

Amendments to the Excise Duties and Tax Warehouses Act and to the Provisions for Implementation of the Excise Duties and Tax Warehouses Act, in force as of 1 January 2008

I. Amendments to the Excise Duties and Tax Warehouses Act

In State Gazette issue 109 dated 20 December 2007 the Excise Duties and Tax Warehouses Act (EDTWA) was promulgated /prom. SG, issue 91 from 15 November 2005, in force as of 1 January 2006, without Art.47-58, in force as of 1 January 2006.; SG issue 105 dated 22 December 2006, in force as of 1 January 2007, SG issue 108 dated 29 December 2006, in force as of 1 January 2007.; issues 31 dated 13 April 2007, issue 53 dated 30 June 2007, issue 108 dated 19 December 2007, in force as of 19 December 2007/. The law is in force as of 1 January 2008, without the tax relieves under § 12, i. 1, alph. d, that are de minimis state aid, which enter in force after a positive decision is issued by the European Commission.

The main amendments in the law are related to:

1. Subjects of taxation

By virtue of the revocation of Art. 2, i. 4 of EDTWA, from the subjects of taxation with excise duty coffee and extracts of coffee are excluded. Goods, for which an excise duty is due according to Art.2 EDTWA, are: alcohol and alcoholic beverages, tobacco products, energy products and electricity and cars.

2. Taxable persons

The scope of tax-liable persons is expanded, as there are included **the persons, who take in cars into the territory of the country from another country – Member State** /Art.3, i.7 EDTWA/.

3. Tax event under EDTWA and liability for payment of excise duty:

With the new provision of Art.20, para 2, i.20 EDTWA an additional hypothesis for release for consumption of excised goods is created and for arise of an obligation for charging of excise duty, and this is the taking of cars into the territory of the country from another Member State.

4. Excise rate

New, higher amounts of excises rates for part of the goods, subject of taxation under the law, are in force as of 1 January 2008:

- For unleaded fuel – BGN 685 for 1000 liters / prior to 1 January 2008 the excise duty was BGN 635/;
- For gasoline – BGN 600 for 1000 liters / prior to 1 January 2008 – BGN 535 for 1000 liters/;
- For kerosene – BGN 535 for 1000 liters / prior to 1 January 2008 – BGN 485 for 1000 liters/;
- For electricity for industrial purposes – BGN 1.20 for megawatt hour MWh /prior to 1 January 2008 – BGN 1 for MWh /;

- For tobacco – 37 BGN for 1000 pieces of the specific excise duty /prior to 1 January 2008 – BGN 6.50 for 1000 pieces/ and 35 % from the sales price of the proportional excise duty / prior to 1 January 2008 - 54% of the sales price/. As a result of the amendment the amount of the excise duty due for the cigarettes with lower registered prices is increased and it is reduced for the cigarettes with higher registered prices.

Lower rates of taxation are provided as tax relieves for mixes with biofuels, which meet the requirements of the Renewable and Alternative Sources of Energy Biofuels Act. The excise duty due for the mixes with unleaded fuel and bioethanol is BGN 664 for 1000 liters, and mixes with gasoline and biodiesel – BGN 582 for 1000 liters. The reductions of the excised duty rates will be in force and will be applied effectively after a positive decision is issued by the European Commission /§ 56 from the FP of EDTWA, related to Art.32, para 8 and 9 VATA/.

5. Payment of excise duty under suspension arrangements

The provided suspension arrangements of the excised goods are substantially preserved as some few amendments to the legal provisions are adopted:

5.1. Manufacture of excised goods

The law set an opportunity with the Provisions for the Implementation of the law to be defined a number of manufacturing procedures, which can be performed in a tax warehouse /Art. 60, para 7 EDTWA/.

5.2. Warehousing of excised goods

As from 1 January 2008 it is allowed in the tax warehouse to be kept goods taken into the territory of the country, which have been released for consumption in another Member State (Art.64, para 2, new i. 4 EDTWA). With Art. 91 EDTWA, manufacturing and keeping of excised goods in a tax warehouse, which are not included in the license for management of a tax warehouse, is explicitly forbidden and for infringement of this prohibition is provided an administrative-penalty liability.

5.3. Movement of excised goods under suspension arrangement

With the amendment of Art.74 EDTWA the terms, in which the accompanying administrative document shall be received by the authorized warehousekeeper or by the custom authority, in order to suspend the payment of the excise duty due, are changed. If in a 45-day term from the date of taking the goods out of the warehouse, respectively from the date of admission of the goods for free turnover, the document is not received, the warehousekeeper is liable for the excise duty due for the goods, stated in the accompanying administrative document.

