

XII EXCISE GOODS

Alcohol and alcoholic beverages

Article 37

(1) Alcohol and alcoholic beverages that are subject to excise tax are: beer, wine, other fermented drinks, intermediate alcohol beverages and ethyl alcohol.

(2) Type of alcohol or alcohol beverages referred to in paragraph 1 of this Article is determined in accordance with the classification of these products and their Tariff code or code contained in the nomenclature of the Customs Tariff (hereinafter: CN) valid on the day of commencement of the implementation of this Law, and the content of alcohol in these products.

(3) The content of alcohol is the volume percentage of alcohol in an alcoholic beverage at the temperature of 20°C. The content of alcohol is indicated with "vol. %".

Beer

Article 38

Beer is defined as any product covered by the CN code 22.03 or any product containing a mixture of beer with non-alcohol beverages covered by the CN code 22.06, with the content of alcohol exceeding 0.5 vol. %.

Wine

Article 39

(1) Table wines and sparkling wines shall be considered as wine.

(2) Table wines shall be all products covered by the tariff code CN 22.04 and 22.05, excluding sparkling wines:

1) with alcoholic content over 1.2 vol. %, but not exceeding 15 vol. %, provided that the quantity of alcohol in the final product is entirely of fermented origin;

2) with alcoholic content over 15 vol. %, but not exceeding 18 vol. %, provided that the quantity of alcohol in the final product is entirely of fermented origin, and without enrichments.

(3) Sparkling wines shall be all the products covered by the tariff codes CN 2204.10 11 00, 2204.10 19 00, 2204.10 90 00 and tariff code CN 22.05, such as:

1) wines in bottles with 'mushroom stoppers' held in place by ties or fastenings, with the excess pressure of carbon dioxide of three bar or more;

2) wines with alcohol content over 1.2 vol. %, but not exceeding 15 vol. %, provided that the quantity of alcohol in the final product is

entirely of fermented origin.

Other fermented beverages, except wines and beers

Article 40

Other non sparkling fermented beverages shall be considered to be the products covered by the Tariff code CN 22.04 and 22.05 that are not classified as wines in Article 39 of this Law and products covered by the Tariff code CN 22.06 that are not classified as beers in Article 38 of this Law and products that are not classified as other fermented beverages according to the provisions of this Article, as follows:

- 1) with alcohol content over 1.2 vol.% and not exceeding 10 vol.%;
 - 2) with alcohol content over 10 vol.% and not exceeding 15 vol.% provided that the quantity of alcohol in the final product is entirely of fermented origin.
- (2) Other sparkling fermented beverages shall be considered to be the products covered by the Tariff code CN 2206 00 31, 2204 10, 2204 21 10, 2204 29 10 i 2205, that are not classified as wines and sparkling wines, as follows:
- 1) in bottles with ' mushroom stoppers' held in place by ties or fastenings, with the excess pressure of carbon dioxide of three bar or more;
 - 2) with alcohol content over 1.2 vol. % and not exceeding 13 vol. %;
 - 3) with alcohol content over 10 vol. % and not exceeding 15 vol. % provided that the quantity of alcohol in the final product is entirely of fermented origin.

Intermediate alcohol beverages

Article 41

Intermediate alcohol beverages are considered to be the products covered by the tariff code CN 22.04, 22.05 and 22.06 that are not comprised in Articles 38, 39 and 40 of this Law with the content of alcohol over 1.2 vol. % and not exceeding 22 vol. %.

- (2) Without prejudice to Article 40 of this Law, intermediate alcohol beverages are considered:
- 1) non sparkling fermented drinks referred to in Article 40 paragraph 1 of this Law, with alcohol content not exceeding 5,5 vol. % and which are not entirely of fermented origin;
 - 2) sparkling fermented drinks referred to in Article 40 paragraph 2 of this Law, with alcohol content over 8,5 vol. % and which are not entirely of fermented origin.

