

Plastics and packaging taxes in Europe

EY webcast summary

Plastics and packaging taxes in Europe

Watch the on-demand replay and access the slides used – of this webcast here:

https://event.webcasts.com/starthere.jsp?ei=1445146&tp_key=5f887b1977

This EY webcast was the first in a new series of webcasts on tax and sustainability. If you have not opted in to receive future related communications, please [click here](#) to register your interest.

Key contacts



Alenka Turnsek
EY EMEIA Tax
Sustainability Leader
alenka.turnsek@uk.ey.com

Focus area: Tax and sustainability



Sofie van Doninck
Partner – Indirect Tax,
Ernst & Young Tax Consultants
sofie.van.doninck@be.ey.com

Focus area: European plastic taxes



Anselmo Martellotta
Associate Partner – Indirect
Tax, Studio Legale Tributario
anselmo.martellotta@it.ey.com

Focus area: Italy plastic tax



Pedro Gonzalez-Gaggero
Partner – Indirect Tax,
Ernst & Young Abogados
pedro.gonzalez-gaggero@es.ey.com

Focus area: Spain plastic tax



Edward Sims
Climate Change and Sustainability,
Ernst & Young Assurance Services
edward.sims@be.ey.com

Focus area: Plastics EPR



Andy Bradford
Associate Partner – Indirect Tax,
Ernst & Young LLP
abradford@uk.ey.com

Focus area: UK plastic tax

What we discussed during the webcast

During this recent webcast, EY panellists discussed the surge of plastics and packaging taxes across Europe. The spotlight was firmly on Italy and Spain, given the intended effective dates in 2021. However, since the broadcast date, the timelines for Italy and Spain have changed, with both to be likely postponed to January 2022.

The agenda included:

- ▶ Setting the scene: EU direction of travel
- ▶ Italy and Spain legislation
- ▶ Broader European outlook
- ▶ Extended producer responsibility (EPR)
- ▶ Operationalizing the response

Key messages for the audience:

- ▶ Understand scope of tax, it goes beyond consumer goods/food and beverage sectors
- ▶ Implications for ERP systems and data requirements
- ▶ Keeping ahead of the complex legislative landscape is key
- ▶ Understand interaction between European and local plastic tax and EPR compliance
- ▶ Timing is critical

Italy, Spain and UK: plastic tax legislation at a glance

The following page provides a summary of what is known so far for the upcoming plastics tax legislation in Italy and Spain. The UK is included for completeness, though it was not covered in detail on the webcast.

	Italy	Spain	UK
Effective date	1 July 2021 (Postponement to January 2022) ¹	1 October 2021 (estimated entry into force by January 2022)	1 April 2022
Scope	<ul style="list-style-type: none"> ▶ Single-use plastic items (MACSI) ▶ Semi-finished products including preforms (e.g. sheets, plugs, bottles, films) ▶ Empty and full packages ▶ Not only food and beverage 	<ul style="list-style-type: none"> ▶ Non-reusable plastic packaging ▶ Semi-finished products (preforms, thermoplastic sheets, caps etc.) ▶ Empty and full packages ▶ Not only food and beverage 	<ul style="list-style-type: none"> ▶ Plastic packaging which doesn't contain at least 30% recycled plastic ▶ Imported plastic packaging, whether full or empty packages
Tax liable party	<ul style="list-style-type: none"> ▶ Italian manufacturer for sales in Italy ▶ Italian purchaser for B2B intra-EU supplies ▶ EU vendor for B2C intra-EU supplies/distance sales ▶ Importer for goods from non-EU countries 	<ul style="list-style-type: none"> ▶ Spanish manufacturer for sales in Spain ▶ Spanish purchaser of intra-EU supplies ▶ Importer for goods from non-EU countries 	<ul style="list-style-type: none"> ▶ UK manufacturer ▶ Importers of plastic packaging

¹ Refer to EY Tax alert issued on 26 May 2021: ["Italy postpones plastic packaging tax to 2022"](#)

