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

CHAPTER II

CHARGEABILITY, REIMBURSEMENT, EXEMPTION

SECTION 1

Time and place of chargeability

Article 10

1 Where an irregularity has occurred during a movement of excise goods under a duty suspension arrangement, giving rise to their release for consumption in accordance with Article 7(2)(a), the release for consumption shall take place in the Member State where the irregularity occurred.

2 Where an irregularity has been detected during a movement of excise goods under a duty suspension arrangement, giving rise to their release for consumption in accordance with Article 7(2)(a), and it is not possible to determine where the irregularity occurred, it shall be deemed to have occurred in the Member State in which and at the time when the irregularity was detected.

3 In the situations referred to in paragraphs 1 and 2, the competent authorities of the Member States where the goods have been or are deemed to have been released for consumption shall inform the competent authorities of the Member State of dispatch.

4 Where excise goods moving under a duty suspension arrangement have not arrived at their destination and no irregularity giving rise to their release for consumption in accordance with Article 7(2)(a) has been detected during the movement, an irregularity shall be deemed to have occurred in the Member State of dispatch and at the time when the movement began, unless, within a period of four months from the start of the movement in accordance with Article 20(1), evidence is provided to the satisfaction of the competent authorities of the Member State of dispatch of the end of the movement in accordance with Article 20(2), or of the place where the irregularity occurred.

Where the person who guaranteed the payment in accordance with Article 18 has not been, or could not have been, informed that the goods have not arrived at their destination, a period of one month from the date of communication of this information by the competent authorities of the Member State of dispatch shall be granted to enable him to provide evidence of the end of the movement in accordance with Article 20(2), or of the place where the irregularity occurred.

5 However, in the situations referred to in paragraphs 2 and 4, if, before the expiry of a period of three years from the date on which the movement began, in accordance with Article 20(1), it is ascertained in which Member State the irregularity actually occurred, the provisions of paragraph 1 shall apply.

In these situations, the competent authorities of the Member State where the irregularity occurred shall inform the competent authorities of the Member State where the excise

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duty was levied, which shall reimburse or remit it as soon as evidence of the levying of the excise duty in the other Member State has been provided.

6 For the purposes of this Article, ‘irregularity’ shall mean a situation occurring during a movement of excise goods under a duty suspension arrangement, other than the one referred to in Article 7(4), due to which a movement, or a part of a movement of excise goods, has not ended in accordance with Article 20(2).