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# Special tax on non-reusable plastic containers (IEEPNR)

KEY ASPECTS

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JANUARY 2023

2023

With the aim of making daily life easier for our clients and clarifying the questions that might arise related with the entry into force of the special tax on non-reusable plastic containers, **at Armando Alvarez Group we have drawn up this document providing a summary** based on our interpretation of the Waste and Contaminated Soil Act, Title VII, in which we compile **the most relevant aspects.**

In spite of this, we invite you to read for yourself the Law regulating the tax Law 7/2022 of 8 April 2022, on Management of Waste and Contaminated Soils for the Promotion of a Circular Economy ([“Ley 7/2022 de 8 de abril de 2022, de Gestión de Residuos y Suelos Contaminados para el Fomento de una Economía Circular”](#)) and the [HFP/1314/2022 Order from December 28th,](#)



[See guidelines of the Spanish Tax Agency \(AEAT\) on the special tax on non-reusable plastic containers](#)



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## TABLE OF CONTENTS

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1	FISCAL CONTEXT	4
2	STRUCTURAL ELEMENTS OF THE SPANISH TAX	7
3	SCOPE OF APPLICATION	9
4	PLASTIC MATERIAL EXEMPT FROM THE TAX: RECYCLING	12
5	EXEMPTIONS TO TAXATION	16
6	REFUND OF THE TAX	19
7	FOREIGN TRADE	24
8	HOW DOES THIS AFFECT DAILY BUSINESS?	31

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# 1. FISCAL CONTEXT

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## FISCAL CONTEXT

### Tax derived from the European Tax on the Member States approved in 2021

Pursuant to its strategy for plastic in a circular economy, the European Union has already approved for FY 2021 a tax on the Member States of €800 for every tonne of non-recycled plastic containers that are produced in their markets. Payment is made through the national budgets of each Member State, but each Member State can choose how to recoup this cost. Some are in the process of approving their own taxes on plastic, and others such as Spain or Italy have already done so.

In the case of Spain, the Special tax on non-reusable plastic containers has been introduced through the **Law 7/2022 of 8 April 2022, on Management of Waste and Contaminated Soil for the Promotion of a Circular Economy**, which transposes various European directives. Its purpose is that the design and production of plastic products respect the need to reuse and recycle them.

### EU

- Levy on EU countries 0.8 €/kilogram on non-recycled plastic waste
- Planned tax receipts between 4,000 and 8,000 million



# FISCAL CONTEXT

The tax in our environment: non-harmonised in Europe and still in the pipeline in some countries

## Spain



- **Rate:** 0.45 €/kg of non-recycled product.
- **Scope of application:** Containers that contain non-recycled plastic.
- **Entry into force:** November 2022.
- **Exempt:** Reusable products and medicinal products.

## Italy



- **Rate:** 0.45 €/kg of non-recycled product.
- **Scope of application:** Similar to the Spanish tax.
- **Entry into force:** deferred; No date foreseen.
- **Exempt:** The same as in Spain + compostable plastics.

## United Kingdom



- **Rate:** 0.2 GBP/kg of non-recycled product.
- **Scope of application:** Products with < 30% for mechanical and chemical recycling.
- **Entry into force:** April 2022.
- **Exempt:**
  - Tertiary packaging of imported goods
  - Manufactured goods and imports of less than 10 metric tonnes per year.

The biggest problem that arises from this freedom for the Member States to choose how to recoup the cost of the European tax is the lack of harmonisation in Europe, which results in an **increase in costs for purchases packaged in plastic**, and which, in turn, reduces the competitiveness of the Spanish economy.

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## 2. STRUCTURAL ELEMENTS OF THE SPANISH TAX

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# SPANISH TAX ON PLASTIC

## Structural elements

1

### Purpose

- To promote the circular economy by creating incentives for reuse and recycling.
- To prevent generation of waste.

2

### Nature

- Indirect tax levied on use in **Spain** of **non-reusable** containers that contain plastic.
- Part of the Taxable Base for VAT.

