

**EXPLANATORY MEMORANDUM TO**  
**THE PLASTIC PACKAGING TAX (GENERAL) REGULATIONS 2022**  
**2022 No. 117**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments

**2. Purpose of the instrument**

- 2.1 This instrument sets out the detailed administrative requirements for the Plastic Packaging Tax (the tax) which commences on 1 April 2022.
- 2.2 In particular, the legislation provides detailed definitions, which establish when a plastic packaging component is finished and therefore becomes chargeable for the purposes of the tax. It also details the evidence that businesses need to keep, provides detail on how to weigh packaging and determine the recycled plastic content, and sets out the obligations with reference to the administration of the tax, such as requirements relating to registration and returns.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 As permitted by section 84(2) of the Finance Act 2021 the Regulations make provision for requirements to be set out in a notice published by the Commissioners for HMRC. This power is used in these Regulations to delegate detailed requirements in respect of: form, manner, and content of applications, claims and returns; evidence for given purposes; methods for determining the weight of plastic packaging components and determining whether packaging components are plastic; detailed requirements and evidence of due diligence in cases of secondary and joint and several liability.
- 3.2 As permitted by section 53(4) of the Finance Act 2021, the Regulations delegate to a notice the specification of detailed requirements in respect of tax credits.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 Primary legislation establishing the tax was included in sections 42 to 85 of, and Schedules 9 to 15 to, the Finance Act 2021. The primary legislation includes the definitions and framework for the tax and includes a range of powers to make secondary legislation setting out the detailed legislative framework for the scope and operation of the tax. This instrument makes regulations exercising the powers conferred by Finance Act 2021.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The government is introducing a world leading new Plastic Packaging Tax from 1 April 2022. This tax aims to provide a clear economic incentive for businesses to use recycled plastic in the manufacture of plastic packaging, which will create greater demand for this material. In turn this will stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.
- 7.2 All the provisions in this instrument are necessary for the operation of the tax. The instrument details when a plastic packaging component becomes chargeable (including the meaning of ‘substantial modification’) and how to calculate the plastic and recycled plastic content of a packaging component. It details a range of taxpayer obligations concerning returns, registration, and evidence requirements, including entitlements to tax credits. As set out in paragraph 3.1, the Regulations delegate detailed requirements in some areas to notices. This is appropriate to ensure that the detailed requirements can be kept in step with developments in the packaging industry, systems used by HMRC to administer the tax, and to prevent abuse and fraud.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 These are the first Regulations made under these powers. As such, there is no need to consolidate the Regulations.

## **10. Consultation outcome**

- 10.1 Her Majesty’s Treasury conducted a consultation on Plastic Packaging Tax in 2019. The response to the 2019 consultation can be viewed at:  
<https://www.gov.uk/government/consultations/plastic-packaging-tax>.
- 10.2 HMRC conducted a further consultation in 2020 on the policy design. This was extended due to Covid-19 to give businesses more time to respond. Alongside the response to this consultation, HMRC published the draft primary legislation for technical consultation. These can be viewed at:  
<https://www.gov.uk/government/consultations/plastic-packaging-tax-policy-design>.
- 10.3 This instrument was published for technical consultation between 4 November 2021 and 1 December 2021 resulting in minor amendments to: record keeping, weighing methods of plastic packaging components and calculations of plastic, and recycled plastic content. This instrument is the outcome of that consultation.

## **11. Guidance**

- 11.1 Preliminary guidance about Plastic Packaging Tax was published on GOV.UK from 20 May 2021.
- 11.2 Further guidance has been published to help businesses get ready for Plastic Packaging Tax and is available at: <https://www.gov.uk/guidance/check-if-you-need-to-register-for-plastic-packaging-tax>. This has been updated ahead of the tax coming into force on 1 April 2022.

## **12. Impact**

- 12.1 There is no, or no significant impact on business, charities, or voluntary bodies as a result of this instrument beyond that already set out for Plastic Packaging Tax as a whole.
- 12.2 There is no, or no significant impact on the public sector as a result of this instrument beyond that already set out for Plastic Packaging Tax as a whole.
- 12.3 A Tax Information and Impact Note covering this instrument was published on 27 October 2021 alongside a draft of the Plastic Packaging Tax (General) Regulations 2021 and is available on the website at: <https://www.gov.uk/government/publications/plastic-packaging-tax-amendments>. It remains an accurate summary of the impacts that apply to this instrument.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken for the tax overall is to exempt businesses manufacturing and importing less than 10 metric tonnes of plastic packaging in any 12-month period from registering for and paying the tax. Businesses close to the threshold are encouraged to keep some basic records to demonstrate that they fall below this threshold, but in many cases their normal business records should meet this requirement.
- 13.3 The basis for the final decision on what action to take to assist small businesses was to achieve a good balance between easing administrative burdens and meeting the environmental objectives of the tax.

## **14. Monitoring & review**

- 14.1 To monitor and review this legislation, HMRC will evaluate the environmental impact of the tax after at least one year of monitoring data. Data will include yield from the tax and compliance data. This data will be collected through HMRC's implementation of the tax and compliance activity. HMRC's monitoring and evaluation will be subject to internal review and the legislation may be amended accordingly.
- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 a review clause is not required as the regulations make provisions relating to a tax.

**15. Contact**

- 15.1 Chloe Harkness at HMRC Email: [indirecttaxdesign.team@hmrc.gov.uk](mailto:indirecttaxdesign.team@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Judith Kelly, Deputy Director for Excise and Environmental Taxes Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Helen Whately MP, Exchequer Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.