ecoembes

FAQS

IS THE TAX ON PLASTIC THE SAME AS THIS ROYAL DECREE?

No.
The tax on plastic is a measure that applies to certain non-reusable plastic products to reduce plastic waste. By contrast, the Royal Decree on packaging and packaging waste focuses on managing all product packaging waste, regardless of the material used.

Both measures are intended to take care of the environment, but they are applied differently.

WHAT TYPE OF PACKAGING DOES THE ROYAL DECREE MENTION? WHAT PACKAGING IS CONSIDERED SERVICE PACKAGING?

Packaging is all containers, boxes, bags, bottles and other types of wrapping that are used to store, protect and deliver different products, from the time they are manufactured until they are bought and consumed: aluminium, cardboard, paper or plastic trays. Bags of any kind, cardboard boxes, aluminium foil, plastic roll, tubs of any material and cups with or without a lid.

It is those containers designed and intended to be filled at the point of sale. It is also disposable items designed and intended to be filled at the point of sale to hold the product, and/or allow or enable its direct consumption or use.

IF A MERCHANT IS ALREADY PAYING THEIR MUNICIPALITY'S COLLECTION FEE, DO THEY HAVE TO COMPLY WITH THIS ROYAL DECREE?

Yes.
This is because the Royal Decree lays out specific additional responsibilities for the management of packaging waste even if they already pay for the normal collection of waste, to ensure that packaging is handled properly and the environmental impact is reduced.

WHAT KIND OF MERCHANTS DOES IT AFFECT?

It affects any business that sells products with packaging, regardless of whether it is small or large, or if it sells food, clothing, electronics, etc.

Merchants have a responsibility to comply with these rules, such as making a plan to manage packaging waste, promote the reuse of packaging and meet recycling targets.

IF THE SHOPS DO NOT PRODUCE THIS TYPE OF PACKAGING, WHY DO THEY HAVE THESE OBLIGATIONS?

According to the Royal Decree, any person or company that, due to its activity, generates packaging waste, is considered a producer of this waste. This includes merchants that deliver packaged products to the end consumer.

WHAT ARE THE OBLIGATIONS OF A MERCHANT ACCORDING TO THE ROYAL DECREE?

To reduce waste generation: Merchants must take steps to produce less waste, such as using more sustainable packaging or cutting down on unnecessary packaging.

To encourage the reuse of packaging: Merchants must promote the reuse of packaging, for example by selling products in bulk or incentivizing the use of reusable packaging.

All in an effort to meet recycling targets.

WHAT OPTIONS DOES A MERCHANT HAVE TO ABIDE BY THIS WASTE LAW?

Merchants have the option to join voluntary programmes called "Extended Producer Responsibility" (EPR).

By joining these programmes, merchants take responsibility for managing and financing the collection and recycling of the packaging they generate, and can leverage the infrastructure and resources they offer to better manage packaging waste.

CAN A BUSINESS DELEGATE THESE RESPONSIBILITIES TO ITS MANAGEMENT AND/OR CONSULTANCY COMPANY?

No.
A merchant may hire a management or consultancy company to receive help and advice on compliance, but the ultimate responsibility lies with the merchant.

AND CAN A MERCHANT DELEGATE THESE RESPONSIBILITIES TO ITS PACKAGING SUPPLIER?

The merchants that provide packaging to the end customer are responsible for managing the resulting waste. However, a merchant could reach an agreement with its packaging supplier to have it manage the packaging waste.

The supplier would become a waste management service provider, and would have to comply with the obligations of the law and be registered as such.

Despite this, the merchant remains ultimately responsible and must ensure that the

WHAT WOULD BE THE PROCESS FOR A MERCHANT TO DELEGATE RESPONSIBILITY TO ITS PACKAGING SUPPLIER?

If a merchant wants its packaging supplier to take over the management of packaging waste, they would have to:

1. Negotiate an agreement with the packaging supplier, establishing the responsibilities of each party in managing the packaging waste.

