

General arrangements for excise duty

2008/0051(CNS) - 16/12/2008 - Final act

PURPOSE: to recast and modernise excise duty arrangements in the EU in order to combat excise duty fraud more effectively and to increase transparency for the taxation of excise duty.

LEGISLATIVE ACT: Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

CONTENT: this Directive lays down general arrangements in relation to excise duty which is levied directly or indirectly on the consumption of: (a) energy products and electricity covered by Directive 2003/96/EC; (b) alcohol and alcoholic beverages covered by Directives 92/83/EEC and 92/84/EEC; (c) manufactured tobacco covered by Directives 95/59/EC, 92/79/EEC and 92/80/EEC.

The new Directive provides a legal framework for the **use of the Excise Movement and Control System (EMCS)**, established by [Decision No 1152/2003/EC](#) of the European Parliament and of the Council, which shall be applicable from 1 April 2010. The current Council Directive 92/12/EC will be repealed as of that date.

The EMCS will provide a simplified and paperless environment for trade and will help to better tackle excise fraud by creating a faster and more efficient means of information exchange between excise authorities.

The new Directive also allows Member States to **simplify existing rules for commercial movements**, including distance sales, of excise goods from one Member State to another on which excise duty has already been paid in the Member State of dispatch.

The Directive also includes elements designed to simplify and liberalise the rules on intra-Community movements of goods (mainly alcohol and tobacco) on which excise duty has already been paid in a Member State.

For **private individuals**, the Directive aims to clarify the existing rules on moving goods from one Member State to another, and to bring them more into line with the internal market principle that products acquired by private individuals for their own use should be taxed in the Member State in which they are bought. In terms of the rules applicable to intra-Community movements of goods, Member States may lay down **guide levels**, solely as a form of evidence, which may not be lower than:

(a) for tobacco products:

- cigarettes: 800 items;
- cigarillos (cigars weighing not more than 3 g each): 400 items;
- cigars: 200 items;
- smoking tobacco: 1 kg;

(b) for **alcoholic beverages**:

- spirit drinks: 10 litres;
- intermediate products: 20 litres;
- wines: 90 litres (including a maximum of 60 litres of sparkling wines);
- beers: 110 litres.

Member States may also provide that excise duty shall become due in the Member State of consumption on the acquisition of **mineral oils** already released for consumption in another Member State if such products are transported using atypical modes of transport by a private individual or on his behalf.

For **goods moved for commercial purposes**, the Directive proposes to maintain the basic principle that excise is payable in the Member State of destination, but to harmonise and simplify the procedures to be followed in that Member State . In this context, "held for commercial purposes" has been defined.

Lastly, Member States may exempt from payment of excise duty excise goods supplied by **tax-free shops** which are carried away in the personal luggage of travellers to a third territory or to a third country taking a flight or sea-crossing. However, the Directive provides for a transitional period (until 1 January 2017) during which Member States are authorised to continue to exempt from excise duty goods supplied by existing tax-free shops situated at their land border with a third country.

ENTRY INTO FORCE: 15/01/2009.

TRANSPOSITION: 01/01/2010.

APPLICATION: 01/04/2010.