

Based on Article 88 item 2 of the Constitution of Republic of Montenegro I hereby enact

DECREE

ON PROMULGATION OF THE LAW ON EXCISE TAXES

("Official Gazette of RoM", No. 65/01, 12/02, 76/05, "Official Gazette of RoM", No.76/08  
from 12/12/2008, 50/09 from 7/31/2009, 78/10 from 12/29/2010)



- Exempt excise goods user's facility is an area, plant or equipment for storage of excise goods procured by an exempt excise goods user for the needs of its activities without paying excise tax;
- Importer of excise goods is a customs debtor defined under the customs regulations, or the consignee of foreign excise goods.

## II INCEPTION OF EXCISE TAX LIABILITY

### Article 5

(1) Excise tax liability shall be incepted when:

1) Excise goods are produced in M(h-5.5(r)(in)38.3afMent-27.7eno)

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(7) In case the excise license or license of an exempt excise goods user expires as a result of a merger, payment of the excise tax shall be deferred until the day the excise goods in stock are released for use under the merger procedure or until they are stored in another excise warehouse or exempt excise goods user's facility, or until they are dispatched, but not longer than 60 days from the day of submission of the application for entering the merger in the register of the competent court.

Transport of excise goods under the deferred excise tax payment regime

Article 7

(1) Excise goods may be transported under the deferred excise tax payment regime:

1) from one excise warehouse to another excise warehouse, from an exempt excise goods

Article 9

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6) a shortage of excise goods is established, which an excise license-holder proves to be the result of force majeure (excluding theft) or which is inseparably related to the production process, storage and transport of such goods,

7) alcohol is fully denatured in accordance with Article 44 of this Law,

8) tobacco products are denatured and used for industrial or horticultural purposes.

(3) Exempt excise goods user is exempted from payment of excise tax liability if:

1) the excise goods are dispatched and stored in an excise warehouse and if an excise

this Law shall be exempted from payment of excise tax if the excise goods are stored in another excise warehouse or exempt excise goods user's facility and such action has been confirmed in the excise document or if assets are acquired within the period of 60 days from the day the application is submitted for registration and the excise goods are dispatched for such purpose, and the excise tax is paid at the same time.

V OCCURRENCE OF LIABILITY TO ACCOUNT FOR AND PAY EXCISE TAX

Occurrence of liability to account for excise tax by producer

Article 13

(1)The liability to account for excise tax shall occur at the moment when excise goods are released into free circulation. The release into free circulation shall be considered to be:

1)Any dispatch of excise goods from an excise warehouse or exempt excise goods user's facility, except if the excise goods are dispatched: to another excise warehouse or other exempt excise goods user's facility, to a customs bonded warehouse, to a free zone, under the customs transit procedure or for export, and

2)Any dispatch from the production facility of an excise taxpayer that is not an excise license-holder.

(2)In case of dispatch of excise goods from the excise warehouse or exempt excise goods user's facility for which it is not confirmed within 15 days from the day of dispatch of excise goods that the consignment has reached the destination, the liability of accounting for the excise tax shall occur on the 16th day from the day when such goods are dispatched.

(3)If the exempt excise goods user utilizes the excise goods for the purposes for which excise tax exemption is not prescribed, the liability to account for excise tax shall occur on the last day of the month when the excise goods have been released for use.

(4)In case of excise goods used in an excise warehouse as raw materials for production of other goods, which are used as engine fuel or fuel for heating or the shortage referred to in Article 12, paragraph 2, item 6) of this Law, the liability to account for the excise tax shall occur on the last day of the month in which such excise goods have been used or in which the shortage thereof has been detected.

(5)Excise tax with deferred payment in accordance with Article 6, paragraphs 4 and 5 of this Law shall be accounted for on the 30th day after the expiry of the license, if the person whose license expired failed to receive the copy of the excise document from the excise goods consignee.

(6)Excise tax with deferred payment in accordance with the Article 6, paragraph 6 of this Law shall be accounted for on 30th day after expiry of the license, if the person whose license exr92I6w.3(i)-6(f)-2

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Article

(3)Exceptionally from paragraph 1 of this Article, the liability to account for the excise tax on imported cigarettes shall occur on the day of taking over of control excise stamps.

