

# Key amendments to Excise Act (2) 2/47/22

This article picks up where we left off last week.

## Procedures and conditions for the movement and distance selling of excise goods

Directive 2020/262/EU has revised the provisions for the distance selling of excise goods as well as for excise goods that are released for consumption in one member state and moved to another to supply them there for commercial purposes or personal needs.

As part of transposing the directive's provisions, section 26 of the Excise Act will contain rules for moving excise goods released for consumption from one member state to another and for paying excise. Both the directive and the Excise Act define new subjects: a "certified consignor" and a "certified consignee" in moving excise goods released for consumption between member states for commercial purposes. If the movement of excise goods released for consumption between member states for commercial purposes is irregular, those persons are treated as a "temporarily certified consignor" and a "temporarily certified consignee". Also, the Excise Act will have new sections laying down requirements for the new subjects.

Under the new Excise Act, a certified consignee or a temporarily certified consignee in Latvia is responsible for paying excise on harmonised goods (alcoholic beverages, tobacco products and oil products) that have already been released for consumption in a member state. Before another member state's certified consignor or temporarily certified consignor sends excise goods to Latvia, the certified consignee must post a general bond and the temporarily certified consignee a one-off bond.

The movement of excise goods will be covered by electronic notifications and an electronic simplified administrative document prescribed by the European Commission's new delegated regulation. This regulation will determine the structure and content of documents to be exchanged around the movement of excise goods and will set a threshold for natural wastage. The European Commission intends to adopt this regulation in the near future.

Section 26 of the Excise Act also lays down procedures for movement between member states and payment of excise on non-harmonised excise goods released for consumption that are not governed by the directive's conditions for the certified consignor, the temporarily certified consignor, the certified consignee or the temporarily certified consignee. In that case a person in Latvia that brings or receives from another member state for commercial purposes or personal needs any excise goods that have already been released for consumption in another member state, their movement not being governed by the conditions for the certified consignor, the temporarily certified consignor, the certified consignee or the temporarily certified consignee, must notify the State Revenue Service (SRS) and pay excise, or post a one-off bond before sending excise goods from that member state.

Section 26.1 of the Excise Act lays down separate rules for the distance selling of excise goods and payment of excise. These rules will apply to the distance selling of alcoholic beverages, soft drinks and coffee. It is expected that excise goods which a consignor in Latvia sends or carries to another member state for an individual will be charged to excise in the member state of destination. Excise will be payable under procedures adopted by the member state of destination.

A consignor in distance selling in Latvia who makes distance sales of alcoholic beverages must satisfy the Movement of Alcoholic Beverages Act's requirements for registering a website or a mobile app to retail

alcoholic beverages under a distance agreement. Another member state's consignor or his appointed fiscal representative in Latvia is responsible for paying excise in Latvia.

Another member state's consignor in distance selling has the right to appoint a fiscal representative in Latvia who is responsible for paying excise in Latvia and meeting other statutory requirements on the consignor's behalf.

Another member state's consignor in distance selling or his appointed fiscal representative in Latvia must register for tax purposes with the SRS before sending excise goods, and if he handles alcoholic beverages, he must post a general bond (another member state's consignor in distance selling must post a security deposit) and keep a record of excise goods supplied.

Finally, given the new rules for the distance selling of excise goods (alcoholic beverages, soft drinks and coffee), the Excise Act will have new terms "consignor in distance selling" and "fiscal representative" and provide explanations for these terms.

## An abolished requirement for payment by bank transfer for diplomats and international organisations

Section 20 of the Excise Act lays down exemptions and reliefs for diplomats and international organisations. The current version of the law provides that if subjects specified by this section are to buy excise goods with an exemption, then payment must be made by bank transfer, in addition to a certificate for the purchase of excise goods. This requirement was adopted to ensure exempt excise goods are supplied to statutory subjects and the exemption is not abused.

However, on 13 January 2022 the Court of Justice of the European Union ruled on *Mono SIA vs the SRS* and held that article 12 of Directive 2008/118/EC should be interpreted so that it prevents a member state from imposing an additional condition that the purchase price of goods supplied in diplomatic and consular relationships be paid by bank transfer to qualify for an excise exemption.

In the light of this ruling, the amendments are to remove the condition that payment for excise goods must be made by bank transfer in order to claim excise exemptions and reliefs for diplomats and international organisations.