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Excerpts from the Tax Code of the Republic of Moldova

Excise Duties

Chapter 1

GENERAL PROVISIONS

Article 119. Definitions.

For the purpose of this title the following terms are used:

- 1) Excise Duty – a state tax applied to specified consumer goods.
- 2) Excise Certificate – a document issued by the State Tax Service to the subject of taxation, detailing the registration of the subject of taxation, and giving him right to undertake transactions with excisable goods.
- 3) Excise Premises – the totality of all sites owned by the subject of taxation, including the detached buildings, premises, territories, lands and other sites as documented in the Excise Certificate where the excisable goods are produced and/or processed and removed (transported) by the subjects of taxation.
- 4) Removal (transportation) – movement, transfer of excisable goods from Excise Premises
- 5) Notice of removal (transportation) – the entering, made in written form, fixed in the goods Removal Register.

[Article 119 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 119 amended by Law No. 448-XV of 30.12.04, enforced since 04.02.05]

Chapter 2

SUBJECTS AND OBJECTS OF TAXATION, THE BASE OF TAXATION

Article 120. Subjects of taxation

Subjects of taxation are:

a) any physical or legal person who produces and (or) processes excisable goods on the territory of the Republic of Moldova;

b) any legal or physical person, who imports excisable goods, with the exception of goods, provided for in Article 124 part (1)-(3),(5), (7), (8).

[Article 120 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 120 amended by Law No. 11-XV of 17.02.05, enforced since 25.03.05]

Article 121. Objects of Taxation and the base of taxation

(1) The objects of taxation shall be the excisable goods, specified in the Appendix to this title.

(2) The base of taxation shall be:

a) the volume in kind form of the excisable goods if the rates of excise duties, including for imports, are established in the absolute amount for the unit of measurement of the goods;

b) the value of the excisable goods, excluding excise duties and Value Added Tax, in case if for these excisable goods the rates are established as ad valorem (as a percentage of excises), except for Article 123¹ (language of Law No. 177-XVI of 20 July 2007, in force as of 1 January 2008);

c) the customs value of imported excisable goods, determined under the Customs legislation, as well as the taxes, duties and fees payable under importation, excluding Excise duties and VAT, if for excisable goods the rates are established as ad valorem (as a percentage of excises) except for Article 123¹ (language of Law No. 177-XVI of 20 July 2007, in force as of 1 January 2008).

[Article 121 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

Chapter 3

THE RATES, CALCULATION AND PAYMENT OF EXCISE DUTIES

Article 122. The excise duty rates

The excise duty rates, according to the Appendix to the present title are set :

a) in absolute amount for the unit of measurement of goods;

b) *ad valorem*(as a percentage) based on the value of goods without taking into account the excises and VAT or based on the value in the customs of the imported goods, by taking into account the taxes and duties that have to be paid at import, without taking into consideration the excises and VAT;

[Article 122 amended by Law No. 268-XVI of 28.07.06, enforced since 08.09.2006]

[Article 122 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 122 amended by Law No. 646-XV of 16.11.2001]

Article 123. Calculation and Payment of Excise duties

(1) The subjects of taxation specified in Article 120 paragraph (a) and who remove (transport) any excisable goods from Excise Premises are required:

a) to calculate the excise duties based on the volume in kind form or the value of goods (depending on the rate in the absolute form or *ad valorem* (as a percentage));

b) to pay the excise duties before the removal (transportation) of goods from Excise Premises on the rates, fixed in the appendix to the present title;

(2) The liability for excise duty payment in the manner specified in part (1) of the present article is maintained under the transference of excisable goods with payment or nonpayment, including in lieu of wages of the subject's of taxation employees, appropriated by the subject of taxation or by the members of his family, transferred to other persons, as well as moved by any other way from the Excise Premise without excise duty payment.

(3) The excise duties for imported goods are calculated and paid by the subjects of taxation referred to in art.120 para. b) simultaneously with the payment of customs duties. In case for the import of goods custom duties are not levied, the goods are considered imported, as if subjected to custom duty, provided that all regulations stipulated by the customs legislation for the regime of import are respected.

