Recordkeeping

The Tax will be administered, collected and managed by HMRC, who will establish and maintain a register for the purposes of collecting and managing the Tax. Manufacturers and importers of plastic packaging components will be liable to be registered for the Tax if: (1) there are reasonable grounds to believe that they will manufacture and/or import at least 10 tonnes of finished plastic packaging components in the next 30 days; or (2) they have manufactured and/or imported at least 10 tonnes of plastic packaging components in the past 12 months. These parameters are similar to those for registration for value added-tax (VAT). Registration thresholds are by reference to quantities of finished plastic packaging components rather than Chargeable Plastic Packaging; therefore, registration may be required regardless of whether any actual liability to pay the Tax arises. Only plastic packaging components manufactured in or imported into the UK after 1 April 2022 will be included in calculations for this Tax. A person who is liable to be registered must notify HMRC before the end of the notification period, which is 30 days starting from the first day on which liability arises. HMRC will register the person with effect from the day on which the liability arises.

A registration may be cancelled if HMRC is satisfied that: (1) the liability conditions are no longer met and have not been met for at least 12 months; or (2) the liability conditions were never met.

Businesses will need to keep records and, in most cases, register for the Tax, even if all the packaging that they manufacture or import contains more than 30 percent recycled plastic. If a business manufactures or imports less than 10 tonnes of plastic packaging a year, the record keeping requirements will be reduced.

## Group Companies

Where two or more corporate bodies, with at least one having an established UK presence, are under the same control, they are eligible to be treated as members of the same group for the purposes of this Tax. Although the amounts incurred by group members are charged to the representative member, all corporate bodies in the group, or who join the group while there is an unpaid amount, are joint and severally liable for any non-payment of the amount.

## Penalties

There will be civil and criminal penalties for failure to comply with this Tax, including penalties for failure to register, file returns or pay the Tax. Where a business fails to comply with a requirement, there is a £500 fixed penalty and a £40 daily penalty that accrues each day after the first on which the business continues not to comply. The only defence is that of a reasonable excuse for the failure. There is an appeals process as well as anti-avoidance legislation.

The Tax will come into effect from 1 April 2022. Draft secondary legislation will be published later this year.

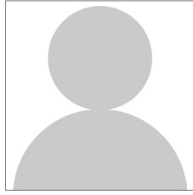
---

## CONTACTS

For more information on the new plastic packaging tax, contact your Katten lawyer or either of the following:



**Charlotte Sallabank**  
+44 (0) 20 7776 7630  
charlotte.sallabank@katten.co.uk



**Christy Wilson**  
+44 (0) 20 7770 5241  
christy.wilson@katten.co.uk

# Katten

katten.com

Paternoster House, 65 St Paul's Churchyard • London EC4M 8AB

+44 (0) 20 7776 7620 tel • +44 (0) 20 7776 7621 fax

Katten Muchin Rosenman UK LLP is a Limited Liability Partnership of Solicitors and Registered Foreign Lawyers registered in England & Wales, regulated by the Law Society.

A list of the members of Katten Muchin Rosenman UK LLP is available for inspection at the registered office. We use the word "partner" to refer to a member of the LLP. Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

Katten Muchin Rosenman UK LLP of England & Wales is associated with Katten Muchin Rosenman LLP, a US Limited Liability Partnership with offices in:

CENTURY CITY | CHARLOTTE | CHICAGO | DALLAS | LOS ANGELES | NEW YORK | ORANGE COUNTY | SHANGHAI | WASHINGTON, DC

5/17/21