

## Valpak Draft Response

### HM Treasury's 'Plastic Packaging Tax: Policy Design' Consultation

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This document details Valpak's final responses to HM Treasury's *Plastic Packaging Tax: Policy Design* consultation questions.

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## Section 1: Scope of the Tax

**Question 1: Do you agree with the revised definition of plastic, which removes the 'main structural component' test and limits the exclusion to 'cellulose-based' polymers? Please outline your reasoning.**

Yes.

Valpak support the revised definition concerning the "main structural component", including the proposal with respect to multi-material packaging which may be predominantly plastic by weight. However, it will be important for HM Treasury to clarify that in the case of multi-material packaging, the 30% recycled content requirement will clearly only apply to the proportion of the package that is made from plastic, as opposed to the entire package (i.e. a 10g package that is 50% plastic (and 40% paper and 10% aluminium) the minimum recycled plastic content requirement should be set at  $30\% \times 5g = 1.5g$  and not  $30\% \times 10g = 3g$ ).

In general, we suggest that HM Treasury seeks to align definitions used for the purposes of the Plastic Packaging Tax with those adopted within either the Producer Responsibility Obligations (Packaging) 2007 Regulations, guidance documents relating to their enforcement or the EU's Single Use Plastics Directive (2019/904). Alternatively, where the Plastic Packaging Tax is to adopt a definition of plastic that departs from any of the definitions used in the aforementioned documents, any new definitions used should be in broad alignment with pre-existing EU definitions and should be aligned as closely as possible with any new definitions to be adopted within the new extended producer responsibility regulations for UK packaging waste management that are proposed to come into effect from 2023.

We are also mindful of the administrative burden the requirements of the Plastic Packaging Tax may place on obligated businesses. Where possible, consistency and alignment across reform initiatives is extremely important for businesses in order to ensure a more comprehensive understanding of the new extended producer responsibility initiatives and a consistent application of them. With it being likely that similar businesses would be obligated under multiple sets of regulations, alignment in definitions could help reduce the administrative burdens and any confusion that may stem from these reforms.

Valpak also agree with the exclusion of 'cellulose-based' polymers as this aligns with the currently practice within the packaging regulations (i.e. cellulose is classed as paper/card). That said, we believe more work is required to clarify the position and definitions in relation to bio-based and bio-degradable plastics.

We also encourage HM Treasury to consider the potential for unintended consequences when adopting particular definitions for the purposes of the Plastic Packaging Tax, particularly plastic packaging being those items of packaging that are predominantly plastic by weight. For example, in

the case of laminate or composite packaging material where the plastic portion of the package is near to being the dominant material by weight, packaging producers and manufacturers may be incentivised to alter their specifications to incorporate heavier non-plastic alternatives in order to not become liable to pay the Tax. We advise that HM Treasury are mindful of the potential for the definitions they adopt to incentivise either increasing overall weight of packaging or increase the number of materials used within packaging.

**Question 2: Do you agree that packaging-type products that do not fulfil a packaging function until they are used by the end consumer should be included in the tax, unless they are for longer term storage? Please outline your reasoning.**

No.

Valpak do not agree with the proposed position, on the grounds that it would be confusing for both producers and consumers of these types of products. For clarity, the definition of packaging to be adopted by the Plastic Packaging Tax should align with that used in Producer Responsibility Regulations 2007 and corresponding Packaging Waste Directive, namely 'all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer' (Article 3 (1)). There is a longstanding and widely recognised understanding of the difference between packaging and products, and any other position is likely to jeopardise this understanding and lead to unnecessary confusion. If this definition is to be altered as part of extended producer responsibility reform, alignment between the definition used by the proposed Tax and the new Producer Responsibility Regulations will be crucial in ensuring a continuation of this common understanding.

Similarly, we believe the definition and exclusion of long-term storage items ought to align with that used in the current packaging regulations on the basis of consistency.

