
STATUTORY INSTRUMENTS

2010 No. 593

**The Excise Goods (Holding, Movement
and Duty Point) Regulations 2010**

PART 2

EXCISE DUTY POINTS AND PAYMENT OF THE DUTY

Goods released for consumption in the United Kingdom—excise duty point

5. Subject to regulation 7(2), there is an excise duty point at the time when excise goods are released for consumption in the United Kingdom.

6.—(1) Excise goods are released for consumption in the United Kingdom at the time when the goods—

- (a) leave a duty suspension arrangement;
- (b) are held outside a duty suspension arrangement and UK excise duty on those goods has not been paid, relieved, remitted or deferred under a duty deferment arrangement;
- (c) are produced outside a duty suspension arrangement; or
- (d) are charged with duty at importation unless they are placed, immediately upon importation, under a duty suspension arrangement.

(2) In paragraph (1)(d) “importation” means—

- (a) the entry into the United Kingdom of excise goods other than EU excise goods, unless the goods upon their entry into the United Kingdom are immediately placed under a customs suspensive procedure or arrangement; or
- (b) the release in the United Kingdom of excise goods from a customs suspensive procedure or arrangement.

(3) In paragraph (2)(a) “EU excise goods” means excise goods imported into the United Kingdom from another Member State which have been produced or are in free circulation in the EU at that importation.

7.—(1) For the purposes of regulation 6(1)(a), excise goods leave a duty suspension arrangement at the earlier of the time when—

- (a) they leave any tax warehouse in the United Kingdom or are otherwise made available for consumption (including consumption in a tax warehouse) unless—
 - (i) they are dispatched to one of the destinations referred to in regulation 35(1)(a); and
 - (ii) are moved in accordance with the conditions specified in regulation 39;
- (b) they are consumed;
- (c) they are received by a UK registered consignee;

- (d) they are received by an exempt consignee in cases where the goods are dispatched from another Member State;
 - (e) the premises on which the goods are deposited cease to be a tax warehouse;
 - (f) they are received at a place of direct delivery in the United Kingdom;
 - (g) they leave a place of importation in the United Kingdom unless—
 - (i) they are dispatched to one of the destinations referred to in regulation 35(1)(a); and
 - (ii) are moved in accordance with the conditions specified in regulation 39;
 - (h) there is an irregularity in the course of a movement of the goods under a duty suspension arrangement which occurs, or is deemed to occur, in the United Kingdom;
 - (i) there is any contravention of, or failure to comply with, any requirement relating to the duty suspension arrangement; or
 - (j) they are found to be deficient or missing from a tax warehouse.
- (2) An excise duty point does not occur at the time when excise goods leave a duty suspension arrangement—
- (a) by virtue of paragraph (1)(a) or (g), if they are delivered for export, shipment as stores or removal to the Isle of Man;
 - (b) by virtue of paragraph (1)(j), if it is shown to the satisfaction of the Commissioners that the absence of, or deficiency in, the goods is due to a legitimate cause.
- (3) For the purposes of paragraph (1)(c) and (f), where tobacco products are received after 11.59 a.m. on a day upon which an increase in the rate of duty chargeable on those products takes effect the time of receipt is deemed to be the time at which that increase takes effect.
- (4) In paragraph (1)(h), “irregularity” has the meaning given by Article 10(6) of the Directive.
- (5) For the purposes of paragraph (1)(i), the sale of tobacco products that are eligible for home use to a person who is not a manufacturer is a contravention of a requirement of duty suspension arrangements.
- (6) In paragraph (5) “manufacturer” has the meaning given in regulation 3(1) of the Tobacco Products Regulations 2001⁽¹⁾.

Goods released for consumption in the United Kingdom—persons liable to pay

8.—(1) Subject to regulation 9, the person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(a) (excise goods leaving a duty suspension arrangement) is the authorised warehousekeeper, the UK registered consignee or any other person releasing the excise goods or on whose behalf the excise goods are released from the duty suspension arrangement.

(2) In the case of an irregular departure from a tax warehouse any other person involved in that departure is jointly and severally liable to pay the duty with the persons specified in paragraph (1).

9.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of an irregularity in the course of a movement of the goods under a duty suspension arrangement which occurs, or is deemed to occur, in the United Kingdom is—

- (a) in a case where a guarantee was required in accordance with regulation 39, the person who provided that guarantee;
- (b) in a case where no guarantee was required—

(1) [S.I. 2001/1712](#); relevant amending instruments are [S.I. 2003/1523](#), [2006/2368](#).

- (i) the authorised warehousekeeper of dispatch (where the excise goods were dispatched from a tax warehouse in the United Kingdom); or
- (ii) the UK registered consignor (where the excise goods were dispatched upon their release for free circulation in the United Kingdom in accordance with Article 79 of Council Regulation 2913/92/EEC).

(2) Any other person who participated in the irregularity and who was aware, or should reasonably have been aware, that it was an irregularity, is jointly and severally liable to pay the duty with the persons specified in paragraph (1).

