

## **Resolution of the Supreme Rada of Ukraine On Procedures for Implementing the Law of Ukraine "On Excise Duty on Alcoholic Drinks and Tobacco Products"**

The Supreme Rada of Ukraine resolves:

1. Implement the Law of Ukraine "On Excise Duty on Alcoholic Drinks and Tobacco Products" as of the day of its publication. The provisions of the Law apply to excise duty stamps on:

alcoholic drinks and tobacco products brought into the customs territory of Ukraine, in effect from the first of January 1996;

alcoholic drinks and tobacco products produced in Ukraine, from the first of January 1997.

2. As of the first of January 1995, prohibit the import into the customs territory of Ukraine, of imported alcoholic drinks and tobacco products without excise duty stamps, and from the first of January 1996, prohibit the sale of imported alcoholic drinks and tobacco products without these stamps.

3. From the first of November 1995, the Cabinet of Ministers shall provide for the registration of the importers of alcoholic drinks and tobacco products and the distribution of excise duty stamps.

4. Before the legislation of Ukraine has been brought into conformity with the Law of Ukraine "On Excise Duty on Alcoholic Drinks and Tobacco Products," legislative acts shall be applied only in the part which does not contradict this Law.

5. Within the period of a month, the Cabinet of Ministers shall:

elaborate and confirm the Regulation on the Production, Storage, and Distribution of Excise Duty Stamps and Marking of Alcoholic Drinks and Tobacco Products and the Procedure for Selling or Destroying Confiscated Alcoholic Drinks and Tobacco Products;

submit to the Supreme Rada proposals to bring the legislation of Ukraine into conformity with this Law, including changes and amendments to the Criminal Code of Ukraine, the Administrative Code of Ukraine on liability for the illegal production, or forging of excise duty stamps or other illegal activity concerning the use of these stamps;

increase the number of staff in the state taxation inspectorate for carrying out operations connected with the production, storage, and distribution of excise stamps, and for the review of whether the requirements of the specified Law are being met and the allocation of funds for purchasing the equipment essential for these purposes.

6. Revoke Paragraph 6 of the Resolution of the Supreme Rada of Ukraine of January 26, 1993 "On Situation in Fulfilment Laws and Resolutions of the Supreme Rada

of Ukraine concerning law and order and measures on intensifying prevention on crime" (Registers of the Supreme Rada of Ukraine, 1993, No. 11, p.87) in the part where private persons, commercial and private shops, private sections in the government-owned shops are prohibited to trade in tobacco products and alcohol drinks produced by the state enterprises of Ukraine.

## **The Law of Ukraine On Excise Duty on Alcoholic Drinks and Tobacco Products**

This Law determines special features of calculating and paying excise duty which is collected from alcohol drinks and tobacco products both manufactured by Ukrainian producers and imported to the territory of Ukraine.

### **Article 1. Definition of terms**

In this Law terms listed below are used in the following meaning:

excise duty stamp - special sign with which alcohol drinks and tobacco products are marked. Its availability on these goods confirms payment of the excise duty, legality of the import and realization of these products at the territory of Ukraine. Excise duty stamps for the alcohol drinks and tobacco products manufactured in Ukraine differ from stamps for imported alcohol drinks and tobacco products in design and colour;

payment for the excise duty stamps - payment made by the Ukrainian producers and importers for covering expenses of the state on producing, storing and distribution of the excise duty stamps;

marking of the alcohol drinks and tobacco products - sticking of the excise duty stamp according to the procedure stipulated by the Regulation on Production, Storage, Distribution of the Excise Duty Stamps, Marking of the Alcohol Drinks and Tobacco Products;

alcohol drinks - products received by the spirit fermentation of the sugar-intensive materials or produced on the base of food spirits containing more than 8.5 per cent of the ethyl spirit.

tobacco products - cigarettes, cigars, cigarillos and also pipe tobacco, snuff, suckling and plug tobacco and other products from tobacco and its substituators which are influencing physiological state of the men when using it;

stamps distributor - state taxation inspections;

note - written liability, drawn up according to the established form, which gives the right to its holder (promisee) to require from the debtor (promisor) unconditional payment of the sum indicated in the note within the specified period.