Ethyl alcohol

Article 42

Ethyl alcohol shall be considered to be:

- 1) the products covered by the tariff code CN 22.07 and 22.08 with alcohol content over 1.2 vol. % regardless if it makes a constituent part of the product which is covered by another tariff code,
- 2) products covered by the Tariff codes CN 22.04, 22.05 and 22.06 with alcohol content over 22 vol. %;
- 3) other alcohol beverages containing ethyl alcohol whether in solution or not, which are not included in Articles 38 through 41 of this Law.

Excise tax base and excise tax payable

Article 43

(1) The excise tax base for wine, intermediate alcohol beverages and other fermented beverages is the quantity of the excise goods in hectolitres; and for beer and ethyl alcohol is the content of alcohol by volume per hectolitre.

(2) Excise tax is paid in the following amounts:

- 1) 5.00 EUR per content of alcohol by volume per hectolitre of beer;
- 2) 0 (null) EUR per hectolitre of table wine;
- 3) 35 EUR per hectolitre of sparkling wine;
- 4) 0 (null) EUR per hectolitre of other non sparkling fermented beverages;
- 5) 35 EUR per hectolitre of other sparkling fermented beverages;
- 5) 100 EUR per hectolitre of intermediate alcohol beverages;
- 6) 650 EUR per hectolitre of pure alcohol.

Usage of ethyl alcohol for excise tax exempted purposes

Article 44

(1) The ethyl alcohol covered by the Tariff code CN 22.07 is excise tax exempted if used as a raw material in the following:

- 1) the production of fermented products;
- 2) the production of vinegar covered by the Tariff code CN 22.09;
- 3) the production of food items provided that the alcohol content in chocolate goods covered by the Tariff code CN 18.06 does not exceed 8.5 litres of pure alcohol per 100 kilograms of goods, or for other food items - 5 litres of pure alcohol per 100 kilograms of goods;

- 4) the manufacturing of chemical and cosmetics goods.
- (2) Ethyl alcohol may be dispatched from the excise warehouse to the exempt excise goods user in the chemical and cosmetics industries only if such alcohol is denatured.
- (3) The procedure for full denaturing of alcoholic products may be carried out only in the plant for production of ethyl alcohol, using the prescribed denaturing agent and denaturing procedure.
- (4) The use of alcohol for medical purposes is exempted from payment of excise tax if procured by health institutions, which are issued licenses by tax authorities in accordance with Article 26 of this Law. Health institutions are not obliged to submit documents to guarantee excise tax payment, as envisaged in the provisions of Article 26, paragraph 2, item 5 of this Law.
- (5) The Ministry in charge of finance shall regulate the denaturing procedure and application of denaturing agents.

Small producers of alcohol beverages

Article 45

- (1) The producer of alcohol beverages referred to in Article 17, paragraph 2 of this Law that is not an excise license-holder, shall calculate and pay excise tax in accordance with the provisions of this Article.
- (2) The producer from paragraph 1 of this Article shall pay excise tax on the quantities of alcohol beverages produced in a calendar year reduced by the quantities allowed for personal use.
- (3) Excise tax payable for the produced quantities of wine is paid at the rate valid on 30 November, or on 31 March for special vintage wines, and the excise tax for quantities of other alcohol beverages produced at the rates valid on 31 March of the current year.
- (4) The producer shall submit the excise tax return for wine by 31 December of the current year and the return of excise tax for special vintage wines and other alcohol beverages by 30 April of the current year.
- (5) The calculated excise tax is due for payment on the 30 day after the return is submitted.
- (6) The Ministry in charge of finance in cooperation with the ministry in charge of agriculture shall prescribe the upper quantity limit of alcohol beverages for personal use referred to in paragraph 2 of this Article.
- (7) The Ministry in charge of finance shall prescribe in details the procedure for excise tax payment by small producers of alcohol beverages.

Tobacco products

Article 46

Tobacco products subject to payment of excise tax are: cigarettes, cigars

and cigarillos, hand rolling tobacco and other smoking tobacco.

Cigarettes

Article 47

(1) Cigarettes are considered to be:

- 1) the rolls of tobacco, that may be smoked as such, and are not classified as cigars or cigarillos according to this Law;
- 2) the rolls of tobacco which are by simple non-industrial method inserted into cigarette paper tubes;
- 3) the rolls of tobacco which are by simple non-industrial method rolled into cigarette rolling paper.

