

Association of Accounting Technicians (AAT) response to HM Treasury Plastic packaging Tax consultation

1. Introduction

- 1.1. The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to this consultation published on 18 February.
- 1.2. AAT is submitting this response on behalf of our membership and for the wider public benefit of achieving sound and effective administration of taxes.
- 1.3. The comments particularly reflect the potential impact that the proposed changes would have on SMEs and micro-entities, many of which employ AAT members or would be represented by AAT's 4,250 licensed accountants.

2. Executive summary

- 2.1. **AAT strongly supports efforts to reduce the use of plastic packaging.**
This should be done by encouraging the development of alternatives, penalising the use of single-use plastics (either through taxation, charges or both) and incentivising behaviour change.
- 2.2. **AAT supports the introduction of a single threshold to assess plastic packaging tax liability but does not believe its application to plastic packaging with less than 30% recycled content is sufficiently ambitious and cannot be considered "world leading" as Government suggests.**
Instead AAT suggests that a threshold of 40% be used, with a further increase to 50% in 2030 to ensure momentum is not lost.
- 2.3. **AAT believes that the very smallest operators should be excluded from this tax.**
Calculating who should be excluded should be based on twin considerations of turnover and production/importation weight.
- 2.4. **AAT suggests any company operating below the VAT threshold (currently £85,000) should be excluded from this tax.**
The VAT threshold is already a widely recognised and understood threshold, so this should help maximise compliance.
- 2.5. **Given the importance of securing compliance and encouraging behaviour change, GDPR style penalties for failing to pay the plastic packaging tax should be considered.**
These have proven very effective in ensuring companies take their data protection related duties seriously so would likely ensure compliance with plastic packaging taxation is similarly given great prominence.

3. AAT response to the consultation paper

- 3.1. The following paragraphs set out AAT's response to the proposals outlined in the consultation paper.

Packaging within scope

- 3.2. AAT agrees with the government's approach defining plastic packaging and packaging materials in scope of the tax and believes that the government's approach to components of plastic packaging is consistent with the way businesses operate and packaging is created.
- 3.3. Both options for defining plastic packaging for composite material items have merit but for the purposes of taxation, setting a fixed percentage is not only likely to produce a higher revenue yield and greater behaviour change but would also replicate other international examples e.g. California.
- 3.4. AAT agrees that alignment with the reformed Packaging Producer Responsibility regulations is important for the purposes of this tax.

Driving recycled content

- 3.5. AAT notes the government's suggested approach to defining recycled content, for the purposes of this tax, is based on International Organisation for Standardization (ISO) standard 14021:2016 which does not appear to be an unreasonable starting point. However, understanding the reasons why the ISO initially agreed this definition would doubtless help better inform Government policy in this area.

- 3.6. AAT is a professional accounting body so is not best positioned to detail how such a definition could encourage unintended consequences, such as wasteful manufacturing processes.
- 3.7. AAT does agree with the introduction of a single threshold because this would make the tax simpler for businesses to understand, administer and pay and, as the consultation document highlights, it would also minimise compliance risks.
- 3.8. Regarding the rate at which this threshold is set, the consultation document states that, “...government wants to set the threshold of this world-leading tax at an ambitious level...”
- 3.9. The consultation also makes note of the UK Plastics Pact¹ commitment to a threshold of 30% by 2025, which organisations from Asda to Waitrose and Arla to Veolia have already signed up to. If so many organisations have already signed up to this voluntary pledge, by definition, to be “world leading” and “ambitious” would require a higher threshold.
- 3.10. Global food brands such as Kraft Heinz have committed to making 100 percent of its packaging recyclable, reusable, or compostable by 2025 on a world-wide basis²; the American Chemical Council’s Plastics Division is working towards 100% of plastic packaging being recyclable or recoverable by 2030³; in 2017; the European Commission confirmed it would work towards the goal of ensuring that all plastic packaging is recyclable by 2030 and in September 2018 the Australian Government pledged that i) 70% of plastic packaging will be recycled or composted by 2025 ii) 30% average recycled content will be included across all packaging by 2025 and iii) problematic and unnecessary single-use plastic packaging will be phased out through design, innovation or introduction of alternatives.
- 3.11. Considering the international context detailed at 3.10 above, introducing a tax with a 30% threshold appears to lack ambition on a global scale.
- 3.12. AAT therefore suggests a 40% threshold would be more appropriate to meet government’s stated ambition of being both “world leading” and “ambitious” with a further increase at specific point in time to encourage ongoing innovation and commitment to increased recycling e.g. 50% by 2030.
- 3.13. Although AAT is not aware of any products for which the use of recycled plastic is directly prohibited in packaging, it again stresses that it is a professional accountancy body and therefore not best placed to comment although it is aware that many food producers, Tetra Pak for example, refuse to use any recycled products that come into direct contact with food materials on the grounds of food safety⁴. Various claims are made about food and drink containers, but few stand up to scrutiny. Yoghurt pots are a good example. The French packaging industry often highlight yoghurt pots as being impossible to recycle and indeed they are very difficult to recycle but polyethylene terephthalate, which is also used in plastic bottles and can be easily recycled, is a perfectly acceptable alternative.

