

16 Annex - Taxation

104. LAW ON EXCISE TAXES

LAW ON EXCISE TAXES¹

I GENERAL PROVISIONS

Article 1

(1) This Law regulates the excise tax system and introduces the liability of payment of excise tax on goods as defined by this Law (hereinafter referred to as: "excise goods"), which are released into free circulation on the territory of the Republic of Montenegro.

(2) The excise goods referred to in paragraph 1 of this Article are:

- 1) Alcohol and alcoholic beverages;
- 2) Tobacco products;
- 3) Mineral oils, their derivatives and substitutes.

Article 2

(1) Excise tax is payable for excise goods produced on the territory of Montenegro and excise goods imported in Montenegro.

(2) Any entry of excise goods into Montenegro shall be considered importation of excise goods, unless otherwise specified by this Law.

Article 3

Revenues obtained from excise tax shall belong to the Budget of the Republic of Montenegro.

¹ Official Gazette of the Republic of Montenegro 65/01, 12/02 (corrigendum), 38/02, 76/05 and Official Gazette of Montenegro 76/08 and 50/09)

Meaning of specific terms

Article 4

Specific terms used in this Law shall have the following meaning:

- Excise taxpayer is a producer or importer of excise goods, or person to whom the excise tax liability may be transferred in accordance with this Law;
- Excise license-holder is a natural or legal person issued by the tax authority an excise license to produce, process, finish, refine (hereinafter: produce), store, receive and dispatch excise goods under deferred excise tax payment regime, within its business activities carried out in an excise warehouse;
- Excise license is a document issued by the tax authority to a legal or natural person allowing such person to produce, store, receive or dispatch excise goods under the deferred excise tax payment regime, within the business activities carried out in excise warehouse;
- Excise warehouse is one or several mutually connected, fenced off areas or premises that constitute a technological whole, where an excise license-holder produces, stores, receives or dispatches goods under the deferred excise tax payment regime, and which must be visibly marked and physically separated from other areas or premises.
- Deferred excise payment regime is an institute related to production, storage and movement of excise goods, on the basis of which the liability of excise tax payment is postponed.
- Exempt excise goods user is a natural or legal person that under the conditions laid down by this Law is issued by the tax authority the excise license allowing such person to procure excise goods without having to pay excise tax, while performing activities for the purposes specified in

Articles 44 and 54 of this Law;

- Exempt excise goods user's facility is an area, plant or equipment for storage of excise goods procured by an exempt excise goods user for the needs of its activities without paying excise tax;
- Importer of excise goods is a customs debtor defined under the customs regulations, or the consignee of foreign excise goods.

II INCEPTION OF EXCISE TAX LIABILITY

Article 5

(1) Excise tax liability shall be incepted when:

- 1) Excise goods are produced in Montenegro (hereinafter: Montenegro);
- 2) Excise goods are imported into Montenegro.

(2) Excise tax liability may be transferred from the producer or importer to excise license-holder, or exempt excise goods user under the conditions and in the manner established by this Law.

III DEFERRED EXCISE TAX PAYMENT REGIME

Deferred excise tax payment regime

Article 6

(1) Excise tax payment may be deferred if:

- 1) excise goods are produced or stored in an excise warehouse;
- 2) excise goods are stored in the facility of an exempt excise goods user;
- 3) excise goods are transported under the conditions prescribed by this Law.

(2) Payment of excise tax on imported excise goods may be deferred, if, immediately upon the entry of such goods into Montenegro, their storage has been allowed or if any of the following has been initiated: their customs transit procedure, customs warehousing procedure, importation with an aim of exportation under the deferred excise tax payment regime, processing under customs supervision or temporary importation, or if such goods are brought into duty-free zone.

(3) In case the imported excise goods have been released into circulation in accordance with customs regulations, payment of the excise tax may be deferred, if such goods have been placed in an excise warehouse or facility of an exempt excise goods user immediately upon being released for use.

(4) In case when an excise license expires, with the exemption of cases specified in paragraphs 6 and 7 of this Article, payment of the excise tax on excise goods in stock shall be deferred for a period of up to 30 days from the day of expiry of such license, unless such excise goods were released for use prior to the expiry of the above time limit or were dispatched to another excise warehouse or an exempt excise goods user facility.

(5) In case a license of an exempt excise goods user expires, excluding such cases as described in paragraphs 6 and 7 of this Article, payment of the excise tax on such goods in stock or stored in an exempt excise goods user's facility shall be deferred for a period of up to 30 days from the day of expiry of the license.

