

## Plastic fantastic?

*Steven Porter tells you everything you always wanted to know about the Plastic Packaging Tax but were afraid to ask...*

A new tax on plastic packaging manufactured in, or imported into, the UK that does not contain at least 30% recycled plastic applied from 1 April 2022.

Manufacturers or importers of plastic packaging, including importers of packaging which already contains goods, need to ensure they comply with the tax. The rate of tax is £200 per metric tonne of plastic packaging. Plastic packaging tax (PPT) is an environmental tax designed to provide a financial incentive for businesses to use recycled plastic in the manufacture of plastic packaging. The government envisages this will create greater demand for recycled plastic, stimulating increased levels of recycling of plastic waste and diverting it away from landfill or incineration.

### Packaging subject to the tax

A charge to PPT arises when a chargeable plastic packaging component is produced in the UK by a person acting in the course of a business or where it is imported into the UK on behalf of such a person. It only applies to 'finished' products.

A 'packaging component' is a product that is designed to be suitable for use, whether alone or in combination with other products, in the containment, protection, handling, delivery or presentation of goods at any stage in the supply chain of the goods, from the producer of the goods to the consumer or user. This is a wide definition which catches items which may not be thought of as packaging such as coat hangers. It also covers reusable and refillable items such as plastic crates and intermediate bulk containers (IBCs).

If the packaging component meets the definition, it does not matter if it is produced or imported for use in the supply chain of the goods, or by a consumer or user.

Imports of packaging which already contains goods, such as plastic bottles filled with drinks or plastic packaging around goods, are also potentially subject to the tax with some exclusions. The exclusions apply to filled packaging components with a primary storage function, such as glasses cases or DVD cases; and where the packaging is an integral part of the goods, such as printer cartridges or tea bags.

PPT is not charged on plastic packaging which is designed to be reused for the presentation of goods such as shop fittings or sales stands.

Products are also subject to PPT if they are designed as single use packaging products for use by a consumer or user in containing any commodity or waste. This means that plastic bags, bin liners, nappy sacks, disposable cups and such like are subject to PPT.

### Plastic content

Even though the tax is designed to have environmental benefits, plastic includes biodegradable, compostable and oxo-degradable plastics.

Each component needs to be considered separately. For example, for a plastic drinks bottle, a business needs to consider the bottle itself, the lid and any plastic label separately.

Packaging that contains multiple materials but contains more plastic by weight than any other single substance is a plastic packaging component for the purposes of the tax. For example, if a 10-gram item of packaging is made up of four grams of plastic, three grams of aluminium and three grams of cardboard, all 10 grams is considered plastic packaging for the purposes of the tax.

The producer or importer will need to be able to demonstrate to HMRC that a packaging component which contains plastic is not subject to the tax. If they cannot demonstrate this, the component will be treated as entirely plastic. Records need to be kept as to the materials used in the manufacturing of the packaging and the weight of each material. Methods for weighing plastic packaging components and the requirements for maintaining, producing evidence of and calculating recycled material in plastic are set out in [regulations](#).

### Meaning of finished

A plastic packaging component is chargeable only when it is 'finished'. A component is finished if it has undergone its last substantial modification, or in cases where the last substantial modification happens when the component is packed or filled, its last substantial modification before being packed or filled.

A substantial modification is any process that changes the shape, thickness, weight or structure of a packaging component.

The UK business which performs the last substantial modification before the packing or filling process is the one which is liable to pay PPT. A business which imports plastic packaging components which have already undergone their last substantial modification is liable for PPT.

### **Exemptions**

Four types of packaging component are exempt from the tax, regardless of how much recycled plastic they contain. These are:

- plastic packaging manufactured or imported for use in the immediate packaging of a medicinal product;
- transport packaging used on imported goods;
- packaging used as aircraft, ship and rail stores;
- components that are permanently designated or set aside for use other than a packaging use.

There is also a deferral of liability to the tax for plastic packaging which is exported that meets the direct export condition.

### **Medicinal use**

Plastic packaging manufactured or imported for use in the immediate packaging of a medicinal product is exempt from PPT. For these purposes a 'medicinal product' is either any substance or combination of substances:

- presented as having properties of preventing or treating disease in human beings;
- that may be used by or administered to human beings with a view to restoring, correcting or modifying a physiological function by exerting a pharmacological, immunological or metabolic action, or making a medical diagnosis.