Lastly, given that the definitions and use of various terms such as primary, secondary and tertiary packaging and composite packaging are being reviewed as part of extended producer responsibility reforms to the packaging waste management system in the UK, any definition used for the purposes of the Tax should also align with any amendments to be made as part of those reforms. This will likely require collaborative effort between HMRC, Defra and the Environment Agencies to determine which packaging items will be within the scope of the tax, particularly in respect of some items currently classed as either secondary or tertiary packaging.

**Question 3: Do you have any observations on the government's proposed approach to excluding plastic packaging used to facilitate the transport of imported goods?**

Valpak agree with the amendment to extend the scope of the Plastic Packaging Tax to include imports of filled plastic packaging. This was raised by many respondents to the previous proposals as potentially harmful to the UK market, as importing pre-filled products would have been exempt from the Tax.

That said, Valpak strongly urge HM Treasury to reconsider the proposal to exempt plastic packaging using to transport goods imported the UK from being taxable and in contrast include plastic packaging

used to transport goods exported out of the UK within the scope of the Tax. We believe this approach is the wrong way around and inconsistent with the current approach to primary packaging. We also believe the proposed approach would create an unfairness between UK based suppliers and importers.

We strongly believe that if the Plastic Packaging Tax is being introduced with the intention of improving the amount of recycled content used within plastic packaging being placed onto the UK market, then the Tax should apply equally to imported transport packaging as it does to UK supplied transport packaging. Following this logic, we therefore believe plastic transport packaging around exports should be excluded on the same basis to be consistent with the proposal concerning exported primary packaging.

Valpak also challenge Government's view that there are limited records for plastic transport packaging used on imports, such as crates and pallet wrap. In our view, importers should have an equal ability to obtain data for recycled content for the transport packaging they use in comparison to the primary packaging for imported goods.

**Question 4: Do you think it is feasible to provide evidence that packaging has been commissioned for use as immediate packaging for licensed human medicines at the time the tax is chargeable? If not, please explain why.**

Don't know

It is outside Valpak's expertise to comment on this element of the proposals.

**Question 5: Would the proposed exemption cause any market distortion or other unintended consequences? If yes, please provide more details.**

Don't know.

It is outside Valpak's expertise to comment on this element of the proposals, however we are aware of multiple circumstances where the inclusion of recycled content within items that would be classified as plastic packaging for the purposes of the proposed Tax is not yet possible from a regulatory standpoint. This is particularly pertinent to products used in medical settings, food contact materials, human contact products such as cosmetics, children's toy packaging, as well as containers used to transport hazardous substances and dangerous goods.

Valpak strongly advise HM Treasury give greater consideration to how the Tax would operate in respect of these areas, especially in circumstances where regulatory reform to allow for the inclusion of recycled content in plastic packaging may be particularly challenging, owing to the fact that the regulations in question originate from international sources to which the UK is bound, for example the UN's Agreement concerning the International Carriage of Dangerous Goods by Road (ADR Treaty).

## Section 2: Liability for the Tax

**Question 6: Do you agree the proposed charging conditions that will ensure that the UK manufacturer of plastic packaging is liable for the tax? If not, please explain why.**

Yes.

Valpak agree with the Treasury's proposed position that would see the UK-based converter of plastic packaging be liable for the Tax. Whilst the consultation document clearly outlines that the Tax will be triggered during the point at which raw materials are converted into plastic packaging, there is still the potential for confusion of terminology through using the term "manufacturer of packaging materials".

It is widely accepted that the converter is the party which takes packaging material and converts them into an identifiable item of packaging, whereas the packaging material manufacturer is generally the upstream stage making raw material for use in many markets, for example a producer of plastic polymer pellets, some of which may go into packaging.

Valpak advise that the Treasury consider enhancing the definition of the liable party to clarify that, where multiple stages of conversion of evident in a supply chain, the final stage of conversion should be the point of taxation, unless the last conversion is performed at the same location or in close proximity to the filling operation. This would be consistent with the definitions adopted in the existing Packaging Regulations and associated EU Packaging Directive. We would broadly support the continued use of the stance with the Agreed Positions, namely 'where a conversion and pack/filling activity is taking place on the same packaging as part of the same process by the same business, the conversion obligation will pass back to the person who has 'part converted' the packaging material'. It is vital HM Treasury provide clear, easily understood guidance on how the tax will apply well in advance of its proposed implementation in 2022 to ensure consistency, transparency and a common interpretation across industry.