3

### Taxable transaction and taxpayer

- **Taxable transaction:** The manufacture, intra-Community acquisition and importation of non-reusable plastic containers.
- **Taxpayer:** The manufacturer of the product subject to tax, the intra-Community buyer and the importer.

4

### Tax base and tax rate

- **It taxes:** The amount of non-recycled plastic used in non-reusable plastic containers.
- **Rate:** 0.45 €/kg of non-recycled plastic.

5

### Accrual and settlement

- **Accrual:** Upon delivery of the material (sale by the manufacturer, intra-Community acquisition and importation).
- **Settlement:**
  - Large companies: Monthly
  - Remaining companies: Quarterly
  - Importers: At customs

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### Impact

- **Legal impact** on the manufacturer.
- **Economic impact** on the next party in the chain, on the intra-Community buyer and on the importer.



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## 3. SCOPE OF APPLICATION

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# SCOPE OF APPLICATION

## Products subject to this tax

### ART. 68 SCOPE OF APPLICATION

1. The scope of application of this tax includes: :

- a) **Non-reusable** containers that contain plastic. For these purposes, the term containers is considered to include all items designed to contain, protect, handle, distribute and present **goods** (unless these items **constitute an integral part of a product**)

...

Art. 68 of the Law defines the **non-reusable plastic** containers that are included in the scope of application of the tax, both finished and semi-finished containers or those products that enable their closure.

### PRODUCTS TAXED

- 1 Primary containers (for sale), secondary containers (for groups of products) and tertiary containers (for transport)
- 2 Items made of plastic which are used to contain, protect, handle, distribute and present goods not included in Section 1 (**plastic cups, protective films**)
- 3 Semi-finished products for the previous products (**preforms, thermoplastic foils**)
- 4 Products made of plastic intended for closure, marketing or presentation of the previous products (**bands, lids**)
- 5 Products made of more than one material which contain plastic (**laminated products with non-plastic materials**)

# SCOPE OF APPLICATION

## Products out of the scope of application

Out of the scope of the tax are: **reusable** containers, products that are **NOT** designed to “contain, protect, handle, distribute and present **goods**” or that **form part of goods** and are used together with them.

### PRODUCTS NOT TAXED

- 1**  
Products that do not protect merchandise.  
*Merchandise: products or goods that are the object of the sale or agreement.*
  - 2**  
Containers that constitute an integral part of the goods (e.g. pens, coffee capsules, dishwasher tablets, etc.)
  - 3**  
Reusable containers: containers intended, designed and marketed to complete multiple circuits or rotations or to be filled or reused for the same purpose for which they were designed.
- \* IMPORTANT:** In the AAG **we have available declarations of re-usability** emitted by authorised sources for our reusable rigid containers.



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## 4. PLASTIC MATERIAL EXEMPT FROM THE TAX: RECYCLING

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# PLASTIC MATERIAL THAT IS NOT INCLUDED IN THE TAXABLE BASE

## Recycled plastic

The amount of **recycled** plastic used in the manufacture of the product is not included in the taxable base for the tax. Nevertheless, bio-based and biodegradable plastics are taxed.

### ART. 77. TAXABLE BASE

*1. The taxable base will be made up of the amount of non-recycled plastic, expressed in kilograms, contained in the products that are included in the scope of application of the tax.*

### NOT TAXED

1

Amount of plastic certified for mechanical and chemical recycling

\* UNE-EN 15343:2008 certification is required for mechanically recycled plastic, and ISCC certification for chemically recycled plastic.



# CERTIFICATIONS FOR RECYCLED PLASTIC

## Mechanical recycling and chemical recycling

### MECHANICAL RECYCLING

UNE-EN 15343:2008 standard. Recycled plastics.



### CHEMICAL RECYCLING

ISCC certification. This certificate includes the chain of custody of materials, according to a mass balance.



# TRANSITIONAL PERIOD FY 2023 (TENTH TRANSITIONAL PROVISION)

Accreditation of the amount of recycled plastic through statement of responsibility.