Other cases of occurrence of the liability for payment of excise tax

Article 15

The liability for payment of excise tax shall also occur in the following cases:

- 1)when the customs or tax authority sells confiscated excise goods, except if such authority sells the goods to an excise license-holder or an exempt excise goods user;
- 2)in a merger, when excise goods are released into free circulation, except if the buyer is an excise license-holder or exempt excise goods user;
- 3)when the merger is completed, if the excise goods are dispatched to the creditor, except if the creditor is an excise license-holder or an exempt excise goods user;



VII GENERAL WORKING CONDITIONS OF EXCISE WAREHOUSES

Excise warehouse

Article 18

(1)The production or storage of excise goods under the deferred excise tax payment regime may be carried out only in the excise warehouse that is issued the license by the tax authority (hereinafter: excise license), unless otherwise prescribed by this Law.

(2)The Ministry in charge of finance shall prescribe in greater details the conditions for establishment and operation of excise warehouses.

Conditions for obtaining the excise license

Article 19

The legal person fulfilling the following conditions may apply for the excise license:

- 1)to perform an activity related to excise goods in accordance with the prescribed conditions and to have the head office registered in Montenegro;
- 2)to keep business books under the double-entry bookkeeping system;
- 3)to regularly fulfill its tax liabilities;
- 4)that no bankruptcy or liquidation proceeding has been instituted against such person;
- 5)to offer excise tax payment guarantee in accordance with this Law;
- 6)to meet the requirements for the electronic exchange of data on excise goods flows.

Excise license application

Article 20

(1)Excise license shall be issued by the tax authority upon a written application.

(2)The application referred to in paragraph 1 of this Article shall contain the following information:

- 1)Type of the activity and title of excise goods for which the excise license is requested;
- 2)Estimated quantities of annual production, quantities produced and quantities of the goods in stock;
- 3)Name and identification of the person applying for the excise license;
- 4)Documentation that must clearly give the full description of the accounting system

(3)The person applying for excise license for the measuring devices defined in paragraph 2 of this Article shall be obliged to obtain approval for using the type of measuring device from authority in charge of measures.

#### Excise license

##### Article 21

(1)Excise license may be issued if the facilities, technical and economic requirements prescribed by this Law are met.

(2)Excise license shall be issued in the name of the applicant and cannot be transferred to another person.

(3)Excise license may be issued for one or more excise warehouses.

(4)Excise license shall include the data on:

1)the location of the excise warehouse;

2)working conditions of the excise warehouse or excise warehouses;

3)the type of excise goods that may be produced and stored in the excise warehouse and dispatched from the excise warehouse;

4)liabilities of the excise license-holder towards the tax authority;

5)the form of excise tax payment guarantee;

6)the title of the tax authority and

7)period for which the excise license is issued.

(5)Prior to issuing excise license, the tax authority shall establish on site whether all requirements for issuance of the excise license are met.

(6)Tax authority shall make a decision on the application for excise license within 60 days from the day the complete application is received.

#### Liabilities of excise license-holder

##### Article 22

(1)Excise license-holder shall:

1)provide for appropriate safeguarding of excise goods in the excise warehouse; supervise the dispatch and receipt of excise goods; identify losses or shortages;

2)provide for smooth supervision by the tax authority;

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(2) Within 30 days from the day of receipt of the complete application, the tax authority shall inform the entity applying for the license to submit an excise tax payment guarantee instrument, or deny the application.

(3) The tax authority shall issue the license within 15 days from the day it receives the excise tax payment guarantee instrument.



exempted from payment of import duty in accordance with customs regulations;





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1)with alcoholic content over 1.2 %vol., but not exceeding 15%vol, provided that the quantity of alcohol in the final product is entirely of fermented origin;

2)with alcoholic content over 15 %vol., but not exceeding 18 %vol., provided that the quantity of alcohol in the final product is entirely of fermented origin, and without enrichments.

(3)Sparkling wines shall be all the products covered by the tariff codes CN 2204 10, 2204 21 10 00, 2204 29 10 00 and tariff code CN 2205, namely:

1)wines in bottles with ‘ mushroom stoppers’ held in place by ties or fastenings, with the excess pressure of carbon dioxide of three bar or more;

2)wines with alcohol content over 1.2 %vol. but not exceeding 15 %vol., provided that the quantity of alcohol in the final product is entirely of fermented origin.

