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Contribution on single-use plastic or aluminium ready meal packaging

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Ministerial Order 331-E/2021, dated 31 December 2021, has set out regulations on the contribution on single-use plastic or aluminium ready meal packaging, provided for in article 320 of Law 75-B/2020, dated 31 December 2020, which approved the State Budget Law for 2021.

Pursuing environmental policy objectives, the State Budget Law 2021 created a contribution of €0.30 per package for producers, importers and purchasers of such packaging.

Scope of application

The contribution applies to single-use packaging for food and beverages that is made of plastic or aluminium (or of a multi-material that uses plastic or aluminium, regardless of its amount in the total weight of the packaging), which are purchased in ready-to-eat, take-away or home delivery services.

The concept of single-use packaging includes:

- primary packaging – designed to constitute a sales unit for the user or final consumer at the point of purchase; and
- service packaging – designed to be filled at the point of sale for packing or carrying goods for or by the consumer.

The contribution applies to the single-use packaging as a whole, whereby the main component is considered. Therefore, where the single-use packaging consists of more than one part, and the parts are placed on the market separately (eg, a container and a lid), the contribution applies to the main component (ie, the container).

The concept of ready meals includes food (and drinks) that:

- are cooked or prepared either at the point of sale to the final consumer or in another establishment;
- are ready for immediate consumption without further preparation (eg, cooking, freezing, boiling or heating. This includes frying, grilling, baking or microwave preparation);
- have been packaged in the establishment or place of sale; and
- have been made available for consumption outside the meals supplier's premises through a transfer of goods (this does not cover restaurant and catering services allowing immediate consumption of meals on the premises), including:
 - take-away/drive-in services; and
 - home-delivery;

The contribution does not apply to single-use packaging that:

- contains ready meals that have not been packaged at the point of sale;
- has been made available in the context of non-sedentary catering or drinking activities (ie, in mobile or movable units, as well as in fixed premises where less than 20 events per year are held with a maximum cumulative annual duration of 30 days); or
- has been made available through an automatic vending machine.

Single-use packaging is exempt from the contribution if it is:

- exported by the taxable person;
- dispatched or transported to another EU member state by:
 - the taxable person; or
 - a third party on the taxable person's behalf;
- dispatched or transported to the autonomous regions of Azores and Madeira by the taxable person or by a third party on the taxable person's behalf;



CONCEIÇÃO
GAMITO



TERESA
TEIXEIRA
MOTA



RITA SIMÃO
LUÍS



NÍDIA REBELO

- used in social or humanitarian context.

The exemption also applies to the sales made by taxable persons to other economic operators who later export or dispatch the single-use packaging.

Taxable persons

The taxable persons of the contribution are:

- economic operators that are producers or importers of single-use packaging and have their head office or a permanent establishment in mainland Portugal; and
- purchasers of single-use packaging from suppliers that have their head office or a permanent establishment in the autonomous regions of Azores and Madeira, or in another EU member state.

Contribution burden and invoicing

The contribution is borne by the citizen/purchaser of ready meals, and the economic operators must pass on the economic burden of the contribution to the purchaser as price.

The amount of the contribution must be detailed on the invoice throughout the entire commercial chain, including the final consumer, and it must indicate:

- the designation "single-use packaging";
- the number of units that have been sold or made available; and
- the price, including the contribution.

Therefore, the amount of the contribution must be shown separately on the invoices issued by taxable persons to purchasers of single-use packaging who are not taxable persons (eg, suppliers of ready meals) and on the invoices that are issued by suppliers of ready meals to their customers.

Chargeable event and chargeability

The chargeable events of the contribution are the following:

- the production of single-use packaging;
- the import of single-use packaging; and
- the intra-EU acquisition or the acquisition from the autonomous regions of Azores and Madeira of single-use packaging.

The contribution is due and becomes chargeable in mainland Portugal at the moment of the release for consumption of the single-use packaging, which is considered the taxable person's disposal of such packaging.

Procedures applicable to the release for consumption

The release for consumption of single-use packaging must be formalised by an electronic declaration of release for consumption, which is processed on a quarterly basis until the fifth day of the month that follows each quarter of the calendar year in which the releases for consumption occurred. In the case of import transactions, the formalisation process is conducted through the respective customs declaration.

The production, receipt and storage of single-use packaging may only take place in a tax warehouse for production or storage; taxable persons must hold the status of authorised warehouse keeper, who is responsible for, among other duties, reporting obligations.

Assessment, payment and coercive collection

The contribution is assessed on a quarterly basis.

Taxable persons receive an automatic electronic notification of the assessment of the contribution before the 15th day of the *mês da globalização* (month of the globalisation) in the reserved area of the excise duties platform on the tax authority's website (Portal das Finanças).

Where the assessment is not made by the taxable persons within the legal deadline, the tax authority will make an ex officio assessment, which is based on the information available.

The contribution must be paid by the 15th day of the second month following the quarter of the calendar year that is related to the assessment.

In the absence of payment, the tax authority will coercively collect the contribution through a tax enforcement procedure, which it will initiate with a debt certificate.

Revenue allocation

The revenue resulting from the contribution will be mainly allocated to the state (50%) and to the environmental fund (40%). The remainder will be allocated to:

- the Environment Agency;
- the tax authority;
- the General Inspection of Agriculture, Sea, Environment and Spatial Planning;
- the Economic and Food Safety Authority.

Non-deductibility

The contribution does not qualify as a deductible cost for the purposes of calculating the taxable profit or taxable income of the taxable persons.

Effective date

The contribution applies from:

- 1 July 2022, for packaging that is made of plastic or a multi-material that uses plastic; and
- 1 January 2023, for packaging made of aluminium or a multi-material that uses aluminium.

Comment

Due the rules foreseen in the ministerial order, the contribution will have a considerable economic impact on the activity of several economic agents operating in the chain of production and selling of single-use packaging for ready-to-eat meals.

The contribution will especially impact producers, importers and purchasers of single-use packaging that qualify as taxable persons – from 1 July 2022, they will have to be prepared to comply with the reporting and payment obligations, as well as with the formalities related to the release for consumption.

The contribution will also affect the final consumers, who bear the burden of the contribution.

For further information on this topic please contact Conceição Gamito, Teresa Teixeira Mota, Rita Simão Luís or Nídia Rebelo at Vieira de Almeida by telephone (+351 21 311 3400) or email (crg@vda.pt, ttm@vda.pt, rsl@vda.pt or nrr@vda.pt). The Vieira de Almeida website can be accessed at www.vda.pt.