In reference to Valpak's comments made in our response to the consultation on HM Treasury's initial proposals for the Plastic Packaging Tax, there remains a significant portion of plastic packaging used by the grocery sector where considerable challenges remain in respect of the inclusion of recycled material in their composition, particularly films. We recommend Government considers how to overcome these challenges looking ahead.

Moreover, in accordance with our previous comments submitted, Valpak encourage HM Treasury to consider how the tax will evolve over time in pursuit of the environmental objectives we perceive the Tax is being implemented in pursuit of.

**Question 7: Do you foresee any issues for specific packaging components due to the proposed approach of disregarding further ancillary processes for the purposes of the tax? Please explain what these issues are.**

Yes.

Valpak advise HM Treasury to consider the impact of their proposed position on supply chains where multiple stages of conversion are evident. As mentioned in our answer to Question 6, in such scenarios HM Treasury may wish to consider adopting a position where the party performing the last distinct conversion operation be liable for the Tax, unless that last stage is done at the same time or in close proximity to the filling operation. A useful example here is a flow wrap machine wrapping bars of chocolate, where the supplier of the wrap (if they are a separate entity) would be considered the

converter and liable to pay the tax, however the final converting of the wrap into a sealed piece of packaging occurs at the same time as the filling operation. Clarification on the liable parties in this situation, amongst many others, will be crucial to ensuring the effective and consistent application of the Tax.

Valpak also recommend that HM Treasury considers removing 'forming' from the list of further ancillary processes mentioned that are currently proposed to be disregarded for the purposes of the Tax. Forming can be part of converting (for example moulding a plastic sheet into individual margarine tubs), therefore in our view it could be an ambiguous term that is in danger of leading to confusion. If there is final forming at the same time as filling, that could be disregarded, however we foresee there to be lots of forming processes that occur before a point which could be considered conversion.

Lastly, during a webinar on the Tax held by HMRC and HMT in May, the position that the 30% recycled content requirement will apply on a per component basis was clarified, with separate components being loosely defined those that can be 'separable by hand'. Valpak foresee complications if this proposed position (or rule of thumb) is adopted, as there are instances of components of packaging that are clearly distinct from other components but cannot be easily removed by hand, for example the tamper proof collar on a plastic drinks bottle. The Treasury may wish to more carefully consider their proposed definition.

### Question 8: Do you have any observations on the proposed treatment of imports of plastic packaging, particularly linking the tax point to "first commercial exploitation" i.e. when it is controlled, moved, stored, is subject to an agreement to sell, or otherwise used in the UK in the course or furtherance of business?

Whilst Valpak agree that the Tax should not apply if the packaging in question is imported directly by an individual, we would appreciate HM Treasury give further consideration to whether the scenario outlined within Example 2 would exempt businesses operating within an online marketplace or trading platform from having liability to pay the Plastic Packaging Tax. The obligations of online retailers are an element of particular focus within the proposed extended producer responsibility reforms to the UK packaging regulations and we believe such a situation where businesses operating within a marketplace or trading platform avoid liability is a potential "loophole" that should be closed off to make sure that packaging arising from these sources is properly reported. Such attempts to close this loophole in the producer responsibility regulations may be undermined if no liability to pay the Tax applies to the overseas sellers, as outlined in Example 2 of section 4.12.

In reference to Example 3 in section 4.12, Valpak would also welcome clarification from HM Treasury on how they plan to apply liability for the tax to overseas sellers who do not have a business presence in the UK. Enabling voluntary registrations may be an appropriate method worth further exploration but is clearly unlikely to be comprehensive.

We would also appreciate clarification on how the Plastic Packaging Tax would operate in respect of the Government's proposals to establish 'Freeports' throughout the UK.



**Question 9: Do you agree the “consignee” on import documentation is likely to be the taxable person for imports of plastic packaging? In what scenarios might someone else be the person on whose behalf the plastic packaging is commercially exploited?**

Yes.