In 2023, as an alternative to certification under the UNE-EN 15343:2008 or ISCC standards, it will be possible to accredit the amount of non-recycle plastic that the products contain through a statement of responsibility signed by the manufacturer.

At present, there is no officially established form for the statement, and therefore **we propose that you use the following form:**

## SAMPLE FORM FOR STATEMENT OF RESPONSIBILITY

### Statement of responsibility pursuant to the 10th Transitional Provision of Law 7/2022, of 8 April, concerning waste and contaminated soils for circular economy.

Mr. **xx**, in the name and on behalf of the company **xxxxx**, in his capacity as manufacturer of (**description of product**), hereby declares:

- i. That the products mentioned are within the scope of application of the special tax on non-reusable plastic containers.
- ii. That, on the date **xxx**, they have been transferred to the entity **xxxxxx** with Tax ID Code **xxxxx** through invoice no. **xxxxxx**.
- iii. That these products contain **xx.xx** kilograms of non-recycled plastic.

And to accomplish the purposes established in Art. 77.3) of Law 7/2022, of 8 April, concerning waste and contaminated soils for a circular economy, the statement of responsibility is signed in **xxxxxxxxx** on the date **xx**.

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## 5. EXEMPTIONS TO TAXATION

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# PRODUCTS NOT SUBJECT TO OR EXEMPT FROM TAX

Tax not passed on

The Spanish manufacturer will not pass on the tax to the buyer in those cases in which the product is not subject to the tax (pursuant to Art. 73) or exempt from the tax (pursuant to Art. 75).

## NOT SUBJECT TO OR EXEMPT FROM TAX



1

Products that are not designed to be delivered together with the goods



SILAGE FILM



2

Rolls of plastic used on bales for ensilage of fodders or grains for use in agriculture or livestock farming.



AGRICULTURAL



3

Products sent directly by the manufacturer outside of Spain.



EXPORTS



4

After a declaration by the buyer to the manufacturer...

- Containers for [medicinal products, medical devices, food for special medical uses, preparations for nursing infants for use in hospitals or hazardous waste of sanitary origin](#)
- Semi-finished products that are not going to be turned into containers and that are used in their manufacturing process



MEDICAL DEVICES



SEMI-FINISHED PRODUCTS

\* See forms for declaration on the next page

# FORMS FOR DECLARATION (Section 4 above)

Forms for declaration prior to submission of the application for the products, necessary so that the manufacturer does not pass on the tax to the buyer



MEDICAL DEVICES

## SAMPLE FORM FOR DECLARATION

**Form for prior declaration for the exemption of containers, semi-finished products and closures intended for medicinal products and medical devices.**

Mr. **xx**, with Tax ID no. **xx**, in the name and on behalf of the entity **xx** with Tax ID Code **xx** and registered office in **xx**,

HEREBY DECLARES AT HIS OWN RESPONSIBILITY

- i. That the products described below, which will be purchased from the company **xxxxx**, S.A., with Tax ID no. **xxxxxxx**, in FY 2022 (**define other period or specific order**) are within the scope of the Special Tax on non-reusable plastic containers.
- ii. The details of the products are as follows: (**Include description of the products**).
- iii. That the buyer will use these products for containers, for obtaining containers or to enable closure, marketing or presentation of containers of medicinal products, medical devices, food for special medical uses, preparations for nursing infants for use in hospitals or hazardous waste derived from healthcare.

And to achieve the purposes set forth in Art. 75.A) of Law 7/2022, of 8 April, on waste and contaminated soils for circular economy, the prior statement of responsibility is signed in **xx** on the date **xx**.



SEMI-FINISHED PRODUCTS

## SAMPLE FORM FOR DECLARATION

**Form for prior declaration for exemption of semi-finished products and closures that are not intended for containers.**

Mr. **xx**, with Tax ID no. **xx**, in the name and on behalf of the entity **xx** with Tax ID Code **xx** and registered office in **xx**,

HEREBY DECLARES AT HIS OWN RESPONSIBILITY

- i. That the products described below, which will be purchased from the company **xxxxxx**, S.A., with Tax ID no. **xxxxxxx**, in FY 2022 (**define other period or specific order**) are within the scope of the Special tax on non-reusable plastic containers.
- ii. The details of the products are as follows: (**Include description of the products**).
- iii. That the buyer will not use these products for obtaining containers or to enable closure, marketing or presentation of non-reusable containers that are within the scope of the tax.

