

## CHECKLIST

Obligations under  
the Verpackungsgesetz (1/3)

- ✓ Do the obligations even apply to me?
- ✓ What are the specific obligations?
- ✓ What happens next?

## Does the Verpackungsgesetz apply to you?

The Verpackungsgesetz defines the party under **obligation (producer / initial distributor)** as being anyone who

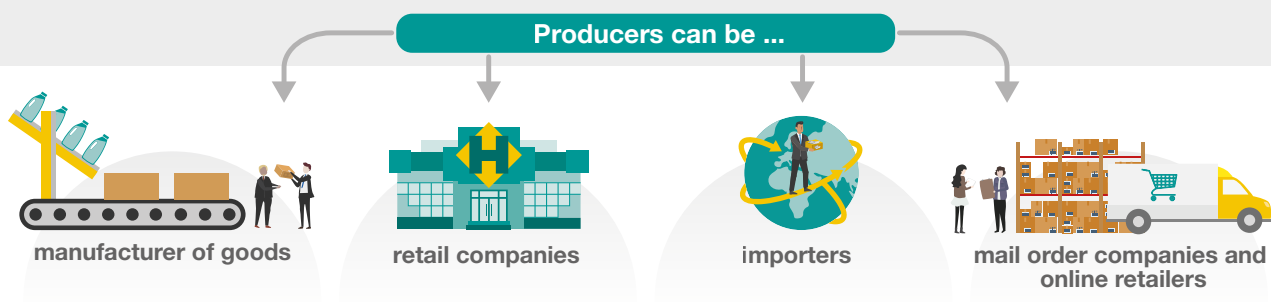
- + is the first to
- + place packaging that is filled with goods
- + on the German market
- + on a commercial basis.



**The Verpackungsgesetz (Packaging Act) does not apply to the producer of unfilled packaging, but rather to the party who is the first to fill packaging with goods.** This is usually the party that produces and packages the product (**manufacturer of the goods**).

Producers may include:

- **Retail companies** if they distribute own brands whose packaging is filled by a third party on their behalf and then handed over to the retail company, and if only the name and/or brand of the retail company is visible on the packaging.
- **Importers** of packaged goods if they bear legal responsibility for the goods at the time they cross the border.
- **Mail order companies and online retailers** if they are the first to fill shipment packaging with goods.



Every company that places packaged goods on the German market on a commercial basis must have registered with the LUCID Packaging Register by 1 July 2022 – regardless of the packaging type. If producers have not met this registration requirement by then, their packaged goods must no longer be distributed in Germany.



Other obligations besides the registration requirement depend on whether the types of packaging are **subject to system participation** or not. Packaging subject to system participation differs from **packaging that is not subject to system participation** in that it typically accumulates as waste with private final consumers.

In addition to **private households, private final consumers** as a group also includes so-called **comparable sources of waste generation**, such as food and beverage outlets, accommodation establishments, bakeries, commercial kitchens and canteens because of the type and amount of packaging waste that accumulates there. Furthermore, this includes craft enterprises and agricultural holdings where packaging waste is collected at the rate that is normally associated with private households and in a **waste bin that does not exceed 1,100 litres** per collection group. A list of examples of comparable sources of waste generation can be found at [www.verpackungsregister.org/fileadmin/files/Katalog/Overview\\_of\\_sources\\_of\\_waste\\_generation.pdf](http://www.verpackungsregister.org/fileadmin/files/Katalog/Overview_of_sources_of_waste_generation.pdf).



## Let us help you answer the following questions:

### 1. What are the packaging types that you fill with goods on a commercial basis?

#### Packaging subject to system participation and packaging that is not subject to system

##### + Packaging subject to system participation

Packaging that typically accumulates as waste with private final consumers:

###### ▶ Retail packaging



###### ▶ Service packaging



###### ▶ Grouped packaging



###### ▶ Shipment packaging



##### + Packaging not subject to system participation

###### ▶ Transport packaging



###### ▶ Reusable packaging



###### ▶ Single-use beverage packaging subject to



###### ▶ Retail and grouped packaging that does not typically accumulate as waste with private final consumers after use



###### ▶ Retail packaging for hazardous contents



### 2. Are you a party under obligation? Use the digital 'quick check' tool to find out

Are you acting commercially? [What does that mean?](#)

Yes No

Are you the first to fill this packaging with goods? [What does that mean?](#)

Yes No

[www.verpackungsregister.org/quick-check](http://www.verpackungsregister.org/quick-check)

The digital quick check helps you to quickly check whether your packaging is subject to system participation under the Verpackungsgesetz (Packaging Act). Your answers to various key questions will help you determine the obligations that apply to you. The quick check assumes that you are filling packaging with goods and placing them on the market in Germany, or commissioning someone to do this for you.