Valpak broadly agree with the proposal that would see the consignee on import documentation to be the taxable person for imports of plastic packaging.

That said, we encourage HM Treasury to consider whether issues will arise in the case of online marketplace platforms. More specifically, we suggest HM Treasury might want to consider the potential for unintended consequences in respect to their proposal that the person who imports plastic packaging on behalf of the online platform be liable to pay the Plastic Packaging Tax. For example, a large online marketplace operator may provide a selling platform for a number of small importers, each of which may be below the de minimis and therefore not liable to pay the Tax, whereas clearly the selling activity taking place on the online marketplace as a whole would clearly be significantly above the de minimis threshold. This could introduce a further distortion between online marketplace sellers and other importers and retailers.

**Question 10: Do you agree that packaging that is damaged after the tax has become due should not be relieved? If not, please explain why you think this packaging should be relieved.**

Yes.

On the balance of arguments, Valpak agree with the proposal that would not see plastic materials damaged after their conversion into packaging relieved from the Tax, on the basis that this aligns with the position adopted within the current packaging regulations.

Valpak also encourage Government to consider extending this non-exemption to cover packaging that is converted or filled but then does not make it to the consumer for other reasons, for example faulty products, out of season stock or stock made for a temporary promotion. Whichever position is adopted by the Treasury, we again stress that alignment with the definition adopted by the current Packaging Regulations, Packaging Directive or associated guidance is pursued, or if different, the definition to be adopted as part of expected reforms to the packaging regulations.

Furthermore, it is Valpak’s view that such damaged or faulty packaging should still be able to enter the recycling process and subsequently qualify as recycled material. That said, if Treasury was to adopt the alternative position, they must distribute clear guidance stating the damaged or faulty packaging that did not reach the final consumer cannot be used by operators of recycling facilities to generate packaging material recycling evidence (i.e. PRNs or PERNs). As a result, HM Treasury would need to clarify to industry that recyclers receiving damaged or faulty pre-consumer packaging would need to keep track of this material when it is within their facilities, ensuring they only create evidence on packaging waste that is post-consumer.

**Question 11: Do you foresee any difficulty or added costs with the proposal for the taxable person to incorporate the amount of Plastic Packaging Tax onto the sales invoice, and if so, could this information be provided to customers in any other way?**

Don't know.

It is outside Valpak's expertise to comment on this element of the proposals.

**Question 12: Are the proposals for joint and several liability reasonable? If not, please say why?**

Yes.

We do believe the proposals are reasonable, as this will contribute towards ensuring the Tax is paid consistently to avoid unintended consequences, such as incentivising greater use of filled imports which avoid using unrecycled plastic thereby defeating the policy objectives of the Tax.

In order to support the plans for liability, it will be critically important to develop a new clear, consistent and practicable verification system for determining recycled content. Opportunities for collaboration across industry, both domestically and internationally are important in this area.

**Question 13: Do you envisage any problems with extending joint and several liability to online marketplaces and fulfilment house operators who knew, or had reasonable grounds to suspect that the tax had not been accounted for on sales made through their platform?**

No.

Valpak do not envisage any issues with the proposals at this stage, however whichever position is adopted by the Treasury should be kept under further review to remedy any future issues pertaining to this matter that may arise following the Tax's implementation.

That said, we advise HM Treasury to consider the degree of due diligence third-party warehouses could reasonably be expected to undertake given the packaging of thousands of multiple different sellers that may pass through their facilities. In order to support these plans, it will be critically important on the Treasury's part to develop a new clear, consistent and practicable verification system for determining recycled content.

**Question 14: Will extending joint and several liability to third-party fulfilment house operators and online marketplaces be sufficient to deter overseas sellers from non-compliance with the tax? If not, what other steps should HMRC consider?**

Don't know.

Valpak believe the Treasury should consider exploring this area in greater detail, as we foresee a number of practical issues, including how third-party warehouses could reasonably verify recycled content in the packaging of thousands of different sellers who may well change their packaging multiple times throughout the year without placing an excessively large administrative burden on them. In order to support these plans, it will be critically important to develop a new clear, consistent and practicable

verification system for determining recycled content, with the potential for an approach that spans both domestic and international supply chains evident in this area.