And to achieve the purposes set forth in Art. 75.A) of Law 7/2022, of 8 April, on waste and contaminated soils for circular economy, the prior statement of responsibility is signed in **xx** on the date **xx**.

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## 6. REFUND OF THE TAX

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## REFUND OF THE TAX

The buyer may request a refund of the tax from the Tax Agency or, when applicable, from the manufacturer

**1**

### **Refund from the Tax Agency**

The buyer may request a refund from the Spanish Tax Agency in certain cases and only if they demonstrate that the tax actually exists and has been paid.

**2**

### **Refund from the manufacturer**

The buyer may request a refund from the manufacturer in the event of return of the goods due to non-conformity.

# 1. REFUND FROM THE TAX AGENCY

The buyer may request a refund of the tax from the Tax Agency

The buyer may request a refund from the Tax Agency of the tax paid on purchase of the products taxed in the following cases (circumstances) and only if they demonstrate that the tax actually exists and has been paid.

CIRCUMSTANCES	POSSIBLE MEANS OF PROOF	ACCREDITATION OF THE PAYMENT
▪ Products sent outside of Spain.	→ DUA for exports and CMR for intra-Community shipments.	For accreditation of the payment, it will be sufficient if the amount of non-recycled plastic contained by the product for which the refund is requested is stated on the invoice for purchase, together with the amount of the tax that has been paid.
▪ If no declaration has been made previously to the manufacturer: <ul style="list-style-type: none"><li data-bbox="389 922 1212 982">▪ Purpose as container for medicinal products, medical devices and similar items.</li><li data-bbox="389 1025 1212 1125">▪ Semi-finished products that have not been converted into containers, which have been used in their manufacturing process.</li></ul>	→ Units sold of medicinal products, medical devices and similar products by weight of their container. → Declaration of waste products to the authorized manager.	
▪ Products unsuitable for use as containers: <ul style="list-style-type: none"><li data-bbox="389 1165 963 1193">▪ Processing losses during production.</li><li data-bbox="389 1200 766 1229">▪ Manufacturing defects.</li></ul>	→ Declaration of waste products to the authorized manager.	
▪ Products that have become reusable after a modification.	→ Certification of reuse UNE-EN 13429 standard.	

# 1. REFUND FROM THE TAX AGENCY

Form A22 for request for a refund (pending approval)

The request for a refund is made by electronic submission of form A22 within the 20 days following the end of the quarter.

REQUEST REFUND	
Art. 81.1 Law 7/2022 (1)	Amount requested (2)
<input type="text"/>	<input type="text"/>
<b>Total amount requested (3)</b>	<input type="text"/>

The data to be included in the request for each event are as follows:

1. Art. 81.1 Law 7/2022: Section of “Art. 81 Refunds”, by virtue of which the refund is requested.
2. Amount requested in each section of the art. 81.



## PLEASE NOTE

The application may be postponed up to 110 days from the occurrence of the event. (3 months + 20 days)

