

Special Tax on Non-Reusable Plastic Containers

On **January 1, 2023**, a new special tax begins to be applied. It is a tax whose objective is to try to reduce the consumption of non-reusable plastic containers, or in the event that they are consumed, that said containers are manufactured with at least part of recyclable plastics.

It is an indirect tax that is only applied in the territory of Spain.

The tax falls on non-reusable containers that contain plastic, whether they are empty or contain, protect, handle, distribute and present merchandise.

In other words, for non-reusable plastic containers that are imported from a source other than the rest of Spain, said tax would have to be paid. For example, a container of non-reusable plastic cups from China or Germany that arrives in the Canary Islands.

Likewise, all plastic packaging used for the transport of merchandise from a country other than Spain must pay said tax.

Said containers can be differentiated between primary, secondary and tertiary containers. The primary containers are those that cover the product in a unitary way, the secondary container, is the one that groups several items of a product and is plasticized, and the tertiary one, would be the one used to shrink-wrap complete pallets.

Therefore, the tax would settle on the sum of the net weight of all the plastics that cover the merchandise.

The tax has **three moments** in which its liquidation occurs;

1.- In its MANUFACTURE

When a factory located in any part of Spanish territory removes the product from its premises, it has to pay the tax. You must keep an accounting and record under the control of the AEAT, on its computer website.

In the Canary Islands it applies when you are a factory of the product subject to the tax.

2.- In its INTRA-COMMUNITY ACQUISITION.

When a company located in the peninsula buys from a company of the European Union some item of product subject to tax. You have to make a self-assessment once you receive the merchandise.

In the Canary Islands it does not apply, because there are no intra-community acquisitions.

3.- In its IMPORTATION.

When merchandise imported from non-EU countries enters Spanish territory. When making the import declaration with a DUA, this tax will be settled.

In the CANARY ISLANDS, the one that applies mainly is in the IMPORT and only for merchandise that comes from non-Spanish territory.

That is to say that all the loads that come from the peninsula (of Spanish national origin), do not have to settle said tax, since it is understood that its liquidation has already taken place, either because it has left a factory or an intra-community acquisition.

Therefore, all loads from third countries or the European Union that arrive in the Canary Islands are taxed, and would be settled with the import DUA.

The tax rate is 0.45 euros per kilogram of the amount of non-recycled plastic contained in the products that are part of the objective scope of the tax (non-reusable packaging and those that are presented protecting, containing, handling, distributing and presenting merchandise.

If there is part inside the container or plastic used that has been made with part or all of recycled plastic, that part must be deducted from the taxable base of the tax.

For example, a mattress container arrives from Belgium, with primary, secondary and tertiary packaging. To calculate the tax we have to request two things from the shipper;

The total net weight that has been used for the packaging of the product (the mattresses).

If that packaging has been made with recycled material, know in what percentage. In order to use the data, during the year 2023 a certificate from the factory will be allowed indicating it. Be careful, from the factory that produces it, not from the shipper who bought it to pack the mattresses. As of 2024, a certificate issued by an ENAC entity would be requested.

Therefore, if the total weight of what is used were 350 kilos, and 45% of the product used is made of recycled material, the tax to be settled would be as follows;

$350 \text{ kilos} \times 45\% = 157.50 \text{ kilos}$

$\text{Tax base } 350 - 157.50 \times 0.45 \text{ euros per kilo} = 86.63 \text{ euros of tax.}$

Another example, a container is imported from China, containing non-reusable plastic cups, with a net product weight of 9,500 kilos. In addition to a packaging of the entire product of 320 kilos. Let's assume that no recycled material has been used for its manufacture.

In this case, the liquidation of the tax would be as follows:

$9,500 \text{ kilos of product} + 320 \text{ kilos of packaging} = 9,820 \text{ kilos} \times 0.45 = 4,419 \text{ euros of tax.}$

Tax exemptions

The following products will be exempt from tax;

- Containers for medicines, health products and food for special medical purposes, formulas for infants for hospital use or hazardous waste of sanitary origin.
- The plastic rolls used in bales or bales for fodder or cereal silage for agricultural or livestock use.

- When they are sent outside the territory of application of the tax (export).
- When they are no longer suitable for use or have been destroyed.
- What does not exceed 5 kilograms in a month. If in a first importation it is imported for less, but within the same month in another importation another consignment is imported, and when added to the previous one it exceeds 5 kilos, I would pay everything, from the first consignment.

Deductions

Deductions from the tax paid could be requested, as appropriate and among others, in the self-assessments to be carried out, in the following cases;

- When they have been sent outside the territory of application of the tax (export).
- When they are no longer suitable for use or have been destroyed.

Returns

They will have the right to request a refund of the amount of the tax paid, in the following cases;

- The importers of the products, when they are sent outside the territory of application of the tax.
- Importers, when said products are no longer suitable for use or have been destroyed.

Infringements and sanctions

You **constitute tax offenses**;

- The lack of registration in the Territorial Registry of the tax. (Sanction 1,000 euros)
- Failure to appoint a representative (Sanction 1,000 euros)
- False or incorrect certification of the amount of recycled plastic contained in the products, by the accredited entity. (Minimum penalty of 1,000 euros or 50% of the amount of the fees not paid).
- Improper use of exemptions (minimum penalty of 1,000 euros or a proportional fine of 150% of the tax benefit improperly used).
- The incorrect consignment in the invoice or in the certificate of the data of the weights of the quantity of plastics. (Fixed penalty of 75 euros for each invoice or certificate issued with incorrect data entry).