(4) In case of excisable goods export, the liability for payment of excise duty shall be maintained until the moment of currency repatriation and presentation of justifying documentation, specified in Article 125, paragraph (4). In case of non presentation, in terms established by the Main State Tax Inspectorate under the Ministry of Finance, of the documents, specified in Article 125, paragraph (4), the subject of taxation shall pay the excises, penalties and fines in the amount and under the procedure established correspondingly in article 260 paragraph (5) and article 228, paragraph (2).

(5) Such excisable goods as vodka, liqueurs and other alcoholic drinks, grape wines, fruit wines, berry wines, grape wines saturated with carbon dioxide, divines (cognacs), sold, transported or deposited on the territory of the Republic of Moldova or imported for sale on its territory, as well as excisable goods purchased from resident business entities located on the territory of the Republic of Moldova, but having no tax relationship with its budgetary system, are subject to mandatory marking with “Excise stamps. State trade mark.” The marking is done in the process of production of excisable goods prior to their importation, and goods produced on the territory of the Republic of Moldova prior to their shipment from excise premises (transportation). The manner of purchasing and use of “Excise stamps. State trade mark” is established by the Government (language of Law No. 177-XVI of 20 July 2007).

(5¹) The tobacco products sold, transported or deposited on the territory of the Republic of Moldova or imported for sale on its territory, as well as excisable goods purchased from resident business entities located on the territory of the Republic of Moldova, but having no tax relationship with its budgetary system, are subject to mandatory marking with excise stamp. The marking is done in the process of production of excisable goods prior to their importation, and goods produced on the territory of the Republic of Moldova prior to their shipment from excise premises (transportation). The manner of purchasing and use of excise stamps is established by the Government (introduced by Law No. 177-XVI of 20 July 2007).

(6) No obligatory marking with “Excise stamps. State trade mark” (language of Law No. 177-XVI of 20 July 2007) is required for:

- (a) sparkling wines and carbonated wines, divines (cognacs) in souvenir bottles of 0.25; 1.5; 3 and 6 liters;
- (b) alcoholic beverages with content of ethylic alcohol of up to 7% in volume;
- (c) excisable goods placed in the following customs regimes: transit, customs storage, free customs storage, temporary permission, duty free shop;
- (d) excisable goods produced on the territory of the Republic of Moldova and shipped for exportation by the producer.

[Article 123 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 123 amended by Law No. 38-XVI of 15.04.05, enforced since 06.05.05]

[Article 123 amended by Law No. 501-XV of 11.12.03, enforced since 01.01.04]

[Article 123 amended by Law No. 1440-XV of 08.11.02, enforced since 01.01.03]

[Article 123 amended by Law No. 1163-XV of 27.06.2002]

[Article 123 amended by Law No. 646-XV of 16.11.2001]

[Article 123 amended by Law No. 494-XV of 04.10.2001]

[Article 123 amended by Law No. 1440-XIV of 28.12.2000]

Article 123¹ The calculation of excise duties on filter cigarettes

(1) On filter cigarettes (tariff position 2402 20), the excise duties are calculated as the sum of excises determined by applying (multiplication) of the rate set in absolute amount for the volume in kind expression (1000 pieces) at the moment of their shipment from excise premises (transportation) or when imported and excise determined by applying (multiplication) of the ad valorem rate in percentage set at the maximum retail sale price.

(2) The maximum retail sale price is the price for which the product was sold to other persons for final consumption and which includes all taxes and duties.

(3) The maximum retail sale price for any type of filter cigarettes is set by the persons who produce filter cigarettes in the Republic of Moldova (local producer) or that import filter cigarettes and are registered in the way set by the Government.

(4) It is forbidden for other persons to sell filter cigarettes for which no maximum retail sale prices have been set or declared.

(5) It is forbidden for any other person to sell filter cigarettes at a price that exceeds the maximum retail sale price (introduced by Law No. 177-XVI of 20 July 2007, in force as of 1 January 2008).

Article 124. Exemptions from Excise Duties

(1) Excises shall not be paid by physical persons importing goods for personal use or consumption, the value or quantity of which doesn't exceed the limit established in the valid legislation.

