

OCTOBER 2020

## Excise Duty Amendment Bill

The Government Legislative Centre published an updated bill which amends, without limitation, the Excise Duty Act of 6 December 2008 (Journal of Laws of 2020 Item 722).

The date of its entry into force is unknown – the bill provides for 1 September 2020, but even the Finance Ministry officials responsible for the bill are not in a position to pinpoint the date of the bill presentation to the Sejm. Presented below is a summary of major changes.

### 1. Change of the 'Member State Territory' definition

The Italian commune Campione d'Italia and the Italian waters of Lake Lugano are to be recognized as the territory of Member States. The change follows from transposition of the Council Directive (EU) 2019/475 with the deadline on 31 December 2019.

### 2. Introduction of the possibility to change the decision on binding excise information (BEI):

- a decision on the binding excise information (BEI) can be changed ex officio or upon request (in specific situations),
- the group of entities obliged to apply BEI is extended to include the entity to which the BEI was issued (from the moment the decision becomes final),
- BEI will be valid for 5 years from its issuance (the validity period can be extended),
- the applicant will be obliged to hold documents which allow for identification that an excise product is the same as the product which was the basis for BEI issuance after the issue date,

- the group of entities which may apply for BEI is changed,
- BEI will become invalid upon the effective date of the regulations which lead to its non-compliance with the law (it is no longer possible to apply BEI for the period of 6 months after its invalidity),
- the scope of data published in the Public Information Bulletin (BIP) in connection with BEI issuance is changed

### 3. Changes to taxation of tobacco leaves

- the definition of 'raw tobacco manufacturer' was introduced to the act,
- the bill provides for the possibility of exclusion from taxation with the excise tax of acquisition or possession of tobacco leaves by an organisation of tobacco leaf manufacturers registered on the register of manufacturer organisations based on the Act of 11 March 2004 on Organisation of Some Agricultural Markets (this solution already applies to groups of agricultural producers),

- the information to be provided by tobacco intermediary entities and foreign manufacturer representatives to the Director General of the National Agriculture Support Centre is more detailed and extended.

**4. Extension of the list of reasons for refusal to issue or withdrawal of a permit to operate business activities in the scope of excise duty and refusal to enter tobacco intermediary entities in the register or striking them off the register:**

- the list is extended to include situations where there is a reasonable concern that an entity would not comply with the obligation to pay taxes to the state budget, in particular where the head of the tax office is informed that the manager of the entity, during the last 3 years, managed operations of another entity which persistently failed to pay outstanding taxes or was subject to enforcement proceedings,
- the reason consisting of a risk to valid public interest will apply to new situations (e.g. striking off an entity from the register of tobacco intermediary entities or withdrawal of the excise permit)

**5. In specific circumstances, non-final decisions of the head of a tax office on withdrawal of the excise permit will be immediately enforceable, which will result in the entity whose permit is withdrawn being obliged to immediately discontinue operations.**

**6. Changes to excise tax on passenger cars:**

- the excise tax is imposed on structural changes made to a vehicle registered in Poland, which result in a change of the type of vehicle to a passenger car, as well as on acquisition or possession of a passenger car registered in Poland if the entity which performed an earlier activity subject to taxation cannot be identified, or an inspection (e.g. a tax inspection) has not led to determining that the tax has been paid.
- an obligation to obtain a document which confirms that no excise duty is payable for the purpose of registration of trucks or special-purpose vehicles of permissible gross weight up to 3.5 tons,
- declarations concerning excise taxation of passenger cars will have to be submitted

electronically (exception: natural persons who do not operate a business).

**7. Registration of entities which purchase products containing ethyl alcohol of over 50% vol.:**

- the obligation for sellers to keep a register of buyers of products (regardless of the CN code) which contain ethyl alcohol with the actual alcoholic strength by volume exceeding 50% volume, denatured with certain substances, if the sale of said products is made in unit packaging of a volume exceeding 1.5 liter or if a single total quantity of the products sold exceeds 10 liters.

**8. The obligation to keep an electronic record of excise products, resignation from providing template records or certain excise documentation starting from 1 January 2022:**

- excise duty records and other documentation referred to in Articles 138a-138l as well as Article 138o of the Act are to be maintained electronically from 1 January 2022.
- the minister in charge of public finance no longer provides templates for excise tax label records, audit logs and documentation with information about production activities concerning beer or wine (brewing record, cuvee record, coupage record or wine production record).

**9. The obligation to submit excise duty returns using means of electronic communication only:**

- the obligation to submit excise duty returns using means of electronic communication is introduced starting from 1 July 2021 (exception: natural persons who do not operate a business).

**10. The obligation to submit excise duty returns in respect of excise products subject to excise exemption or excise products listed in Annex 2 to the Act subject to zero excise tax rate (exception: natural persons who do not operate a business).**

**11. Adaptation of a formula for calculation of a partial excise duty refund with respect to excise tax on electricity**

- the current formula for calculation of partial refund of the excise tax paid includes the excise tax value at an outdated rate of PLN 20 per MWh (at the moment the rate is PLN 5 / MWh), which considerably affects the value of the refund,

- transitional provisions were also introduced with respect to excise duty refund proceedings for 2019,
- to update the above formula and make it more flexible for subsequent changes of the excise duty rate on electricity, a variable “S” will be introduced instead of a constant in the formula,

which will correspond to the excise duty rate on electricity.

The said bill of amendment has not been presented to the Sejm yet. This means that the above regulations may be subject to change.

Please contact us if any of the planned changes raise any doubts.



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