### **Article 2. Payers of the excise duty.**

Payers of the excise duty on alcohol drinks and tobacco products are:

entrepreneurial agents - Ukrainian producers of alcohol drinks and tobacco products and also buyers according to whose order this production is manufactured on give and take bases;

entrepreneurial agents including enterprises with foreign investments regardless of the date of their registration and citizens involved into entrepreneurial activity without

establishing legal person which are importing alcohol drinks and tobacco products to the custom territory of Ukraine both for own and production purposes for selling or realization on commission and reexport basis;

legal persons importing alcohol drinks and tobacco products to the customs territory of Ukraine in amounts which are subject to the import custom duty;

legal and natural persons, international organizations, their affiliates and other separate subdivisions which are selling alcohol drinks and tobacco products

Alcohol drinks and tobacco products without excise duty stamps of the determined standard are forbidden for importing, storing and taking on sale at the territory of Ukraine.

3. Excise duty stamps shall be sold to the Ukrainian producers of alcohol drinks and tobacco products proceeding from the planned volumes of the monthly sold alcohol drinks and tobacco products, according to the statement on the required number of stamps.

4. Ukrainian producing enterprises which are selling products shall pay excise duty to the appropriate budget after fulfilling turnover on realization of:  
alcohol drinks - in third working day;  
tobacco products - up to the 16th day of the month next to the month under review.

Owners of the finished products manufactured using unfinished raw materials shall pay excise duty immediately at the day of receiving finished products.

5. Entrepreneurial agent (customer) concluding contract with processing enterprise (executor) for manufacturing alcohol drinks or tobacco products using unfinished raw materials shall register himself, at the location, at the distributor of the excise duty stamps and buy required number of excise duty stamps for marking finished products. Executor is prohibited to accept raw materials on a give and take bases for manufacturing goods liable to the excise duty without excise stamp and certificate on registration in the state taxation inspection.

When alcohol drinks and tobacco products are sold for export or bartered in foreign economic relations for other products which are, according to the current legislation, not liable to the excise duty, the amount of the excise duty is returned from the budget to the payer of the tax under condition of placing currency earnings into the currency account of the enterprise or receiving products after fulfilling exchangeable operation, presenting supporting documents (contract on exchangeable operations, cargo customs declaration).

6. Ukrainian producing enterprises shall submit to the 16th day of the month next to the month under review appropriate state taxation inspections with the calculation of the excise duty sum for the previous month proceeding from the actual volumes of sales and realization prices. Excise duty not payed within determined period shall be collected from the producing enterprise according to the current legislation of Ukraine.

7. Natural persons importing alcohol drinks and tobacco products to the customs territory of Ukraine in amounts which can be determined as a consignment of goods

and liable to the import duty shall pay excise duty during customs registration of goods on the ground of cargo custom declaration producing goods cheques and if they are absent - proceeding from the indicative prices.

8. Entrepreneurial agents including citizens involved in entrepreneurial activity without establishing legal person and persons which have concluded contract with foreign producers for delivering in Ukraine alcohol drinks and tobacco products shall register themselves at the distributor of the excise duty stamps and receive certificate according to the Regulation on production, storage, distribution of the excise duty stamps and marking of the alcohol drinks and tobacco products.

9. To receive stamps importer shall present to the distributor of the excise duty stamps statement in triplicate in the form determined by the stamps distributor, payment documents which confirm payment for stamps and excise payment or properly prepared note on delay in payment issued according to the Regulation on production, storage, distribution of the excise duty stamps and marking of the alcohol drinks and tobacco products.

First copy of the statement shall be given to the stamps distributor; second (with the mark of the stamps distributor on payment of excise duty) shall be returned to the importer for submitting to the customs bodies when drawing up customs declaration; third, marked by the stamps distributor, is left to the buyer (importer).

10. The amount of the excise duty is determined by payers (importers) proceeding from the contract cost of the imported alcohol drinks and tobacco products, current import duty rates, customs duties, determined excise duty rates and paid to the State Budget of Ukraine.

Terms of receiving excise duty stamps for each contract are determined by the stamp's buyers (importers) after coordination with the stamps distributor depending on volumes of imported goods.

If alcohol drinks and tobacco products are brought by the importer to the territory of Ukraine under the contract in separate consignments, then the number of the given excise duty stamps and the date when they were given are indicated at the contract for supply.

Distribution of the excise duty stamps to import next consignments of goods is fulfilled after presenting to the stamps distributor copy of the import cargo customs declaration on importing previous consignment of goods.

11. Obtained excise duty brands shall be given by importers to the foreign producers for marking imported alcohol drinks and tobacco products during their manufacturing.

12. Importers have the right to import to the territory of Ukraine import alcohol drinks and tobacco products only through the customs preliminary coordinated with the stamps distributor when obtaining excise duty stamps.