Other fermented beverages, except wines and beers

### Article 40

Other non-sparkling fermented beverages shall be considered to be the products covered by the Tariff code CN 22.04 and 22.05 that are not classified as wines in Article 39 of this Law and products covered by the Tariff code CN 22.06 that are not classified as beers in Article 38 of this



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Cigars and cigarillos



Article 52

Usage of mineral oils for purposes exempt from excise tax





- 2) quantities of excise goods in stock, in production, in warehouses or other business premises;
- 3) quantities of excise goods sold for which excise tax has been paid according to the prescribed rates;
- 4) quantities of excise goods sold for which excise tax has not been paid;
- 5) quantities of excise goods used for the taxpayer's own purposes;
- 6) quantities of excise goods that are exempted from excise tax liability;
- 7) amounts of accounted for and paid excise tax at prescribed rates.

(2) Excise taxpayer– importer shall provide in the bookkeeping the information particularly on: import of excise goods, stocks of excise goods in the excise warehouse, the dispatch of excise goods from an excise warehouse and on the excise tax calculation and payment according to the prescribed rates.

(3) Natural person referred to in Article 17, paragraph 2 of this Law, that is a producer of alcohol beverages, shall keep separate records on the production, personal consumption and sale of such beverages, as prescribed by the Ministry in charge of finance.

#### Recording of equipment for production of ethyl alcohol

##### Article 60

Producers, sellers and importers of equipment for production of ethyl alcohol shall keep records of buyers of such equipment and submit them to the tax authority upon its request. The records shall not be kept for glass devices for distillation, which are used for scientific and educational purposes and for juicers for households.

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XVI APPLICATION FOR REGISTRATION OF BUSINESS ACTIVITIES AND  
REGISTRATION OF EXCISE TAXPAYERS

Submission of registration application

Article 63

- (1) Excise taxpayer shall inform the tax authority about the day of commencement, alteration or termination of the business activity that is subject to accounting for and payment of excise tax.
- (2) Any entity that becomes an excise taxpayer shall submit the application for registration to the tax authority no later than 15 days prior to the commencement of the production, storage, receipt or dispatch of excise goods.
- (3) Excise taxpayer shall report to the tax authority the intention to terminate the business activity within the timeframe specified in paragraph 2 of this Article, or immediately if there is a case of suspension or interruption of production.

Termination of registration

Article 64

- (1) If an excise taxpayer stops performing the business activity, the tax authority shall make the decision with regard to the termination of the registration *ex officio* or at request of the excise taxpayer.
- (2) Excise taxpayer is obliged to settle the matured excise tax liabilities prior to adoption of the enactment on termination of registration.

Register of excise license-holders and excise warehouses

Article 65

- (1) Tax authority establishes and keeps a register of excise license-holders and excise warehouses.

Article 68

Deleted. (Official Gazette of Montenegro, No. 76/08)

XVIII SPECIAL PROVISIONS

Application of other regulations

Article 69

The provisions of the Law regulating tax, i.e. customs procedures shall be applied accordingly to the relations which are not specifically regulated by this Law (interest, appeal procedure, enforced

prices of cigarettes to the competent tax authority and to publish them in the Official Gazette of the Republic of Montenegro, or if sells cigarettes at the retail prices which exceed the reported (Article 50, paragraphs 7 and 8);

16) if such entity fails to mark or organize storage of mineral oils used as heating fuel in the prescribed manner (Article 55);

17) if such entity uses the mineral oils used for heating contrary to the provisions of Article 56, paragraph 1 of this Law,

17a) if such entity releases the mineral oils used for heating at petrol stations or other retail locations designated for sale of oil derivatives (Article 56, paragraph 2);

Article 73

(1) A pecuniary fine in the amount of 50 fold to 200 fold amount of the minimum wages in Montenegro shall be imposed for an infringement on: a legal entity or entrepreneur for using mineral oil marked red which is intended for use as heating fuel for purposes other than those for which it is marked, or for selling such oil as propellant for motor vehicles and watercrafts or other engines, or for selling it for the standard reservoir of motor vehicles, watercrafts or other engines (Article 56).

(2) A pecuniary fine in the amount of 5 fold to 20 fold amount of the minimum wages in Montenegro shall be imposed on the responsible person in the legal entity for the infringement from paragraph 1 of this Article.

Protective measures

Article 73a

In addition to pecuniary fine, the protective measure of the seizure of the object (excise goods) may be imposed on the legal entity or entrepreneur for the infringements from Article 70 paragraph 1 items 1), 15), 16), 17), 17a), 17b) and 17c).

