

Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC

CHAPTER V

**MOVEMENT AND TAXATION OF EXCISE  
GOODS AFTER RELEASE FOR CONSUMPTION**

SECTION 2

**Holding in another Member State**

*Article 33*

1 Without prejudice to Article 36(1), where excise goods which have already been released for consumption in one Member State are held for commercial purposes in another Member State in order to be delivered or used there, they shall be subject to excise duty and excise duty shall become chargeable in that other Member State.

For the purposes of this Article, ‘holding for commercial purposes’ shall mean the holding of excise goods by a person other than a private individual or by a private individual for reasons other than his own use and transported by him, in accordance with Article 32.

2 The chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable in that other Member State.

3 The person liable to pay the excise duty which has become chargeable shall be, depending on the cases referred to in paragraph 1, the person making the delivery or holding the goods intended for delivery, or to whom the goods are delivered in the other Member State.

4 Without prejudice to Article 38, where excise goods which have already been released for consumption in one Member State move within the Community for commercial purposes, they shall not be regarded as held for those purposes until they reach the Member State of destination, provided that they are moving under cover of the formalities set out in Article 34.

5 Excise goods which are held on board a boat or aircraft making sea-crossings or flights between two Member States but which are not available for sale when the boat or aircraft is in the territory of one of the Member States shall not be regarded as held for commercial purposes in that Member State.

6 The excise duty shall, upon request, be reimbursed or remitted in the Member State where the release for consumption took place where the competent authorities of the other Member State find that excise duty has become chargeable and has been collected in that Member State.

*Article 34*

1 In the situations referred to in Article 33(1), excise goods shall move between the territories of the various Member States under cover of an accompanying document listing the main data from the document referred to in Article 21(1).

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The Commission shall, in accordance with the procedure referred to in Article 43(2), adopt measures establishing the form and content of the accompanying document.

- 2 The persons referred to in Article 33(3) shall comply with the following requirements:
- a before the goods are dispatched, submit a declaration to the competent authorities of the Member State of destination and guarantee payment of the excise duty;
  - b pay the excise duty of the Member State of destination in accordance with the procedure laid down by that Member State;
  - c consent to any checks enabling the competent authorities of the Member State of destination to satisfy themselves that the excise goods have actually been received and that the excise duty chargeable on them has been paid.

The Member State of destination may, in situations and under conditions which it lays down, simplify or grant a derogation from the requirements specified in point (a). In such cases, it shall notify the Commission, which shall inform the other Member States.

#### *Article 35*

1 Where excise goods already released for consumption in a Member State are moved to a place of destination in that Member State via the territory of another Member State, the following requirements shall apply:

- a such a movement shall take place under cover of the accompanying document referred to in Article 34(1) and use an appropriate itinerary;
- b the consignor shall, before the excise goods are dispatched, make a declaration to the competent authorities of the place of departure;
- c the consignee shall attest to having received the goods in accordance with the rules laid down by the competent authorities of the place of destination;
- d the consignor and the consignee shall consent to any checks enabling their respective competent authorities to satisfy themselves that the goods have actually been received.

2 Where excise goods are moved frequently and regularly under the conditions specified in paragraph 1, the Member States concerned may, by agreement, under conditions determined by them, simplify the requirements specified in paragraph 1.