EXPLANATORY MEMORANDUM TO

THE PLASTIC PACKAGING TAX (GENERAL) (AMENDMENT) REGULATIONS 2023

2023 No. 622

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument makes a change to the way in which tax credits are claimed in respect of Plastic Packaging Tax (PPT) by specifying how they must be accounted for in a PPT return. Businesses are already instructed in guidance (having the force of law) to complete their returns in this way and this instrument will ensure legislation, guidance and the PPT online service are aligned.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument amends the Plastic Packaging Tax (General) Regulations 2022 (S.I. 2022/117) in order to make a change to the way in which tax credits are claimed in respect of PPT. The instrument requires a liable person to claim a tax credit for tax arising in the same accounting period separately from tax credits where the tax arose in a previous accounting period.

7. Policy background

What is being done and why?

7.1 PPT was introduced on 1 April 2022. The tax is charged on finished plastic packaging components that are manufactured in, or imported into the United Kingdom, and contain less than 30% recycled plastic.

7.2 A business which accounts for PPT may claim a tax credit if they, or another business, export a chargeable plastic packaging component from the United Kingdom, or convert it into another packaging component.

7.3 A claim for a tax credit is made through the PPT online service. Previously, legislation required the total value of tax credits being claimed to be included as a single figure on a return. However, the PPT online service includes controls to prevent businesses claiming tax credits for a value which exceeds the tax that has been paid in the 2 years prior to the claim. This prevented businesses, in certain circumstances, from claiming a tax credit for tax which arose in the same accounting period as the claim.

7.4 As an interim measure, businesses were instructed in guidance having the force of law how to claim a tax credit where the tax arose in the same accounting period to ensure businesses were not financially disadvantaged.

7.5 This instrument amends the legislation by specifying that a claim for a tax credit for tax arising in the same accounting period must be accounted for separately in a return to claims for tax credits where the tax arose in a previous accounting period. It therefore ensures the legislation aligns with guidance (having the force of law) and the process of claiming a tax credit using the PPT online service.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This is the second time regulations are made under these powers. As such, there is no need to consolidate the regulations.

10. Consultation outcome

10.1 HMRC published a draft of this instrument for technical consultation between 9 May 2023 and 22 May 2023. No responses were received.

11. Guidance

11.1 Guidance (which has force of law) has already been published on GOV.UK advising businesses how to claim tax credits. This is available at: https://www.gov.uk/government/publications/plastic-packaging-tax-force-of-law-guidance.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies beyond that already set out for PPT as a whole.

12.2 There is no, or no significant, impact on the public sector beyond that already set out for PPT as a whole.

12.3 A Tax Information and Impact Note was published on 20 July 2021 alongside the Plastic Packaging Tax (General) Regulations 2022 (S.I. 2022/117) and is available on the website at: https://www.gov.uk/government/publications/introduction-of-plastic-

packaging-tax-from-april-2022/introduction-of-plastic-packaging-tax-2021. It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken for the tax overall is to exempt businesses manufacturing and importing less than 10 metric tonnes of plastic packaging in any 12-month period from registering for and paying the tax. Businesses close to the threshold are encouraged to keep some basic records to demonstrate that they fall below this threshold, but in many cases their normal business records should meet this requirement.

13.3 The basis for the final decision on what action to take to assist small businesses was to achieve a good balance between easing administrative burdens and meeting the environmental objectives of the tax.

14. Monitoring & review

14.1 HMRC has committed to monitoring and evaluating PPT through the analysis of environmental and tax data, as well as customer research. The evaluation plan will be published later this year.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 a review clause is not required as the regulations make provisions relating to a tax.

15. Contact

15.1 Gaynor Twigg at HMRC email: indirecttaxdesign.team@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Judith Kelly, Deputy Director for Excise and Environmental Taxes, at the HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Gareth Davies MP, Exchequer Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.