Article 73b

In addition to pecuniary fine, the protective measure of the prohibition to exercise the business activity may be imposed on the legal entity or entrepreneur for the infringement from Article 70 paragraph 1 items 9) and 11), for the period from one to three months.

XX TRANSITIONAL PROVISIONS

Period of harmonization of excise tax liability amount with the minimum amount in European Union

Article 74

Exceptionally from Article 38 of this Law, beer with alcohol strength below 0.5vol% shall also be considered as alcohol beverage by 2005.

Article 75

(1) Exceptionally from Article 43, paragraph 2, item 1 of this Law, the excise tax on beer shall amount to:

- 1) 0.91 EUR per degree of alcohol / hl until 1 April 2002;
- 2) 1.23 EUR per degree of alcohol / hl until 1 January 2003,
- 3) 1.55 EUR per degree of alcohol /hl until 1 January 2004.

(2) Exceptionally from Article 43, paragraph 2, item 6) of this Law, the excise tax on natural homemade brandy shall amount to 100 EUR per hectolitre of pure alcohol by 2005.

Article 76

Deleted. (Official Gazette of Montenegro, No. 76/08)

Postponement of obligation to fulfil requirements for electronic exchange of data

Article 77

The provision of Article 19, paragraph (1), item 6 shall be applied as of 1 January 2003.

Application for registration of current excise taxpayers

Article 78

In accordance with the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) excise taxpayers and excise license-holders who are excise taxpayers according to this Law, shall submit to the tax authority by 31 June 2002 an application for registration of the business activity for which they are liable to calculate and pay excise tax.

Final excise tax return and payment terms

Article 79

(1) Excise tax, for which the obligation to account for it occurred prior to the day of implementation of this Law, shall be paid under the terms and conditions specified by the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000).

(2) According to the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) excise taxpayers shall generate the final excise tax return for the period from 1 January to 31 March 2002 and submit it to the tax authority by 30 April 2002.

Inventory of alcohol beverages and tobacco products

Article 80

(1) The existing producers of alcohol beverages and tobacco products shall make an inventory of such goods in stock by type and quantity on 31 March 2002, and establish the selling prices of such products to include the excise tax in accordance with the provisions of this Law.

(2) The producers referred to in paragraph 1 of this Article shall submit to the tax authority a record of the inventory of goods in stock and the selling prices of such goods (with the excise tax amount shown separately) by 30 April, 2002.

(3) The provisions of paragraphs 1 and 2 of this Article also refer to the stocks of tobacco products and alcohol beverages in excise warehouses.

Article 80a

(1) Producers and importers of tobacco products shall make an inventory of such goods in stock in storages, excise and customs warehouses on 1 January 2011 and submit to the competent tax authority inventory lists within 15 days from the day of implementation this Law.

(2) Importers of tobacco products shall make an inventory of such goods in stock in the factory of the supplier on 1 January 2011 and submit to the competent tax authority inventory lists within 15 days from the day of implementation this Law.

(3) Producers and importers of tobacco products shall calculate and make payments of the excise tax on stocks referred to in paragraph (1) and (2) of this Article, i.e. excise tax difference in at the rates from Article 50 of this Law.

(4) Monthly excise tax calculation (return) referred to in paragraph (3) of this Article shall be submitted to the competent tax authority within the timeframe from Article 34, paragraph (1) of this Law.

(5) Excise tax from paragraph (3) of this Article shall become due for payment within the timeframe

from Article 35, paragraph (1) of this Law".

Inventory of mineral oils

Article 81

(1) Persons trading in mineral oils that are not subject to the excise tax according to the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000), shall be obliged to make an inventory of mineral oils in stocks by type and quantity on 31 March 2002 and calculate the excise tax in accordance with the provisions of this Law.

(2) The record on the stocks of mineral oils referred to in paragraph 1 shall be submitted to the competent tax authority by 30 April 2002.

Transitional period for implementation of current excise stamps

Article 82

The excise tax stamps for tobacco products and alcohol beverages issued prior to implementation date of this Law shall be applied by 31 December 2002.

Secondary legislation

Article 83

Secondary legislation for enforcement of this Law shall be passed within 90 days as of the day when this Law comes into force.

