

Council Directive (EU) 2020/262 of 19 December 2019
laying down the general arrangements for excise duty (recast)

CHAPTER V

Movement and taxation of excise goods after release for consumption

Section 5

Irregularities during the movement of excise goods

Article 46

Irregularities during the movement of excise goods

1 Where an irregularity has occurred during a movement of excise goods under Article 33(1) or Article 44(1), in the territory of a Member State other than the territory of the Member State in which they were released for consumption, they shall be subject to excise duty and excise duty shall be chargeable in the Member State where the irregularity occurred.

2 Where an irregularity has been detected during a movement of excise goods under Article 33(1) or Article 44(1), in the territory of a Member State other than the territory of the Member State in which they were released for consumption, and it is not possible to determine where the irregularity occurred, the irregularity shall be deemed to have occurred and the excise duty shall be chargeable in the Member State where the irregularity was detected.

However, if, before the expiry of a period of three years from the date on which the excise goods were acquired, it is ascertained in the territory of which Member State the irregularity actually occurred, the provisions of paragraph 1 shall apply.

3 The excise duty shall be due from the person who guaranteed payment thereof in accordance with point (a) of Article 35(2) or point (a) of Article 44(4) and from any person who participated in the irregularity. Where several persons are liable for payment of the same excise duty, they shall be jointly and severally liable for such debt.

The competent authorities of the Member State in which the excise goods were released for consumption shall, upon request, reimburse or remit the excise duty where it was levied in the Member State where the irregularity occurred or was detected. The competent authorities of the Member State of destination shall release the guarantee lodged pursuant to point (a) of Article 35(2) or point (a) of Article 44(4).

4 For the purposes of this Article, ‘irregularity’ means a situation occurring during a movement of excise goods under Article 33(1) or Article 44(1), not covered by Article 45 due to which a movement, or a part of a movement, of excise goods has not duly ended.

5 Any lack of registration or certification of one or all persons involved in the movement contrary to Article 33(1) or point (a) of Article 44(4) or any lack of respect of the provisions under Article 35(1) shall be deemed to be an irregularity. Paragraphs 1 to 4 shall apply accordingly, unless the consignee is liable to pay the excise duty according to the last sentence of Article 44(3).