

Excise duties: administrative cooperation

2011/0330(CNS) - 02/05/2012 - Final act

PURPOSE: to simplify and reinforce administrative cooperation in the field of excise goods.

LEGISLATIVE ACT: Council Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004.

CONTENT: the Council adopted a regulation aimed at **modernising the framework for administrative cooperation between the member states in the field of excise duties**.

The Regulation, which repeals and replaces regulation 2073/2004, lays down the conditions for cooperation in the application of legislation on excise duties, and rules and procedures for the exchange of information, including by electronic means. It lays down the conditions under which the competent authorities responsible in the Member States for the application of the excise legislation are to cooperate with each other, and with the Commission, in order to ensure compliance with that legislation. To that end, it lays down rules and procedures to enable the competent authorities of the Member States to cooperate and to exchange information, whether by electronic means or otherwise, that is necessary to the assurance of the correct application of excise legislation.

The main elements of the new Regulation are as follows:

- For the purposes of a proper coordination of information flows, the competent authority of each Member State shall designate a **central excise liaison office** to which principal responsibility shall be delegated for contacts with other Member States in the field of administrative cooperation with respect to legislation on excise duties. The competent authority of each Member State may designate, under the conditions laid down by the Member State, **competent officials** who may exchange information directly under this Regulation.
- In order for the necessary information to be available in a timely manner, the new Regulation maintains the provisions of Regulation (EC) No 2073/2004 requiring the requested authority to act as quickly as possible and at the latest within a **given time limit** should be maintained. However, it provides that the time limit for the provision of information already available to the requested Member State be shorter than the standard time limit (one month instead of three).
- For the effective monitoring of excise procedures in cross-border movement, the Regulation provides for the possibility of **simultaneous controls** by Member States and for the **presence of officials** of one Member State in the territory of another Member State, within the framework of administrative cooperation.
- Member States should continue to be able to exchange, on an optional basis, **information necessary for the correct application of the legislation** on excise duties, where that information falls outside the categories of information to be automatically exchanged.
- The Regulation provides a framework concerning **feedback** which is an appropriate means to ensure continual improvement of the quality of the information exchanged.
- The **electronic storage** by Member States of certain specified data regarding the authorisation of economic operators and tax warehouses is indispensable for the proper functioning of the excise duties system and the fight against fraud. Each Member State shall keep the information concerning movements

of excise goods within the Union and the records contained in the national registers referred to in Article 19 for at least five years from the end of the calendar year in which the movement began.

- Economic operators should be able to speedily operate the **verifications necessary** for movements of excise goods. They should be provided with the possibility to have the validity of excise numbers confirmed electronically through a central register operated by the Commission and fed by the information contained in national databases.

- Member States should therefore **not be entitled to refuse** the provision of information solely on the basis of banking secrecy rules.

- The Regulation confirms that where information or documents are obtained with the authorisation or on the request of a judicial authority, the communication of the information or documents to the competent authority of another Member State is **subject to authorisation by the judicial authority** if such authorisation is required under the law of the communicating Member State.

- The exchange of information with **third countries** has proven beneficial for the correct application of legislation on excise duties and should therefore be maintained. Directive 95/46/EC sets out specific conditions for the communication of information to third countries, with which Member States must comply.

- It might be necessary to **limit the scope of certain rights and obligations laid down by Directive 95/46/EC** in order to safeguard important economic and financial interests of the Member States. However, they should be obliged to apply such limitations, to the extent they are necessary and proportionate.

Reporting: every five years from the date of entry into force of this Regulation and on the basis, in particular, of the information provided by the Member States, the Commission shall report to the European Parliament and to the Council on the application of this Regulation.

ENTRY INTO FORCE: 28/05/2012.

APPLICATION: from 01/07/2012.