



HM Revenue
& Customs

Plastic Packaging Tax - chemical recycling and adoption of a mass balance approach

Consultation response submission form

Publication date: 18 July 2023

Closing date for comments: 10 October 2023

Consultation response form

This response form is to be used for responding to HMRC's consultation on the adoption of mass balance approach for the purposes of the Plastic Packaging Tax. If you need to expand on any of the responses you have provided in the text boxes, please continue on a separate word document and attach it in your consultation response email, along with any supporting evidence.

Subject of this consultation

This consultation explores the application of a mass balance approach to determine the amount of chemically recycled plastic in a plastic packaging component for the purposes of the Plastic Packaging Tax (PPT). It seeks views on whether a mass balance approach should be accepted as a way of allocating recycled plastic content to packaging, and, if so, the controls and standards that should be adopted to ensure the integrity of the tax.

Scope of this consultation

HM Revenue and Customs (HMRC) is consulting on the impacts of chemical recycling for plastics and the potential use of a mass balance approach to account for chemically recycled content for PPT.

Who should read this?

Businesses (including those in the plastics value chain such as petrochemical businesses and mechanical recyclers), individuals, tax advisers, NGOs, academia/research, certification, trade and professional bodies and other interested parties.

Duration

12 weeks from 18 July 2023 to 10 October 2023.

Lead official

HMRC – Mark Palmer

How to respond or enquire about this consultation

Responses or enquiries should be sent by 10 October 2023, by e-mail to indirecttaxdesign.team@hmrc.gov.uk or by post to: Mark Palmer, Plastic Packaging Tax Policy Team, HMRC, 4TH Floor Trinity Bridge House, 2 Dearmans Place, Salford M3 5BS

Additional ways to be involved

To engage with groups who would be affected by the proposals and issues under discussion in this consultation, the government will be consulting key stakeholders and interested parties who specialise in this policy area on the proposals during the consultation process. If you would like to be included in a consultative meeting, please contact us via the email above as soon as possible.

After the consultation

The government will aim to analyse responses and publish a formal response document as soon as possible after the end of the consultation period.

Getting to this stage

PPT was introduced on 1 April 2022 and was informed by two policy consultations in 2019 and 2020. Chemical recycling is a recognised method of recycling plastic waste for the purposes of PPT. However, following constructive engagement with stakeholders from across the plastics value chain, the government understands that it is sometimes not currently possible for businesses to use chemically recycled plastic in packaging and not pay the tax. This is because in some cases it is impossible to distinguish between plastic from virgin and recycled sources when this type of recycling is used.

HMRC engaged with various key stakeholders during Summer 2022 to gather evidence and improve knowledge about mass balance and chemical recycling. Aspects of chemical recycling were also discussed during HMRC's regular industry engagements, which focussed on the implementation of the tax.

Confidentiality

HMRC is committed to protecting the privacy and security of your personal information. This privacy notice describes how we collect and use personal information about you in accordance with data protection law, including the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act (DPA) 2018.

Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes.

These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018, UK General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs.

Consultation Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the UK General Data Protection Regulation.

Your data

The data

We will process the following personal data:

Name
Email address
Postal address

Phone number
Job title

Purpose

The purpose(s) for which we are processing your personal data is: Plastic Packaging Tax - chemical recycling and adoption of a mass balance approach

Legal basis of processing

The legal basis for processing your personal data is that the processing is necessary for the exercise of a function of a government department.

Recipients

Your personal data will be shared by us with HM Treasury.

Retention

Your personal data will be kept by us for 6 years and will then be deleted.