### 3. Is your packaging subject to system participation?

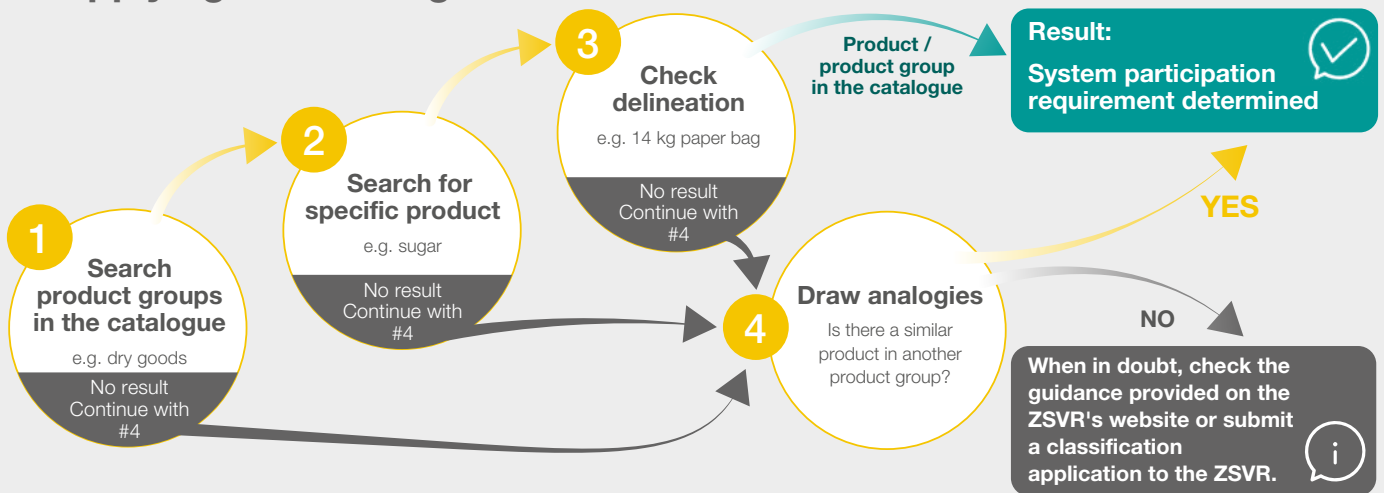
You can use the system participation requirement catalogue to figure out whether an article of packaging is or is not subject to system participation.

## Use the system participation requirement catalogue to check your packaging

The system participation requirement catalogue helps you to clarify quickly and conveniently if your packaging is subject to system participation. As a database, the catalogue can be found on the ZSVR's website under 'Foundation & Authority'. Its contents are also available for download as PDF files, sorted by product group.

[www.verpackungsregister.org/en/catalogue-search](http://www.verpackungsregister.org/en/catalogue-search)

### Applying the catalogue:



## I can't find my packaging in the system participation requirement catalogue. What should I do?

In that case, you can draw a conclusion from an analogy. What does that mean? Check if there is a product in the catalogue with similar characteristics to your product. Let's take an example: the product 'soaps, shower soaps, bubble baths' in the catalogue does not explicitly mention shower foam. But shower foam, just like shower gel, accumulates as waste with private households and comparable sources of waste generation, such as hotels and hospitals.

→ **Conclusion drawn from this analogy:**  
shower foam belongs to 'shower gels'.





# Definitions: what you should know

## What does 'distribution' mean?

Any time a transfer to a third party in the course of business actually occurs, this is considered to be 'placing on the German market' or 'distribution' within the meaning of the Verpackungsgesetz. It is immaterial whether the transfer is in exchange for money or not.

## When is distribution considered to be 'commercial'?

Anyone who has to register their self-employment as a business, or anyone who generates income from commercial activities, independent work or agriculture and forestry within the meaning of German income tax law, is operating commercially within the meaning of the Verpackungsgesetz. Distribution is deemed to be commercial if each of the following elements is satisfied:

- a) **Independent work** (e.g. not an employee)
- b) **Economic activity on the market** (generally with a view to making a profit; as distinct from being a 'hobby') and
- c) **Planned practice and long-term focus** (professionalism, a minimum degree of continuity and sustainability)

In borderline cases, particularly regarding economic activity on the market or planned practice and long-term focus, the objective standards of German income tax law may be applied in assessment. Activities considered pastimes or hobbies from a tax perspective – that are therefore not recognised in tax returns – are non-commercial within the meaning of the Verpackungsgesetz. However, anyone claiming or wanting to claim losses against taxes owing to their activity is always acting commercially within the meaning of the Verpackungsgesetz.

Read more about this in our subject-specific paper on commercial distribution:

[https://www.verpackungsregister.org/fileadmin/files/Themenpapiere/Subject-specific-paper\\_overview-for-small-and-micro-distributors.pdf](https://www.verpackungsregister.org/fileadmin/files/Themenpapiere/Subject-specific-paper_overview-for-small-and-micro-distributors.pdf)

## What types of packaging are subject to system participation?

### Retail packaging

Retail packaging is packaging that is typically offered to the final consumer as a sales unit consisting of goods and packaging. Service packaging and shipment packaging are also retail packaging.

