



**Special legal alert**  
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**Manufacturer's recycling obligations**

**Dear friends,**

In this issue, we will be discussing the issue of manufacturer's and importers recycling liability.

Since 1 January 2016, Kazakhstan has been imposing a recycling charge on manufacturers and importers.

A list of products (goods) for which such recycling liability is applicable has been in place since 1 January 2016<sup>1</sup>. It includes ground transport, unvulcanised rubber, rubber and items made from it, accumulator cells and batteries, oil and lubricants; plastic, glass, paper, cardboard, aluminium and metal packaging, and electrical equipment. However, the method for calculating and setting rates has only been approved for motor vehicles, with rates for rubber, lubricants, accumulator cells and packaging recycling due to be approved in 2018.

The recycling programme's operator is Operator ROP LLP<sup>2</sup>, which is responsible for collecting payments and manages them.

The charge for packaging is currently being discussed by business representatives – major manufacturers and importers on various platforms, to find the best approach and rates.<sup>3</sup> The expectation is that the charge will be introduced in 2018.

Payers will have to conclude an agreement with ROP and apply to import goods, which can be done at the moment the goods are imported or prior to import through the Internet.<sup>4</sup>

ROP is also responsible for tracking whether importers and manufacturers have paid the charge correctly. It receives quarterly details, such as the name, codes, volume and value of imported/manufactured products, from the environmental authorities, which in turn receive them from the state revenue authorities.<sup>5</sup>

Thus, ROP has mechanisms to monitor unscrupulous importers and the authority to impose administrative fines of between 10 and 200 MCI for each violation<sup>6</sup>, which may be significant for large parties of goods.

Having said that, the charge is not the only way for manufacturers and importers to meet their recycling obligations. By law, they can be exempt from the charge if they have their own system for collecting and processing recycling waste.<sup>7</sup> Any such system would

have to be owned by the manufacturer or importer, i.e. it cannot be outsourced.

According to official ROP information, manufacturers of oil and packaging, at least 30% of which is processed and recycled in Kazakhstan, and the manufacturers and importers of goods producers in Kazakhstan and (or) imported into Kazakhstan, and sold outside of Kazakhstan, are also exempt from the charge.<sup>8</sup>

When goods are imported into Kazakhstan, the importer is responsible for paying the charge, and not the manufacturer. Consequently, companies not importing goods into Kazakhstan themselves, but through distributors acting as importers, will not have to pay.

<sup>1</sup> Order of the Acting Minister for Energy № 695 dated 4 December 2015 *On the Approval of a List of Products (Goods) Subject to Additional Manufacturer (Importer) Liability*

<sup>2</sup> Government Resolution № 1137 dated 30 December 2015

<sup>3</sup> <http://www.eurobak.kz/event/view/fmcg-committee-meeting-extended-producer-responsibility-issues>

<sup>4</sup> Official Operator ROP LLP website - <https://recycle.kz/>

<sup>5</sup> Government Resolution № 28 27 January 2016 *On the Approval of Rules for introducing Additional Manufacturer (Importer) Liability*

<sup>6</sup> Art. 344-1 Code of the republic of Kazakhstan on Administrative offenses dated 5 July 2014 № 235-V

<sup>7</sup> point 8 of the Government Resolution of the Republic of Kazakhstan dated 27 January 2017 № 28 «*On the Approval of Rules of Realisation of Additional Manufacturer (Importer) Liability*

<sup>8</sup> Official Operator ROP LLP website <https://recycle.kz/>

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