

# **THE NEW ACT ON PRODUCTS WITH COMPLETED SERVICE LIVES (APCSL)**

## **METHODOLOGICAL MATERIALS**

### **METHODOLOGICAL GUIDELINE**

**Of the Waste Department of the Ministry of Environment for performance of the obligations set out below in accordance with the new Act on Products with Completed Service Lives, effective from 1 January 2021**

**Regarding the obligation of manufacturers of electrical appliances, tyre manufacturers, distributors and the last seller, of separately giving the costs for take-back, processing, recovery and disposal of end-of-life products in compliance with Section 73 or Section 99 of Act No. 542/2020 Sb.**

This methodological guideline is the updated version of the instruction dated 19 January 2021 and serves to clarify the procedure by manufacturers, distributors, and last sellers of electrical appliances, or tyres, who are required to give the costs for take-back, processing, recovery (and disposal) of end-of-life products (hereinafter the “visible recycling contribution”), per item or kilogram of a new product, separately from the price of electrical appliances or tyres, on the tax document, after the new Act No. 542/2020 Sb., on Products with completed service lives (hereinafter the “Products Act”) comes into force, effective from 1 January 2021.

The provisions of Section 73 or Section 99 of the Products Act give manufacturers and distributors certain freedom regarding how to specify the visible contribution, which paradoxically causes considerable problems in practice, particularly to major sellers. Dealers with a greater number of suppliers are subsequently confronted with various methods of specification of the visible contribution by their suppliers, which increases administration work considerably and simultaneously places greater demands on their accounting SW solution. This is why the essential templates for specifying the visible contribution will probably have to be defined in the future by statutory instrument to the Products Act, which is currently not possible.

## **1. The purpose of the visible contribution in relation to the previous legislation**

### **1.1 Purpose**

The point of specifying the recycling contribution on the tax document separately from the price is primarily supposed to be to make it easier to inspect fulfilment of the duties stipulated by the Products Act by manufacturers and possibly also distributors. As a result of the duty to separately specify the recycling contribution, the manufacturers who do not fulfil statutory obligations at all, so-called “free-riders”, are visible in the distribution chain, because they are unable to report any costs for assuring take-back. This is subsequently also of importance for connected distributors, who would otherwise be in the position of manufacturers, or to which the same obligations as to manufacturers would apply and who would be at risk of sanctions by inspection bodies (see Section 10 of the Products Act).

Another important function of the visible contribution is to make an inspection of the obligations defined in Section 44(2) of the Products Act easier, whereas the collective systems must not discriminate against small manufacturers, or are required to charge all manufacturers a unified recycling contribution fee in relation to the same or similar products, on the basis of public tariff lists (Section 44(4) of the Products Act). Another purpose of the visible contribution is to provide the consumer with information about the existence of a system for collection and processing of the specific products, or information that the used product does not belong in the mixed communal waste.

### **1.2 Link to the previous legislation**

The previous legislation<sup>1</sup> stipulated that specification of the visible recycling contribution was voluntary during sale of electrical appliances, or that it was up to the specific manufacturer whether it would give the contribution separately or not. This would severely limit some of the functions of the contribution as given above.

In the case of tyres, the obligation of specifying the visible contribution has been applied since 2015. However, the Products Act also stipulates new obligations from 1 January 2021 in relation to this point. A number of previous methods of specifying a visible recycling contribution in relation to tyres must therefore be modified in compliance with the requirements of the new legislation.

## 2. Selected aspects of the obligation to give a visible recycling contribution

### 2.1. Method of specifying the contribution on the tax document

According to the Products Act, it is compulsory to give the recycling contribution on the tax document (invoice). This means that the price of the goods must always be separated from the actual recycling contribution. As well as specification on the tax document, the visible recycling contribution may also be additionally communicated by various other methods depending on the seller's legitimate preferences (web presentation, leaflets, labels on shops, by cash-tills, etc.). However, the contribution must always be specified on the tax document, without exception.

In order to meet the statutory requirement, it is important that the data described in the examples below always be clearly and visibly given on the tax document. These examples are then illustratively broken-down into sample invoices given in the annex of this methodological guideline.