### Grouped packaging

Grouped packaging serves to bundle one or more articles of retail packaging and is typically offered along with the sales units to final consumers or is used to stock retail shelves. The system participation and registration requirement specifically cover grouped packaging of retail packaging too, if it typically accumulates as waste with a private final consumer.

### Shipment packaging

Shipment packaging facilitates or supports the shipment of goods to final consumers.

Mail order companies and online retailers are the first to fill shipment packaging with goods. Shipment packaging, including all the filler material (bubble wrap, tape, etc.), is always subject to system participation; very few exceptions apply.

### Service packaging

Service packaging is packaging that is not filled with goods until it reaches the final distributor, shortly before it is handed over to the final consumer, e.g. bakery bags, pastry carriers at a bakery, to-go containers at a fast food restaurant, carrier bags and takeaway coffee cups. Further examples include wraps and boxes at the butcher, pizza boxes, bags for fruits and vegetables, vending machine cups, cups for ice cream, milk shakes, containers for foodstuffs, e.g. for soups, smoothies, cereals, popcorn, and takeaway.



## What types of packaging are not subject to system participation?

### Transport packaging

Transport packaging differs from shipment packaging in that it typically does not accumulate with final consumers, but remains with retailers. Transport packaging is often used to bundle multiple sales units into one transportation unit. Transport packaging does not include any packaging for sales units (one-piece packaging, multi-piece packaging), even if this also provides protection during transportation.

### Reusable packaging

Packaging can only be classified as reusable packaging when arrangements made in advance make it reasonable to believe that it will be used multiple times. Classification as reusable packaging requires that packaging be suitable for multiple uses for the same purpose. Later use must be for the same purpose as the first use because anything else might constitute repurposing at most.

To be classified as reusable packaging, there must be adequate logistics in place to enable the actual return and reuse of the packaging. Adequate

return infrastructure must exist. Returns must be in fact made possible through return sites for final consumers. In addition, final consumers must be informed about the possibility of returning the packaging.

Another requirement for classification as reusable packaging is an adequate incentive system that supports the return and reuse of the packaging. An incentive system is necessary because it was common in the past for used packaging to circulate less than two times.

A sufficiently high deposit, for example, will generally constitute an adequate incentive system. Incentive systems must be adequate to motivate final consumers to actually return the packaging to the producer.

### Single-use beverage packaging subject to deposit

Single-use beverage packaging subject to deposit must participate in the DPG's deposit scheme ([www.dpg-pfandsystem.de](http://www.dpg-pfandsystem.de)) (section 31 (1) VerpackG); it is not generally subject to system participation (section 12 VerpackG). However, components of single-use beverage packaging can be subject to system participation, such as grouped packaging and retail packaging with a bundling function. This also includes things like bundle wrap films, trays, cartons and bottle crates / bottle carriers.

### Packaging that does not typically accumulate as waste with private final consumers

This packaging does not typically accumulate as waste with private final consumers, but with other sources of waste generation such as in industrial settings. Other examples include craft enterprises and agricultural holdings where their plastic, metal and composite packaging and/or paper/paperboard/cardboard is not collected at the rate that is normally associated with private households and not in waste bins that do not exceed 1,100

litres per collection group (not comparable sources of waste generation). Packaging that does not typically accumulate as waste with private final consumers includes, for example: retail and grouped packaging for milk and milk beverages in quantities of over 28 litres, for coffee in big bags of over 6 kilogrammes, for sacks of malt in quantities of over 23 kilogrammes delivered to large breweries, for animal feed in big bags of over 28 kilogrammes, or for honey in barrels of over 18 kilogrammes, as well as tins, bottles, canisters and barrels containing lubricating oils in quantities of more than 0.8 litres, and retail packaging for bricks and tiles for buildings.

### Retail packaging for hazardous contents

Hazardous contents are only the substances, compounds and products detailed in Appendix 2 to section 3 (7) VerpackG. This includes substances and mixtures to which the self-service ban under the Chemikalien-Verbotsverordnung (Chemicals Ban Ordinance) would apply.

## When is an item considered packaging? When is it non-packaging?

Under the Verpackungsgesetz, packaging or packaging components are subject to system participation under certain conditions. Eyeglass cases, jewellery boxes, bags, drinking cups and coathangers can be both: product or packaging. The delineation depends in particular on the design and the value of the item, how it is handed over, and how it is used.

Read more about this in our subject-specific paper on delineation between packaging and non-packaging:

[www.verpackungsregister.org/fileadmin/files/Themenpapiere/Delineation\\_between\\_packaging\\_and\\_non\\_packaging.pdf](http://www.verpackungsregister.org/fileadmin/files/Themenpapiere/Delineation_between_packaging_and_non_packaging.pdf)



For IT-related questions about the LUCID Packaging Register, please do not hesitate to call our support hotline: +49 541 34310555 | Monday to Friday 9:00 to 17:00 CET (public holidays in Lower Saxony excepted)