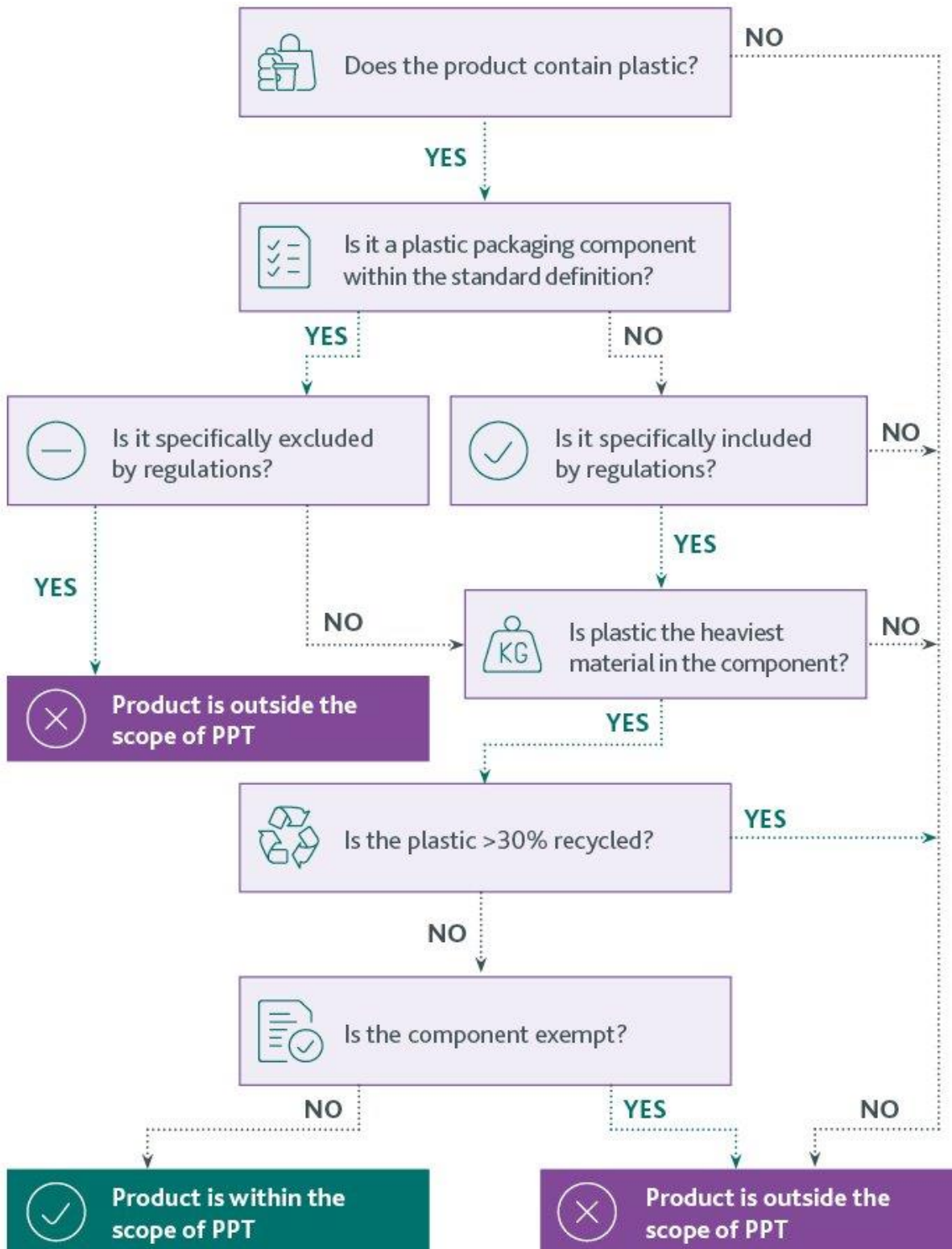
Veterinary medicines are not exempt. 'Immediate packaging' is the container or other form of packaging immediately in contact with the medicinal product.

Importantly, even if the exemption applies, it is necessary to include this type of exempt packaging in assessing whether more than 10 tonnes of plastic packaging is manufactured or imported in a 12-month period to establish whether the business needs to register for the tax. The same is true for packaging set aside for non-packaging use, but not the other two types of exemption.

### **Exported packaging**

Where plastic packaging is intended for export, payment of the tax can be deferred for up to 12 months as long as certain requirements are met. If the packaging is exported within the 12-month period, the liability for PPT is cancelled.

We have prepared a simple flowchart to follow when considering whether particular components fall within the scope of PPT.