(3) In this regulation “irregularity” has the meaning given by Article 10(6) of the Directive.

10.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(b) (holding of excise goods outside a duty suspension arrangement) is the person holding the excise goods at that time.

(2) Any other person involved in the holding of the excise goods is jointly and severally liable to pay the duty with the person specified in paragraph (1).

11.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(c) (production of excise goods outside a duty suspension arrangement) is the person producing the excise goods.

(2) In the case of irregular production of excise goods, any other person involved in their production is jointly and severally liable to pay the duty with the person specified in paragraph (1).

12.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(d) (importation of excise goods that have not been produced or are not in free circulation in the EU) is the person who declares the excise goods or on whose behalf they are declared upon importation.

(2) In the case of an irregular importation any person involved in the importation is liable to pay the duty.

(3) Where more than one person is involved in the irregular importation, each person is jointly and severally liable to pay the duty.

Goods already released for consumption in another Member State—excise duty point and persons liable to pay

13.—(1) Where excise goods already released for consumption in another Member State are held for a commercial purpose in the United Kingdom in order to be delivered or used in the United Kingdom, the excise duty point is the time when those goods are first so held.

(2) Depending on the cases referred to in paragraph (1), the person liable to pay the duty is the person—

- (a) making the delivery of the goods;
- (b) holding the goods intended for delivery; or
- (c) to whom the goods are delivered.

(3) For the purposes of paragraph (1) excise goods are held for a commercial purpose if they are held—

- (a) by a person other than a private individual; or
- (b) by a private individual (“P”), except in a case where the excise goods are for P’s own use and were acquired in, and transported to the United Kingdom from, another Member State by P.

(4) For the purposes of determining whether excise goods referred to in the exception in paragraph (3)(b) are for P's own use regard must be taken of—

- (a) P's reasons for having possession or control of those goods;
- (b) whether or not P is a revenue trader;
- (c) P's conduct, including P's intended use of those goods or any refusal to disclose the intended use of those goods;
- (d) the location of those goods;
- (e) the mode of transport used to convey those goods;
- (f) any document or other information relating to those goods;
- (g) the nature of those goods including the nature or condition of any package or container;
- (h) the quantity of those goods and, in particular, whether the quantity exceeds any of the following quantities—

10 litres of spirits,

20 litres of intermediate products (as defined in article 17(1) of Council Directive [92/83/EEC\(2\)](#)),

90 litres of wine (including a maximum of 60 litres of sparkling wine)

110 litres of beer,

3200 cigarettes,

400 cigarillos (cigars weighing no more than 3 grammes each),

200 cigars,

3 kilogrammes of any other tobacco products;

- (i) whether P personally financed the purchase of those goods;
- (j) any other circumstance that appears to be relevant.

(5) For the purposes of the exception in paragraph (3)(b)—

- (a) “excise goods” does not include any goods chargeable with excise duty by virtue of any provision of the Hydrocarbon Oil Duties Act 1979 or of any order made under section 10 of the Finance Act 1993(3);
- (b) “own use” includes use as a personal gift but does not include the transfer of the goods to another person for money or money's worth (including any reimbursement of expenses incurred in connection with obtaining them).

(6) Paragraphs (1) and (2) do not apply—

- (a) where the excise duty point and the person liable to pay the duty are prescribed by the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999(4); or
- (b) in the case of chewing tobacco.

14.—(1) Where goods chargeable with excise duty by virtue of any provision of the Hydrocarbon Oil Duties Act 1979, or any order made under section 10 of the Finance Act 1993, are—

- (a) acquired by a private individual in another Member State; and
- (b) transported to the UK by that individual or on his behalf,

the excise duty point is the time when those goods are charged with duty at importation.

(2) OJ No L 316, 31. 10. 92, p 21.

(3) 1993 c. 34; section 10 was amended by the Finance Act 2004 (c. 12).

(4) S.I. 1999/1565; relevant amendments are made by S.I. 2010/592

(2) The person liable to pay the duty is the person holding the goods at the excise duty point.

15. Where chewing tobacco is imported into the United Kingdom having been consigned from another Member State, unless it is placed immediately upon importation under a duty suspension arrangement, —

- (a) the excise duty point is the time the chewing tobacco is received by the importer, owner or other person beneficially interested in it; and
- (b) that person is the person liable to pay the duty.

16.—(1) Where excise goods are imported under a distance selling arrangement the excise duty point is the time when they are charged with duty at importation.

(2) The person liable to pay the duty is any tax representative of the vendor in the United Kingdom.

(3) In any case where a tax representative has not been appointed to act for the vendor, the person liable to pay the duty is—

- (a) the vendor; or
- (b) where the vendor has not, before the goods are dispatched to the United Kingdom, notified the Commissioners of the pending importation and guaranteed payment of the UK excise duty on the goods, the consignee of the goods.

17.—(1) Where an irregularity occurs in the course of a movement of excise goods already released for consumption the excise duty point is the time specified in regulation 84(2) or, as the case may be, 84(3).