(2) The roll of tobacco referred to in paragraph 1 of this Article is considered to be one cigarette which length is up to 9 cm not including filter or cigarette-holder; two cigarettes of the length over 9cm but not exceeding 18cm not including filter or cigarette-holder; three cigarettes of the length over 18cm but not exceeding 27cm not including filter or cigarette holder, and so on.

(3) Cigarettes are also considered to be the products that are in whole or in part made of tobacco substitutes and which fulfil the conditions referred to in paragraph 1 of this Article, with the exception of those products used exclusively for health purposes.

Cigars and cigarillos

Article 48

(1) Cigars and cigarillos are tobacco rolls that may be smoked as such, if they are:

- 1) made entirely from natural tobacco;
- 2) with an outer wrapper of natural tobacco;
- 3) with the outer wrapper of the tobacco color, which is in relation to longitudinal axis of the cigar spirally wrapped at the acute angle of not less than 30° and the binder of reconstituted tobacco, where at least 60% of the roll of tobacco particles are both wider and longer than 1.75mm;
- 4) with the outer wrapper of the tobacco color of reconstituted tobacco, which weight, excluding filter and cigarette holder, exceeds 2.3 grams and where at least 60% of the roll of tobacco particles are both wider and longer than 1.65mm and which circumference must be at least one third of the length of the cigar but not less than 34 mm.

(2) Cigars and cigarillos are also considered to be the products that are in whole or in part made of tobacco substitutes and which fulfill the conditions referred to in paragraph 1 of this Article, with the exception of the products used exclusively for medical purposes, provided that they have:

- 1) the wrapper of natural tobacco or reconstituted tobacco;

2) the wrapper and binder of tobacco of reconstituted tobacco.

Tobacco for smoking

Article 49

(1) Tobacco for smoking is considered to be:

- 1) tobacco that is cut or otherwise sliced, rolled or pressed into pieces and may be smoked without further industrial processing;
- 2) tobacco refuse that may be smoked, but is not listed in the goods from Articles 47 and 48 of this Law.

(2) Tobacco for smoking shall also be considered to be the products that are in whole or in part produced from tobacco substitutes and fulfill the conditions referred to in paragraph 1 of this Article, with the exception of products used exclusively for health purposes.

(3) Tobacco for smoking shall also be considered to be the fine-cut tobacco for rolling cigarettes, containing more than 25% of tobacco particles shorter and narrower than 1.4 mm, with weight taken into consideration.

Excise tax base, rate and amount of excise tax

Article 50

(1) Excise tax base for tobacco goods is 1000 pieces and retail price, i.e. kilogram of the goods.

(2) The excise tax for cigarettes shall be paid as a specific excise tax determined as an amount for 1000 pieces and as ad valorem excise tax determined as a percentage of retail price of cigarettes.

(3) The specific excise tax on cigarettes amounts to 15.00 EUR for 1000 pieces.

(4) Ad valorem excise tax for cigarettes amounts to 36% of their retail price.

(5) The excise tax on other tobacco goods is paid per kilogram of those goods, and amounts as follows:

- | | |
|-------------------------------|------------|
| 1) Cigars and cigarillos: | 25.00 EUR |
| 2) Fine-cut tobacco: | 40.00 EUR |
| 3) Other tobacco for smoking: | 25.00 EUR. |

(6) The retail price of cigarettes referred to in paragraph 4 of this Article is the price determined by the producer or importer, which includes excise tax and value added tax.

(7) The producer or importer is obliged to report the retail prices of cigarettes to the competent tax authority and publish them in the Official Gazette of the Republic of Montenegro fifteen days prior to releasing them for consumption that is into free circulation.

(8) The sale of cigarettes at retail prices exceeding the reported retail prices is not allowed.

Article 50a

(1) If the excise tax liability calculated on cigarettes in accordance with Article 50 paragraph 3 and 4 of this Law is lower than the minimum amount of excise tax provided by this Law, the minimum amount of excise tax shall be payable.

