

## WHAT IS THE PLASTIC TAX AND WHAT ARE ITS MAIN EFFECTS ON BUSINESSES?

The Plastic Tax will come into force on 1 January 2023, as provided for in the 2020 Budget Law. Here are the entities that are liable to pay it and the penalties foreseen in case of non-compliance.



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### What is the so-called 'Plastic Tax'?

The Plastic Tax is a tax on the consumption of single-use products provided for in Article 1 paragraphs 634 to 658 of Law No. 160 of 27/12/2019 (2020 Budget Law), aimed at implementing in Italy the provisions of Directive (EU) 2019/904 on 'Single-use Plastic' or 'SUP'. In order to reduce the use of non-reusable plastic, the law provides for the payment of a **fixed tax of €0.45 per Kg of 'single-use plastic products'** (a.k.a. **MACSI**), i.e. products: (a) made wholly or partially of *organic polymers of synthetic origin*; (b) not conceived, designed or placed on the market to *perform multiple trips or rotations or to be reused for the same purpose*; (c) that have a function or are used for the *containment, protection, handling or delivery of food or goods*.

The draft implementing Decree published by the Italian Customs Agency in 2021 lists, by way of example, the following products: "*plastic sheets, plates, preforms, bottles, caps, containers, lids, pouches, bags, packaging, films, foils and in any case all other polymeric products, however shaped or capable of being shaped, suitable for wrapping or part wrapping goods or foodstuffs*".

It follows that disposable plastic packaging and wrapping of electronic products may fall within the definition of MACSI, with a possible impact, at least indirectly, of the related cost increases on industry operators and consumers.

### Who are the entities liable to pay the Plastic Tax?

(a) For MACSI manufactured in Italy, the tax must be paid by (I) the **manufacturer** and (II) **whoever has the MACSI manufactured and subsequently marketed**.

(b) For MACSI from other EU Member States, the tax must be paid by: (I) the **subject residing in Italy who purchases the MACSI** in the exercise of his economic activity or (ii) the **transferor** if the MACSI are purchased directly by a final consumer.

(c) For MACSI from third countries, the tax must be paid by the **importer**.

All of the above as detailed in **Graph 1** below. **Graph 2** lists, instead, the non-obliged entities, i.e. the 'processor' (as described therein), the operator holding tax-paid MACSI, and operators of recycling plants (which are not even listed).



### When and how is the Plastic Tax paid?

Payment is made quarterly by the end of the month following the calendar quarter, during which the related return must be submitted as follows: *“The assessment of the tax due is made on the basis of quarterly returns containing all the elements necessary to determine the tax liability. The return shall be submitted by the obliged entities to the Customs and Monopolies Agency by the end of the month following the calendar quarter to which the return refers. For MACSI from other EU countries, purchased by a private consumer, the transferor shall submit the aforesaid return through the tax representative... . Payment of the tax due is made within the term referred to in this paragraph”.*

The draft implementing Decree published by the Customs Agency last year also specifies that *“Payment of the tax settled in the return is made exclusively by means of the F24 Excise form using the appropriate tax code. Compensation of the consumption tax on MACSI with other taxes and contributions is allowed. The tax, assessed on the basis of the quarterly returns, shall not be paid if the amount due as tax is less than or equal to €25”.*

### Penalties

Penalties are provided for and imposed as follows:

- (1) late payment: administrative fine equal to 25 percent of the tax due and in any case not less than **€150**;
- (2) non-payment: administrative fine equal to five times the evaded tax. The penalty shall in any case not be less than **€250**;
- (3) late submission of the quarterly return: fine from **€250** to **€2500**.

### Entry into force

With the 2022 Budget Law (Law 234/2021), the entry into force of the new tax – which had already been postponed several times – was set for **1 January 2023**. The implementing Decree, of which we only have the above-mentioned draft dating back to year 2021 (“Plastic Tax Presentation” downloadable here: <https://www.adm.gov.it/portale/-/open-hearing-plastic-tax-update>), is still missing.

**Graph 1** (Source: Customs Agency) - **Obliged entities**

Obliged entities	Description	Obligations	Listing
Manufacturer	Production plant operator	<ul style="list-style-type: none"> <li>• Liable for the tax payment</li> <li>• Communication (ID code)</li> <li>• Bookkeeping and return filing</li> </ul>	by plant
Seller	Seller of MACSI produced on its behalf by a manufacturer	<ul style="list-style-type: none"> <li>• Liable for the tax payment</li> <li>• Communication (ID code)</li> <li>• Bookkeeping and return filing</li> </ul>	by subject
EU purchaser	Purchaser of taxable MACSI from EU countries	<ul style="list-style-type: none"> <li>• Liable for the tax payment</li> <li>• Communication (ID code)</li> <li>• Bookkeeping and return filing</li> </ul>	by subject
EU transferor	Transferor of taxable MACSI from EU countries to private entities	<ul style="list-style-type: none"> <li>• Liable for the tax payment</li> <li>• Communication (ID code)</li> <li>• Bookkeeping and return filing</li> </ul>	by subject
Importer	Importer of MACSI from non-EU countries	<ul style="list-style-type: none"> <li>• Liable for the tax payment at the time of import</li> </ul>	-

**Graph 2** (Source: Customs Agency) - **Non-obliged entities**

Non-obliged entities (listed)	Description	For the purposes of reimbursement	Listing
Processor	Producer of MACSI who uses MACSI on which the plastic tax is due by another party, without adding any further plastics subject to the tax	<ul style="list-style-type: none"> <li>• Communication (ID code)</li> <li>• Bookkeeping</li> </ul>	by plant
Economic activity operator	Operator holding tax-paid MACSI	<ul style="list-style-type: none"> <li>• Communication (ID code)</li> <li>• Bookkeeping</li> </ul>	by subject
Obliged entities (non-listed)	Description	Actions	
Recycling plant	Plants where recycling processes are carried out	<ul style="list-style-type: none"> <li>• Subject to fiscal surveillance</li> </ul>	