



## **Plastic Packaging Tax (PPT) Mass Balance Approach (MBA) – Proposed Compliance Approach**

### **1. Summary of Issue**

- 1.1 Allowing a MBA to be used subject to third party certification is a novel approach for tax purposes. While certification schemes will be used to assure the provenance of chemically recycled material, HMRC will need robust measures in place to tackle non-compliance and mitigation to guard against any potential tax loss. This paper sets out our proposed high-level approach to compliance and seeks the views and help of the industry to manage and reduce risks to competition and tax integrity.

### **2. Background and Context**

- 2.1 HMRC already has a range of enforcement powers and penalties to address non-compliance with PPT, and these will continue to be used where relevant. Additional measures will be needed to take account of the requirement for chemically recycled plastic allocated using a MBA.
- 2.2 It is important to recognise that chemically recycled plastic allocated with an MBA can originate anywhere in the world, and certification schemes will need to provide proper assurance of this material. If this is not achieved, domestic producers and recyclers will be at a disadvantage, so robust compliance measures both by certification schemes and HMRC are vital to preserve the integrity of the tax and to maintain fair competition between domestic and overseas producers. The plastics, recycling, and packaging industries have a key role to play in ensuring that a level playing field for all is maintained.
- 2.3 Non-compliance and loss of certification will be an issue in existing MBA certification schemes, and we would welcome information on the mitigations which have proven effective, and the action taken regarding material already in the supply chain when problems are identified at an audit.

### **3. Detail and Analysis**

- 3.1 Three potential new compliance issues under MBA have been identified:
- a. Inaccurate documentation regarding certification of plastic used in packaging, whether erroneous or deliberately falsified.
  - b. A mismatch between documentation and batches of material
  - c. Failure to maintain standards required for certification



#### Inaccurate documentation

- 3.2 There is a risk that importers and packaging manufacturers may claim to be certified to supply plastic which is chemically recycled and allocated using an MBA when this is not the case. They may not be certified at all, or they may be certified but making false claims about the allocated recycled content of plastic supplied. This is an extension of an existing risk where plastic may be claimed to be recycled when it is not.
- 3.3 For MBA to operate successfully for tax purposes, HMRC and businesses buying recycled plastic have a shared interest in identifying false claims and false documentation and need to be competent in recognising documentation authenticity. HMRC and the industry will need to work together to guard against false claims.

#### Mismatch between documentation and batches of material

- 3.4 The risk that the plastic supplied as chemically recycled and allocated under an MBA is not properly accounted for and does not match the claims made about the allocated recycled inputs to it. For example, a batch of material is supplied as 30% recycled using an MBA allocation from chemically recycled material but is entirely virgin plastic with no allocated recycled inputs.
- 3.5 It is important for the industry, for HMRC, and for consumer confidence in claims about recycled content that individual batches of chemically recycled material can be properly tracked and mismatches in claims quickly identified and eliminated.

#### Loss of certification

- 3.6 All certified businesses will be required to be audited and visited annually by certification bodies to ensure that the required standards are maintained. However, on occasion a business may be found to not be meeting one or more of the requirements. While certification can be suspended or withdrawn from that point forwards, this change also calls into question the provenance of plastic produced since the last check was carried out. Businesses further down the supply chain will have bought and used this material in good faith and may have claimed a PPT exemption as a result. HMRC needs a compliance approach for the tax treatment of this material which does not unduly penalise businesses who have acted in good faith but also does not encourage abuse of the system.
- 3.7 We also need to ensure that it is not possible for new businesses to become certified, place material on the market as certified when it fails to meet the required standards, and then dissolve before proper checks can be made.

### **4. Potential Solutions**

#### Incorrect/False Counterfeit documentation

- 4.1 The most direct approach would be for HMRC, the plastics industry, and certification schemes to work together to agree ways to make genuine documentation easy to identify and to allow checks by HMRC and possibly other businesses in the supply chain to confirm that a business is genuinely certified.



- 4.2 **Proposed approach:** HMRC to work with certification schemes and the plastics industry to agree a common approach to validating claims of certification, without placing undue burdens on any party. We note that many existing certification schemes provide a look up service to check the certification of businesses, and we are minded to make such a service a minimum requirement for certification schemes for PPT MBA.

Mismatch between documentation and batches of material

- 4.3 It is important that both the certification of businesses and the provenance of individual batches of chemically recycled plastic can be assured. This assurance can be achieved by requiring a link to a specific batch of chemically recycled plastic and the documentation that provides evidence of delivery to the next business within the supply chain. This proposed approach is similar the one used in some existing schemes, which require a link between the specific batch of recycled material and a Sustainability Declaration.

- 4.4 **Proposed approach:** Tracking by batch number is already practised in many supply chains. We propose making this a mandatory aspect of certification schemes for PPT MBA.

Loss of Certification

- 4.5 The normal starting point would be to trace the material which should not have been certified and to seek to recover the PPT from the taxpayer. This should be possible with batch tracking and the records of the supply chain required by certification schemes. It would protect the public purse and ensure a level playing field for producers. The taxpayer may then be able to seek compensation from the business which has lost certification for this added expense.
- 4.6 However, there is a risk businesses further down the supply chain could be penalised when the status of chemically recycled material is called into question because of another business failing to meet the required standards. It may also be very difficult to trace the material when it may have been combined with inputs from other sources, used to make a range of products, and there are several stages in the subsequent supply chain and manufacturing path. We believe that the risk can be mitigated through regular and stringent checks by certification bodies using a risk-based approach coupled with significant sanctions under the scheme where standards are found not to have been kept.
- 4.7 Where material which should not have been certificated as recycled does enter the supply chain, it is important that the volumes are kept to a minimum to reduce the risk of tax evasion, maintain a level playing field for compliant businesses, and maintain consumer confidence in chemically recycled plastic.
- 4.8 **Proposed approach:** The minimum standard for certification schemes to be acceptable for PPT shall include:
- Certification bodies should carry out a full audit, including a site visit, at least annually, and make risk-based checks on every business certified at least quarterly. A site visit should be required before initial certification is given to avoid the risk of



new companies obtaining certification and then dissolving before a visit can take place.

- A minimum and proportionate range of sanctions, such as suspension or withdrawal of certification, where errors or bad practice cause material above a specified threshold by weight to enter the supply chain as certified recycled incorrectly.
- Certification of any such identified material to be withdrawn if it is still with the business who has committed the error.
- Material incorrectly certified further down the supply chain when the error is identified shall not be reclassified unless it can be shown that subsequent businesses were, or reasonably should have been, aware of the problem. In these cases, joint and several liability for any tax due may apply, and certification sanctions should be considered to all businesses found at fault.
- All certified businesses to be obliged to notify the certification body as soon as they become aware of a potential error or problem calling the certification of recycled material into question.

4.9 HMRC will work with the industry and certification bodies on an ongoing basis to combat fraud, abuse, and identify new measures to prevent wrongly certified material entering the supply chain.

### Questions

**Q1. Are these proposals feasible and do they represent a proportionate yet sufficient deterrent to malpractice?**

**Q2. Are there any other obvious or alternative anti-fraud measures which should be considered?**