6. Declaring of the cars taken into the territory of the country from another Member State

The amended EDTWA /Art.76g/ keep the requirement for submission of declaration by persons, who take cars into the territory of the country from another Member State. In Art.76g, para 2 EDTWA, term for declaring of this circumstance – it is reduced to 14 days /before the adoption of the

amendment, the term for declaring of the cars taken into the country was 30 days of the date of acquisition of the car/, starting from the importation of the goods in the territory of the Republic of Bulgaria, as the declaration shall be submitted before the first registration of the car.

7. Guarantee of excise duties under suspension arrangements

In the new edition of Art.77, para 1 EDTWA the obligation of the authorized warehousekeeper to concede a security, which shall guarantee the payment of the excise duty, is kept with the adopted supplementation providing for that the excise labels given also shall be secured.

8. Administrative – penalty provisions

New compositions of the administrative infringements under EDTWA are implemented, which correspond to the following sanctions: for excised goods, which are not included in the scope of the license for management of a tax warehouse – the sanction is penalty at the amount from BGN 500 to BGN 2000- for individuals and from BGN 1000 to BGN 3000 - for legal entities and sole traders /new Art.109a EDTWA/; for not meeting the deadline for giving a notice for changed circumstances, in which the license for management of a tax warehouse or a notice for registration under this law is issued, a property sanction is provided at the amount of BGN 500 to BGN 2500 /amendment of Art.111, para 1 EDTWA/; for putting, keeping, carrying or transportation of used excise labels in infringement of EDTWA and of the legislative acts for its application, a penalty is provided at the amount from BGN 1000 to BGN 3000 - for individuals and with a property sanction at the amount from BGN 2000 to BGN 6000 – for legal entities and sole traders /new para 5, Art.121 EDTWA/.

II. Amendments to the Provisions for Implementation of the Excise Duties and Tax Warehouses Act, in force as of 1 January 2008

In State Gazette issue 4 dated 15 January 2008 the Provisions for Implementation of the Excise Duties and Tax Warehouses Act were promulgated /prom. SG, issue 42 from 2006, prom. SG, issue 61 from 2006, amended and suppl. SG, issue 70 from 2006, issue 8 from 2007 and issue 33 from 2007/. The Provisions for Implementation of EDTWA are in force as of 1 January 2008.

The main amendments in the law are related to:

1. Order for tax exemption and reimbursement of excise duty

1.1. Exemption from the payment of excise duty on excised goods under Art. 21, para 1, i. 1, 3 and 6 EDTWA /goods, intended to diplomatic and council representative offices, representative offices of international organizations and members of their personnel/.

- The exemption of the goods, subject of intra-Community acquisition and goods, taken out of a tax warehouse on the territory of the country, is based on a certificate for tax exemption, which is preliminary certified by the Ministry of Foreign Affairs /for excised goods under Art.21, para 1,i.1 and 6 EDTWA/, respectively by the Ministry of Defense /for goods under Art.21, para 1, i.3 EDTWA/, as by the Customs authority, appointed with an order of the Director of the Customs Agency.
- New provisions /Art.4a, para 4 and 5/ are created, according to which the exemption from the payment of the excise duty at the time of import of excised goods: for diplomatic

representative offices, councils, representative offices of international organizations and members of their personnel under the Ordinance № 14 from 1999 for Customs Clearance of the Goods; for armed forces of the countries, parties to the NATO contract, as for the needs of the civil personnel under the order for exemption from customs duties and for the institutions of the European Union - according to a certificate for excise duty exemption.

1.2. Exemption from excise duty on energy products

In the Provisions for Implementation of the law a new amendment /Art.13a/ is created, according to which the exemption from excise duty on the energy products, applies after fixing the purposes, for which they are used evidenced with documents /specifications, analysis certificates, contracts and others/, proving that the products are not used as motor fuel or fuel for heating.

1.3. Reimbursement of excise duty on agriculture manufacturers

There is an amendment in the order for reimbursement of excise duty on motor fuel, used for treatment of agriculture land by agriculture manufacturers, approved for finance aid under the Aid of Agriculture Manufacturers Act. A new para 3 of Art.26a under Provisions for Implementation of the Excise Duties and Tax Warehouses Act is created, which provides that the claim for reimbursement of paid excise duty can be submitted twice in the current year, that from 1 July prior to 14 August including – for bought and expensed quantities motor fuels, and from 15 August prior to 31 December including – for the rest of the amount of the quantities of motor fuels, calculated on a base annual expense norm per decare or decares treated land, mentioned for the respect agriculture manufacturer in the information under Art.32, para 4 of the law.