Your rights

- You have the right to request information about how your personal data are processed, and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.
- You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
- You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for your personal data is HM Revenue and Customs. The contact details for the data controller are:

HMRC

100 Parliament Street
Westminster
London SW1A 2BQ

The contact details for HMRC's Data Protection Officer are:

The Data Protection Officer
HM Revenue and Customs
14 Westfield Avenue
Stratford, London E20 1HZ
advice.dpa@hmrc.gov.uk

About you

Your name

Jayne Simpson

Your email address

technical@ciot.org.uk

Postal address

30 Monck Street, London SW1P 2AP

Phone number

020 7340 2786

Job title

Technical Officer Indirect Taxes

Who are you submitting this response on behalf Of (Please only tick one)

- Business representative organisation/Trade body
- Chemical recycler
- Mechanical recycler
- Petrochemical company
- Waste management company
- Packaging manufacturer/converter
- Product manufacturer/pack filler

- Brand Owner
- Retailer
- Plastic packaging exporter
- Plastic packaging importer
- Distributor
- Certification scheme owner
- Certification Bodies
- Local Government
- Non-governmental organisations
- Charities or social enterprise
- Academic or research
- Consultancy
- Individual
- Other

Please provide the name of the organisation/business you represent (if applicable)

Chartered Institute of Taxation

If you are in business, where if your business established?

- UK
- Isle of Man
- Other (please provide futher details below)

If you are in business, how many staff fo you employ across the UK?

- Fewer than 10
- 10-49
- 50-249
- More than 249
- Prefer not to say

Please provide any further information about your organisation or business activities that you think might help us put your answers in context.

The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.

Plastic Packaging Tax forms part of our examination syllabus for indirect tax students. Our technical Climate Change Working Group and our Indirect Taxes Committee have volunteer tax specialists with PPT expertise.

Would you like your response to be confidential? If so, why? (please note the information on confidentiality on page 3)

No

Mass balance approach – chapter 3

Question 1: Do you agree that it is possible to determine actual recycled content in products using the outputs of chemical recycling processes which produce a polymer, such as depolymerisation and dissolution? Please give reasons for your answer.

Yes No Don't know

This question is outside of our expertise.

Question 2: How should chemical recycling be defined for the purpose of using a mass balance approach for PPT?

In section two of the consultation, it states '*Chemical recycling is a blanket term used for several different processes. Technologies such as chemical depolymerisation and dissolution involve using chemical processes to break material back down into base polymers. As this method produces recycled polymers which can be measured when they enter a production process, they can already be classed as recycled for the purpose of PPT. Therefore, a mass balance approach is not needed for this type of chemically recycled plastic.*'

Section 4 goes on to confirm that certification schemes are used in conjunction with mass balance approach and though HMRC will not be a scheme certification provider, this will be left to the independent certification sector.

For businesses to meet any mass balance approach compliance tests set by HMRC, we recommend that the requirements are set so that it is possible for the data to be drawn from existing certification schemes to provide a clear and straightforward method for business using chemical recycling processes.

Question 3: Do you agree that the production of a recycled substitute for virgin feedstock to a cracker is the correct test for when calculations using a mass balance approach should be accepted for the purposes of PPT? If not, what test should be used?

Yes No Don't know

This question is outside of our expertise.

Question 4: Are there other chemical recycling methods or processes for which a mass balance approach is required to account for the recycled content in the outputs? Please provide details and examples.

This question is outside of our expertise.

Question 5: What evidence are you aware of regarding the overall environmental impact of chemical recycling and use of the mass balance approach?

This question is outside of our expertise.

Question 6: How does the carbon impact of chemical recycling compare with the impact of using virgin material to produce plastic, and with disposing of waste plastic through landfill or energy from waste?

This question is outside of our expertise.

Question 7: What is the current and planned UK capacity for processing plastic waste through chemical recycling of your business or the supply chains that include your business?

This question is outside of our expertise.

Question 8: How would the adoption of a mass balance approach for chemically recycled content for PPT purposes impact on investment in chemical recycling in the UK?

The key reason for PPT is to increase the use of recycled plastic over virgin products by taxing plastic that has less than 30% recycled content, thereby stimulating the market in recycled plastic that was typically more expensive than virgin product.

By making chemically recycled content outside the scope of PPT, it should drive investment in this sector, as the price will become commercially viable compared to taxed product.

Question 9: To what extent is any potential investment in chemical recycling in the UK dependent on the specific details of how a mass balance approach may be implemented?

