

Legal Alert

Goods and Packaging Waste Recycling: First Reporting Deadline Coming Soon

EY's Russian Tax & Law practice was named a **leading Tax firm in Russia** in "World Tax 2015," an annual guide published by the *International Tax Review*.

The 1st April 2016 is the deadline for the first declarations of total volume of goods released into circulation and reports on compliance with recycling targets to be submitted to the Federal Service for Supervision of Natural Resource Usage ("Rosprirodnadzor") under the new regulations on recycling of consumer goods and related packaging. What do producers and importers need to do by that date? The details are below in this EY alert.

General Requirements

Starting from 1 January 2015 amendments to Federal Law No. 89-FZ of 24 June 1998 "On Production and Consumption Waste" ("**Waste Law**") established extended producers' responsibility with regard to recycling¹ waste from use of goods. New requirements impose on producers and importers of goods ("**Producers**") the obligation to ensure that a certain quantity of goods and packaging waste is recycled (in compliance with the respective recycling target) or pay an ecological fee. As far as packaging is concerned, responsibility for achievement of the recycling target is imposed on the producer (importer) of the goods packaged in such packaging.

¹ The Waste Law uses the word "utilization", but the definition is basically that of a recycling.

Meanwhile, fulfilment of the recycling obligations is to be confirmed by submitting the respective reports to the Rosprirodnadzor in a form of a declaration of total volume of goods released into circulation (“**Declaration**”) and a report on compliance with recycling targets (“**Report**”).

The list of goods and packaging subject to recycling (“**List**”) includes, inter alia, the items set out below (specified together with the respective recycling targets):

| Group of Goods* | 2015** | 2016 | 2017 |
|--|--------|------|------|
| Cans up to 50 l (ferrous metal) | 0 | 20 | 30 |
| Tyres, hard rubber products | 0 | 15 | 20 |
| Corrugated paper/cardboard, paper packaging | 0 | 10 | 20 |
| Oil products (containing 70% or more of bituminous minerals, other than crude), motor oils/lubricants | | | |
| Plastic bottles (2 l or more) | 0 | 10 | 15 |
| Electric batteries and accumulators | | | |
| Sheet safety glass. Hollow glass (bottles, pots, storage and packaging containers, lids) | | | |
| Paper bags / plates / stationery / packaging | | | |
| Plastic bags / bottles not >2 l / packaging | 0 | 5 | 10 |
| Newspapers / magazines / periodicals | | | |
| Containers of ferrous metal not >300 ml excluding equipment, Aluminium containers not >300 ml | | | |
| Wooden windows /doors / packaging | | | |
| Plastic clothing / kitchenware / film / household items / stationery, | | | |
| Plastic building products: coatings / sanitary ware / containers >300 l / linoleum | 0 | 0 | 5 |
| Computers and peripherals, Communications equipment, Domestic electrical goods, Cameras and video cameras, domestic electric appliances and ovens of ferrous metal, industrial refrigeration equipment | | | |
| Machinery and other equipment (liquid purification devices, air filters) | | | |
| Articles of glass (tiles, blocks) | | | |
| Textiles (carpets, clothing, linen, special clothing) | | | |
| Plastic doors / windows | 0 | 0 | 0 |
| Lamps | | | |

* The full list is adopted by Government Decree No. 1886-r of 24 September 2015.

**Targets for 2015 and subsequent years in accordance with Government Decree No. 2491-r of 4 December 2015.

Thus, in 2016 every producer (importer) of, for example, tyres must ensure recycling of tyres in compliance with a recycling target determined as 15% of the total amount of tyres released by such producer into circulation in Russia during this year. Similarly, producers (importers) of juice drinks packaged in 0.75 ml plastic bottles must ensure recycling of 5% of the total amount of such bottles released into circulation in Russia during this year.

Although the recycling target for 2015 is set at 0%, it is still mandatory to submit Declaration and Report for that year by 1 April 2016.

Time Limits for Compliance

Declaration and Report for 2015 shall be submitted to Rosprirodnadzor by 1 April 2016. The respective reporting for 2016 will be due by 1 April 2017. Moreover, starting from 2017 companies will be required to submit such a document as an Ecological Fee Calculation (in case of payment thereof) by 15 April of the respective year (which is also the deadline for payment of ecological fee).

We draw your attention to the fact that this year (in contrast to autumn 2015 when a letter regarding ecological fee was issued), the supervisory bodies have not issued any official letters postponing the deadlines or exempting producers from reporting duties.

Thus, 1 April 2016 should be regarded as a final and official deadline for submission of the first set of reporting regarding recycling of wastes from use of goods and packaging for 2015.

Amendments Pending

An official act approving the rates of ecological fees has not been adopted yet. There are only two publicly available drafts which are out of date as for now but give some idea of the potential additional burden on producers. The first draft proposed rates to be determined as a percentage of the cost of production of a tonne/unit of goods (or packaging) (VAT excluded), while the second proposed a fixed amount in roubles per tonne of goods (or packaging) with an approximate range of from 2,000-33,000 RUB/tonne.

Sanctions for violations of recycling requirements have not been established yet. However, a draft law has been submitted to the Russian State Duma which proposes amending the Administrative Offences Code with liability sanctions for late submission of Declarations (a fine in the amount from RUB 20,000 to RUB 50,000 for legal entities) and fraudulent misrepresentation of data included in Declarations (from RUB 50,000 to RUB 100,000). These amendments are likely to be adopted soon, perhaps even prior to 1 April (deadline for reporting to be submitted to Rosprirodnadzor). In the event of a

failure to submit the reporting, Rosprirodnadzor will send special notices with the respective demand.

It is also important to consider potential consequences for foreign management of the importers and producers: in certain cases two cases of imposition of administrative liability can put the respective foreigner at risk of ban on entry to Russia for five years.

Recommended Steps

Although no specific sanctions are yet prescribed for non-compliance with recycling requirements, 2016 may be regarded as a "pilot" year for producers and importers to examine the new requirements and organize record-keeping of the volume of goods and packaging. Therefore, companies producing and importing goods (including packaged goods) set forth in the List are highly recommended to submit the respective recycling Declarations and Reports with regard to such goods (packaging) to Rosprirodnadzor by 1 April. Once the rates of ecological fee are approved, the companies will be able to decide whether it is better for them to ensure recycling (and decide on the volume of recycling) or to pay the ecological fee.

We will keep you up to date with further news. Please contact us if you wish to:

- ▶ Learn more about the key ideas of the new legislation (producers' (importers') obligation to ensure waste recycling; ecological fee; solid municipal waste; regional operator);
- ▶ Clarify the new obligations that producers (importers) of goods have with regard to waste from such goods and what they need to do this month, within the coming months and by the end of 2016;
- ▶ Find out what an ecological fee is, how it differs from a recycling levy or a charge for negative environmental impact and who is required to pay it;
- ▶ Get an idea of challenges a producer (importer) may face with upon selection of scenario of independent waste recycling;
- ▶ To plan the next steps to be in compliance with the Waste Law requirements.

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