

# Tax Newsletter

2012 / 3



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## Environmental protection product charge

In this Newsletter, we summarize the most essential modifications defined in the Act LXXXV of 2011 on Environmental Protection Product Charge (hereinafter: the „Act”) that became operative as of January 1, 2012, including the changing liabilities pertaining to packaging, the cessation of scope of duties of recycling coordinators along with the cessation of the possibility of exemption, and the applicable reporting obligations of both former and new taxpayers to be fulfilled till 15 of January or 20 of April.



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### *The new Act*

In June 2011, the Parliament voted the new Act on environmental protection product charge that was modified in numerous points even prior to the date of coming into force. The new Act replaces the former Act LVI of 1995 and the related implementing decrees. All modifications that pertain to general taxpayers are effective as of January 1, 2012. This implies that for the last quarter of 2011, the 2011's product charges are applicable along with the exemption rules, in accordance with the relevant regulations.

### *Products subject to product charge*

2011	2012
Products subject to product charges	
• Batteries	• Batteries
• <b>Packaging</b>	• Packaging materials, other packaging tools (together: <b>packaging tools</b> ) <sup>1</sup>
• Other petroleum products	• Other petroleum products
• Electric appliances, electronic equipments	• Electric appliances, electronic equipments <sup>2</sup>
• Tires	• Tires
• Commercial printing paper	• Commercial printing paper <sup>3</sup>

<sup>1</sup> In the classification of packaging tools, the packaging tools catalogue defined in the implementing decree published on 29<sup>th</sup> December can help.

<sup>2</sup> The term „spare parts” leaves the scope, accordingly only the equipment will be subject to environmental product charge, but still even if it is sold as a part or spare part of the product.

<sup>3</sup> The ISSR number reference is terminated: in the case of publications and seasonal papers, the product is subject to environmental product charge if it contains at least 50% advertisement. In addition, the product is also subject to environmental product charge if it is sold as an attachment of another product.

*Persons subject to product charge*

2011	2012
Persons entitled to product charge	
<ul style="list-style-type: none"> <li>• First domestic distributor or user for own purposes</li> </ul>	<ul style="list-style-type: none"> <li>• First domestic distributor or user for own purposes               <ul style="list-style-type: none"> <li>◦ In the case of <b>packaging tools</b>, the liability is not pertaining to the packaging, but to the packaging tool</li> <li>◦ In the case of <b>commercial printing paper</b>, the main rule is applicable</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• In the case of domestically manufactured other petroleum products and commercial printing papers, the first buyer of the first domestic distributor</li> </ul>	<ul style="list-style-type: none"> <li>• In the case of domestically manufactured other petroleum products, the first buyer of the first domestic distributor</li> </ul>
<ul style="list-style-type: none"> <li>• In the case of contract manufacturing, the contract manufacturer of the product</li> </ul>	<ul style="list-style-type: none"> <li>• In the case of contract manufacturing, the contract manufacturer of the product<sup>4</sup></li> </ul>

<sup>4</sup> The definition of contract manufacturer has been extended: the term contract manufacturing is not only the case if all materials necessary for the manufacturing are provided by the contract manufacturer, but the regulation also allows the provision of materials in parts.

*Product charge of packaging tool*

A substantial change in respect of the scope of the regulation is outlined, as instead of packaging, packaging materials and other packaging tools (together: packaging tools) are subject to product charge. The product charge of the packaging is not necessary to be paid if the first customer of the obligee makes a statement on:

- the packaging tool will be utilized for producing packaging and he/she is entitled to flat-rate payment as agricultural producer or small volume user;
- the packaging tool is utilized as a reusable packaging material in a deposit refund system;
- or he /she is the end user and the other packaging tool is not utilized for producing packaging.

If the customer makes such a statement, hereby he/she becomes subject to the payment. If a state of affairs contrary to the statement is realized, he/she will be responsible for the product charge, retrospectively to the date of the purchase with default interest.

*Changing proceedings rules*

As of January 1<sup>st</sup>, the GLN number is ceased. The customs authority keeps records on taxpayers on the basis of the VPID number. The tax returns still have to be submitted in each quarter but henceforward, instead of the monthly breakdown, quarterly breakdown is applicable, as the new regulation requires the registers in quarterly breakdown.

*Advances*

In the fourth quarter of 2012, advance payment liability arises in respect of product charge whose rules are similar to the top-up obligation. Simultaneously with the tax return of the third quarter, the amount of tax advance has to be returned and has to be paid in until December 20<sup>th</sup>. The amount of the advance is the numeric average of the first 3 quarters of the year, multiplied by 0.8. Simultaneously with the tax return of the fourth quarter, it is necessary to correct the amount returned as advance payment and to pay a differential.

*Product charge flat rate*

As of 2012, a new flat rate payment opportunity is included in the Act: the category of small quantity packaging seller. In their case, an annual maximum of 1,000 kg of non-glass product and 3,000 kg of glass can be sold; the yearly charge will be HUF 12,000.

*National Waste Management Agency*

As of September 1, 2011, the National Waste Management Agency ("OHÜ") was established in the interest of recycling of waste products subject to product charge. The Agency was established by the Minister for Environmental Protection and is entirely owned by the Hungarian state. In this manner, the activities of former recycling coordinators were terminated as of December 31, 2011.

**Cessation of exemptions**

By the cessation of recycling coordinators, the opportunity of joining these is no longer available; accordingly, the exemption of product charge payment obligation is also ceased.

**Private waste management**

Exemption is partly compensated by a new institution, the so called private waste management that is subject to especially strict conditions that cannot be fulfilled by reasonable expenses at the vast majority of economic entities. In addition, in contrast with the exemption, the amount of payment liability cannot be zero as organizations reaching the upper recycling rate will also be subject to a so called system management base cost.

**Assuming the liability of product charge**

By the cessation of recycling coordinators, the opportunity of assuming liabilities will also leave the scope of the Act. However, several new titles appear:

- on the basis of the contract, the first domestic buyer of the obligor with the requirement that at least 60% of the purchased product subject to product charge is resold to abroad;
- the first domestic buyer of the packaging tool if it is utilized for final packaging or in the case of other packaging tools, the first domestic customer using them for producing packaging material;
- on the basis of the invoice, only the first domestic distributor of other petroleum products can assume liabilities.

**Indication on the invoice**

The mandatory indication on the invoice of data pertaining to the product is also modified. As of 2012, the application of invoice clause is mandatory only in three cases:

- assuming on invoice,
- first domestic distribution of packaging tools and commercial printing paper, and
- if the customer is entitled to reclaim and requests the application of the invoice clause.

**Reusable packaging**

In the case of reusable packaging, the deduction system is ceased as no liability of product fee arises pertaining to such packaging either at the first time to distribute the product or at the first own purpose use, provided that the conditions defined by the Act are met (deposit refund is charged and the product is included in the records of reusable packaging tools).

**Reporting obligation**

On the basis of the new Act, at economic entities subject to product charge liability even on the basis of the former Act LVI of 1995, and on the new Act as well, reporting obligation arises that has to be fulfilled

- by entities choosing private waste management until January 15<sup>th</sup>,
- by every other entity until April 20<sup>th</sup>.

Please note that for those subject to product charge in 2011 or earlier, there is no exemption rule in relation with the reporting obligation! **Those who have been subject to product charge as previously should not miss to report, either!**

Should you have any questions in respect of any topic in our Newsletter, please feel free to contact us.

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