(6) In case the excise warehouse or exempt excise goods user should cease to operate for reasons of liquidation or bankruptcy, payment of the excise tax shall be deferred until such excise goods are released into free circulation under the liquidation or bankruptcy proceeding, or as long as they are stored in the respective or other excise warehouse or exempt excise goods user's plant, but no

later than the day when such goods are dispatched to the creditor in accordance with the decision on distribution of assets.

(7) In case the excise license or license of an exempt excise goods user expires as a result of a merger, payment of the excise tax shall be deferred until the day the excise goods in stock are released for use under the merger procedure or until they are stored in another excise warehouse or exempt excise goods user's facility, or until they are dispatched, but not longer than 60 days from the day of submission of the application for entering the merger in the register of the competent court.

Transport of excise goods under the deferred excise tax payment regime

Article 7

(1) Excise goods may be transported under the deferred excise tax payment regime:

- 1) from one excise warehouse to another excise warehouse, from an exempt excise goods user's facility to an excise warehouse, and in case of importation into an excise warehouse,
- 2) from an excise warehouse to an exempt excise goods user's facility and in case of importation to an exempt excise goods user's facility,
- 3) if exported from an excise warehouse,
- 4) if, immediately upon being brought into Montenegro, excise goods are allowed to be stored temporarily, or any of the following procedures has been initiated: customs transit procedure for such goods, procedure for storage in a customs warehouse, importation for the purpose of exporting under the deferred excise tax payment regime, processing under customs supervision or temporary import, or if brought into a free zone.

(2) In case of transporting excise goods imported for the needs of an exempt excise goods user, the importer shall submit to the customs authority a statement of the exempt excise goods user declaring that the quantity limit specified in the license issued by a tax authority has not been used up.

(3) Transport of excise goods under the deferred excise tax payment regime is allowed only if such goods are accompanied by the excise document, unless otherwise regulated by this Law.

(4) The provisions of paragraph 3 of this Article shall be applied to transport of all excise goods.

Excise document

Article 8

(1) Administrative excise document (hereinafter: excise document) is a legal instrument that accompanies transport of excise goods and serves to prove:

- 1) the movement of excise goods under the deferred excise tax payment regime;
- 2) the dispatch of excise goods from an excise warehouse or receipt of excise goods into an excise warehouse;
- 3) the dispatch and receipt of excise goods by the exempt excise goods user;
- 4) the export of excise goods, as well as the type and quantity of excise goods under such regime.

(2) Excise document shall be issued by the person transporting the excise goods under the deferred excise tax payment regime.

(3) Excise document is issued in 4 copies which are distributed as follows:

- 1) one copy for the dispatcher,
- 2) two copies accompanying the products for the consignee, out of which one copy is to be signed by the consignee and returned to the dispatcher or tax authority, and

3) one copy for the competent tax authority.

Article 9

(1) Excise license-holder and exempt excise goods user receiving excise goods shall confirm the receipt of the consignment to the excise license-holder or exempt excise goods user that dispatched the consignment, and shall also confirm the receipt of the consignment dispatched by an importer to the customs authority.

(2) The consignee referred to in paragraph 1 of this Article shall confirm the receipt of the consignment on the copy of the excise document and note that the contents of the consignment have been examined, and shall return such document to the consignor no later than 15 days from the day when such consignment is received.

(3) The export of excise goods shall be confirmed by the customs authority in the excise document when such goods are physically taken outside the customs area of Montenegro.

Article 10

The Ministry in charge of finance shall prescribe the form and contents of the excise document.

IV TERMINATION OF THE DEFERRED EXCISE TAX PAYMENT REGIME

Article 11

The deferred excise tax payment regime shall terminate:

- 1) when the excise tax becomes due for payment,
- 2) when the excise license-holder, exempt excise goods user or importer are exempted from excise tax liability.

Exemption of excise license-holder or exempt excise goods user from payment of excise tax

Article 12

(1) Excise license-holder is exempted from payment of excise tax when:

- 1) excise goods are stored in the excise warehouse of another excise license-holder who has confirmed the receipt of the consignment on the copy of the excise document;
- 2) excise goods are stored in the exempt excise goods user's facility who has confirmed the receipt of the consignment on the copy of the excise document,
- 3) excise goods are exported and the customs authority confirms on the document that such goods have been physically taken outside the customs area of Montenegro in accordance with the customs regulations.

