

CHANGES TO THE EXCISE DUTIES AND TAX WAREHOUSES ACT (IN FORCE AS OF 1 JANUARY 2016)

Certain amendments to the Excise Duties and Tax Warehouses Act (the "Excises Act"), which enter into force on 01.01.2016, were promulgated in State Gazette No. 92/27.11.2015.

The main changes concern the increase in the excise rates of certain excise goods, the new facilitated procedure for receiving lubricants, the introduction of certain requirements to the persons keeping excise goods in tax warehouses and to other licensed and registered persons, as well as the introduction of an excise exemption for specially denatured alcohol.

I. CHANGES IN EXCISE RATES

1. Changes in the Excise Rates of Motor Fuels

- a) The excise rates of some motor fuels increase, as follows:
 - gasoil under CN codes from 2710 19 41 to 2710 19 49 – the excise rate increases **from BGN 645 to BGN 646** per 1000 liters;
 - kerosene under CN codes 2710 19 21 and 2710 19 25 - the excise rate increases **from BGN 645 to BGN 646** per 1000 liters;
 - heavy ship fuels under CN codes from 2710 19 61 to 2710 19 69 - the excise rate increases **from BGN 645 to BGN 646** per 1000 kg.;
 - energy products under CN code 2710 19, other than those described - the excise rate increases **from BGN 645 to BGN 646** per 1000 liters or 1000 kg.
- b) An express provision regarding biogas has been introduced stipulating that the excise rate for biogas under CN codes 2711 19 and 2711 29 shall be BGN 0 per 1 gigajoule.
- c) The provisions on the excise rates of the unleaded petrol and the gasoil used in the transport sector, which contain 4 or more volume percent of bioethanol and biodiesel respectively in compliance with the Renewable Energy Act, have been repealed.

2. Changes in the Excise Rates of Heating Energy Products

- a) The excise rates of certain heating energy products increase, as follows:
 - gasoil under CN codes from 2710 19 41 to 2710 19 49 – the excise rate increases **from BGN 50 to BGN 646** per 1000 liters (i.e. its excise rate now equals that of the gasoil used as a motor fuel);
 - heavy fuels under CN codes from 2710 19 61 to 2710 19 69, heavy fuels other than lubricants under CN code 2710 19 99 and energy products under CN codes 2706,

2707 91, 2707 99 11, 2707 99 19, 2707 99 99, 2710 91 and 2710 99 - the excise rate increases **from BGN 50 to BGN 400** per 1000 kg.;

- kerosene under CN codes 2710 19 21 and 2710 19 25 - the excise rate increases **from BGN 50 to BGN 646** per 1000 liters (i.e. its excise rate now equals that of the kerosene used as a motor fuel).
- b) An express provision regarding biogas has been introduced stipulating that the excise rate for biogas under CN codes 2711 19 and 2711 29 shall be BGN 0 per 1 gigajoule.
- c) Following the increase in the excise rates of the heating energy products so that part of them equal the excise rates of the motor fuels, as of 2016 the persons who release heating energy products for consumption would be required a registered electronic certificate for the products' intended use accompanying the fuels only for the following heating energy products:
 - heavy fuels under CN codes from 2710 19 61 to 2710 19 69, heavy fuels other than lubricants under CN code 2710 19 99 and energy products under CN codes 2706, 2707 91, 2707 99 11, 2707 99 19, 2707 99 99, 2710 91 and 2710 99; and
 - liquid petroleum gas (LPG) under CN codes from 2711 12 11 to 2711 19 00.

3. Change in the Proportion between the Specific and the Proportional Excise on Cigarettes

As of 2016 the proportion between the specific and the proportional excise duty on cigarettes changes so that the total excise represents at least 60% of the average retail price of cigarettes but no less than EUR 90 per 1000 pieces. This target rate must be reached by the end of 2017 and, thus, pursuant to the Excises Act the specific excise would be BGN 70 per 1000 pieces, while the proportional excise would gradually increase. In 2016 the proportional excise will be 38% of the retail price, increasing to 40% of the retail price in 2017 and reaching 42% of the retail price in 2018.

II. CHANGES IN THE MARKING REQUIREMENTS FOR FUELS

As the excise duties for gasoil and kerosene used as motor fuels and for heating purposes are now the same, the requirement for marking the fuels if they are used for heating has been abolished.

At the same time, a new marking requirements has been introduced with regard to gasoil under CN codes from 2710 19 41 to 2710 19 49 and for kerosene under CN code 2710 19 25 0 if they are used for fuelling ships and aircraft. The terms and conditions for their marking will be detailed in the Implementing Regulations to the Excises Act.