	Italy	Spain	UK
Effective date	1 July 2021 (Postponement to January 2022) ¹	1 October 2021 (estimated entry into force by January 2022)	1 April 2022
Taxable event	<ul style="list-style-type: none"> ▶ Italian manufacturer – at the time of the domestic sale ▶ EU supplier/purchaser: B2B at the time of intra-EU acquisition; B2C at the time of distance sale ▶ Importer: at the time of customs importation (SAD) 	<ul style="list-style-type: none"> ▶ Manufacturer: Deferred to the first sale, unless there is an advanced payment ▶ EU supplier – intra-EU acquisition: deferred to the 15th of the following month, unless the invoice is issued before ▶ Importer: at the time of customs importation (SAD) 	<ul style="list-style-type: none"> ▶ The first person to commercially use the plastic as a finished component. For imported plastic this will likely be the importer. For UK manufactured plastic this is most likely to be the business that first uses the plastic for a commercial purpose.
Rate	▶ 0.45 EUR per kilogram	▶ 0.45 EUR per kilogram	▶ £200 per metric tonne of plastic packaging
Penalties	<ul style="list-style-type: none"> ▶ Non-payment of tax: 200%-500% of amount unpaid ▶ Late: 25% of amount paid with delay 	<ul style="list-style-type: none"> ▶ Non-payment of tax: 50%-150% of amount unpaid ▶ Surcharges and other penalties possible 	<ul style="list-style-type: none"> ▶ Fixed payment of £500 for contravening the relevant requirements, and a penalty of £40 per day following that ▶ Potential for a fine of up to £20,000 and imprisonment for fraudulent evasion
Exceptions (supportive evidence is required)	<ul style="list-style-type: none"> ▶ Recycled plastic ▶ Packaging for medicines, medical devices ▶ Compostable goods ▶ Customs duty relief regulation no. 1186/2009 	<ul style="list-style-type: none"> ▶ Recycled plastic ▶ Packaging for medicines, sanitary products, meals for special medical uses etc. ▶ Some plastics for agricultural ▶ Small imports (below 5kg) – still to be clarified ▶ Territoriality rules: different legislative mechanisms (non-taxation, exemption, deduction, refund) to ensure that the tax is not effectively paid for products sent abroad of Spain 	<ul style="list-style-type: none"> ▶ Has 30% of more recycled plastic content ▶ Where plastic is not proportionately the heaviest when measured by weight ▶ Licensed human medicines ▶ In use as transport packaging to import products into the UK ▶ Users of less than 100 tonnes
Reporting obligations and payment	<ul style="list-style-type: none"> ▶ Registration with customs authorities required and filing of report to describe goods, process, steps, business of company ▶ Quarterly tax return ▶ Daily accounting obligations ▶ Quarterly tax payment ▶ Obligation to appoint a fiscal representative for non-established taxpayers (B2C distance sales) 	<ul style="list-style-type: none"> ▶ Registration required ▶ Monthly or quarterly tax returns ▶ Importer must include amount of non-recycled plastic in the customs declaration ▶ Accounting obligations ▶ Immediate supply of information of movements mandatory for manufacturers (special excise reporting system) ▶ Content of invoices (non-recycled plastic content, amount of the tax paid in a prior stage) ▶ Representative for non-established companies 	<ul style="list-style-type: none"> ▶ Registration required ▶ Quarterly tax returns

¹ Refer to EY Tax alert issued on 26 May 2021: [“Italy postpones plastic packaging tax to 2022”](#)

Other country-specific considerations

Italy

- ▶ Commodity product codes provide an indicator for eligibility, but key criteria remains whether it is single-use or not
- ▶ When goods are introduced from EU or non-EU countries, a statement is required certifying if the goods are made of recycled or virgin plastic. If this is not available, this may incur incorrect tax charges
- ▶ In case of domestic supplies to other manufacturing companies or to operators who intend to ask for the tax refund, the supplier must quote in the invoice the necessary data allowing to calculate the plastic tax, including nature, quality, quantity, virgin plastic size, tax paid, exemptions applied

Spain

- ▶ Lack of clarity around rules for B2C intra-community transactions
- ▶ In contrast to other excise taxes, there is no formal obligation for the taxpayer to charge the tax quota to its customers. It is however implicit in the Law that the taxpayer and subsequent parties in the supply chain are allowed to include the cost of the tax as a higher price of the products. There is indeed an obligation to include in the invoice (not in the tickets) the amount of the tax quota paid in a prior stage, in order to facilitate potential refunds by the subsequent recipients of the goods.
- ▶ Lack of clarity regarding what kind of recycling allows for the taxable base reduction

Spain and Italy

- ▶ Digital accounting and reporting obligations are time-sensitive and demanding, especially in

Spain with immediate transaction reporting for manufacturers

- ▶ Added complexity on long supply chains. Every invoice in the supply chain should identify the amount of plastics in order to enable refunds or payments. If the data is inaccurate, knock-on impacts and/or delays are likely
- ▶ Secondary and tertiary packaging is not listed as an exclusion, so it is likely to be in scope.

On 10 May 2021, the UK Government issued Guidance that explains how businesses that manufacture or import plastic packaging, should now prepare for the new Plastic Packaging Tax, mainly in relation to registration and record keeping.¹

On the near European horizon – point of view

The EU Plastics Levy is a mandatory contribution of 0.8 EUR per kg of non-recycled plastic packaging waste to be paid by Member States. There are two main driving forces for the introduction of the EU Plastics Levy: one is to support the (COVID-19) recovery budget and secondly, to drive change when it comes to the proliferation of non-recycled plastic.

A number of countries have an existing plastic tax in place – the question is, will new legislation replace existing, will current legislation be updated or will there be no real change felt?

For Spain and Italy, this is manifesting in the new plastic tax as discussed during the webcast. For others, it may be a more straightforward “pure” contribution (for example, Luxembourg at time of publication). As calculations and developments emerge, approaches may change (for example, Germany). Outside of the

EU, there is change too (for example, the UK Plastic Packaging Tax).

Another element to consider is EPR fees, which may be increased to cover the contribution (for example, Belgium and France). The interaction between new and old taxes is complex, more so when EPR is factored in.