#### Example No. 1 - the recycling contribution is charged per item and its value differs for each invoiced product

- (i) the applied contribution unit value (rate) per 1 item (given for each product separately)
- (ii) quantity (items) of invoiced products (given for each product separately)
- (iii) total contribution value for each invoiced product during application of the specific contribution rate
- (iii) collective value of all recycling contributions, which is the sum of all recycling contributions given for individual items on the specific tax document

#### Example No. 2 - the recycling contribution is charged per item and its value is the same for all invoiced products

- (i) the applied contribution unit value (rate) per 1 item (can be given collectively for all products)
- (ii) the quantity (items) of invoiced products (given for each product separately)
- (iii) total contribution value for each invoiced product during application of the specific contribution rate
- (iv) collective value of all recycling contributions, which is the sum of all recycling contributions given for individual items on the specific tax document

#### Example No. 3 - the recycling contribution is charged per kilogram and its value differs for each invoiced product

- (i) the applied contribution unit value (rate) per 1 kg (given for each product separately)
- (ii) quantity (items) of invoiced products (given for each product separately)
- (iii) weight (kg) of invoiced products (given for each product separately)
- (iv) contribution value per 1 item for each product included on the invoice during application of the specific contribution rate
- (v) total contribution value for each invoiced product during application of the specific contribution rate
- (vi) collective value of all recycling contributions, which is the sum of all recycling contributions given for individual items on the specific tax document

#### Example No. 4 - the recycling contribution is charged per kilogram and its value is the same for all invoiced products

- (i) applied contribution unit value (rate) per 1 kg (can be given collectively for all products)
- (ii) quantity (items) of invoiced products (given for each product separately)
- (iii) weight (kg) of invoiced products (given for each product separately)
- (iv) contribution value per 1 item for each product included on the invoice during application of the specific contribution rate
- (v) total contribution value for each invoiced product during application of the specific contribution rate
- (vi) collective value of all recycling contributions, which is the sum of all recycling contributions given for individual items on the specific tax document

#### Example No. 5 - the recycling contribution is charged for some invoiced products per item and for others per kilogram, applied contribution unit value (rate) per 1 item or per 1 kg (given for each product separately)

- (i) quantity (items) of invoiced products (given for each product separately)
- (ii) weight (kg) of the invoiced products (given for each product separately; specification of the weight is only necessary for products for which the contribution is charged per kg)
- (iii) contribution value per 1 item for each product included on the invoice during application of the specific contribution rate
- (iv) total contribution value for each invoiced product during application of the specific contribution rate
- (v) collective value of all recycling contributions, which is the sum of all recycling contributions given for individual items on the specific tax document

Warning! Simply **stating at the end of the invoice that the price of the product includes a recycling contribution in the value of CZK X, is insufficient from the aspect of performance of statutory requirements.**

## **2.2. Contribution value**

The value of the visible recycling contribution is determined differently depending on whether the specific manufacturer fulfils its duties in a collective or in an individual system.

If the manufacturer fulfils its duties according to Section 9(b) of the Products Act, i.e. by means of a collective system, the contribution value is identical to the contribution levied by the manufacturer to the administrator of the collective system when the product is introduced onto the market. In relation to this, it is possible that if the price list of the collective system (Section 44(4) of the Products Act) changes, products of manufacturers-participants of the specific collective system, sometimes giving the old and sometimes the new contribution value, will exist in the specific collective system. This will be due to the different time of introduction of the product onto the market with application of either the old or new price list. Products giving a visible recycling contribution according to the old price list will disappear from circulation when they are sold to the end users

If the manufacturer fulfils its duties according to Section 9(a) of the Products Act, i.e. in an individual system, the contribution is made in the value of costs known at the time of introduction onto the market or on the basis of a provable estimate of the assumed costs (if these costs are incurred at a later date). In relation to this, we repeat that the manufacturer gives the value of costs for take-back, processing, recovery (and disposal) of waste products in the yearly report (Section 28 of the Products Act, statutory instrument) and also in the annual report in the case of tyre manufacturers executing an annual report according to the Accounting Act. The value of these costs determines both the value of the deposit (Section 31 of the Products Act) and also the visible recycling contribution.

## **2.3. Identification of the contribution**

The costs for take-back, processing, recovery (and disposal) of waste products must be identified as the “Contribution for recycling” or the “Recycling contribution”.