We have received member feedback that at the current rates of PPT, it can cost more to administer the tax in sourcing the appropriate data and that some businesses have taken the commercial decision to just pay PPT even though their product qualifies for full PPT relief. If a mass balance approach is introduced for chemical recycling, the data obligations for tax compliance must be straightforward for a business to obtain and HMRC may also wish to consider in what circumstances, if any, estimation may apply. HMRC should be comfortable the existing independent certification schemes are adequate to support the PPT compliance obligations and the government's commitments to simplify the tax system, responsibility for which lies substantially with HMRC.

Further, we also like to see a long term PPT rate plan including for the mass balance approach to provide businesses with certainty, as this too will impact investment in the UK. This has been successful for other taxes e.g. landfill tax.

Question 10: Are you aware of any other factors or policies that could also impact on inwards investment into UK chemical recycling infrastructure?

As chemical recycling can produce products suitable for the food and medical sectors (whereas mechanical recycling currently cannot) this may increase the inward investment into the UK.

Question 11: Do you agree that increased use of chemical recycling of plastic waste would complement the existing mechanical recycling sector, and not disincentivise further investment in mechanical recycling? Please give reasons for your answer.

Yes No Don't know

As mentioned in question 10, as chemical recycling can produce products suitable for the food and medical sectors that mechanical cannot, this process would complement existing processes. It is noted that as chemical recycling is significantly more expensive than mechanical, its use in producing recycled product may be more limited than mechanical methods, perhaps to the sectors highlighted above who have very specific needs.

Question 12: What controls need to be put in place to ensure material which is suitable for mechanical recycling continues to be recycled in that way, if a mass balance approach for chemically recycled plastic is adopted for the purposes of PPT?

As mentioned in question 10, certain sectors cannot obtain recycled content via the mechanical recycling route, so some materials that can be recycled mechanically must be recycled chemically in order to meet the grade for certain foods and pharmaceuticals. If controls are to be set down within PPT, exceptions would need to be embedded for sectors that are currently excluded from using the mechanical recycling route, though this may have some impact on investment mentioned in question 10. Adding controls and exceptions via PPT rules increases the complexity of the tax.

Question 13: Do you agree that pre-consumer waste should be phased out as being classed as recycled material for PPT if chemically recycled plastic using a mass balance approach is permitted? Please supply information and comparative costs of recycling to support your answer.

Yes No Don't know

This question is outside of our expertise.

Question 14: Do you agree that chemically recycled plastic using a mass balance approach is likely to meet the regulatory requirements for the immediate packaging of human medicines?

Yes No Don't know

This question is outside of our expertise, though in principle where chemically recycled product is capable of meeting the standards for virgin product it would seem logical that it should be able to meet that test. Industry experts and regulators would need to confirm the point..

Question 15: How can businesses communicate the recycled content to consumers in a way that does not undermine confidence in claims about recycled content?

As mentioned in question 9, some businesses are simply paying PPT on recycled products that they consider as qualifying for full relief but the costs of tax administration in obtaining all of the required data to evidence the outside of scope treatment far outweigh paying the PPT so certainty on the percentage of recycled content cannot be verified to consumers. If the independent certification scheme provides certainty to businesses and HMRC for PPT purposes, this should also increase confidence in relaying such messages to consumers.

Question 16: Given the issues discussed and questions raised in this chapter, do you agree that chemically recycled plastic allocated using a mass balance approach should be treated as recycled plastic for the purpose of the PPT? Please provide reasons and supporting evidence for your response.

Yes No Don't know

The inclusion of chemically recycled plastic in the PPT regime will allow currently excluded sectors such as food and pharmaceuticals to benefit from using recycled plastic and, in principle, be relieved of PPT where the product meets the 30% test. We note that if the PPT administrative requirements are too onerous, these sectors may still continue to pay the PPT rather than incur additional costs of administering the tax relief.

Mass balance models – chapter 4

Question 17: Do you agree with the government's suggested approach to not allow businesses to use the group level calculation? Please provide reasons and supporting evidence for your response.

Yes No Don't know

The consultation sets out that the group level calculation is the weakest option with significant scope for risk/error. Whilst we would agree at this early stage that it is not an attractive level, it may be something that could be revisited in several years as market and sector innovations change from the current landscape.

Question 18: Do you foresee any practical barriers or risks to using the batch or site balance calculations? Please provide details of what those barriers or risks are.