## Section 3: Excluding Small Operators (De Minimis)

**Question 15: Do you agree with the proposed guidance and tools to help business determine if they are above or below the de minimis? What other help could the government provide?**

Yes.

In our view, Government would be well advised to consider how businesses are already expected to check packaging weights handled within the realms of the packaging compliance system.

Valpak supports the principle of having a de minimis exemption, however we would like to draw the Treasury's attention to the potential for unintended consequences that could arise as a result of its implementation. In their current form, the proposals would see a business supplying 9.9 tonnes of plastic have no tax liability, whereas a competitor which supplies 10.1 tonnes would be liable for the Tax on the whole amount, in the event the entire amount contained insufficient recycled content. If the proposed 10 tonne de minimis is implemented, Valpak suggests that an additional element HM Treasury may wish to consider implementing is an "allowance" on the first 10 tonnes of plastic packaging manufactured or imported by all obligated businesses as opposed to a broad threshold; effectively allowing the first 10 tonnes of plastic packaging manufactured or imported to be 'exempt'. Such a threshold would reduce the unfair cost burden placed on small businesses whose operations place them just above the de minimis. If Treasury is to consider adopting such an allowance, further consideration in respect of who the allowance should apply to will need to occur. Such an allowance could either apply to every supplier above the de minimis or apply to businesses handling under 50 tonnes of plastic packaging in a 12-month period for example, bringing this de minimis into closer alignment with the current de minimis implemented under the Producer Responsibility regulations, albeit applying to only plastic packaging and not all packaging materials.

We are particularly concerned that that implementing a de minimis in the manner currently proposed could lead to distortions and further confusion, therefore if HM Treasury view a de minimis as necessary to reduce burden on small businesses, we would support the introduction of an allowance akin to that which we have proposed. Regardless of whether such an allowance is adopted by Treasury, in implementing a de minimis exemption for small businesses, we urge they consider marrying their approach with efforts by Defra to review and potentially amend the de minimis exemption that currently applies under the current Producer Responsibility Regulations governing the packaging sector. It would be beneficial to have a level of consistency or legitimate coherence between this de minimis and that to be adopted by the new EPR regime and therefore collaborative work between the Treasury, Defra and the Environment Agencies will be particularly important.

**Question 16: Do you agree with the approach to record keeping for businesses below de minimis? If you disagree, please suggest what alternative approaches would be more appropriate and why.**

Yes.

Whilst Valpak agree with the approach proposed, we believe it may be beneficial and most helpful for HM Treasury to provide smaller businesses operating around the level of the de minimis with clear,



easily interpreted advice or guidance on the level of detail within data records that they will either expect or be required to maintain for the purposes of the Tax.

Valpak foresees that businesses will likely need to maintain accurate records of packaging weights if they're either just under the 10 tonnes threshold or just over it, however in such a scenario those businesses under the de minimis would carry no obligation to keep records, yet a likely significant burden to do so regardless. Such advice distributed by the Treasury should suggest indicative tonnages where businesses operating clearly below the de minimis would not be expected to keep records at an equivalent level to those who are far closer to the threshold. Government should give guidance on what a lower amount of data gathering should be, what would be appropriate to measure or record, and how often small businesses should seek to update these records. We appreciate the inclusion of a basic outline of the categories of businesses according to tonnage on page 22 of the consultation document, however more detailed information will need to be distributed to all liable parties well in advance of the implementation of the Tax.

**Question 17: Do you agree with the proposed forward and backward look test to apply the 10-tonne threshold? If you disagree, please suggest what would be more suitable and provide evidence to support your view.**

Yes.

In using the forward and backward look tests, Valpak foresees that businesses will likely need to maintain accurate records of manufacturing or importing activities of plastic packaging regardless of whether their activities place them either just under the 10 tonnes de minimis threshold or just over it. As mentioned previously, we believe this would place significant and disproportionate burdens on business just under the de minimis who would carry no obligation to keep records yet still retain a likely significant administrative burden based on the Treasury expecting them to do so.

