

Key amendments to Excise Act (1) 2/46/22



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The Excise Act was amended on 13 October 2022 with effect from 13 February 2023. The amendments are primarily made to transpose Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (the “new directive”), which will replace Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (the “old directive”). More amendments stem from the CJEU’s ruling of 13 January 2022 concerning *Mono SIA vs the State Revenue Service (SRS)*. The court disallows a situation where the ability of diplomatic and consular offices to claim an excise exemption is subject to the condition that payment for goods be made by bank transfer. This article summarises some of the key amendments to the Excise Act.

The new directive retains the same principles in excise treatment and in the movement of excise goods that are subject to harmonisation. Below are key improvements affecting Latvian and other EU excise payers:

- Clearer rules for charging excise on excise goods
- Permission to apply the external transit procedure to Union goods
- Revised procedures and conditions for excise goods that are released for consumption in one member state and moved to another member state in order to supply them for commercial or personal purposes, as well as for distance sales of excise goods
- An abolished requirement for payment by bank transfer for supplies of excise goods to diplomats and international organisations

Clearer rules for charging excise on excise goods

On 19 December 2019 the EU Council adopted the new directive, which replaces the old directive from 13 February 2008. The new directive basically keeps the same principles in excise treatment and in the movement of excise goods that were prescribed by the old directive. Yet the new directive aims to improve the current rules in order to align excise and customs procedures and to achieve a partial or complete automation of information systems relating to the movement of excise goods released for consumption.

The Excise Act contains new terms and offers explanations for existing terms. The term “importer” has been recast, and the terms “member state territory” and “Union territory” are explained. The Excise Act now lists some brand new subjects – a (temporarily) certified consignor, a (temporarily) certified consignee, a consignor in distance selling, and a taxpayer’s representative, who will all be entered on a single EU register. The law also explains the term “illegal import”.

Section 2 of the Excise Act has been amended to specify when excise goods are chargeable to excise and when they are treated as released for consumption under the general principle. The law provides that excise goods are chargeable to excise when they are produced, brought in or received from another member state, or imported (including imported illegally). Excise becomes chargeable when goods are

released for consumption and in the member state where this is done.

Permission to apply the external transit procedure to Union goods

The new directive permits the external transit procedure to be used after the export procedure, and one of possible destinations for goods moved under duty suspension is the export customs office. Thus, duty suspension ends also if excise goods are moved to an export customs office that is simultaneously the consignor's customs office in the external transit procedure.

Given the new directive's rules, the Excise Act has been amended to state that a registered consignor and excise warehouse keeper applies duty suspension to excise goods being delivered to a customs office that is simultaneously the registered consignor's customs office in the external transit procedure. These persons will not pay excise when goods are released for export under the external transit procedure if the export customs office is the registered consignor's customs office in the external transit procedure. A registered consignor and excise warehouse keeper will be liable to pay excise at the prescribed rate if the SRS has not received any confirmation or evidence of performance of the stated conditions within four calendar months after the start day of movement of excise goods that are released for export under the external transit procedure. The new rules are similar to the current rules on the export of excise goods.

Our upcoming article will be exploring more key amendments to the Excise Act.