The main barriers to the batch and site balance calculations will be the ability to identify, collect and administer the data for PPT calculations, and that such data sufficiently evidences the position taken at a subsequent HMRC inspection. As stated in earlier questions, we are aware that some businesses just pay the PPT to reduce administrative costs and avoid the risk of assessments/penalties at future inspections.

We recommend that the PPT rules include clear definition of 'site' to aid business understanding and clarity.

Question 19: To what extent do the batch and site levels of mass balance support the objectives of PPT and incentivise investment in chemical recycling in the UK? Please provide reasons and supporting evidence for your response.

If business are able to evidence batch and site level tests straightforwardly so that HMRC would be confident that the recycled content evidence is acceptable to provide PPT relief, this would increase certainty and clarity for affected businesses and increase the attractiveness of chemical recycling. However, we note that due to the increased cost of chemical recycling and HMRC's preference that product should be mechanically recycled where possible, its attractiveness may be limited to the food and pharmaceutical sectors though naturally these are both have significantly large usage of plastic packaging and hence the chemical recycling sector would still have sufficient demand from these sectors.

Question 20: Do you agree with the government's suggested approach to not allow businesses to use the free allocation method? Please provide reasons and supporting evidence for your response.

Yes No Don't know

This question is outside of our expertise.

Question 21: To what extent do the proportional balance, fuel exempt or polymer only allocation methods, support the objectives of PPT and incentivise investment in chemical recycling in the UK? Please provide reasons and supporting evidence for your response.

The same principles apply as for question 19 i.e. if businesses are able to evidence the proportional balance, fuel exempt or polymer only allocation methods straightforwardly so that HMRC would be confident that the recycled content evidence is acceptable to provide PPT relief, this would increase certainty and clarity for affected businesses and increase its attractiveness.

Question 22: What are the relative advantages with the proportional balance, fuel exempt and polymer only allocation methods? Please provide details of what those advantages are.

This question is outside of our expertise.

Question 23: What risks or practical challenges do you envisage with the proportional balance, fuel exempt and polymer only allocation methods? Please provide details of

what those risk and challenges are.

HMRC need to be confident that the PPT rules are clear on what data businesses must supply to evidence these methods and also that PPT officers are able to review and understand the evidence provided for PPT inspections. As stated in other responses, if the position to obtain the necessary data is too onerous, businesses may just pay the PPT as its cost is far less than the cost or resourcing data collection.

Question 24: To what extent would the requirements and standards need to be tailored to address the different risks associated with proportional balance, fuel exempt and polymer only allocation methods.

This question is outside of our expertise.

Question 25: If a mass balance approach was adopted and taking into account the impact it may have on the amount of PPT chargeable on businesses' quarterly tax returns, what would be a reasonable balancing period for businesses to equate the amount of recycled feedstock received, to the claims made around recycled content in output products? Please provide reasons for your response.

As accreditation periods are variable from 3 months up to a maximum period of 12 months, the simplest position to take for PPT rules would be to have a balancing period of 12 months so that nobody is required to submit further requests to HMRC for extenuating circumstances and HMRC do not have to resource such requests HMRC would need to consider what risks, if any, the 12 month threshold would create.

Question 26: Do you agree or disagree that businesses should be allowed to have a negative balance during a balancing period for a mass balance calculation allowable under PPT? Please provide reasons and supporting evidence for your response.

Agree Disagree Don't know

We note that negative balancing periods have been allowed for Climate Change Levy where certain conditions are met. However, the CCL position differs from PPT and the difficulties in obtaining the correct data for the relief of qualifying products for PPT may impact the viability of negative balancing periods.

Question 27: What are the benefits and disadvantages of the different measurement units for a mass balance calculation if it is adopted for PPT purposes?

Whereas industry will be better placed to set out the benefits and disadvantages of the different measurement units, they still need to be administratively straightforward to collect and provide reliable data to customers so that they can fulfil the PPT rules, otherwise they may simply pay the tax and avoid the administrative burden.

Question 28: Which measurement unit best supports the environmental aims of the tax?