(2) Excises shall not be paid on importing the following excisable goods:

a) defined as humanitarian assistance, under the procedure established by the Government;

b) destined for technical assistance projects, implemented on the territory of the Republic of Moldova by international organizations and donor countries within the limits of agreements and memorandums to which Moldova is a party. The List of international

treaties to which Moldova is a party and of the technical assistance projects is set by the Government;

c) goods, intended for official use of diplomatic missions and other equated missions in the Republic of Moldova, as well as goods for personal use or consumption of the members of diplomatic, administrative-technical personnel of such missions, including members of their families residing with them, - on mutual basis, in the order provided by the Government;

(3) No excise duty is paid for the goods financed from loans and grants issued to the Government or granted under state guarantee, from loans issued by international financial bodies (including from the share-part of the Government), meant for the implementation of the respective projects, as well as from the grants given to the institutions financed from the budget, according to the list approved by the Government.

(4) No excise duty is paid for excisable goods exported by the subjects of taxation independently or on the basis of commission agreement, in conformity with the provisions of Article 123 para (4).

(5) No excise duty is paid when placing and transporting from the customs territory into the duty-free shops and the sale by these shops of the excisable goods, except for the imported filter cigarettes as well as at the import of excisable goods to the customs territory and their placement under customs regime of transit, customs warehouse, spare customs depot, destruction or rejection for the benefit of the state. (language of Law No. 171-XVI of 19 July 2007; No. 172-XVI of 10 July, 2008)

(6) At importation of foreign excisable goods to the customs territory and their placement under customs regime of processing on the customs territory excise duty is paid at importation of these goods with subsequent refund of the paid excise duties upon importation of processed goods from the customs territory, in the way set by the Government (language of Law No. 177-XVI of 20 July 2007).

(7) No excise duty is paid when placing the excisable goods under the Customs regime of temporary admission.

(8) No excise duty is paid for domestic excisable goods, previously exported and reintroduced, within a period of 3 years, in the same condition and the compensating products after passive processing, according to the customs regulations.

(9) The amounts of excises paid on the introduction of the customs territory of the Republic of Moldova of foreign excisable goods under the import customs regime is refunded when removing them from the customs regime, when placing them under the customs destination of duty-free shop, when placing them under the custom destination of free-zone, in the way set by the Government.

(10) The goods subject to excises introduced in the free economic zone from outside the customs territory of the Republic of Moldova, from other free economic zones, from another part of the customs territory of the Republic of Moldova, as well as goods originating from this zone and taken out from the customs territory of the Republic of Moldova shall be exempted from excises;

(10¹) The shipments of excisable goods performed within the free economic zone, as well as the shipments of excisable goods performed by economic agents from one free economic zone to another free economic zone are not subject to excise duties (introduced by Law No. 299-XVI of 21 December 2007).

(11) The goods subject to excises taken out from the free economic zone on the rest of the customs territory of the Republic of Moldova are subjected to excise duties;

(12) Excises are not paid on goods subject to excise duties, imported by legal persons for non-commercial purposes, if the customs value of these goods does not exceed the amount of EUR50. In case if their customs value exceeds the limit exempted of excises, these are calculated based on the customs value of the goods and the abovementioned limit not subject to taxation does not decrease the taxable value of the goods.

(13) In case of non-fulfilment of provisions of paragraphs (5) – (9) of this Article and of conditions of the chosen Customs regime, fixed by the Customs legislation of the Republic of Moldova, the subjects of taxation and persons specified in para (5) of Article 4 of the Law on enforcement of Title IV of the Tax Code shall pay the excise duties according to the rates, established in the Appendix to this Title, penalties in the amount fixed in Article 261, paragraph (2) and (3) and fines in the amount determined under Article 228

[Article 124 amended by Law No. 268-XVI of 28.07.06, enforced since 01.01.2007]

[Article 124 amended by Law No. 268-XVI of 28.07.06, enforced since 08.09.2006]

[Article 124 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 124 amended by Law No. 11-XV of 17.02.05, enforced since 25.03.05]

[Article 124 amended by Law No. 501-XV of 11.12.03, enforced since 01.01.04]

[Article 124 amended by Law No. 1440-XV of 08.11.02, enforced since 01.01.03]

[Article 124 amended by Law No. 1140-XV of 14.06.2002]

[Article 124 amended by Law No. 995-XV of 18.04.2002]

[Article 124 amended by Law No. 494-XV of 04.10.2001]

[Article 124 amended by Law No. 1440-XIV of 28.12.2000]

Article 125. Tax credits and repayments of excise duties paid.