III. FACILITATING THE RECEIPT OF LUBRICANTS

The receipt of lubricants in the territory of Bulgaria has been significantly facilitated and, depending on their quantity, the following rules apply:

- a) The lubricants under CN codes 2710 11 21, 2710 11 25, 2710 19 29, 2710 19 71 until 2710 19 93 and 2710 19 99 in consumer packages of up to 5 liters shall be exempt from excise. No notification or excise returns shall be filed with regard to those lubricants with the Customs Agency¹.
- b) The lubricants under CN codes from 2710 19 71 to 2710 19 93 and the other lubricants under CN code 2710 19 99 in consumer packages of 5 liters up to 210 liters shall continue to be subject to an excise rate of BGN 0 for 1000 kg. However,

¹ Prior to the amendment the excise exemption covered only products under CN codes 2710 11 21, 2710 11 25 and 2710 19 29 in consumer packages of up to 3 liters.

the procedure for filing a notification with the Customs Agency for their receipt in the territory of Bulgaria is facilitated so that the taxable persons can file a single notification for the total quantity of lubricants in consumer packages of 5 liters up to 210 liters which are dispatched from another EU Member State during the calendar month by a given consigner.

IV. REQUIREMENTS TO REGISTERED PERSONS

New, stricter, rules have been adopted with regard to the persons subject to licensing or registration under the Excises Act and to those who deposit excise goods in tax warehouses and sell them before their release for consumption. The new rules aim at fighting tax fraud and tax abuse and can be summarized as follows:

- a) No authorized warehousekeeper licenses and registration certificates shall be issued to persons whose owners, directors, proxies or majority shareholders are or have been at the time the public liabilities occurred owners, proxies, majority shareholders or members of managing bodies of persons who have outstanding public liabilities collected by the customs authorities². In case such circumstances are found to exist, the persons will be notified to present a guarantee covering the amount of the outstanding public liability.
- b) Excise goods cannot be deposited in tax warehouses by persons who, at the date of depositing the goods, have outstanding public liabilities collected by the customs or the revenue authorities.
- c) A person whose owners, directors, proxies or majority shareholders are or have been at the time the public liabilities occurred owners, proxies, majority shareholders or members of managing bodies of persons who have outstanding public liabilities collected by the customs or the revenue authorities will not be allowed to deposit excise goods in tax warehouses.
- d) All persons depositing excise goods in tax warehouses will be obligated to notify each change in the ownership of the goods in the warehouse which does not give rise to release for consumption to the authorized warehousekeeper and to the revenue authorities 3 days prior to the sale to a new depositing person. The notification obligation shall practically apply when the excise goods change hands without leaving the tax warehouse or without being transported under excise duty suspension arrangements, thus mitigating the risk of excise losses due to non-payment of duty.

If, after notifying the change in ownership, the goods are not sold to the new depositing person, the initial depositing person must notify immediately thereof the authorized warehousekeeper and the revenue authorities.

V. EXCISE EXEMPTION FOR DENATURED ALCOHOL

Taxable persons who use specially denatured alcohol for producing goods not intended for human consumption will be entitled to a an immediate excise exemption for the denatured alcohol instead of applying for its subsequent refund, as before. The excise exemption shall apply to persons registered as excise-exempt end consumers.

VI. MANDATORY REGISTRATION FOR CERTAIN CATEGORIES OF PERSONS

The following new categories of persons shall be subject to mandatory registration under the Excises Act:

² Outstanding public liabilities shall be the assessed and payable liabilities of the person collected by the customs authorities, with the exception of those fully guaranteed, postponed or payable over time.

- a) Persons who sell own electrical energy produced from renewable energy sources in a power plant with a total installed capacity up to 5 MW to consumers for household and/or business purposes;
- b) Persons consuming own electrical energy produced from renewable energy sources in a power plant with a total installed capacity up to 5 MW for their own needs, with the exception of household consumers of own electrical energy;
- c) Persons producing biogas for business purposes, as well as persons who produce and consume biogas for their own needs, with the exception of household consumers of own biogas;
- d) Persons who import or receive in the territory of Bulgaria, consume own or sell compressed or liquefied natural gas, as well as persons who carry out natural gas liquefaction or re-gasification.

VII. OTHER CHANGES

Any other significant Excises Act amendments include:

- a) Excise goods with duty stamps could now be moved from one tax warehouse to another tax warehouse belonging to the same authorized warehousekeeper under duty suspension arrangements following a permission from the Customs Agency director.
- b) Excise subject to refund and unduly paid excise would be now refunded within shorter 7-day time limits (as opposed to 14 days under the former rules) following the entry into force of the refund act.
- c) The Customs Agency Director has been expressly authorized to issue obligatory guidance letters to the officials within the Customs Agency in order to ensure the harmonized enforcement of the excise legislation, after obtaining a preliminary opinion of the Minister of finance, similarly to the National Revenue Agency director who issues such guidance on the tax legislation application.
- d) The excise documents and the notes thereto shall be kept for a period of 5 years which shall no longer run from the end of the tax period which the documents refer to but instead from 1-st January of the following year.
- e) For the purposes of excise goods control the customs authorities will be entitled to stop road vehicles and check the driving licenses and the documents for their cargo.

DELICHEV & PARTNERS