### Registering for the tax

Manufacturers or importers of 10 or more tonnes of plastic packaging over a 12-month period must register for the tax. Plastic packaging which contains at least 30% recycled plastic or is exempt from the tax because it is used for medicinal products or is set aside for a non-packaging use must still be factored into the total to determine if a business must register for the tax.

Registration is required if:

- at any time after 1 April 2022 a business expects to import or manufacture at least 10 tonnes of plastic packaging in the following 30 days. In that case registration is required within 30 days of the first day that this condition is met; or
- a business has manufactured or imported at least 10 tonnes of plastic packaging in a 12-month period ending on the last day of a calendar month. In that case the business becomes liable for PPT from the

first day of the next month and must register by the first day of the subsequent month. In the first year of the tax, a business only needs to register for the tax when the amount of plastic packaging exceeds 10 tonnes in a 12-month period from 1 April 2022.

If either of these conditions is satisfied, registration is required even if a business' packaging is not chargeable and it does not have to pay any tax. If you are likely to meet both conditions, you must register from the earlier of the two dates.

HMRC has published [guidance on how to register for PPT](#), which is done through HMRC's online portal using a government gateway account.

Businesses based outside of the UK must be registered for and pay the tax if they import plastic packaging into the UK. Quarterly returns are required.

### **Group registration**

Where the taxpayer is a part of a group of companies, the 10-tonne threshold test applies to each company, and not the group on a wider basis. However, there are anti-avoidance provisions to prevent connected companies from splitting activities between them to avoid PPT by keeping each entity under the threshold.

If a taxpayer is part of a group of companies more than one of which is liable to be registered for PPT, the group can appoint a representative member. The representative member can register the group, submit returns, pay the tax and manage the group registration, including adding new members. If any member of a group receives secondary liability or joint and several liability notices, these too are dealt with by the representative member.

All members of the group are jointly and severally liable for each other's tax.

You can be in a group if you are a body corporate and are under the same control as the other members of the group, with 'control' having the Companies Act definition rather than any of the tax definitions. Group members can include overseas companies provided at least one of them has a UK establishment. However, the representative member has to be either UK resident or have a UK permanent establishment.

If one company has already registered separately, that company will have to be deregistered in order to join the group registration.

[Further guidance](#) can be found on HMRC's website.

### **Invoices**

The legislation provides that a manufacturer or importer of plastic packaging which is liable for PPT must show on any invoice issued to a business customer the amount of PPT that has been paid on the packaging concerned.

However, the introduction of this measure was delayed. HMRC has stated that it still intends to introduce this measure and will give businesses good notice so that they can update their systems and invoice templates. HMRC has also said it hopes that manufacturers or importers will provide this information on a voluntary basis.

### **Contracts**

PPT needs to be taken into account in contracts as suppliers or importers of plastic packaging components will want to be able to pass on the cost of PPT to their customers. Businesses negotiating new contracts need to factor PPT into the pricing and may choose to specify that prices are inclusive of PPT payable, and include a right to increase pricing if PPT rates or scope change.

The legislation provides a limited right to increase the price under an existing contract for PPT that becomes later payable. Where a person supplies a chargeable plastic packaging component that it has produced, or that was imported on its behalf to another person under a contract and a payment is due under the contract for the supply of the component, the supplier can increase the payment due under the contract to reflect the PPT due. This only applies if, after the contract is made, PPT becomes chargeable or there is a change in the PPT chargeable.

### **Secondary liability and due diligence requirements**

Although it is the importer or manufacturer of packaging components that is primarily liable for PPT, others in the supply chain can be made secondarily liable or jointly and severally liable for the tax where they know or ought to have known that PPT has not been paid.

The provisions apply not just to those involved in the production or importation of the packaging components but also those involved in transporting or storing products and operators of online marketplace or fulfilment businesses.

These secondary liability and joint and several liability provisions mean that any related business needs to conduct due diligence to ensure that it cannot be said that it ought to have known that PPT was not paid.

Businesses should carry out due diligence checks to establish the integrity of their suppliers. Businesses whose liability to PPT depends on actions of their customers will also need to carry out due diligence on their customers. For example, where the business relies on information from its customers to claim it is not liable to register or account for PPT or to claim any tax credits.

HMRC has issued [guidance on the due diligence required](#). However, it does not provide a list of checks that must be carried out, only examples of appropriate checks. Each business must decide what checks are relevant, reasonable and proportionate depending on their circumstances.

Due diligence may be particularly difficult in relation to imported packaging.

Businesses will need to keep records of the due diligence checks they have made. This is in addition to the records businesses will be required to keep for PPT.

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