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Američka gospodarska komora u Hrvatskoj | American Chamber of Commerce in Croatia

Zagreb, October 2024

Regulation on waste management fees and the deposit refund scheme

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Introduction

In this position paper, the American Chamber of Commerce in Croatia (AmCham) comments on the *"Draft Regulation on waste management fees and the deposit refund scheme"* published by the Ministry of Environmental Protection and Green Transition on the e-Consultation portal with a deadline for comments until October 17, 2024.

On April 16, 2024, AmCham published a position paper *"Comments on the Ordinance on packaging and packaging waste, single-use plastic products and fishing gear containing plastic"* explaining the impact of legislative changes on domestic beverage production. Additionally, AmCham held a meeting with representatives of the Environmental Protection and Energy Efficiency Fund on May 8, 2024, and with representatives of the Ministry of Environmental Protection and Green Transition on July 25, 2024.

Different labeling of beverage packaging under the deposit refund scheme intended for sale on the Croatian market, compared to beverages intended for export, which the legislator exempted from the deposit refund scheme (Article 17, paragraph 2, read in conjunction with Article 30, paragraph 7 of the Ordinance), will undoubtedly bring additional burdens for manufacturers with a significant share in all state revenues.

The aforementioned provision will certainly significantly increase production costs due to smaller filling batches, larger storage space, more complex operational processes, distribution and logistics, double production cycles for the same product and lower production efficiency. All of the above will cause the need for additional staff and will increase electricity consumption.

AmCham believes that communication between all stakeholders, including representatives of institutions, industry, businesses, environmental protection organizations and the interested community, is key to adopting an optimal legislative solution.

AmCham believes that there are parts in the Draft Regulation that have not been addressed, including the issues referred to in Article 30, paragraph 12 and paragraph 13 of the *Ordinance on packaging and packaging waste, single-use plastics, and fishing gear containing plastic.* Also, it is necessary to clarify and amend individual provisions elaborated in detail in the position paper below.

Commentary on Article 30, paragraph 12 and paragraph 13 of the *Ordinance on packaging and packaging waste, single-use plastics, and fishing gear containing plastic:*

(12) A beverage producer who does not fulfill the obligations under this Article shall pay a deposit under a special calculation in accordance with the Regulation.

- ***AmCham's commentary:***

  The Draft Regulation does not regulate the issue of special calculation, so it is necessary to amend the Regulation.

(13) A beverage producer who labels beverage packaging contrary to the provisions of Article 17, paragraph 2 of this Ordinance shall pay a deposit under a separate calculation in accordance with the Regulation.

- ***AmCham's commentary:***

  Article 17, paragraph 2 of the Ordinance makes operations extremely difficult for business entities, leading to substantial additional costs and losses due to the discontinuation of production for certain packaging units with insufficient volumes. This is because packaging not intended for the Croatian market must be labeled differently from packaging intended for the Croatian market (with regard to the deposit refund label). The Regulation does not mitigate Article 17, paragraph 2, nor does it regulate the deposit amount under a special calculation that the producer must pay in case of its violation (Article 30, paragraph 13 of the Ordinance). We propose removing the producer's obligation under Article 17, paragraph 2 of the Ordinance and corresponding payment of a special rate under Article 30, paragraph 13 of the Ordinance.

Regulation on waste management fees and the deposit refund scheme

Waste management fee

Article 3

(1) The types of products whose market placement results in the obligation to pay the waste management fee and the method for determining the amount of the waste management fee are outlined as follows: for tires in Appendix I of this Regulation, for vehicles and vehicle components in Appendix II of this Regulation, for EE equipment in Appendix III of this Regulation, for oils in Appendix IV of this Regulation, for batteries and accumulators in Appendix V of this Regulation, for packaging in Appendix VI of this Regulation, for products in List E of Appendix III of the Act in Appendix VII of this Regulation, and for fishing gear containing plastic in Appendix VIII of this Regulation.

(2) The Fund determines the amount of the waste management fee that the producer is required to pay in accordance with this Regulation and based on the data regarding the quantity of products placed on the market, which has been submitted to the Register or established by the Customs Administration.

(3) When determining the amount of the waste management fee, the coefficient of data submission to the Register applies, which:

- when the waste management fee is calculated based on data on the quantity of products the producer placed on the market in the territory of the Republic of Croatia, and the data is submitted to the Registry by the 20th of the month for the previous month, the coefficient is set at 1.

