

TAX

CONTRIBUTION ON SINGLE-USE PACKAGING
MADE OF PLASTIC OR ALUMINIUM
PURCHASED IN READY-TO-EAT MEALS

VdA EXPERTISE



January 2022

Ministerial Order no. 331-E/2021, of 31 December, was published, regulating the contribution on single-use packaging made of plastic or aluminium purchased in ready-to-eat meals, provided for in article 320 of Law no. 75-B/2020, of 31 December, which approved the State Budget Law for 2021.

Pursuing environmental policy objectives, the State Budget Law for 2021 created a contribution, of € 0.30 per package, on single-use packaging made of plastic or aluminium purchased in ready-to-eat meals.

- iv. made available for consumption off 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), in take-away/drive-in regimes or home-delivery.

SCOPE OF APPLICATION

The contribution applies to **single-use packaging for food and beverage** made of plastic or aluminium (or of multi-material with 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 regimes.

The concept of single-use packaging includes:

- i. primary packaging – designed to constitute a sales unit for the user or final consumer at the point of purchase; and
- ii. 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 (e.g. container and lid), the contribution applies to the main component (container).

The concept of ready-to-eat meals includes dishes or foods (including drinks):

- i. cooked or prepared either at the point of sale to the final consumer or in another establishment;
- ii. which are ready for immediate consumption without further preparation (e.g. cooking, freezing, boiling or heating, including frying, grilling, baking, or microwave preparation);
- iii. which have been packaged in the establishment or place of sale;

The contribution **does not apply** to the single-use packaging:

- i. containing ready-to-eat meals which have not been packaged at the point of sale;
- ii. made available in the context of non-sedentary catering or drinking activities, i.e., 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;
- iii. made available through automatic vending machines for the supply of ready-to-eat meals.

Single-use packaging is **exempt** from the contribution provided it is:

- i. exported by the taxable person;
- ii. dispatched or transported to another European Union ("EU") Member State by the taxable person or by a third party on his behalf, or to the Autonomous Regions of Azores and Madeira; or
- iii. 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:

- a) economic operators who are **producers or importers** of single-use packaging, with head office or permanent establishment in Portugal (mainland); and
- b) **purchasers** of single-use packaging from suppliers, when these suppliers have their head office or 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-to-eat 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, up to the final consumer, indicating:

- i. The designation "single-use packaging";
- ii. The number of units sold or made available; and
- iii. The amount charged as price, including the contribution.

As such, 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 (e.g. suppliers of ready-to-eat meals) and on the invoices issued by the suppliers of ready-to-eat meals to their customers.

CHARGEABLE EVENT AND CHARGEABILITY

The chargeable events of the contribution are the following:

- i. the **production** of single-use packaging;
- ii. the **importation** of single-use packaging; and
- iii. 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, being considered as such the **disposal, by the taxable persons, of single-use 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 (e-DIC)**, processed on a quarterly basis, until the 5th day of the month following the end of each quarter of the calendar year in which the releases for consumption occurred, or in case of import transactions, 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, and taxable persons must hold the status of authorised warehousekeeper, who is responsible, among other duties, for reporting obligations.

ASSESSMENT, PAYMENT AND COERCIVE COLLECTION

The contribution is assessed on a quarterly basis.

Taxable persons are notified of the assessment of the contribution until the 15th day of the month of the globalisation, electronically and automatically, in the reserved area of the Excise Duties ("IEC") 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, based on the information available.

The contribution must be paid until the 15th day of the second month following the quarter of the calendar year to which the assessment relates.

In the absence of payment, the contribution will be coercively collected through a tax enforcement procedure conducted by the Tax Authority and initiated with a debt certificate extracted by it.

REVENUE ALLOCATION

The revenue resulting from the contribution will be mainly allocated to the State (50%) and to the Environmental Fund (40%), and will also be allocated to the Environment Agency ("*APA*"), the Tax Authority, the General Inspection of Agriculture, Sea, Environment and Spatial Planning ("*IGAMAOT*") and to the Economic and Food Safety Authority ("*ASAE*").

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.

ENTRY INTO FORCE

The contribution applies:

- i. from **1 July 2022**, for packaging made of plastic or made of multi-material with plastic; and
- ii. from **1 January 2023**, for packaging made of aluminium or made of multi-material with aluminium.

In light of 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 have a particular impact on producers, importers and purchasers of single-use packaging who qualify as taxable persons, who will have to be prepared to comply, as from 1 July 2022, 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.

The Ministerial Order no. 331-E/2021 is available [here](#) (Portuguese version).

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