In some cases, small businesses may lack the resource to carry out extensive data gathering, particularly in relation to recycled content in plastic packaging. We advise that HM Treasury consider offering guidance on how small businesses can benefit from the use of either forward or backward-looking tests, or both, whilst not incurring a disproportionate burden on themselves. This should be distributed well in advance of the implementation of the Tax.

## Section 4: Evidence Requirements

**Question 18: Do you agree with the government's proposal to restrict calculations of recycled plastic content to approved methods? If not, please explain why. What methods other than the proposed mass balance approach should be considered?**

Yes.

Valpak believe that it is appropriate to restrict calculations of recycled content to approved methods on the basis of consistency and transparency. Whilst we believe the mass balance test may be the most appropriate method by which to calculate the proportion of recycled content, whichever approved methods are adopted should be the outcome of collaborative effort between the Treasury and industry to determine what methods will be most feasible and appropriate for different types of businesses.

Further, it seems fully logical for the Treasury to adopt the stance that if the presence of sufficient recycled content cannot be proved using legitimate evidence obtained by the liable party, the packaging should be considered to not contain enough recycled content. The mass balance approach appears to be the most appropriate method to use. Whilst it is seemingly inevitable that the level actual recycled

content within plastic packaging will vary slightly from piece to piece, importers should be able to use the average recycled content used to produce identical packaging components across either a given period of time or amount (measured in units, kilograms or tonnes for example) stipulated on a document that the Treasury could accept as evidence of recycled content. It may be beneficial for the Treasury to work collaboratively with industry to determine either the length of time or number of units that would be most appropriate for an average to apply to in this instance.

Whichever method(s) of calculating recycled content is adopted will need to be suitable to be used by both UK manufacturers of plastic packaging as well as overseas counterparts on behalf of importers, with particular attention being paid to how small importers could reasonably demonstrate recycled content without incurring a disproportionate reporting burden onto themselves. Opportunities for the development of multi-lateral standards for the calculation of recycled content may be beneficial in this instance.

### Question 19: Where businesses are importing plastic packaging with at least 30% recycled content, will it be feasible for them to obtain the mass balance evidence from overseas manufacturers? What other ways could importers demonstrate the proportion of recycled plastic?

No.

Whilst the mass balance test may be an appropriate method to calculate the proportion of recycled content used on UK-based production lines if performed to certified standards, adopting such an approach in relation to overseas manufacturers is not a feasible proposal. The burden of proof should be on the individual importer of the packaging and goods in question, however it will represent a substantial task for some importers, especially those whose products come within many different types of plastic packaging, for example toys and electrical goods.

Valpak believe it may be appropriate for HM Treasury to provide additional guidance for specific industries with more complex needs on how to obtain legitimate proof that their imported plastic packaging contains sufficient quantities of recycled content, for example retailers and other importers of frequently changing seasonal goods. This topic is likely worthy of further discussion with industry before it is finalised. In order to support these plans, it will be critically important to develop a new clear, consistent and practicable verification system for determining recycled content.

### Question 20: Do you agree with the government's proposed method for calculating the weight of the packaging? If not, please explain why and how you would calculate it.

Yes, we believe the method proposed is likely the most appropriate and most simple to administer approach.

### Question 21: Are the types of evidence within the government's list appropriate for proving recycled plastic content and the other information required by HMRC? Are there any additional sources of evidence which could be used? If so, please provide details.

Don't know.

We believe the best responses to this question will come from packaging manufacturers or those involved in its procurement for use around products.

In order to support these plans, it will be critically important to develop a new clear, consistent and practicable verification system for determining recycled content. Opportunities for the development of multi-lateral standards for the calculation of recycled content may be beneficial in this regard.

### Question 22: What further due diligence could businesses reasonably conduct to ensure their products meet the relevant specifications for tonnage and recycled plastic?

It is outside Valpak's expertise to comment in detail on this element of the proposals. That said, we suggest the Treasury engages further with industry on the details of those due diligence checks prior to the implementation of the Tax.