(1) The subjects of taxation are allowed to make tax credits for the excise duty paid for excisable goods, used in processing and (or) production of other excisable goods, at the moment of expedition (transportation) of the finished excisable goods from the excise premises. The credit of the excise duties paid, is allowed only within the limits of the excisable goods being used in the processing and (or) production of other excisable goods, at their subsequent removal (transportation) and if there are documents confirming the excise duty payment for excisable goods used. In case when the excisable goods are deposited for maturation, the subject of taxation is allowed to make excise duty credits within the limits of the quantity of excisable goods, used at the production of similar excisable goods, at the moment of removal (transportation) of these similar excisable goods from the excises premises and in case of presence of documents that confirm the payment of excises for the excisable goods.

(2) If the sum of excise paid for the excisable goods used in the process of production and/or processing of other excisable goods exceeds the amount of the excise calculated for the excisable goods transported from the excise premises, the difference is reported to expenditures in the fiscal period that the transportation of excisable goods from the excise premises took place.

(3) In case of export of excisable goods by the subjects of taxation, made independently or on the basis of the commission agreement, who also delivers goods subject to excise duties to duty-free shops, except for imported filter cigarettes, and/or to free economic zones, the amount of excise duty previously paid for the excisable goods used in the production and/or processing of goods subject to excise duties removed (transported) for export shall be repaid to the subject of taxation according to the procedure set by the Government within 45 (forty five) days after the submission of the confirming documents, specified in para (4) of this article. (language of Law No. 172-XVI o 10 July 2008).

(4) In order to obtain the repayment of the excise duty paid for excisable goods used in processing and (or) production of other exported excisable goods, the subject of taxation shall submit to the State Tax Service authorities the following confirming documents:

a) The contract, (copy of the contract) concluded with a foreign partner on supply of excisable goods. In cases when the export supply of excisable goods is made on the basis of commission agreement by the commission agent – the subject of taxation shall submit the commission agreement and the contract (the copy of the contract) between the commission agent and foreign partner to the State Tax Service authorities;

b) The payment documents and the extract from the bank, if it proceeds from the agreement conditions, confirming the actual proceeds from the sale of excisable goods to the foreign partner on the account of the subject of taxation;

c) the cargo Customs declaration or its copy, certified by the head and the chief accountant of the subject of taxation with the marks of the Customs body of the Republic of Moldova which delivers the goods for export;

(5) The amount of excises is refunded to the account of extinguishing economic entities debts (or of their creditors) to the national public budget, and if there are no debts, are transferred to the settlement account of the economic entity.

(6) The export of goods by the entities that are not subject to taxation is allowed, without the right to the refund of the amount of excise duties for excisable goods removed (transported) for export.

[Article 125 amended by Law No 108-XVIII of 17.12.2009, enforced since 29.12.2009].

[Article 125 amended by Law No. 268-XVI of 28.07.06, enforced since 08.09.2006]

[Article 125 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 125 amended by Law No. 501-XV of 11.12.03, enforced since 01.01.04]

[Article 125 amended by Law No. 430-XV of 31.10.03, enforced since 01.01.04]

[Article 125 amended by Law No. 1163-XV of 27.06.2002]

[Article 125 amended by Law No. 646-XV of 16.11.2001]

[Article 125 amended by Law No. 1440-XIV of 28.12.2000]

Chapter 4

REGISTRATION OF SUBJECTS OF TAXATION, ACCOUNTING OF REMOVED (TRANSPORTED).

EXCISE DUTY PAYMENT DECLARATION

Article 126. The registration of the subjects of taxation

(1) Any physical or legal person who intends or produces and (or) processes excisable goods, are required to obtain an Excise Certificate of the type set by the Main State Tax Inspectorate, prior to the beginning of carrying out the business activity.

