

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

CHAPTER I

GENERAL PROVISIONS

Article 1

1 This Directive lays down general arrangements in relation to excise duty which is levied directly or indirectly on the consumption of the following goods (hereinafter ‘excise goods’):

- a energy products and electricity covered by Directive 2003/96/EC;
- b alcohol and alcoholic beverages covered by Directives 92/83/EEC and 92/84/EEC;
- c manufactured tobacco covered by Directives 95/59/EC, 92/79/EEC and 92/80/EEC.

2 Member States may levy other indirect taxes on excise goods for specific purposes, provided that those taxes comply with the Community tax rules applicable for excise duty or value added tax as far as determination of the tax base, calculation of the tax, chargeability and monitoring of the tax are concerned, but not including the provisions on exemptions.

3 Member States may levy taxes on:

- a products other than excise goods;
- b the supply of services, including those relating to excise goods, which cannot be characterised as turnover taxes.

However, the levying of such taxes may not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.

Article 2

Excise goods shall be subject to excise duty at the time of:

- (a) their production, including, where applicable, their extraction, within the territory of the Community;
- (b) their importation into the territory of the Community.

Article 3

1 The formalities laid down by the Community customs provisions for the entry of goods into the customs territory of the Community shall apply *mutatis mutandis* to the entry of excise goods into the Community from a territory referred to in Article 5(2).

2 The formalities laid down by the Community customs provisions for the exit of goods from the customs territory of the Community shall apply *mutatis mutandis* to the exit of excise goods from the Community to a territory referred to in Article 5(2).

3 By way of derogation from paragraphs 1 and 2, Finland shall be authorised, for movements of excise goods between its territory as defined in Article 4(2) and the territories referred to in Article 5(2)(c), to apply the same procedures as those applied for such movements on its territory as defined in Article 4(2).

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4 Chapters III and IV shall not apply to excise goods covered by a customs suspensive procedure or arrangement.

Article 4

For the purpose of this Directive as well as its implementing provisions, the following definitions shall apply:

1. 'authorised warehousekeeper' means a natural or legal person authorised by the competent authorities of a Member State, in the course of his business, to produce, process, hold, receive or dispatch excise goods under a duty suspension arrangement in a tax warehouse;
2. 'Member State' and 'territory of a Member State' means the territory of each Member State of the Community to which the Treaty is applicable, in accordance with Article 299 thereof, with the exception of third territories;
3. 'Community' and 'territory of the Community' means the territories of the Member States as defined in point 2;
4. 'third territories' means the territories referred to in Article 5(2) and (3);
5. 'third country' means any State or territory to which the Treaty is not applicable;
6. 'customs suspensive procedure or arrangement' means any one of the special procedures as provided for under Regulation (EEC) No 2913/92 relating to the customs supervision to which non-Community goods are subjected upon their entry into the Community customs territory, temporary storage, free zones or free warehouses, as well as any of the arrangements referred to in Article 84(1)(a) of that Regulation;
7. 'duty suspension arrangement' means a tax arrangement applied to the production, processing, holding or movement of excise goods not covered by a customs suspensive procedure or arrangement, excise duty being suspended;
8. 'importation of excise goods' means the entry into the territory of the Community of excise goods unless the goods upon their entry into the Community are placed under a customs suspensive procedure or arrangement, as well as their release from a customs suspensive procedure or arrangement;
9. 'registered consignee' means a natural or legal person authorised by the competent authorities of the Member State of destination, in the course of his business and under the conditions fixed by those authorities, to receive excise goods moving under a duty suspension arrangement from another Member State;
10. 'registered consignor' means a natural or legal person authorised by the competent authorities of the Member State of importation, in the course of his business and under the conditions fixed by those authorities, to only dispatch excise goods under a duty suspension arrangement upon their release for free circulation in accordance with Article 79 of Regulation (EEC) No 2913/92;
11. 'tax warehouse' means a place where excise goods are produced, processed, held, received or dispatched under duty suspension arrangements by an authorised warehousekeeper in the course of his business, subject to certain conditions laid down by the competent authorities of the Member State where the tax warehouse is located.

Article 5

1 This Directive and the Directives referred to in Article 1 shall apply to the territory of the Community.

2 This Directive and the Directives referred to in Article 1 shall not apply to the following territories forming part of the customs territory of the Community:

- a the Canary Islands;
- b the French overseas departments;
- c the Åland Islands;
- d the Channel Islands.

3 This Directive and the Directives referred to in Article 1 shall not apply to the territories within the scope of Article 299(4) of the Treaty, nor to the following other territories not forming part of the customs territory of the Community:

- a the Island of Heligoland;
- b the territory of Büsingen;
- c Ceuta;
- d Melilla;
- e Livigno;
- f Campione d'Italia;
- g the Italian waters of Lake Lugano.

4 Spain may give notice, by means of a declaration, that this Directive and the Directives referred to in Article 1 shall apply to the Canary Islands — subject to measures to adapt to their extreme remoteness — in respect of all or some of the excise goods referred to in Article 1, as from the first day of the second month following deposit of such declaration.

5 France may give notice, by means of a declaration, that this Directive and the Directives referred to in Article 1 apply to the French overseas departments — subject to measures to adapt to their extreme remoteness — in respect of all or some of the excise goods referred to in Article 1, as from the first day of the second month following deposit of such declaration.

6 The provisions of this Directive shall not prevent Greece from maintaining the specific status granted to Mount Athos as guaranteed by Article 105 of the Greek Constitution.

Article 6

1 In view of the conventions and treaties concluded with France, Italy, Cyprus and the United Kingdom respectively, the Principality of Monaco, San Marino, the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia, and the Isle of Man shall not be regarded, for the purposes of this Directive, as third countries.

2 Member States shall take the measures necessary to ensure that movements of excise goods originating in or intended for:

- a the Principality of Monaco are treated as movements originating in or intended for France;
- b San Marino are treated as movements originating in or intended for Italy;
- c United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as movements originating in or intended for Cyprus;
- d the Isle of Man are treated as movements originating in or intended for the United Kingdom.

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3 Member States shall take the measures necessary to ensure that movements of excise goods originating in or intended for Jungholz and Mittelberg (Kleines Walsertal) are treated as movements originating in or intended for Germany.