(2) Minimum amount of excise tax from paragraph 1 of this Article, shall be 110% of the total amount of excise tax (specific and ad valorem) determined for the category of cigarettes with most popular price (most popular price category).

(3) Most popular price referred to in the paragraph 2 of this Article, shall be the retail price of that price category of cigarettes which had largest volume of sale in Montenegro in the preceding year.

(4) Government of Montenegro shall prescribe method and procedure of determining the amount of most popular price of cigarettes from the paragraph 3 of this Article

(5) Following the proposal of the administrative agency competent for tobacco, Ministry of Finance shall determine the amount of most popular price of cigarettes from the paragraph 3 of this Article, at latest by 31 December of the previous year and shall publish it in the Official Gazette of Montenegro.

(6) Price from paragraph 5 of this Article shall apply as of the 1 January of the following year.

Mineral oils, mineral oil derivatives and their substitutes

Article 51

(1) Excise tax shall be paid on mineral oils, mineral oil derivatives and their substitutes (hereinafter: mineral oils) as determined in this Law.

(2) The type of mineral oils referred to in paragraph 1 of this Article is determined in accordance with the classification of these products in the Customs tariff, or based on the features of specific goods.

(3) Mineral oils include petroleum oil, coal tar and oil obtained from coal schist, peat or other bituminous substances, but not including such hydrocarbons or bituminous substances that are:

1) in solid or semi-solid state at the temperature of 15° C; or

2) in gaseous state at the temperature of 15° C and under the pressure of 1013.25 millibar.

(4) For the purposes of this Law 'mineral oils' shall also imply:

1) any product sold or used as engine fuel,

2) additives or extenders added to engine fuels,

3) any other hydrocarbon produced from the crude oil, which is sold or used as heating fuel except for black coal, lignite, peat or biomass.

Excise tax base and the amount of the excise tax

Article 52

(1) The excise tax base shall be the quantity of mineral oils in kilograms or liters.

(2) If the quantity unit for excise tax is a liter, such liter is measured at the temperature of +15 C.

(3) For products from paragraph 1 of this Article the excise tax shall amount as follows for:

1) petrol (tariff code CN 2710 11 31 00, 2710 11 51 10, 2710 11 51 90 and 2710 11 59 00) 464 EUR on 1000 liters;

2) unleaded petrol (tariff code CN 2710 11 31 00, 2710 11 41 00, 2710 11 45 00 and 2710 11 49 00) 459 EUR on 1000 liters;

3) kerosene (tariff code CN 2710 19 21 00 and 2710 19 25 00) used:

- as motor fuel 156 EUR on 1000 liters;

- for heating 89.7 EUR on 1000 liters;

4) gas oils (tariff code CN 2710 19 41 to 2710 19 49) used:

- as motor fuel 350 EUR on 1000 liters;

- as motor fuel for industrial and commercial purposes 169 EUR on 1000 liters;

- for heating 117 EUR on 1000 liters;

5) heating oil (tariff code CN 2710 19 61 00 to 2710 19 69 00) 19.5 EUR on 1000 kilograms;

6) liquid petroleum gas (tariff code CN 2711 12 11 00 to 2711 19 00 00) used:

- as motor fuel 123.5 EUR on 1000 kilograms;

- as motor fuel for industrial and commercial purposes 58.4 EUR on 1000 kilograms;

- for heating 26 EUR on 1000 kilograms.

Article 52a

Deleted.

Article 53

(1) The excise tax for additives and extenders that are added to mineral oils equals the excise tax prescribed for the mineral oil they are added to.

(2) Any product released into circulation as an additive or extender to mineral

oils shall be subject to excise tax as if it were a mineral oil. Any hydrocarbon produced from crude oil and released into circulation as a heating fuel (except for black coal, lignite, peat and other similar solid hydrocarbons or natural gas) shall be subject to payment of excise tax at the rate prescribed for equivalent mineral oil.