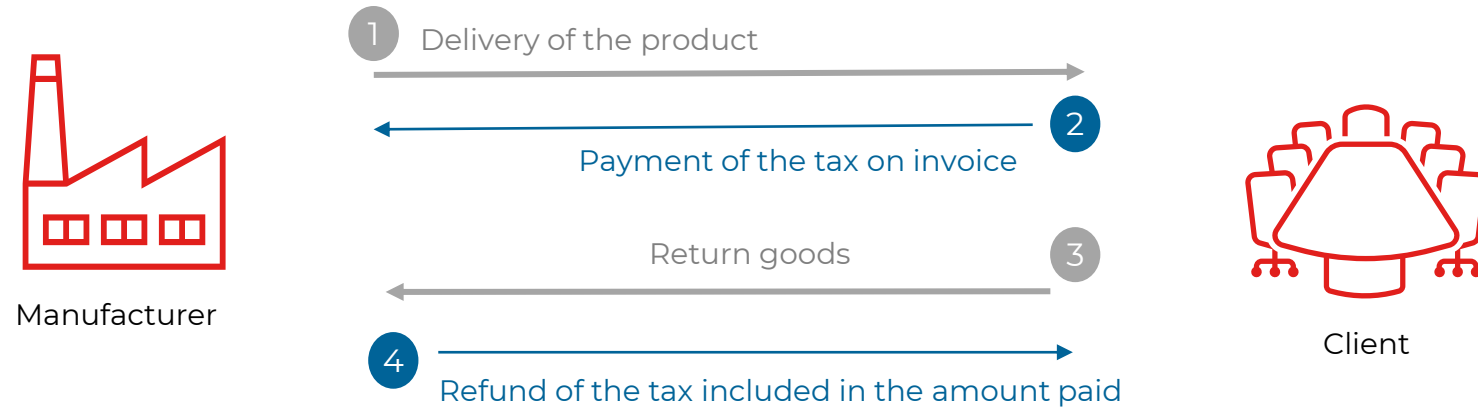


[DOWNLOAD INSTRUCTIONS FOR FORM A22](#)

## 2. REFUND FROM THE MANUFACTURER

In the case of return of the goods due to non-conformity.

The buyer may request a refund of the tax from the manufacturer in the event of return of the goods due to non-conformity. The manufacturer will pay the buyer the tax collected previously.




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# 7. FOREIGN TRADE


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“The tax applies to the use of the containers subject to the tax in the Spanish territory”.

“The containers subject to the tax that are sent abroad will not pay the Spanish tax, while containers that are imported will be taxed in Spain”.



# FOREIGN TRADE

Products manufactured in Spain to be sent abroad (except to countries that have their own charge)

## 1

### Sent by the manufacturer

Products that are sent directly by the manufacturer to its foreign clients will not be taxed in Spain.



# FOREIGN TRADE

Products manufactured in Spain and sent to the UK and Italy

## 2

### Products sent by the manufacturer

Products that are sent directly by the manufacturer to its foreign clients will not be taxed in Spain, but the client does have to pay the relevant tax in their own country.