Examples of inappropriate identification include “disposal contribution”, “waste disposal” or any other phrase including the term “fee” (fees are usually of a public nature, which is not the case of the recycling contribution, which is used to contribute to the system operated by an independent manufacturer or manufacturers within the terms of the collective system). The aforementioned examples of inappropriate identification of the contribution should therefore not be used on tax documents.

## **2.4. Number of decimal places in the contribution**

The legislation does not stipulate the number of decimal places in the recycling contribution and it is therefore up to the manufacturer to determine this. If the manufacturer fulfils obligations according to Section 9(b) of the Products Act, i.e. by means of a collective system, on the basis of a contract to assure fulfilment of the obligation of take-back, processing and recovery or disposal, concluded in writing, then the recycling fee should be given on the tax document in the value that the specific manufacturer actually paid on the basis of this contract (including potential decimal places). If the manufacturer fulfils obligations according to Section 9(a) of the Products Act, i.e. in an individual system, it is up to the manufacturer whether it rounds the recycling contribution up on the tax document or not. It is generally recommended that the recycling contribution be rounded up to a maximum of two decimal places within the terms of the entire distribution chain.

## **2.5. Contribution currency**

During distribution of products, situations may occur when the product is sold using a currency other than CZK, but the recycling contribution was determined/levied in CZK. In such situations, the value of the visible recycling contribution may be converted into the invoice currency (e.g. EUR), but the invoice must also contain the applied exchange rate and the original value in CZK. Only this method of giving the visible recycling contribution will allow further distribution of the product in compliance with the Products Act.

## **2.6. Specifying the contribution during promotion of goods and sale in “brick-and-mortar” or internet shops**

As stated above, the visible recycling contribution may be communicated using other methods, as well as specification on the invoice, in relation to sale of the product, but this is not required. In order to avoid misleading the consumer, the seller must inform the customer of the end (total) price of the promoted product, i.e. including the recycling contribution, during promotion of the goods in a “brick-and-mortar” shop or on an internet shop. However, it is not required to give the recycling contribution separately during promotion of the product (it may be included in the total price during promotion). The recycling contribution must only be given separately during sale, on the issued tax document.

## **2.7. Different contribution values during distribution of products from various manufacturers**

In the case of distribution or sale of identical products from various manufacturers, the visible recycling contributions will differ for each of the products, possibly even substantially, whereas each of the manufacturers fulfils its obligations through different collective systems or through its individual systems. In such cases it is essential that the distributor and the seller state the recycling contribution value that was actually paid into the collective system by the manufacturer, or in what value the manufacturer calculated or provably estimated it within the terms of its individual system, for each such product on the tax document.

## **2.8. The independent nature of the obligation of specifying the visible recycling contribution**

All elements of the customer-supplier chain have the independent obligation of specifying the visible recycling contribution. They have this obligation independently of whether it is fulfilled by the manufacturer introducing the specific products onto the market and other distributors, particularly direct suppliers. In the event of any discrepancies in reporting the visible recycling contribution, we recommend you duly communicate this fact to your supplier. Most importantly, and in the event that the contribution is not specified at all, you must verify whether the product comes from a free-rider, by checking the registration of the manufacturer introducing the product onto the market, or the registration of its authorised representative, in the List of manufacturers. If the distributor were to purchase and further distribute such a product, it would become required to fulfil all the obligations of the manufacturer (Section 10 of the Products Act). If this does not apply and the product does not come from a free-rider, you must ensure that the supplier provides the assistance required to fulfil the requirement of due specification of the visible recycling contribution by the customer (i.e. that the invoice contains all the information, see above), because if this is not provided, the risk of sanctions of up to CZK 500,000 (Section 125(2)(i) of the Products Act) also applies to the customer who further distributes or sells this product.

## **2.9. The contribution and its relationship to the planned decree on the details of disposal of some end-of-life products**

The obligation to specify the visible recycling contribution will not be further specified by the decree. The wording of the Products Act does not include authorisation to issue a decree specifying the details of giving the recycling contribution. All prerequisites (obligations) are therefore defined in the Products Act, specifically Section 73 for the field of electrical appliances and Section 99 for the field of tyres.

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**Annex**

**Illustrative examples of specification of  
recycling contributions on accounting  
documents**