- ***AmCham's commentary:***

  The aforementioned provision does not apply to returnable packaging. Namely, the annual obligation to submit data on returnable packaging is prescribed by Article 26, paragraph 5 of the Ordinance on packaging and packaging waste, single-use plastics, and fishing gear containing plastic (hereinafter: the Ordinance) as follows:

  "(5) The producer of the product packed in packaging shall submit the data in the records referred to in paragraph 4 of this Article to the Register; for single-use packaging, data is submitted once a month by the 20th of the month for the previous month, and for returnable packaging once a year by January 20 of the current year for the previous calendar year."

  The proposal is to specify the coefficient of data submission to the Register for returnable packaging.

- when the waste management fee is calculated based on data on the quantity of products the producer placed on the market in the territory of the Republic of Croatia, and the data is submitted to the Registry within three months after the prescribed deadline, the coefficient is set at 1.15.

- in all other cases, it is set at 5.

- ***AmCham's commentary:***

  A higher fee will not be calculated if the producer communicates with the competent authority in order to obtain the clarifications needed for implementation, of which they shall provide proof within the prescribed deadlines, in which case, the deadlines for the higher rate begin upon receipt of the requested clarification.

(4) The waste management fee shall not be paid for a product that is produced in the Republic of Croatia and is exported or taken from the territory of the Republic of Croatia or is in transit through the territory of the Republic of Croatia, or that is included in the waste management system managed by the Organization referred to in Article 95 of the Act.

(5) The Fund issues a decision, which is a general act and includes the following:

- unit fee amounts and ecomodulation coefficients under Appendix I through VIII of this Regulation;

- explanations of the amount and manner in which the unit fees and ecomodulation coefficients were determined;

- explanation of the manner of fulfilling the requirements prescribed in Article 105, paragraph 3 of the Act.

- ***AmCham's commentary:***

  We propose that the amounts of unit fees and ecomodulation coefficients at the end of the transitional period be determined by this Regulation (not by the decision of the Fund). This would ensure that producers are aware of the fee amounts they will be required to pay, which is currently unclear. i.e., the Regulation did not fully set out the method of calculation (amount of fees). Considering the complexity of the area, it would be beneficial if all the obligations that producers must fulfill were consolidated in one place, i.e., the Regulation, making these amounts public and subject to public consultation.

(6) Unit fee referred to in paragraph 4 of this Article:

- ***AmCham's commentary:***

  Does it refer to the unit fee under Article 3, paragraph 5 of the Regulation? If yes, we propose amending it so that paragraph 6 reads: "Unit fee referred to in paragraph 5 of this Article:..."

- must be determined in such a way that the income that the Fund receives from the waste management fee is sufficient to fulfill the obligations of the Fund in relation to waste management and that it does not represent a disproportionate burden on product prices

- may be set for a subtype of a specific type of product subject to the payment of waste management fees under this Regulation.

(7) The Fund submits the decision referred to in paragraph 4 of this Article to the Ministry and posts it on the Fund's website.

(8) The Fund and the Customs Administration of the Ministry of Finance enter into an agreement regulating the mutual exchange of data necessary to ensure the collection of the waste management fee and refundable deposit.

Refundable deposit

Article 4

- ***AmCham's commentary:***

  Insert items that prescribe special fees under Article 30, paragraph 12 and paragraph 13 of the Ordinance on packaging and packaging waste, single-use plastics, and fishing gear containing plastic (Official Gazette 137/2023), since it announced the introduction of special fees under this Regulation. This is not visible in this Draft Regulation.

(1) The refundable deposit for a unit of primary beverage packaging is EUR 0.10.

(2) The refundable deposit is paid for single-use packaging intended for beverages and made of plastic, glass, or metal or is multi-layer (composite) packaging with a predominantly paper-cardboard component and has a volume equal to or less than 3 liters.

- ***AmCham's commentary:***

  We suggest placing Article 10, paragraph 2 under Article 4, paragraph 3, which also outlines exceptions to paragraph 2 of Article 4, to achieve clarity of this Draft Regulation, which reads: "Notwithstanding Article 4, paragraph 2 of this Regulation, until December 31, 2026, a refundable deposit shall be paid for single-use packaging intended for beverages and made of polyethylene terephthalate (PET), glass or metal and with a volume equal to or greater than 0.20 liters up to a volume equal to or less than 3 liters."