Authorizations related to distribution of revenues collected from excise tax

Article 84

Exceptionally from Article 3 of this Law, until 2004 one portion of revenues collected from excise tax could be directed, according to the special Program of the Government, to other users provided that such users are funded from allocated revenues (compensation etc.) in accordance with special regulations, which shall be abrogated on the day of implementation of this Law.

XXI FINAL PROVISIONS

Expiry of validity of regulations

Article 85

The Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) – provisions pertaining to excise taxation – shall be rescinded on the day of implementation of this Law.

Article 85a

Notwithstanding the Article 50 paragraph 3 and 4 of this Law, excise tax chargeable on cigarettes for the period from 1 January to 30 September 2009 shall be:

- specific 3 EUR for 1000 pieces
- ad valorem 30% of their retail price

Article 85b

(1) Producers and importers of tobacco products are obligated to make an inventory on the date of effectiveness of this Law of the existing stock of cigarettes, by types and quantities, and calculate the difference of excise tax liability in accordance with the provisions of this Law.

(2) Calculation of difference of the excise tax liability from the paragraph 1 of this Article must be submitted to competent tax authority by 31 January 2009.

(3) Excise tax from the paragraph 2 of this Article must be paid by 28 February 2009.

#### Article 85c

The regulations for implementation of this law shall be adopted within six months from the date of entry into force of this law.

#### Article 85d

Notwithstanding the Article 43 paragraph 2, item 1 of this Law, excise tax on beer in 2011 shall amount 3.50 EUR of alcohol content by volume per hectolitre of beer.

#### Coming into force and implementation of the Law

#### Article 86

This Law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Montenegro and shall be applied as of 1 April 2002.

#### **PUBLISHER'S NOTE:**

The clean text of the Law on Changes and Amendments to this Law (Official Gazette of the Republic of Montenegro 76/08) does not include the provision of Article 15, reading:

"Article 15

This Law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Montenegro and shall be applied as of 1 January 2009."

#### **PUBLISHER'S NOTE**

The clean text of the Law on Changes and Amendments to this Law (Official Gazette of the Republic of Montenegro 76/05) does not include the "Transitional and Final Provisions" or the provisions of Articles 17 – 32, reading:

#### TRANSITIONAL AND FINAL PROVISIONS

#### **Article 17**

(1) Producers and importers of cigarettes shall, on the day of implementation of this Law make inventory of cigarettes in stock in their storages, excise and customs warehouses and submit the inventory lists to the competent tax authority by 20 January 2006.

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**Article 18**

(1) Excise tax on cigarettes in stock from Article 17 paragraph 1 of this Law shall be paid within 60 days from the day of implementation of this Law.

(2) Excise tax on cigarettes for which the excise stamps have been delivered to a foreign supplier, but for which the delivery has not been made by the implementation date of this Law, shall be paid within 60 days from the date of their import.

(3) During the period of deferred payment of excise tax from this Article, the taxpayer shall provide payment guarantee instrument, in the amount of calculated excise tax.

**Article 19**

A pecuniary fine in the amount of 10 fold to 200 fold amount of the minimum wages in Montenegro shall be imposed on a legal entity or entrepreneur, if

1) such entity fails to make inventory of cigarettes in stock, excise and customs warehouses and submit the inventory lists to the competent tax authority within the prescribed timeframe (Article 17 paragraph 1);

2) such entity fails to make inventory of excise stamps provided to foreign suppliers, but for which the cigarettes have not been delivered, and submit the inventory lists to the competent tax authority within the prescribed timeframe (Article 17 paragraph 2);

3) such entity fails to make inventory of taken over, but unused excise stamps and return them together with the inventory lists to the competent tax authority within the prescribed timeframe (Article 17 paragraph 3);

4) such entity fails to pay the excise tax on cigarettes and does not provide the excise tax payment guarantee instrument during the period of deferred excise payment (Article 18).

**Article 20**

Secondary legislation for enforcement of this Law shall be passed within 90 days as of the day when this Law comes into force.

**Article 21**

As of the day of implementation of this Law the Decree on determination of specific and unit excise tax rate on cigarettes (Official Gazette of the Republic of Montenegro 15/02 and 34/03) and the Decree on classification of cigarettes into quality groups (Official Gazette of the Republic of Montenegro 17/02) shall be abrogated.

**Article 22**

This law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Montenegro and shall be applied as of 1 January 2006.