

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

CHAPTER VI

MISCELLANEOUS

SECTION 1

Marking

Article 39

1 Without prejudice to Article 7(1), Member States may require that excise goods carry tax markings or national identification marks used for fiscal purposes at the time when they are released for consumption in their territory, or, in the cases provided for in Article 33(1), first subparagraph, and Article 36(1), when they enter their territory.

2 Any Member State which requires the use of tax markings or national identification marks as set out in paragraph 1 shall be required to make them available to authorised warehousekeepers of the other Member States. However, each Member State may require that these markings or marks be made available to a tax representative authorised by the competent authorities of that Member State.

3 Without prejudice to any provisions they may lay down in order to ensure that this Article is implemented properly and to prevent any evasion, avoidance or abuse, Member States shall ensure that tax markings or national identification marks as set out in paragraph 1 do not create obstacles to the free movement of excise goods.

Where such markings or marks are affixed to excise goods, any amount paid or guaranteed to obtain such markings or marks, apart from the fees for issuing them, shall be reimbursed, remitted or released by the Member State which issued them if excise duty has become chargeable and has been collected in another Member State.

The Member State which issued these markings or marks may nevertheless subject the reimbursement, remittance or release of the amount paid or guaranteed to the presentation of evidence, to the satisfaction of its competent authorities, that they have been removed or destroyed.

4 Tax markings or national identification marks as set out in paragraph 1 shall be valid in the Member State which issued them. However, there may be mutual recognition of these markings or marks between Member States.

SECTION 2

Small wine producers

Article 40

1 Member States may exempt small wine producers from the requirements of Chapters III and IV and from the other requirements relating to movement and monitoring. Where these

small producers themselves carry out intra-Community transactions, they shall inform their relevant authorities and comply with the requirements laid down by Commission Regulation (EC) No 884/2001 of 24 April 2001 laying down detailed rules of application concerning the documents accompanying the carriage of wine products and the records to be kept in the wine sector⁽¹⁾.

2 Where small wine producers are exempt from requirements in accordance with paragraph 1, the consignee shall, by means of the document required by Regulation (EC) No 884/2001 or by a reference to it, inform the competent authorities of the Member State of destination of the wine deliveries received.

3 For the purposes of this Article, 'small wine producers' shall mean persons producing on average less than 1 000 hl of wine per year.

SECTION 3

Stores for boats and aircraft

Article 41

Until the Council has adopted Community provisions on stores for boats and aircraft, Member States may maintain their national provisions concerning exemptions for such stores.

SECTION 4

Special arrangements

Article 42

Member States which have concluded an Agreement on the responsibility for the construction or maintenance of a trans-border bridge may adopt measures derogating from the provisions of this Directive in order to simplify the procedure for collecting excise duty on the excise goods used for the construction and the maintenance of that bridge.

For the purposes of those measures, the bridge and the construction sites referred to in the Agreement shall be deemed to be part of the territory of the Member State which is responsible for the construction or maintenance of the bridge in accordance with the Agreement.

The Member States concerned shall notify those measures to the Commission, which shall inform the other Member States.

(1) [OJ L 128, 10.5.2001, p. 32.](#)