

Germany introduces a new special levy for products made of single-use plastic

Manufacturers and importers of products made of single-use plastic will contribute to the costs of municipal waste disposal in parks and streets in future through a new special levy. Until now, the general public has borne the costs of cleaning up and disposing of carelessly discarded waste. According to the Federal government's plans, this situation is now about to change.



On 2 November 2022, the German Federal Cabinet adopted and published the draft law on the establishment of a single-use plastic fund. The draft law serves to transpose Article 8 paragraphs 1-7 in conjunction with Article 14 of the EU Single-Use Plastics Directive (EU) 2019/904 into national law. According to this Directive, the Member States must introduce extended producer responsibility regimes for certain single-use plastic products for which there are currently no readily available, suitable, and more sustainable alternatives, in accordance with the 'polluter pays' principle.

New special levy in Germany for disposable plastic from 2025

According to the draft law, manufacturers and importers of products made of single-use plastic will be obliged to pay an annual levy into a central fund administered by the German Federal Environment Agency "Umweltbundesamt" starting in the calendar

year 2025. The special levy is to be determined on the basis of the quantities of disposable plastic products put into circulation by the respective companies in the previous calendar year (i.e. 2024).

Products subject to the levy

Annex 1 of the draft law contains a list of single-use plastic products that will be subject to the levy in the future. This includes:

- » food containers;
- » bags and film packaging made of flexible material with food content;
- » beverage containers with a filling volume of up to 3.0 liters;
- » beverage cups including their closures and lids;
- » lightweight plastic carrier bags;
- » wet wipes;
- » balloons; and
- » tobacco products with plastic filters.

Levy rates to be set by ordinance

The amount of the levy is to be based on the type and quantity of those products that the manufacturers and importers have previously placed on the market. However, the draft law does not yet contain any levy rates per product class. The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) has stated that it is currently preparing a legal

ordinance that will contain these and other operational regulations such as the payment system to municipalities and other persons that are entitled to claim. The data basis required for this step is currently being determined by a research project commissioned by the Federal Environment Agency.

Key information regarding the new plastic levy in Germany

- » An additional payment obligation for manufacturers and importers based on the quantities of disposable plastic put on the market in the previous year.
- » The first payments will be due in 2025
- » Earmarked levy to contribute to municipalities' waste collection and cleaning costs.
- » Establishment of a single-use plastic fund with a volume of 450 million annually.
- » The legislative process is expected to be completed in spring 2023.

First payments to municipalities in autumn 2025

The BMUV estimates that the Single-Use Plastics Fund will receive annual revenues of up to 450 million euros. In autumn 2025, the municipalities are expected to receive payments from the single-use plastics fund for the first time for their waste management services provided in 2024.

Disposable Plastics Commission

Furthermore, the draft law regulates the establishment of a single-use plastics

commission composed of representatives of the affected industry, the entitled parties as well as waste management, environmental and consumer associations. This expert panel is to assist in determining the levy rates, the payment criteria and the annual determination of the total payment amount as well as the classification of single-use plastic products.

Legislative procedure

The draft bill will next be discussed by the Bundesrat and the German Bundestag. The legislative process is expected to be completed in spring 2023.

Double burden due to a possible national plastic tax?

In addition to the planned special levy for manufacturers and importers of single-use plastic products, the introduction of a national plastic tax is still under discussion. In its coalition agreement, the German Federal government announced its intention to pass on the EU plastic levy introduced in 2021 to manufacturers and distributors, as in other European countries. The annual payment obligation of the Federal Republic of Germany to the European Union from the European plastic levy amounts to 1.4 billion euros.

From the new law's explanatory memorandum, it is evident that the future 'levy' is not intended to be a consumption or transport tax, since there is no provision for passing on the additional burden to the end customer. In addition, the new levy does not meet the criteria provided by the general tax code to be considered a "tax". to the extent that is not imposed "unconditionally" to cover general financial needs but exclusively to cover the costs of cleaning and disposing of carelessly littered waste.

As a result, a parallel implementation of both instruments cannot systematically lead to double taxation, as there are not two types of

taxes. Nevertheless, **a double burden on the same plastic packaging with a levy and a plastic tax cannot be ruled out** at this point in time and seems quite likely.

Our WTS Global experts are closely observing developments on the national and European level related to the plastic tax. Please contact us if you need advice on how to navigate the new plastic taxes and levies and to discuss how they may affect your company.

AUTHORS

Bertil Kapff

Bertil.Kapff@wts.de
T +49 (0) 211 200 50 669
WTS Steuerberatungsgesellschaft mbH
www.wts.de

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WTS Global
P.O. Box 19201 | 3001 BE Rotterdam
Netherlands
T +31 (10) 217 91 71 | F +31 (10) 217 91 70
wts.com info@wts.de

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