(2) The application for Excise Certificate (application of the type set by the Main State Tax Inspectorate under the Ministry of Finance), which must be submitted to the STS authorities by the economic agent shall include:

- a) the name(s) (name, surname), legal address (addresses) and Fiscal Code (Codes);
 - b) the owner of the building, premises, territory, land;
 - c) in respect of the property, used for carrying out business activity under the lease, hire agreement, the subject of taxation shall specify: the name(s) (name, surname), legal address and Fiscal Code (Codes) of the person who has given it on lease or hire it out;
 - d) concrete forms and methods of control, which can be inspected and which can secure the safety of excisable goods, including the transference of excisable goods from one Excise Premise into another Excise Premise, when they are owned by the same economic agent and are situated on different lay-outs.
- (3) The applicant shall enclose a lay-out plan of the administrative buildings, warehouses, workshops, other premises which are located on the subject of taxation territory, within the limits established for carrying out business activity.
- (4) If the application is complete and it includes information which can be verified, the STS authorities shall issue to the applicant the Excise Certificate and annex to it which includes a lay-out (a plan) referred to in part (3) of this article. _Subsequently the applicant shall become subject of taxation.
- (5) The State Tax Service authorities can refuse the issue of Excise Certificate to the applicant, if they consider that the control over the subject of taxation activity or excise premises can not be performed, or forms and methods of control referred to in para d) of part (2) of this article does not ensure the integrity of excisable goods.
- (6) In cases when more economic agents are using the same excise premises for the production and (or) processing of excisable goods the State Tax Service authorities are required to determine independently the subject or subjects of taxation, responsible for the excise duty payment, according to the procedure set by State Tax Service.
- (7) In cases, when the subject of taxation intends to make changes which must be reflected in the Excise Certificate or in the Appendix to it, he is required to address to the State Tax service authorities with the appropriate application.

[Article 126 amended by Law No. 154-XVI of 21.07.05, enforced since 01.01.06]

[Article 126 amended by Law No. 448-XV of 30.12.04, enforced since 04.02.05]

Article 127. The accounting of removed (transported) excisable goods.

The declaration of excise duty payment.

(1) In respect of each Excise Premise, the subject of taxation shall maintain a book-keeping register of the removed (transported) goods. The format of the Register as well as the data which must be reflected in it are established by the Main State Tax Inspectorate under the Ministry of Finance. Entries are made in the Register prior to shipment (transportation) of excisable goods from the Excise Premises.

(2) The book-keeping register of the removed (transported) goods shall be kept in a designated place and made available for examination purposes for authorized officers of the State Tax Service upon demand.

(3) The subjects of taxation, provided in para. a) of Article 120, are required to submit the declaration of excise duty payment not later than the last day of the month, following the month when the removal of excisable goods was carried on. The form of the declaration and the procedure of its completion are established by the Main State Tax Inspectorate under the Ministry of Finance.

[Article 127 amended by Law No. 154-XVI of 21.07.05, enforced since 23.09.05]

[Article 127 amended by Law No. 1163-XV of 27.06.2002]

(According to Law No. 280-XVI of 14 December 2007 the word “(cogniacs)”) shall be excluded from the content of Title IV)

Chapter V5

EXCISE DUTY ADMINISTRATION

Article 128. Tax and Customs Authorities Control

(1) An authorized officer of the State Tax Service has the right to:

a) enter and (or) inspect any sites, buildings, premises (other than those used as the housing stock), means of transport in the premises, buildings and on the roads as well as the goods in them, any documents including transportation documents, reports, which in his or her opinion are used for the purpose of dealing with excisable goods. Such actions shall only be permitted during business hours;

b) having reasons to suspect the fact of excise duty payment delinquency or that in any site, building, premises, means of transport there are excisable goods upon which the excise duty has not been paid, to perform the actions referred to in para a) during non business hours and to inspect the residential premises exclusively with the prosecutor's warrant or the prosecutor's notification during 24 hours.

c) has the right to seize the excisable goods, transport means which are at the disposal of any legal or physical person, in case when the obligations to furnish proof can't be fulfilled by this person. The official of the State Tax Service is required to issue a seizure written notification, which includes the detailed description of goods, place and time of seizure. If the person whose goods are seized does not furnish proofs of the excise duty payment within 20 days, from the seizure date, a forced recovery of excise duty is made, under the acting legislation.

(2) The control over the excise duty payments is carried out by the Customs bodies in conformity with this Title and Customs legislation.