(3) Notwithstanding paragraph 2 of this Article, the refundable deposit shall not be paid if:

- the product in that packaging is produced in the Republic of Croatia and exported or taken from the territory of the Republic of Croatia, or the product is in transit through the territory of the Republic of Croatia;

- the product in that packaging is a drink packaged in a glass;

- the Fund issued a decision determining that a specific type of product is not suitable for the deposit refund scheme.

(4) The obligation to pay the deposit arises when the product is placed on the market in packaging subject to the deposit payment obligation.

(5) The Fund determines the deposit amount that the producer is obliged to pay to the Fund by the end of the calendar month for the previous calendar month, based on the data on the quantity of products placed on the market submitted to the Register or established by the Customs Administration.

- ***AmCham's commentary:***

  How will this work in practice given that the payment deadline is the last day of the month for the previous month, i.e., the same day by which time the Fund is required to establish the amount to be paid?
  We propose defining a deadline of 30 days for payment from the date of receipt of the decision on the obligation to pay.

(6) The producer is obliged to submit data on the quantity of products or packaging placed on the market for the calculation of the deposit to the Register by the twentieth day of the calendar month for the previous calendar month.

Refund of paid deposits

Article 6

(1) The producer has the right to a refund of the deposit paid under Article 3 and Article 4 of this Regulation if the product or packaging for which the deposit was paid is exported or taken from, or withdrawn from the market of the Republic of Croatia.

- ***AmCham's commentary:***

  This paragraph applies solely to domestic producers who export products and are required to separate the GTIN labels for beverages they place on the Croatian market and apply GTIN standards for beverages they place on other markets.

  This decision poses significant challenges for production and storage. It also increases the cost of making new labels/foils at manufacturers/suppliers – new GTIN labels. What is more, the reduction of production batches for the domestic market, especially for export markets, includes higher costs of packaging units and raw materials when placing orders.

It remains unclear whether this Article also applies to products imported/brought into the Republic of Croatia. If it does, we believe that certain products may become unavailable to Croatian citizens, as the small quantities and batches entering our market may render the profitability of labeling them in this manner questionable. Furthermore, it remains unclear how and which laws the Republic of Croatia will use to control labeling in other markets.

(2) The producer exercises the right under paragraph 1 of this Article on the basis of a request submitted to the Fund, data in the Register and documentation proving the export, taking out or withdrawal from the market.

(3) The Fund shall post instructions on the implementation of this Article on the Fund's website.

Deadline for collection and reimbursement of the "old" deposit paid

Article 8

By December 15, 2025, the Fund is obliged to ensure that the bearer collects and is reimbursed the deposit for packaging labeled in accordance with the Ordinance on packaging and packaging waste ("Official Gazette", Nos 88/15, 78/16, 116/17, 14/20, 144/20 and 84/21).

- ***AmCham's commentary:***

  Please clarify Article 8 of the Draft. What happens after December 15, 2025?

The ecomodulation coefficient and the coefficient of data submission to the Register in the transition period

Article 10

(1) Until the decision under Article 3, paragraph 4 of this Regulation is issued, when setting the amount of the waste management fee, the ecomodulation coefficient of 1, the coefficient of data submission to the Register of 1 and the following unit fees shall apply:

- ***AmCham's commentary:***

  Does it refer to the decision under Article 3, paragraph 5 of the Regulation? If yes, we propose amending the paragraph number so that it reads: "Until the adoption of the decision under Article 3, paragraph 5 of this Regulation..."

1) for imported and/or manufactured tires, EUR 141.62 per metric ton

2) for tires that are an integral part of imported passenger cars, buses, trucks, work machines, work vehicles and tractors, airplanes and other aircraft and wheel sets, which includes tires and rims for:

a) passenger car EUR 0.90 per tire

b) van, delivery vehicle up to 3.5 t capacity and tractor EUR 1.29 per tire

c) truck, bus and forklift EUR 8.37 per tire

d) construction machine EUR 23.17 per tire *e) airplane and other aircraft EUR 23.17 per tire*

3) for a vehicle, EUR 0.08 per kg

4) for battery and accumulator, EUR 1.05 per kg

5) for oil, EUR 0.07 per liter

6) for electrical and electronic equipment, EUR 0.30 per kg

7) for packaging by weight and type of material for:

a) PET EUR 54.42 per metric ton

b) glass EUR 19.91 per metric ton

c) aluminum cans EUR 54.42 per metric ton

d) Fe-cans EUR 29.86 per metric ton

e) multi-layer packaging for drinks and beverages EUR 54.42 per metric ton

f) multi-layer packaging for other purposes EUR 99.54 per metric ton

g) paper, cardboard EUR 49.77 per metric ton

h) wood EUR 19.91 per metric ton

i) textile EUR 19.91 per metric ton

j) other polymer materials EUR 99.54 per metric ton

k) other polymer materials for milk and milk drinks EUR 54.42 per metric ton

l) plastic bags EUR 199.08 per metric ton.