(3) In case of mineral oils used as propellants for agricultural and forestry machinery (including tractors), buyers shall be entitled to excise tax refund in the amount to 50% of the excise tax prescribed for that purpose.

(4) The Ministry in charge of finance in cooperation with the Ministry in charge of agriculture, forestry and water management shall prescribe in greater details the excise tax refund procedure and the conditions to be fulfilled by the buyer referred to in paragraph 3 of this Article.

Usage of mineral oils for purposes exempt from excise tax

Article 54

(1) Excise tax is not paid for mineral oils:

1) that are used as propellants in air and maritime traffic, as well as propellant for registered fishing boats, except when aircrafts, watercrafts and fishing boats are used for private purposes;

2) that are used as propellants in plants for production of electric energy and in plants for joint production of electric and thermal energy;

3) that producers use in their production facilities for further processing or for the production of other mineral oils, except if they are used as propellants for transport;

4) that are injected in blast furnaces for chemical reduction purposes as an additive to coke which is the basic fuel.

(2) The use for private purposes referred to in paragraph 1, item 1 of this Article means the use of aircrafts, watercrafts and fishing boats by their owners or their use for lease or other purposes, which may not be considered as business activities.

(3) Ministry in charge of finance shall prescribe in greater details the procedure for realization of rights referred to in paragraph 1 of this Article.

Mineral oils marking

Article 55

(1) Mineral oils under tariff codes CN 2710 00 39 00 and CN 2710 00 21 90, that are used as heating oils must be marked with the prescribed color and indicator. The marking of mineral oils may be carried out only in the excise warehouse that is issued the marking license by tax authority. If mineral oils are not marked in the excise warehouse, such oils shall be considered as not marked.

(2) Mineral oil imported into Montenegro shall be considered marked if the importer submits a certificate by a foreign tax or customs authority, producer, or foreign body in charge of marking, that such oil has been marked outside Montenegro and that with respect to the type and quantity, it contains at least the marking matters prescribed by this Law. If such certificate is not submitted or may not be proven, the mineral oil shall be considered as not marked.

(3) The storage of specific mineral oils shall be organized in such a way as to ensure that other products do not have the effect of neutralizing the color or indicator.

(4) The Ministry in charge of economy shall prescribe the procedure for coloring and marking mineral oils in accordance with this Article.

Article 56

(1) Marked mineral oils used for heating may not be used for other purposes and shall not be used as propellant for motor vehicles, or watercrafts or other engines, or for the standard reservoirs of motor vehicles or watercrafts or other engines.

(2) Mineral oils used for heating shall not be released into circulation at petrol stations or other retail locations designated for sale of oil derivatives.

Coffee

Article 56a

(1) Coffee that is subject to excise tax is: roasted and unroasted coffee with or without caffeine, extracts, essences and concentrates of coffee and other coffee products.

(2) Types of coffee referred to in paragraph 1 of this Article is determined in accordance with the classification of these products in the Customs tariff, or based on the features of specific goods.

Excise tax base and excise tax payable

Article 56b

(1) Excise tax base for import of coffee is the value of the products determined by the customs legislation, increased by the amount of customs duties and other import duties.

(2) Excise tax on coffee is paid at a rate of 20% on the base from paragraph 1 of this Article.

Carbonated water with added sugar or other sweetening matter or flavored

Article 56c

(1) Carbonated water that is subject to excise tax is water with added sugar or other sweetening matter or flavored.

(2) Type of carbonated water referred to in paragraph 1 of this Article is determined in accordance with the classification of these products in the Customs tariff, or based on the features of specific goods.

(3) Carbonated water is referred to in paragraph 1 of this Article are the products from the tariff code CN 2202 10 00.

Excise tax base and excise tax payable

Article 56d

(1) Excise tax base for carbonated water is the quantity of the excise goods in in hectoliters.

(2) Excise tax is paid in the amounts of 10.00 EUR per hectolitre of carbonated water.

Note:

The provisions of Article 52, paragraph 3, item 4 subparagraph 1 of this Law shall apply from 4 January 2012. The provisions of Article 56b and 56d of this Law shall apply from 1 April 2012.