13. Excise duty payment for the imported alcohol drinks and tobacco products by the importers can be made by issuing note with delay in payment for the period till importing goods liable to the excise duty to the territory of Ukraine but not more than 60 days starting from the moment of applying to receive stamps.

Discounting of the indicated notes is made by the distributor of the excise duty stamps.

Promisor is obliged to pay within the period indicated in the note the amount of the delayed tax and the interest for using budget loan in amount of the discount rate of the National Bank of Ukraine which was ruling at the moment when the note was issued.

If the promisor has not honoured the amount of the note within determined period, stamps distributor during two working days starting from the date of note's settlement shall collect from the promisor unpaid amounts of the note in indisputable order charging penalty for each delayed day including settlement day in amount determined by the legislation. To collect unpaid note amounts, promisor's bank shall be submitted with the note and the order on indisputable collection of the unpaid amounts. When the bank has written off this amounts the note shall be returned to the stamps' distributor for its paying. Honouring of the note is fulfilled after full payment of the excise duty by promisor.

14. Excise duty from the amount exceeding customs value of the imported alcohol drinks and tobacco products determined when calculating excise duty whilst receiving stamps importer determines and pays to the State Budget of Ukraine before or during custom registration of the imported alcohol drinks and tobacco products.

Along with this prices for alcohol drinks and tobacco products imported to the territory of Ukraine and indicated in the cargo customs declaration can not be lower than indicative prices.

After paying to the State Budget of Ukraine full amount of the excise duty on imported goods, stamps distributor marks every copy of the statement on receiving excise duty stamps.

15. Condition for customs registration of the imported alcohol drinks and tobacco products is availability at the bottle (package) and packet (package) of the excise duty stamps of the established form and also submission of the customs control bodies with the statement on receiving stamps with the note of the stamps distributor on full payment of the excise duty.

16. If the procedure of marking imported alcohol drinks and tobacco products established by the Regulation on production, storage, distribution of the excise duty stamps and marking of the alcohol drinks and tobacco products is violated or excise duty is not fully payed, then goods are not allowed for customs registration and importing to the customs territory of Ukraine.

17. Excise duty stamps which were not used for marking goods because of their damage shall be received from the stamps' buyers for their utilization reimbursing actually payed amounts of the excise duty according to the Regulation on production, storage, distribution of the excise duty stamps and marking of the alcohol drinks and tobacco products. Payment for the excise duty stamps is not returned.

18. Selling (transferring) of the obtained excise duty brands by one buyer of the stamps to another is prohibited except situations provided by the Part 11 of this Article.

19. Transit of the alcohol drinks and tobacco products via the customs territory of Ukraine is fulfilled according to the current legislation of Ukraine.

**Article 8. Responsibility for violating legislation on excise duty payment.**

Producers, importers, distributors of the alcohol drinks and tobacco products and their officials are responsible for not observing procedures of marking and selling alcohol drinks and tobacco products according to the procedure established by the current legislation of Ukraine.

**Article 9. Control of the excise duty incomings.**

1. Control for paying excise duty at the territory of Ukraine on alcohol drinks and tobacco products is carried out by the state taxation inspections.

2. State taxation inspections shall organize work on producing excise duty stamps, their storage and distribution, control timely presentation by the payers of the calculations and other documents connected with computing excise duty, keep records and prepare reports on excise duty incomings to the appropriate budget, register importers, issue certificates of the established form on the right to import alcohol drinks and tobacco products into Ukraine.

3. Control for the availability of the stamps at the bottle (package) of alcohol drinks and at the packet (package) of tobacco products when they are sold is fulfilled by state taxation inspections, control and auditing service and bodies of internal affairs; when these goods are imported to the territory of Ukraine - by the custom bodies. If violations in the procedure of importing, selling or trade in alcohol drinks and tobacco products without excise duty stamps are discovered, then indicated controlling bodies shall prepare and submit to the state taxation inspections protocol and inventory of goods without excise duty stamps of the established form to give an appropriate rulings.

4. Heads of the state taxation inspections of Ukraine and their deputies have the right to give rulings on confiscation of the alcohol drinks and tobacco products sold by the state trade enterprises without availability at the bottle (package), packet (package) of the excise duty stamps.

5. Ruling on confiscation of the alcohol drinks and tobacco products is fulfilled according to the current legislation.

6. Confiscated alcohol drinks and tobacco products are sold or exterminated according to the procedure established by the Cabinet of Ministers of Ukraine.