In addition, Valpak would also like to encourage HM Treasury to consider mandating the regular checking of the suggestions made in section 6.18 in respect of due diligence, or to consider that when a liable business makes a change to the production specifications of a component of plastic packaging (i.e. weight, design or material composition), this should trigger a process whereby liable businesses are required to redo sampling methods similar to those outlined in section 6.18. This would ensure the Tax applies to all liable businesses at the nearest possible opportunity following any specification change, creating greater consistency in the application of the Tax.

## Section 5: Exports

### Question 23: Are there any observations or issues you can see with the government's proposals to provide relief for exported plastic packaging through direct exports, REPs and tax credits? Please provide details of any alternative methods of relieving exports you would recommend.

Valpak are not best placed to have a wealth of knowledge on this area of the proposals.

However, we envisage there may be issues where a large retailer uses warehouses for both domestic circulation and export, leading to a situation where the manufacturer of the plastic packaging may not have knowledge of exactly where the plastic packaging around products they supply to a retailer will end up. We suggest the Treasury engages further with industry stakeholders of all sizes on the details of the REP scheme prior to the implementation of the Tax.

We would also welcome clarification on how the Treasury propose the exchange of information back up the supply chain to inform parties of the export of plastic packaging that is pre-formed by a converter, filled on behalf of a brand and then exported by separate retailers (e.g. a drinks bottle supplier, a drinks brand and a supermarket retailer exporting the branded drinks product to their stores or distribution warehouses in another country, for example the Republic of Ireland).

### Question 24: Do you agree with the proposed information requirements to evidence the proposed export reliefs? If not, please explain how you could evidence the export.

Don't know.

It is outside Valpak's expertise to comment on this element of the proposals.

**Question 25: Do you agree with the proposal not to relieve transport packaging used on exports? If not, do you have any suggestions on how transport packaging could be offered relief?**

No.

Valpak do not agree with the Treasury's proposed stance to not relieve transport packaging around exported goods but exempt the same packaging used around imported goods.

As previously outlined, we strongly believe that this is the wrong way around and inconsistent with the approach to primary packaging and would also create an unfairness between UK based suppliers and importers. If the purpose of the Tax is to improve the recycled content of plastic packaging placed on the UK market, then the Tax should apply equally to imported transport packaging as it does to UK supplied transport packaging. Transport packaging around exports should be excluded on the same basis to be consistent with the approach proposed for exported primary packaging.

## Section 6: Registrations, Returns and Enforcements

**Question 26: Do you consider the proposed registration requirements to be appropriate? If not, please specify why.**

Yes.

Valpak view it as appropriate to request that registration and reporting requirements for the Plastic Packaging Tax be as similar as is practicable to the registration requirements for obligated packaging producers under the current producer responsibility regulations. Further, where registration requirements for purposes of the Tax are to adopt a different approach to current producer responsibility regulations, they should be aligned with any new requirements put in place as part of the extended producer responsibility reforms to the packaging waste management system in the UK. That said, if those reforms alter the definition of 'producers' to retailers or brand owners only, packaging converters would no longer be directly involved and wouldn't need to register.

Valpak believe it would also make sense for the Treasury to consider how the reporting requirements for the Tax could be aligned with the new requirements for obligated producers under any new deposit and return schemes proposed to be implemented over the coming years. We encourage Treasury to work collaboratively with Defra and the Environment Agencies to discuss how reporting requirements for the new extended producer responsibility policy initiatives can be married to best reduce the administrative reporting burdens to be placed on those obligated. Combined staffing or IT systems may also be an area of consideration.

Moreover, in registering for the Plastic Packaging Tax, Valpak believe producers should be required to specify whether they are registered within EPR or DRS, with the converse applying during the DRS and EPR registration processes.

Valpak would also appreciate clarification as to the potential role for third parties to register or make returns for the Plastic Packaging Tax on behalf of obligated producers whom have a producer compliance agreement with that third party. As mentioned within the consultation document, many of the reporting requirements relate to records and information producer compliance schemes such as Valpak maintain to assist producer members in complying with the producer responsibility regulations, therefore facilitating registrations through schemes would go some way in reducing the administrative burden on obligated companies. We would appreciate clarification on whether there is a role for schemes to provide such a service in the proposed system and how that might work.