(2) The person liable to pay the duty is—

- (a) the person who provided the guarantee in accordance with regulation 69(1); or
- (b) in the case of a movement under a distance selling arrangement, the vendor or the vendor's tax representative in the United Kingdom.

(3) Any other person who participated in the irregularity that caused the occurrence of the excise duty point is jointly and severally liable to pay the duty with the persons specified in paragraph (2).

(4) In a case where no guarantee was provided—

- (i) any person who participated in the irregularity is liable to pay the duty; and
- (ii) where more than one person participated in the irregularity, each person is jointly and severally liable to pay the duty.

(5) In this regulation “irregularity” has the meaning given by article 38(4) of the Directive.

Contravention of conditions or requirements—duty point and persons liable to pay

18.—(1) The excise duty point for excise goods in respect of which there is a failure to comply with any condition subject to which any relief from payment of duty on those goods was conferred is the time of that failure to comply.

(2) The person liable to pay the duty is the person holding the excise goods at the excise duty point.

19.—(1) The excise duty point for excise goods in respect of which there has been a contravention described in any of paragraphs (2) to (5) is the time specified in paragraph (6).

(2) For excise goods to which Part 6 applies (exports of excise goods under duty suspension arrangements) the contraventions are—

- (a) the removal of goods from a tax warehouse in contravention of regulation 41(2) (completion of draft electronic administrative document for exports of excise goods under duty suspension arrangements);
 - (b) the removal of goods from a tax warehouse in contravention of regulation 50(2) (procedure for exports when computerised system unavailable).
- (3) For excise goods to which Part 8 applies (movement of excise goods wholly within the United Kingdom under duty suspension arrangements) the contraventions are—
- (a) a failure to comply with regulation 57(2) (completion of draft electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the United Kingdom);
 - (b) a failure to comply with regulation 60(2) (procedure for movement of excise goods under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable).
- (4) For excise goods to which Part 9 applies (simplified procedures for movements of excise goods wholly within the United Kingdom under duty suspension arrangements) the contraventions are—
- (a) a failure to comply with the conditions specified in regulation 62(3) (simplified procedures for certain movements of alcoholic liquors); and
 - (b) a failure to comply with the conditions specified in regulation 63(3) (simplified procedure for certain movements of tobacco products).
- (5) For excise goods to which Part 11 applies (imports of excise goods after release for consumption in another member state) the contravention is the failure by the person making the delivery of the goods, the person holding the goods intended for delivery or the recipient of the goods to comply with regulation 69(1) (requirements).
- (6) The excise duty point is—
- (a) for excise goods to which Part 6 applies, the time when the goods were removed from the tax warehouse;
 - (b) for excise goods to which Parts 8 and 9 apply, the time when the goods were removed from the tax warehouse or, as the case may be, the place of importation; and
 - (c) for excise goods to which Part 11 applies, the time when the goods were first held for a commercial purpose in the United Kingdom.
- (7) The person liable to pay the duty when an excise duty point specified —
- (a) in paragraph (6)(a) occurs is the authorised warehousekeeper;
 - (b) in paragraph (6)(b) occurs is the authorised warehousekeeper or, as the case may be, the UK registered consignor;
 - (c) in paragraph (6)(c) occurs is the person making the delivery of the goods, the person holding the goods intended for delivery or the person shown as the recipient of the goods in the accompanying document.
- (8) Any person whose conduct caused a contravention described in this regulation so that there was an excise duty point is jointly and severally liable to pay the excise duty at that excise duty point with the person specified in paragraph (7).

Time of payment of the duty

20.—(1) Subject to—

- (a) the provisions of these Regulations and any other regulations made under the customs and excise Acts about accounting and payment;

- (b) any relief conferred by or under the customs and excise Acts; or
- (c) any duty deferment arrangement,

duty must be paid at or before an excise duty point.

(2) In a duty deferment arrangement the time when the duty must be paid is the time specified by that arrangement.

Destruction and loss of excise goods

21.—(1) This regulation applies where—

- (a) there is a relevant event that—
 - (i) occurs in the United Kingdom; or
 - (ii) where it is not possible to determine where the event occurred, is detected in the United Kingdom; and
- (b) the occurrence of the relevant event is proven to the satisfaction of the Commissioners.

(2) A “relevant event” means the total destruction or irretrievable loss of excise goods as a result of—

- (a) the nature of the goods;
- (b) unforeseeable circumstances;
- (c) force majeure; or
- (d) authorisation by the competent authorities of a Member State.

(3) If, at the time of the relevant event,—

- (a) the excise goods were under a duty suspension arrangement, the occurrence of the event shall not be considered as a release for consumption; or
- (b) the excise goods had already been released for consumption in another Member State, the occurrence of the event shall not give rise to an excise duty point under regulation 16(1) or 17(1).

(4) For the purposes of this regulation goods are considered totally destroyed or irretrievably lost when they are rendered unusable as excise goods.