(2) Until the entry into force of Article 4, paragraph 1 of this Regulation, the refundable deposit amounts to EUR 0.07 per beverage packaging unit.

(3) Notwithstanding Article 4, paragraph 2 of this Regulation, until December 31, 2026, a refundable deposit shall be paid for single-use packaging intended for beverages and made of polyethylene terephthalate (PET), glass or metal and with a volume equal to or greater than 0.20 liters up to a volume equal to or less than 3 liters.

(4) The contract under Article 3, paragraph 8 of this Regulation should be concluded within three months from the date of entry into force of this Regulation.

(5) The Fund shall issue a decision under Article 3, paragraph 4 of this Regulation within three months from the entry into force of this Regulation.

- ***AmCham's commentary:***

  Please clarify whether paragraph 5 of Article 10 refers to paragraph 5 of Article 3 of this Draft Regulation. We believe that paragraph 4 of Article 3, to which this paragraph refers, is stated incorrectly. The decision is mentioned in paragraph 5 of Article 3.

  Amend Article 10, paragraph 5 so that it reads: "The Fund shall issue a decision under Article 3, paragraph 5 of this Regulation within three months from the entry into force of this Regulation."

  AmCham additionally proposes adding paragraph 6 to establish a transition period of at least 12 months, which would include the 2026 timeframe, allowing business entities to create their *business plans while incorporating the ecomodulation coefficient into their calculations and systems. This approach would facilitate accurately determining new fees for the upcoming period.*

For example, by issuing the decision under Article 3, paragraph 2 of this Regulation, which will enter into force on January 1, 2026, the Fund will prescribe the amounts of unit fees and ecomodulation coefficients under Appendix I through VIII of this Regulation.

Termination of validity of regulations

Article 11

Upon entry into force of this Regulation, the following ceases to be valid:

- Decision amending the fees in the waste management of end-of-life vehicles and waste tires ("Official Gazette" Nos 40/15 and 57/20) and

- Decision amending the fee in the waste oil management system ("Official Gazette" Nos 95/15 and 57/20).

- ***AmCham's commentary:***

  What about the Regulation on waste packaging management OG 97/2015. Which of its parts shall remain in force?

Entry into force

Article 12

This Regulation shall enter into force on the eighth day from the date of its publication in the "Official Gazette", except for Article 4, paragraph 1 of this Regulation, which shall enter into force on January 1, 2025.

- ***AmCham's commentary:***

  Amend Article: "This Regulation shall enter into force on the eighth day from the date of its publication in the "Official Gazette", except for Article 4, paragraph 1 of this Regulation, which shall enter into force on January 1, 2025; and Article 3, paragraph 2 of this Regulation, which shall enter into force on January 1, 2026."

  Explanation: Each industry member has already concluded the 2025 budget with the amounts of waste management fees currently in force. Any subsequent changes will have a direct negative impact on the final 2025 market price for the end consumer since such subsequent specific and predetermined uses directly affect the costs for the producers and cannot be amortized through other savings or budget items.

- ***AmCham's commentary:***

  An article should be added to regulate the issue of special calculation in case of failure to act in accordance with the provisions of the Ordinance on packaging and packaging waste, single-use plastics, and fishing gear containing plastic. It was announced that the Regulation would specify the amounts, but it did not, and the issue remains unregulated. It is not clear when the deposits determined in such a way will be paid and if we, as producers of packaging for export with a deposit refund label, comply with the Ordinance (Art. 30, paragraphs 12 and 13).

APPENDIX VI

Packaging waste management fee

The waste management fee is paid for all packaging except for:

- packaging that is in the management system of the organization referred to in Article 95 of the Act;

- the primary packaging of the medicinal product for which the regulation governing medical waste management prescribes the obligation of collection at pharmacies;

- packaging, which, when it becomes waste, is considered hazardous waste, until January 1, 2025;

- packaging, which, when it becomes waste, is considered hazardous waste, after January 1, 2025, if by that date the Organization, in accordance with Article 95 of the Act, does not entrust the management of the packaging management system.

The unit packaging fee is determined depending on the packaging material for:

- polymers, including polyethylene terephthalate and plastic bags

- aluminum

- iron

- paper

- cardboard

- multi-layer (composite) packaging

- wood

- textile

- glass

- other materials.