2. Warehousing of excised goods under suspension arrangements

With the amendment of Art.49, para 1 of the Provisions for Implementation of the law, it is clarified that the warehousing of excised goods owned by depositors can be done if complying with the conditions under Art.66, para 1 EDTWA /for distinguishment of the kept goods by types and depositors, including distinguishment of the goods, for which the excise duty is paid or not paid /.

In Art. 50 of Provisions for Implementation of the law there are named the manufactures` operations, which can be done in a tax warehouse for keeping /packaging, labeling, putting of excised labels, mixing of energy products and other/.

3. Security of payment of the excise duty due

3.1. There is a new Application № 9 to Art.57, para 3 of the Provisions for Implementation of the law providing a sample of bank guarantee, delivered by an authorized warehousekeeper for security of the payment for the excise duty due. The bank as a solider guarantee of the authorized warehousekeeper at the Central Management of the Custom Agency is obligated to pay the due amounts for excise duty, expenses and other amounts, arisen by its collecting, by its maximum amount, declared in the guarantee within 7 days term from asking for payment.

3.2. Guarantee of the payment of the excise duty due by the registered traders, non-registered traders and persons, who receive excised goods within the territory of the country, released for consumption at the territory of another Member State

It is implemented an exception of the rule for security of the amount of the excise duty, as it provides, that there shall not be delivered a security by the set category persons, when they are tax exempt final consumers and the goods, which they receive, are written in the issued certificate for tax exempt final consumer / new para 3 of Art. 58a and new para 3 of Art.58b under Provisions for implementation of the law/.

4. Excise labels

As of 1 January 2008 the authorized warehousekeepers can receive excise labels, the amount of the excise duty for which in each moment do not exceed the amount of the delivered guarantee according to Art.77 of EDTWA /new para 1 of Art.63/. The assessment of a sanction for infringement of the particular requirement under the order of Art.123 of EDTWA is possible.

5. Market prices of cigarettes

The Provision for Implementation of EDTWA defines new prices of cigarettes, in cases, when the market price is not registered by the settled order – BGN 3.20 for 20 pieces /amendm.Art.71, para 1, i.1 of Provision for Implementation of the law/.

6. Declaring and payment of the excise duty due:

Some amendments are in force as of 1 January 2008, related to declaring and the term for payment of the excise duty /amend.Art.72a and Art.72b/:

6.1. Declaring of cars taken into the country from another Member State /Art.72a of Provision for Implementation of the law/

The declaration shall be submitted within 14 days term by the importation of the car in the territory of the country but before its first registration in Republic of Bulgaria.

6.2. Payment of the excise duty due /amend. Art.72b of Provision for Implementation of the law/

The excise duty due to the excised goods received by non-registered trader under suspension arrangements, for received goods released for consumption in another Member State, and for the consumption of energy products by final consumers exempt from excise duty for purposes, different from those declared in the certificate / for exemption from the payment of excise duty/, shall be paid within 14 days term, defined for submission of the excise duty declaration, but not later than the date of its submission.

For cars taken into the territory of the country from another Member State, the excise duty due shall be paid within 14 days term from the submission of the excise duty tax declaration.

For all the rest cases the excise duty /liabilities for excise duty by the authorized warehousekeeper and registered traders/ shall be paid within 14 days term after the end of the tax period, but not later than the submission of the excise duty declaration.

7. With the amendments to the Provisions for Implementation of the law, it is provided for additional data, which shall be contained in the “Ledger of warehousing availability”, kept by the authorized warehouse keepers, as in the part of the register, containing information for the way of entering the goods in the tax warehouse, are edited “code 04 – with paid excise duty” and code 05 – with simple accompanying document” /in Art.76, para2, i.2j are created new underalphabets “gg’ and “dd”/.

The purpose of the information in this paper is only to point out certain issues, related to the application of the amended Excise Duties and Tax Warehouses Act and the amended Provisions for Implementation of EDTWA and therefore, it is not exhaustive. Should any questions about the application of the new provisions arise, please do not hesitate to contact us on telephone number: +3592 943 33 70, fax number: +3592943 37 07, e-mail:office@afa.bg or at the postal address: 1504 Sofia, 38, Oborishte Str.

