



Plastic tax now also in Germany – EWKFondsG (Single-use Plastic Funds Act)

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1 Background and objective of the EWKFondsG

The EU has already reacted to too much plastic waste from single-use products with Directive (EU) 2019/904 of 05.06.2019 on the reduction of single-use plastic products and their impact on the environment. Now the German Federal Government has implemented Germany's obligations under this directive with the Single-Use Plastic Fund Act (EWKFondsG) of 11.05.2023 (BGBl 2023 Part I page 124). The aim of the Act is to avoid and reduce the impact of single-use plastic products on the environment and health, to promote innovative and sustainable business models, products and materials, and to regulate the market behaviour of taxpayers. The legislation thereby extends the product responsibility of manufacturers of single-use plastic products and the liability of operators of online marketplaces for their suppliers. The regulations on the levy obligation will come into force on 01.01.2024. From this date, companies must collect different data on reportable single-use plastics as a basis for the first plastic tax declaration in May 2025.

2 Design

The law provides for the creation of a single-use plastic fund, which will be administered by the Umweltbundesamt (UBA, i.e. the Federal Environment Agency). The fund's resources will be used to shift a variety of costs to those liable to pay the levy. These costs include collection and cleaning costs, but also awareness-raising and administrative costs arising from single-use products. From this fund, registered claimants, in particular public waste management authorities will, upon application, be reimbursed for the costs they have incurred. Two central registers will be introduced for this purpose: A producers' register and a rightful claimants' register. Being registered will be a prerequisite for manufacturers to be allowed to provide or sell single-use plastic products on the market in the future (§ 9 EWKFondsG).



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3 Parties liable to pay levy

The producers, within the meaning of the EWKFondsG, are obliged to pay the levy, which includes not only producers but also fillers, sellers and importers who make single-use plastic products available on the German market for the first time on a commercial basis. Non-resident entrepreneurs, who sell single-use plastics in Germany through distance selling channels, are also liable. And even operators of electronic marketplaces and fulfilment service providers from the warehousing sector are included: they must ensure that the companies offering products on their platforms or using fulfilment services are themselves registered in the producers' register. Only those who have made less than 100 kg of the products concerned available on the market for the first time in the previous year, or only deposit bottles, are exempt. Foreign manufacturers must appoint a domestic authorised representative. Similarly, German manufacturers must appoint authorised representatives in other EU Member States if the requirements are met (§ 10 EWKFondsG).

4 Reporting and Payment

The fund will be raised by an annual special levy on producers. By 15th May of the following year, manufacturers must submit a declaration of the single-use plastic products made available or sold on the market for the first time in the previous year, broken down by type and mass, in kilograms. The declaration must be accompanied by a qualified, testified report from a registered expert and transmitted electronically to the UBA. For this purpose, a central reporting service must be set up at the UBA by 31.12.2023, on which producers must be registered. This is not yet available. The reporting values must be determined, for the first time, as of 01.01.2024 and declared by 15.05.2025. The UBA will issue a tax notice based on this data, which will be the basis for the payment of the special levy. The amount of the levy will be determined from the quantity per product type multiplied by product-specific rates per kg. The levy will be due for payment one month after receipt of the notice.

The EWKFondsG further clarifies the reporting obligations of the beneficiaries and the payout procedure by means of a scoring system. Finally, it regulates a catalogue of administrative offences and provisions on fines. Failure to register will trigger fines of up to EUR 100,000.

5 Products subject to reporting

Annex 1 to the Act contains a list of the types of single-use plastic products that must be reported. These are to-go food and beverage containers, including deposit bottles and tetrapacks, together with any lids, but also bags and film packaging, balloons, wet wipes and filters for tobacco products, as well as, added only recently, fireworks from 01.01.2026 onwards. From 01.01.2024, the UBA can be requested to determine the classification as a single-use plastic product, as well as the type of product, but also the manufacturer's qualification within the meaning of the law. However, the UBA can also issue corresponding general rulings in this regard.

6 Recommendation for action

The reporting data must be collected as from 01.01.2024. Potentially affected businesses should therefore check, in the next few months, whether they themselves are manufacturers within the meaning of the EWKFondsG. If they are, their own product range should be checked for products subject to reporting and the company's data systems should be upgraded for the collection and issuing of quantities from 01.01.2024. Online marketplaces and fulfilment service providers must set up a verification process on their customers. Waste management providers should also ensure that they are able to map and document their reimbursable costs in a reportable manner. Failure to report will preclude reimbursement.