As for questions 27, whereas industry will be better placed to set out the best measurement to support environmental aims, it must be administratively straightforward to collect and provide reliable data to customers so that they can fulfil the PPT rules (and for HMRC to audit), otherwise businesses may simply pay the tax and avoid the administrative burden/penalty risk.

Question 29: Should the government exclude any of the measurement units from being used in a mass balance approach calculation which is allowable under PPT? If so, please state which measurement units should be excluded, provide reasons, and supporting evidence for your response.

Yes No Don't know

This question is outside of our expertise.

Question 30: Do you think businesses should be required to deduct process losses from a mass balance approach calculation which is allowable under PPT? Please provide reasons and supporting evidence for your response.

Yes No Don't know

As for questions 27, whereas industry will be better placed to understand how process losses deductions impact the position, again, they must be administratively straightforward to identify and evidence in order for them to fulfil the PPT rules (and for HMRC to audit), otherwise businesses may simply pay the tax and avoid the administrative burden/penalty risk.

How certification would operate – chapter 5

Question 31: Do you foresee any barriers or risks with introducing a requirement for certification schemes to verify compliance with a mass balance approach if it is adopted for PPT purposes? If so, please provide details and supporting evidence.

Whilst the CIOT does not have experience of the certification schemes themselves, we would want to ensure that businesses are able to access certification with standardised data for the various methods that meets the requirements of the PPT rules to keep administrative burdens to a minimum and are readily accepted by HMRC inspectors as sufficient evidence for PPT relief.

Question 32: In what circumstances and at what frequency should a certification scheme check the quality of audits completed by certification bodies? Please provide reasons for your response.

It would seem logical to align the maximum length of a period of certification audit to the period of assessment for PPT, i.e. 4 years. Audits that cover a five year period will automatically have a year that is out of time for PPT assessment if there are arising errors, though we note that even if a 4 year period is introduced, there would be little time for HMRC to act on errors found nearing the 4 year point..

Question 33: Do you agree with the government's suggested approach of introducing a minimum requirement for the frequency and nature of audits? Please provide reasons and supporting evidence for your response.

Yes No Don't know

As per our response at question 32, 5 years exceed the maximum assessment period of 4 years for PPT. Even if a 4 year period is introduced there would be little time for HMRC to act on errors found nearing the 4 year point.

Question 34: If a mass balance approach was adopted for the purposes of PPT, do you have any suggestions for minimising the administrative burdens on business while ensuring compliance with the minimum requirements.

As stated in other responses, if the administrative burden is too onerous, we anticipate that some businesses will just pay the PPT to avoid assessment/penalty risk in the future, as the cost of compliance would exceed the tax itself.

Question 35: Should all businesses in a supply chain from the recycler to the packaging manufacturer be certified under the same scheme to enable the recycled material to be taken into account for the purposes of PPT?

Yes No Don't know

In principle this would appear the ideal position for clarity throughout the supply chain, but industry would have to comment on whether this is achievable in practice.

Question 36: Do you agree with the proposed accreditation requirement for certification bodies who complete the certification scheme audits? Please provide reasons and supporting evidence for your response

Yes No Don't know

We support accreditation requirements that provide clear professional standards for the sector.

Understanding commercial practices – chapter 6

Question 37: Unless already covered in your responses to other questions within this document, please tell us how you think your business would be impacted by being permitted to use chemically recycled plastic accounted for using a mass balance approach as recycled for the PPT, including additional administrative burdens?

Already covered in earlier responses.

Assessment of impacts – chapter 7

Question 38: Do you have any comments on the assessment of equality and other impacts in the Tax Impact Assessment?

The introduction of administratively complex rules will be more difficult/expensive for smaller business to resource. Our feedback demonstrates that this increases where the supply chain includes importing into the UK, as it is more difficult to obtain the right evidence and data from overseas suppliers.

Submitting your response

Your response should be sent by 10 October 2023, by e-mail to indirecttaxdesign.team@hmrc.gov.uk or by post to: Mark Palmer, Trinity Bridge House, 2 Dearmans Place, Salford M3 5BS.

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document in Welsh may be obtained free of charge from the above address. This document can also be accessed from HMRC's GOV.UK pages. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.