Setting the tax rate

- 3.14. Setting a flat rate per tonne of a plastic packaging product would appear to be the most straightforward means by which to set the tax rate and is aligned with AAT’s general support of ensuring the tax system is as simple as possible. This would have the additional benefit of being consistent with Packaging Producer Responsibility regulations and therefore widely understood within industry.
- 3.15. AAT notes that government understandably wants to introduce a tax rate which is significant enough to change manufacturer behaviour and to drive demand for recycled plastic, while not imposing excessive burdens on business. AAT suggests that HM Treasury look more widely at the current business rates system which penalises investment in plant and machinery that could help companies

¹ UK Plastics Pact:

<http://www.wrap.org.uk/content/the-uk-plastics-pact>

² For News, 1 August 2018:

<https://www.foxnews.com/food-drink/kraft-heinz-announces-100-percent-of-packaging-will-be-recyclable-reusable-or-compostable-by-2025>

³ American Chemical Council’s Plastics Division, September 2018:

<https://plastics.americanchemistry.com/ACC-Statement-for-the-Record-on-Cleaning-Up-the-Oceans.pdf>

⁴ Dennis Jönsson, the President and CEO of Tetra Pak, 8 April 2018:

<https://www.euractiv.com/section/energy-environment/news/safety-first-food-packers-shun-recycled-plastics-for-now/>

increase their recycling rates and innovation in this area - as such assets increase rateable values. Having one tax that discourages such investment, and another that encourages it, is not only counter-intuitive but inherently unfair and damaging to both productivity and commitments to tackling climate change.

Liability for the tax

- 3.16. AAT agrees with the proposed points at which domestic or imported products would be liable for the tax and cannot envisage any situations where the proposed tax points would be administratively, practically or legally difficult.

Excluding small operators

- 3.17. AAT believes that the very smallest operators should be excluded. This is because it could represent a serious administrative burden, out of proportion to the benefits in behaviour change likely to be secured by the tax's imposition. In addition, for the very smallest producers, with very small margins, the imposition of an additional tax (depending on its rate) could be the difference between continuing to operate and ceasing trading.
- 3.18. AAT understands the rationale for mirroring the current Packaging Producer Responsibility system, whereby businesses with less than £2m annual turnover and which handle less than 50 tonnes of packaging a year are not required to comply with the system. However, AAT believes this level of de minimis threshold to be too generous and is pleased to note HM Treasury's recognition that, "*The government's approach to excluding small operators from the tax may be different to the Packaging Producer Responsibility system.*"⁵
- 3.19. Option 1(a) is perhaps the simplest proposal, with the threshold based on production/importation weight but this fails to consider the size and nature of the business concerned. For this reason, Option 1(b) is preferable - because of the addition of a turnover consideration as well as the production/importation weight.
- 3.20. Offering universal relief on the first portion of chargeable products as set out in Option 2, has the benefit of simplicity and consistency but fails on the grounds of fairness. It would mean that large producers are avoiding liability either for a set weight of liable products or based on an annual plastic packaging tax liability allowance. The analogy of personal income tax is given and of course the well documented problem with the personal tax allowance is that higher earners benefit disproportionately to lower earners – the same would be true here. This would also result in a likely loss to the Exchequer compared to options 1a and 1b.
- 3.21. AAT suggests that Option 1(b) is the best way forward based on the combined considerations of fairness, simplicity and likely effectiveness.
- 3.22. Regarding turnover levels, AAT suggests the VAT threshold (currently £85,000) would make a suitable cut-off point. This is already a widely recognised and understood threshold so should help maximise compliance. The threshold is also the cut-off point for compliance with Making Tax Digital (MTD). The consultation document states, "*...the government is committed to building a transparent and accessible tax system fit for the digital age. HMRC operates on a 'digital by default' basis and will look to mandate digital channels by which all businesses within the scope of the tax must register, report and pay online*", which suggests that the VAT threshold would appear to be an ideal cut-off point for the Plastic Packaging Tax too.
- 3.23. HM Treasury is right to acknowledge the risk of business fragmentation to avoid liability but does not anticipate this to be a significant problem, especially if proposals relating to joint and several liability are executed.

⁵ HM Treasury, Plastic Packaging Tax, February 2019:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779345/181213_Plastic_packaging_tax_condoc_template_final_1.0.pdf

3.24. Reporting requirements

- 3.25. AAT agrees that the registration and reporting requirements outlined in the consultation document are appropriate and especially notes the proposal to require quarterly online reporting. This would also very clearly fit with MTD requirements and strengthens AAT's recommendation (at 3.23 above) to utilise the VAT registration threshold for the de minimis threshold.
- 3.26. Estimating costs for registering with HMRC and one-off and on-going costs of completing, filing, and paying the return are difficult. However, they are not likely to be substantial given these companies are already required to register with HMRC for MTD purposes, to file quarterly for MTD purposes and to make tax payments. These requirements could easily be absorbed into existing, similar requirements and are therefore likely to have only a negligible cost.
- 3.27. Likewise, excluding those below the VAT threshold means that the very smallest companies will not face disproportionate costs or administrative burdens because of the plastic packaging tax.

Enforcement

- 3.28. AAT believes that it is sensible for HMRC to adopt similar compliance powers to those that are already in place to administer other taxes and duties – challenging the content of any return; assessing for additional liability; having the power to seize plastic packaging materials on which the full tax liability has not been paid and so on.
- 3.29. The question of penalties is a more challenging consideration.
- 3.30. AAT supports the application of penalties on the same basis as other taxes i.e. for failure to make a return, late payment and so on.
- 3.31. However, the overriding policy objective of securing behaviour change, means that a bespoke penalty for failure to pay the correct amount of plastic packaging tax may have the advantage of further concentrating minds, providing this was not too burdensome to administer.
- 3.32. GDPR style penalties could perhaps be considered given their effectiveness in acting as a deterrent. Failure to comply with GDPR can incur a fine of 4% of annual turnover or €20m, whichever is the greater. The mere threat of such fines has resulted in companies across Europe, including the UK, investing heavily in ensuring compliance.

4. About AAT

- 4.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 4,250 licensed accountants who provide accountancy and taxation services to over 400,000 British businesses.
- 4.2. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

5. Further information

- 5.1. If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Phil Hall, AAT Head of Public Affairs & Public Policy:
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