What’s clear is countries are looking to their peers in Europe to help determine their way forward. Whilst, Spain, Italy and the UK are leading the pack, others may follow soon. For example, Poland and Sweden have announced that they will implement new legislation. However, no further details are known yet.

Hence, companies should stay up to date with developments. This is especially pertinent given stringent penalty regimes. Conducting impact assessments where draft legislation is available can help support preparedness and compliance from Day 1.

EPR in brief

EPR is a fee that businesses pay to manage their packaging waste at end of life. Fees go towards the collection, sorting, treatment, management and recycling of packaging waste. A portion of EPR fees may be used to fund the EU Plastics Levy in some countries (e.g. France and Belgium). EPR fees in these countries may increase, to pay for national plastics taxes.

Whilst EPR is not characterised as a tax, it is a fee that is used to manage the cost of collecting and treating packaging waste. A view on your EPR compliance and EPR costs across your European footprint is useful, in order to paint an overall picture of your company’s sustainability compliance.

² Refer to EY Tax alert issued on 11 May 2021: “UK issues guidance on new Plastic Packaging Tax”

Operationalizing compliance – the role of technology

Are enterprise resource planning (ERP) systems ready for the data challenges plastic tax compliance might bring? The short answer is likely no.

The tough excise compliance landscape in both Italy and Spain mandate digital reporting and the data needed is, in most cases, not readily available

from ERP systems. Consideration must be given to how to adapt ERP systems to collect and store data for tax and accounting purposes.

How EY teams can help

Tax and operations must collaborate in order to address the business change required. We build multi-disciplinary teams designed to meet your needs:

Scenario planning

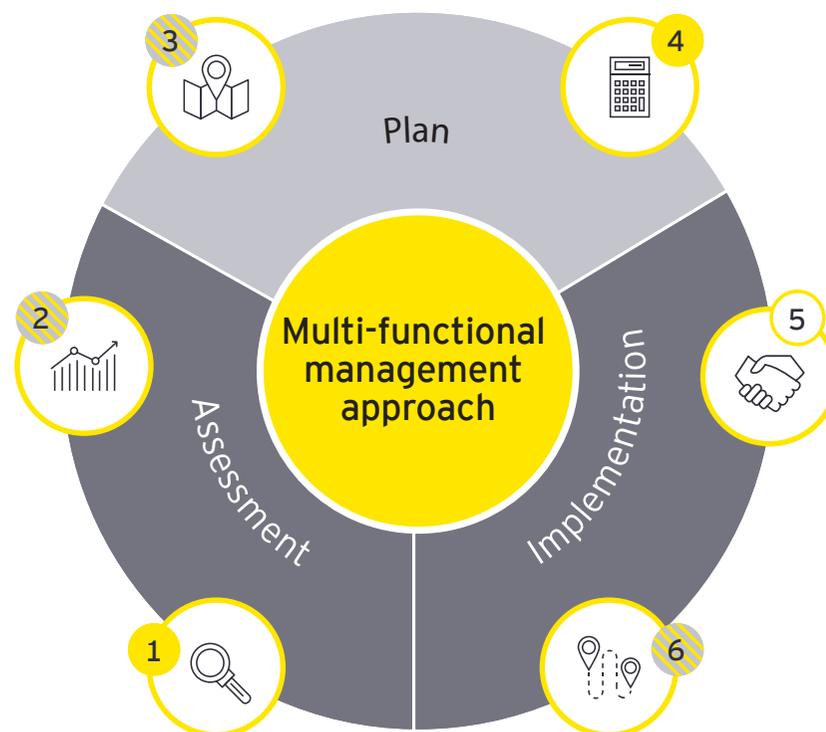
- ▶ Based on current supply chain and international competitive landscape
- ▶ Evaluating changes of circular economy
- ▶ Calculate impact of (future) plastic taxes

Identification of required data and impacted processes

- ▶ Compliance readiness check
- ▶ Identify strategic changes (e.g. sourcing, EPR schemes, ERP)

Tax and regulatory impact on business

- ▶ Assess business impact of relevant (EU, non-EU) plastic tax policies and actions
- ▶ Calculate plastic tax impact of draft legislation (ES, IT, UK)
- ▶ Risk assessment



● = Tax remit ○ = Business remit ● = Combination

Financing and ecosystem for transformation

- ▶ Identify tax incentives, reliefs and other funding mechanisms
- ▶ Identify potential ecosystem partners to address the challenge (e.g. packaging producer and customer)

Changing the supply chain

- ▶ Change suppliers and transform supply chain to implement the strategic changes, if required
- ▶ Embed potential ecosystems partners for ongoing operations

Aligning business and operating models

- ▶ Re-evaluate plans and investments
- ▶ Align tax operating model with supply chain and business models

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2021 EYGM Limited.
All Rights Reserved.

EYG no. 004281-21GbI

BMC Agency
GA 1019148

ED None



In line with EY's commitment to minimize its impact on the environment, this document has been printed on paper with a high recycled content.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com