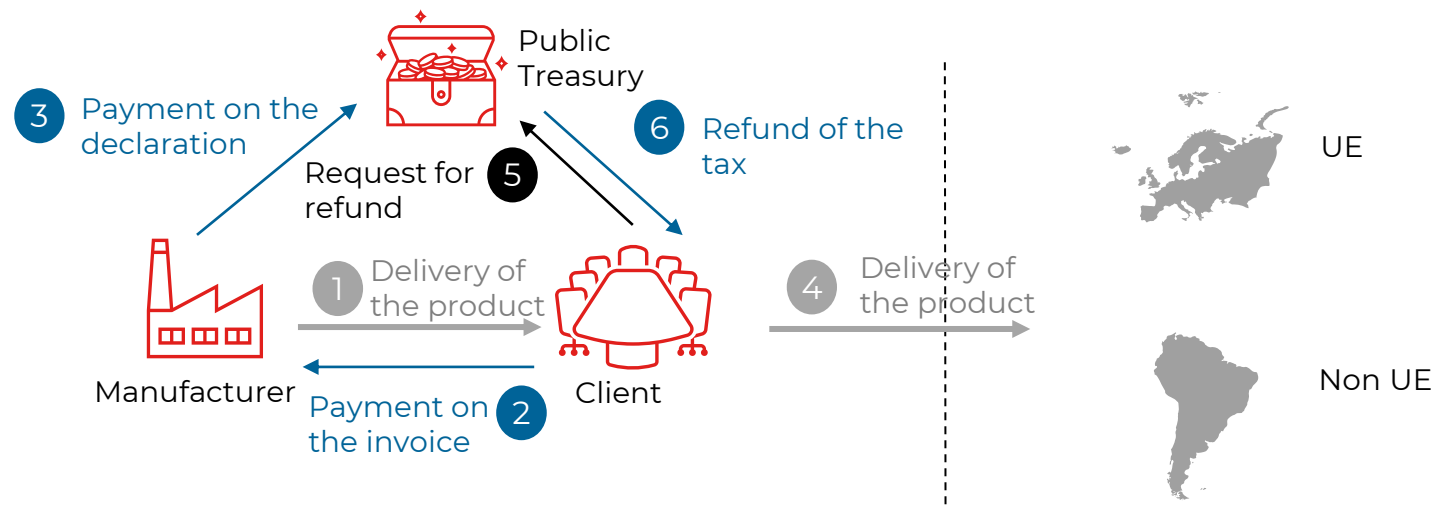
# FOREIGN TRADE

Products manufactured in Spain to be sent abroad

## 3

### Sent by the client

If a Spanish buyer buys products in Spain (therefore subject to payment of the Spanish tax) to actually send them abroad, the buyer will have the right to a refund of the tax paid on such products.



### Payment and subsequent refund



#### Art. 81 Refunds

The buyers of products taxed will have the right to request a refund of the tax paid, as long as they are not considered taxpayers, if they accredit that the products have been sent outside of Spain.

# FOREIGN TRADE

## Products introduced into Spain

### 4

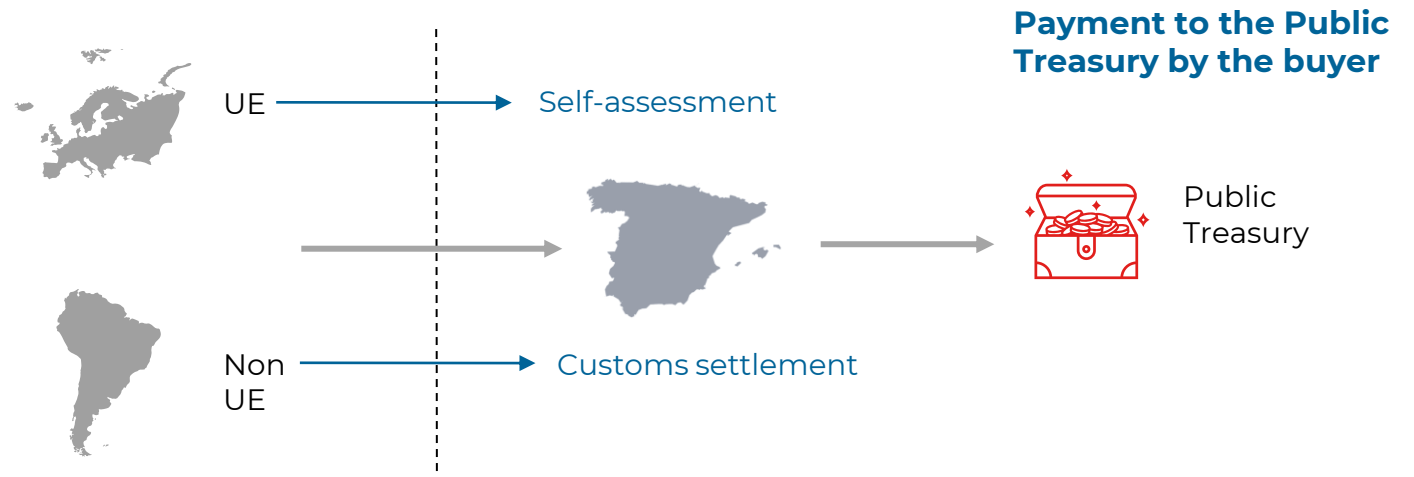
#### Products that enter Spain

The buyers of foreign products who introduce into Spain products **containing an amount of non-recycled plastic that does not exceed 5 kg per month**, whether they have their origin in the European Union or have been imported, will pay the Spanish tax through self-assessment or at customs (procedure similar to VAT).