The unit fee according to the type of packaging material for the packaging of milk and liquid dairy products is 55% of the amount of the unit fee for the packaging of another product in the corresponding packaging material.

1) The amount of the packaging waste management fee, which is not covered by the deposit refund scheme, is calculated according to the following formula:

NGO A =N A x m A x k E x k R

where:

NGO A – packaging waste management fee in euros

JN A – unit fee for packaging expressed in euros per kilogram

m A – packaging mass in kilograms

k E – ecomodulation coefficient

k R – coefficient of data submission to the Register

- ***AmCham's commentary:***

  1) The amount of the packaging waste management fee, which is not covered by the deposit refund scheme, is calculated according to the following formula:

  - *NGO A =**N** A x m A x k E x k R*
  - *Should the letters JN be used instead of the letter N in the equation (formula)?*

  where:
  NGO A – packaging waste management fee in euros
  JN A – unit fee for packaging expressed in euros per kilogram
  m A – packaging mass in kilograms

  For returnable packaging: Is m A the mass of the newly acquired packaging, or is it already adjusted for the amount disposed of? The terms regarding returnable packaging should be clarified in more detail to eliminate confusion surrounding the application of the ecomodulation coefficient and the coefficient for submission to the Register. Specifically, it should be made clear whether these coefficients apply to the adjusted mass of the newly acquired packaging (after deducting the mass intended for disposal) or solely to the total mass of the newly acquired packaging.

A producer who places a product in returnable packaging on the market has the right to reduce the amount of the waste management fee by the amount of the waste management fee calculated for the mass of returnable packaging that they have declared as waste and subsequently handed over to a person authorized to process that waste packaging. The producer proves the delivery of the waste with an accompanying delivery note.

- ***AmCham's commentary:***

  It is not clear how the reduction is calculated. We propose regulating the equation (formula) in more detail to apply only to returnable packaging.

2) The amount of the packaging waste management fee, which is covered by the deposit refund scheme, is calculated according to the following formula:

NGO AP =VM + NJ

where:

NGO AP – packaging waste management fee in euros

NVM – amount for packaging according to the type of packaging material in euros

- ***AmCham's commentary:***

  NGO AP =VM + NJ
  Should the letters NVM be used instead of the letters VM in the equation (formula)?
  where:
  NGO AP – packaging waste management fee in euros
  NVM – amount for packaging according to the type of packaging material in euros
  NJ – amount for packaging according to the number of packaging units in euros

NJ – amount for packaging according to the number of packaging units in euros

The amount for packaging according to the type of packaging material is calculated according to the following equation:

NVM =N A x m AP x k E

where:

NVM – amount for packaging according to the type of packaging material in euros

JN A – unit fee for packaging expressed in euros per kilogram

- ***AmCham's commentary:***

  NVM =N A x m AP x k E
  Should the letters JN be used instead of the letter N in the equation (formula)?
  where:
  NVM – amount for packaging according to the type of packaging material in euros
  JN A – unit fee for packaging expressed in euros per kilogram
  m AP – packaging mass expressed in kilograms
  k E – ecomodulation coefficient

m AP – packaging mass expressed in kilograms

k E – ecomodulation coefficient

The amount for packaging according to the number of packaging units is calculated according to the following formula:

NJ =N AB x B J x k R

where:

NJ – amount for packaging according to the number of packaging units in euros

JN AB – unit fee for packaging according to the number of packaging units expressed in euros per packaging unit

- ***AmCham's commentary:***

  NJ =N AB x B J x k R
  Should the letters JN be used instead of the letter N in the equation (formula)?
  where:
  NJ – amount for packaging according to the number of packaging units in euros
  JN AB – unit fee for packaging according to the number of packaging units expressed in euros per packaging unit
  B J – number of pieces of packaging units in the deposit refund scheme
  k R – coefficient of data submission to the Register

B J – number of pieces of packaging units in the deposit refund scheme

k R – coefficient of data submission to the Register

The unit fee for packaging according to the number of packaging units amounts to EUR 0.01327, except for milk and liquid dairy products packaging, for which it amounts to EUR 0.00265.

In order to avoid double calculation of the waste management fee, for packaging for which the waste management fee is calculated in accordance with Appendix VII of this Regulation, the waste management fee is not calculated according to this Appendix of this Regulation.

For additional information, please contact: American Chamber of Commerce in Croatia

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