

Spain publishes proposal for indirect tax on non-reusable plastic packaging

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Executive summary

On 2 June 2020, the Spanish Government published the draft Bill on Waste and Contaminated Soils (draft Bill).

This draft Bill aims to establish the principles of the circular economy, as well as to contribute to the fight against climate change and the protection of the marine environment. Specifically, the Law addresses the obligation for Spain to transpose two European Union (EU) Directives, 2018/851, which modifies the Waste Framework Directive, and 2019/904, whose purpose is the reduction of the impact of certain plastic products on the environment.

Additionally, the Government is also promoting **the creation of a new indirect tax on non-reusable plastic packaging that would take effect on 1 July 2021**. This "Spanish Plastic Tax" has a broad scope, a tax rate of €0.45 per kilogram of plastic packaging and should generate €724 million per year. The Spanish Plastic Tax is similar to those that the United Kingdom and Italy will introduce soon and, therefore, it will impose a tax on the manufacture, importation or intra-community acquisition of non-reusable plastic packaging for its final use within the Spanish market.

This draft Bill is subject to public consultation until 3 July 2020.

Detailed discussion

Background

The environmental impact derived from the intensive use of plastic by society has been attracting the attention of tax legislators for some time.

On 28 February 2020, Spain's Ministry of Finance submitted to public consultation the introduction of a tax on "single-use plastic articles intended to contain or protect goods or food products." The closest precedent was the recent creation of an Italian tax on plastic packaging, which is now due to come into force on 1 January 2021. The Government itself has recognized that this Italian tax has influenced its decision to implement a similar tax, including the same tax rate of € 0.45 / kg.

Simultaneously, it is known that some voices in the European Commission have spoken in favor of the creation of a European tax on plastic. Recently, this potential European tax has been included in the package of fiscal measures that the EU intends to implement to increase its own budget and fund the recovery of the European economy after the COVID-19 crisis.

Main characteristics of the Spanish Plastic Tax

According to the draft Bill, the main characteristics of the Spanish Plastic Tax are:

Nature

It is an **indirect tax with an environmental purpose**. It aims to internalize the environmental costs of the manufacture and consumption of plastic in the price of final products.

Taxable event and Scope

The taxable event is **the manufacture, import or intra-community acquisition of non-reusable plastic packaging only when they are going to be used in the Spanish market**.

The plastic tax includes in its scope **a broad concept such as "non-reusable plastic packaging"** which includes:

- a) Plastic packaging composed of polymer and not conceived and designed to be reusable.
- b) All non-reusable plastic products that serve to contain liquid or solid products, or to wrap goods or food products.
- c) Plastic containers being composed of more than one material.

In the case of imports and intra-community acquisitions the tax will not just reach the scenario where the plastic container is the object of the commercial operation but also those other cases where the plastic to be taxed is just merely packaging or wrapping the product.

Exemptions

The draft Bill provides the following exemptions:

- (i) The manufacture, import, or intra-community acquisition of non-reusable plastic packaging that are shipped directly to other EU or non-EU countries.
- (ii) The manufacture, import, and intra-community acquisition of non-reusable plastic packaging, which, prior to the end of the period established for filing the tax return, is destroyed.
- (iii) The manufacture, import, or intra-community acquisition of non-reusable plastic packaging used as the primary packaging of medicines.

A deduction system is established in order to guarantee tax exemption.

In addition, Intra-community acquisitions and imports of non-reusable plastic packaging carried out for private purposes will not be subject to the tax when the weight of the non-reusable plastic packaging does not exceed five kilograms.

Tax Base and Tax Rate

The tax base will be made up of the quantity, expressed in kilograms, of non-reusable plastic packaging and the **tax rate will be €0.45 per kilogram**.

Taxpayer

Manufacturers of products subject to the tax and those who perform intra-community acquisitions or imports into Spain will be taxpayers.

Taxpayers not established in the Spanish territory must appoint a tax representative to represent them before the Tax Administration, and to make said appointment, duly accredited, prior to the commencement of the activities subject to taxation.

Collection procedure and other formal obligations

No specific tax form has been proposed yet - this will be regulated in a further stage.

The Plastic Tax will be assessed on a quarterly basis. Taxpayers will also have to register, prior to the commencement of their activity, in a national tax census to be created for this purpose. In addition, the taxpayer will be required to keep and electronically submit some specific accounting books.

Entry into force

If finally approved, the entry into force is envisaged for **1 July 2021**.

Next steps

The draft Bill is subject to public consultation until 3 July 2020. During this period, economic operators can submit their views on the creation of the tax itself, as well as on its configuration. As some of the rules contained in the draft Bill are not determined yet and therefore open for discussion, taxpayers who could be significantly impacted when the tax is approved should provide their feedback.

Once the public consultation phase concludes, the draft Bill must follow the appropriate parliamentary procedure for its approval; thus, it may eventually be subject to modifications during the process or might even be rejected. An amendment to the entry into force date could be introduced during the parliamentary discussion.

In order to assess the effects that this new tax could have on different companies, the impact on both their business and supply chain should be analyzed, identifying the areas that might be affected and how they should be adapted to the new Plastic Tax.

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