**This does not only apply to plastic industries**

This scenario also affects anyone who imports **containers**.



# FOREIGN TRADE

## Products introduced into Spain

### 4

#### Products that enter Spain

##### OBLIGATIONS

- **Intra-Community buyer of more than 5 kg of non-recycled plastic within a single month.**
  - Register with the regional registry
  - Carry out self-assessment and pay the tax. Form 592. .
  - Keep a record of inventories of containers and submit this to the website.



[DOWNLOAD INSTRUCTIONS FOR SELF-ASSESSMENT](#)

- **Importer of more than 5 kg of non-recycled plastic within a single month**
  - The tax will be paid at customs



[VIEW CUSTOMS PAPERWORK](#)

**\* IMPORTANT:** In order to pay only for the non-recycled plastic, they will require from their foreign supplier certification by an accredited entity of the amount of recycled plastic that the product contains.



##### PLEASE NOTE

Example:

The acquisition from abroad of only five pallets per month of any type of goods could entail more than 5 kg of tertiary containers.

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## 8. HOW DOES THIS AFFECT DAILY BUSINESS?

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# ADMINISTRATIVE ASPECTS

How does this affect daily business?

- 1**  
Calculation of the monthly instalment of the tax
- 2**  
What amount is stated on the invoice?
- 3**  
Penalty system



# 1. CALCULATION OF THE TAX

What amount is stated on the invoice?

The amount of the tax is determined by applying to the taxable base the amount of non-recycled plastic that the product contains.

**Tax rate of €0.45 per kilogram.**



$$\text{Total} = (\text{Kg Sold} - \text{Kg Certified as recycled}) \times \text{€0.45}$$

## Example:

Sale of 1000 kg of product subject to tax with 20% of plastic certified for mechanical recycling + 20% certified for chemical recycling. Sale price of the product = €3 per kilogram.

1,000 kg \* 3€ = 3,000 € (amount sale of product)

1,000 kg \* 60% virgin material = 600 kg (to be taxed)

600 \* 0.45 = 270 € (**amount to be charged for plastic tax**)

## 2. WHAT DATA WILL BE STATED ON THE INVOICE?

The tax must appear on a different line from the line for the product

The amount of tax as well as the amount of non-recycled plastic that the product contains will be stated on the invoice on a different line from the line for the product.

<i>RGD.FINANC.</i> <i>Financial charges</i>	<i>BASE IMPONIBLE</i> <i>Taxable base</i>	<i>IVA</i> <i>Vat</i>	<i>RGD. EQUIVALENCIA</i> <i>Equalization Tax</i>	<i>TOTAL</i> <i>Total</i>
	3.270,00	21,00%	686,70	EUR 3.956,70

<i>DESCRIPCIÓN DEL PRODUCTO</i> <i>Description of goods</i>	<i>CANTIDAD</i> <i>Quantity</i>	<i>PRECIO UNITARIO</i> <i>Price</i>	<i>IMPORTE</i> <i>Amount</i>
SHRINK FILM	1.000,00 KG	3,00000	3.000,00
AMOUNT CORRESPONDING TO THE SPECIAL TAX ON NON-REUSABLE PLASTIC CONTAINERS (IEEPNR) AMOUNT OF NON-RECYCLED PLASTIC 60%	600 KG.	0,45000	270,00



### PLEASE NOTE

The tax is a part of the taxable base for VAT

### 3. PENALTY SYSTEM

The law describes a series of offences classified as serious with an elevated penalty system

■ Failure to enter into the register	→ Fixed fine <b>€1000</b>
■ Failure to make payments	→ Proportional fine <b>50-150%</b>
■ Improper application of exemptions by buyers	→ Fine of <b>150%</b>
■ False or incorrect certification of the recycled product	→ Fine of <b>50%</b>
■ Failure to comply with information on the invoices	→ Fine of <b>€75</b> per invoice
■ Failure to submit accounting records	→ Fine of <b>€20</b> per datum, up to a maximum of €20,000

# THANK YOU

If you have any questions, please contact your sales representative.

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