2. Ensure that the packaging supplier complies with the obligations of Royal Decree 1055/2022 as a waste management service provider, and has registered and submitted the necessary documentation.

The merchant must keep the documentation that demonstrates its compliance with its obligations under the law regarding the management of the packaging waste it generates.

Therefore, the merchant should track the process and ensure that the obligations of the Royal Decree are properly complied with.

IF THE SUPPLIER OR MANUFACTURER MARKETS UNDER 50,000 KG OF COMMERCIAL PACKAGING, IS THE MERCHANT REQUIRED TO COMPLY WITH THIS ROYAL DECREE?

Even if the supplier or manufacturer markets under 50,000 kg of commercial packaging per year, the merchant is still required to comply with the obligations of the Royal Decree.

However, in terms of the reporting requirements, producers that market under 50,000 kg per year can do so on aggregate, while those that market over 50,000 kg must do so individually.

IF A MERCHANT PROVIDES SINGLE-USE PACKAGING THAT WAS GIVEN AWAY BY ITS SUPPLIER, WHO IS REQUIRED TO DECLARE THIS PACKAGING?

Even if the packaging was provided free of charge, the merchant is considered the producer of the waste, and is therefore responsible for its proper disposal and for complying with the law.

HOW CAN A MERCHANT BE SURE THAT ITS SUPPLIER IS FULFILLING THESE DELEGATED OBLIGATIONS?

To ensure that its supplier is complying with the obligations, the merchant can do the following:

1. Request detailed information on how it manages packaging waste, such as what type of packaging it supplies and how much, whether it has joined an integrated packaging waste management system and how much packaging waste it generates during the manufacture of its products.

2. Ask it to provide documentation proving its compliance with the obligations, such as certificates issued by integrated packaging waste management systems.

3. Ask it to include on its invoice a reference that it is complying with the obligations of the Royal Decree on behalf of the merchant.

ON WHAT DATES DOES THE CONSUMPTION OF THIS TYPE OF PACKAGING HAVE TO BE DECLARED?

The deadline set by Royal Decree 1055/2022 is 28 February of the following year, if the merchant decides to fulfil its obligations through a Collective Management System (SIG in Spanish) like Ecoembes.

In addition, between 1 January and 31 March of each year, product producers listed in the Packaging Register are required to collect and submit annual information on the packaging placed on the market. The figures to be reported are from the previous year.

WHAT IS THE METHOD FOR DOING IT?

Individually or through a PRO such as ECOEMBES. If the merchant decides to do so through a PRO, it may be done individually or through delegation to the packaging supplier, after agreeing with the latter.

WHAT CONSEQUENCES DOES A MERCHANT FACE FOR NOT COMPLYING WITH THIS ROYAL DECREE?

Economic sanctions: The competent authorities may impose fines and other economic sanctions for not complying with the law.

Temporary closure of the business: In serious cases of non-compliance, authorities may order the temporary closure of the business until the deficiencies are corrected and the law is complied with.

Civil and criminal liability: In cases of environmental damage or serious and repeated breach of its obligations, the business may be subject to civil and criminal liability.

On top of this is the negative impact on the image and reputation of the business.

HOW IS THE AMOUNT THAT A MERCHANT HAS TO CONTRIBUTE CALCULATED?

It is calculated based on the consumption of single-use packaging that the merchant put on the market in the previous year.

It is a two-step calculation:

1. Packaging consumption declaration: The merchant must declare the consumption of single-use packaging, by materials that it put on the market during the previous year, through the platform provided by the relevant authorities in its autonomous community. The declaration must be filed by 31 March of the following year.

2. Calculation of the amount: Ecoembes performs the calculation based on the data declared by the merchant. The amount is set based on a rate per kilogram of packaging placed on the market.

As a result, the merchant pays based on the amount of packaging it put on the market during the year.