

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

*CHAPTER II*

***General procedural provisions***

*Section 1*

***Taxable event, chargeability, irregularities during a movement under duty suspension***

*Article 6*

**Taxable event, time and place of chargeability, destruction and irretrievable losses**

- 1 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 Union;
  - b their importation or their irregular entry into the territory of the Union.
- 2 Excise duty shall become chargeable at the time, and in the Member State, of release for consumption.
- 3 For the purposes of this Directive, ‘release for consumption’ means any of the following:
  - a the departure of excise goods, including irregular departure, from a duty suspension arrangement;
  - b the holding or storage of excise goods, including cases of irregularity, outside a duty suspension arrangement where excise duty has not been levied pursuant to the applicable provisions of Union law and national legislation;
  - c the production, including processing, of excise goods and irregular production or processing, outside a duty suspension arrangement;
  - d the importation of excise goods, unless the excise goods are placed, immediately upon importation, under a duty suspension arrangement, or the irregular entry of excise goods, unless the customs debt was extinguished under points (e), (f), (g) or (k) of Article 124(1) of Regulation (EU) No 952/2013. If the customs debt was extinguished according to the point (e) of Article 124(1) of Regulation (EU) No 952/2013, Member States may provide in their national law for a penalty taking into account the amount of excise debt which would have been incurred.
- 4 The time of departure from a duty suspension arrangement as referred to in point (a) of paragraph 3 shall be deemed to be:
  - a the time of receipt of the excise goods by the registered consignee in the situations referred to in point (a)(ii) of Article 16(1);
  - b the time of receipt of the excise goods by the consignee in the situations referred to in point (a)(iv) of Article 16(1);
  - c the time of receipt of the excise goods at the place of direct delivery in the situations referred to in Article 16(4).

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5 The total destruction or irretrievable loss, total or partial, of excise goods under a duty suspension arrangement, as a result of unforeseeable circumstances or force majeure, or as a consequence of an authorisation to destroy the goods by the competent authorities of the Member State, shall not be considered a release for consumption.

6 For the purposes of this Directive, goods shall be considered totally destroyed or irretrievably lost when they are rendered unusable as excise goods.

7 Partial loss due to the nature of the goods that occurs during a duty suspension movement between the Member States shall not be considered a release for consumption in so far as the amount of loss falls below the common partial loss threshold for those excise goods, unless a Member State has reasonable cause to suspect fraud or irregularity. That part of a partial loss which exceeds the common partial loss threshold for those excise goods shall be treated as a release for consumption.

8 A Member State may lay down its own rules for the treatment of partial losses under duty suspension arrangement not covered by paragraph 7.

9 The total destruction or irretrievable loss, total or partial, of the excise goods as referred to in paragraph 5 shall be proven to the satisfaction of the competent authorities of the Member State where the total destruction or irretrievable loss, total or partial, occurred or, when it is not possible to determine where the loss occurred, where it was detected.

Where total destruction or irretrievable loss, total or partial, of the excise goods is established, the guarantee lodged in accordance with Article 17 shall be released, fully or partially, as appropriate, upon the production of satisfactory proof.

10 The Commission shall adopt delegated acts in accordance with Article 51 establishing the common partial loss thresholds referred to in paragraph 7 of this Article and in Article 45(2) having regard, inter alia, to the nature of the goods, the physical and chemical characteristics of the goods, the ambient temperature during the movement, the distance of the movement or time consumed during movement, specifying the excise goods, the corresponding common partial loss threshold as a percentage of the total quantity and other relevant aspects related to transport of the goods.

In the absence of common partial loss thresholds, Member States shall continue to apply the national provisions.