Lastly, in relation to section 8.4, we suggest that the reporting of company number should be included on the basis of consistency in the reporting requirements used currently within other producer



responsibility regimes. We believe it is crucial that the registration requirements for the Tax be clearly communicated to producers and associated third parties (if applicable) well in advance of the implementation of the Tax in 2022.

**Question 27: Do you agree that the proposed group eligibility criteria are appropriate? If not, please specify why.**

Yes.

The criteria proposed seem appropriate, however Valpak believe that on the basis of consistency, obligated companies should only be able to register for the Tax as part of the same group that they are registered within under their packaging producer responsibility registration or vice versa.

We would also appreciate clarification on HM Treasury's plans for the registration of overseas groups importing into the UK, and whether this can be realistically mandated, or whether the Treasury will welcome such registrations on a voluntary basis. From Valpak's extensive experience in handling packaging producer registrations, we see limited means by which requirements on overseas companies whose plastic packaging is placed directly onto the market in the UK can be enforced.

**Question 28: In your view, are businesses eligible to form a group likely to make use of this facility? If so, please estimate the value of savings that may be offered by registering and reporting as a group.**

Don't know

Valpak do not have the expertise to comment on this element of the proposals.

**Question 29: Do you agree that the proposed deregistration requirements are appropriate? If not, please specify why.**

Yes.

The criteria proposed appear appropriate.

**Question 30: In your view, will the proposed reporting requirements be straightforward to comply with? If not, please provide details of any issues you expect.**

Yes.

Whilst the data reporting is straight forward, the process by which to gather and process the data will be complex for many businesses, particularly for importers and small businesses. It is important that HM Treasury keeps in mind that the Plastic Packaging Tax will not just apply to large companies with great visibility of their supply chains, but also many smaller companies who may lack the resources to monitor and obtain information from their supply chains so closely.

Valpak believe that as part of the extended producer responsibility reforms proposed for the UK's packaging waste management sector, the Treasury, Defra and the Environment Agencies should work collaboratively to create a comprehensive reporting system that aligns the requirements of the plastic packaging tax, producer responsibility and the deposit and return scheme. Valpak would also appreciate clarification from the Treasury as to the role third parties such as producer compliance schemes could play in helping liable producer members track packaging weights, register and submit data to comply with the proposed Plastic Packaging Tax. Valpak encourage HM Treasury to actively



pursue further discussions with industry on matters including the proposed reporting requirements, the de minimis, importers' obligations and what reporting is to occur in scenarios where there are frequent changes to product specifications.

**Question 31: Do you intend to use a third-party agent to help meet your obligations for the tax or are you an agent expecting to provide this service? Would you expect their responsibilities to include filing your returns?**

Yes.

Valpak are not affected by the proposals for the Plastic Packaging Tax; however, we believe we would be in a position to provide services to our members and customers to help them comply with the reporting requirements of the Plastic Packaging Tax. Valpak would appreciate clarification from the Treasury as to the role third parties such as producer compliance schemes could play in helping liable producer members track their packaging weights and recycled content, register them and submit data on their behalf to comply with the proposed Plastic Packaging Tax.

**Question 32: Please provide details of the expected costs to your business of registering for the tax, and any expected one-off and on-going costs of completing, filing and paying the return, excluding any expected tax liability.**

Valpak itself does not expect to be liable for the Tax, but many of our members and customers will be.

**Question 33: Do you consider that HMRC's proposed approach to powers and penalties is appropriate? If not, please specify why.**

Yes.

**Question 34: Unless already covered in your responses to other questions within this document or the previous consultation, please tell us about the plastic packaging manufactured or imported by your business and how you think your business would be impacted by the tax, including additional administrative burdens?**

Valpak itself will not be affected by the Plastic Packaging Tax, however many of our customers and members will be, and we intend to seek the ability to be able to provide advice and services to help them meet their obligations.

**Question 35: Do you have any comments on the assessment of equality and other impacts in the Tax Impact Assessment?**

It is outside Valpak's expertise to comment on this element of the proposals.