(2) Excise license-holder is exempted from payment of excise tax on excise goods stored in such license-holder's own excise warehouse, if:

- 1) the excise goods are used as the basic material for production of other excise goods in the excise warehouse;
- 2) the excise goods are used as analysis samples in testing production or for scientific purposes;
- 3) the excise goods are used for the purposes of customs control,
- 4) the excise goods are used for quality control which is performed by authorized persons in a customs bonded warehouse,

- 5)the excise goods are destroyed under the supervision of tax authority,
- 6)a shortage of excise goods is established, which an excise license-holder proves to be the result of force majeure (excluding theft) or which is inseparably related to the production process, storage and transport of such goods,
- 7)alcohol is fully denatured in accordance with Article 44 of this Law,
- 8)tobacco products are denatured and used for industrial or horticultural purposes.

(3)Exempt excise goods user is exempted from payment of excise tax liability if:

- 1)the excise goods are dispatched and stored in an excise warehouse and if an excise license-holder has confirmed the receipt of the consignment on the copy of the excise document,
- 2)the excise goods are used for the purposes specified in Article 44 or Article 54 of this Law and indicated in the license of an exempt excise goods user.

(4)Exempt excise goods user shall also be exempted from payment of excise tax liability if:

- 1)the excise goods are used as samples for analysis in the testing of production in the production facility or warehouse of such user,
- 2)the excise goods are used for customs control purposes,
- 3)the excise goods are used for quality control purposes carried out by authorized persons in the user's facility or warehouse,
- 4)the excise goods are destroyed under the supervision of tax authority, 5)the shortage of excise goods is established and proved to be the result of force majeure (excluding theft), and in case of the shortage which is inseparable from the production process, storage or transport of goods for the production of which the excise goods were utilized.

(5)The exemption specified in paragraph 2, items 2) and 4) and paragraph 4, items 1), 2) and 3) of this Article shall be realized under condition that the competent tax authority issues approval for the excise goods to be used for such purposes.

(6)Importer shall be exempted from payment of excise tax:

- 1)in such case as specified in Article 6, paragraph 3 of this Law if such importer receives, within 15 days from the day of dispatch, a confirmation by the excise license-holder or exempt excise goods user that such license-holder or user has taken over the consignment,
- 2) if such importer proves that the excise goods, which were imported under the deferred customs procedure, have been physically taken outside Montenegro.

(7)Excise license-holder and exempt excise goods user referred to in Article 6, paragraphs 4 and 5 of this Law shall be exempted from payment of excise tax if excise goods are stored in another excise warehouse and if the excise license-holder of such other excise warehouse confirms that in the excise document.

(8)Excise license-holder and exempt excise goods user referred to in Article 6, paragraphs 4 and 5 of this Law shall be exempted from payment of excise tax if:

- 1)excise goods are released into free circulation and if the excise tax has been paid by the buyer;
- 2)excise goods are sold under the bankruptcy or liquidation proceeding to an excise license-holder or exempt excise goods user and their storage is confirmed in the excise document,
- 3)excise goods are dispatched from an excise warehouse or exempt excise goods user's facility to a creditor (based on the distribution of assets) and the excise tax is paid at the same time, or if the creditor – excise license-holder has confirmed the receipt of the consignment in the excise document.

(9)Excise license-holder and exempt excise goods user referred to in Article 6 paragraph 7 of

this Law shall be exempted from payment of excise tax if the excise goods are stored in another excise warehouse or exempt excise goods user's facility and such action has been confirmed in the excise document or if assets are acquired within the period of 60 days from the day the application is submitted for registration and the excise goods are dispatched for such purpose, and the excise tax is paid at the same time.

V OCCURRENCE OF LIABILITY TO ACCOUNT FOR AND PAY EXCISE TAX

Occurrence of liability to account for excise tax by producer

Article 13

(1)The liability to account for excise tax shall occur at the moment when excise goods are released into free circulation. The release into free circulation shall be considered to be:

1)Any dispatch of excise goods from an excise warehouse or exempt excise goods user's facility, except if the excise goods are dispatched: to another excise warehouse or other exempt excise goods user's facility, to a customs bonded warehouse, to a free zone, under the customs transit procedure or for export, and

2)Any dispatch from the production facility of an excise taxpayer that is not an excise license-holder.

(2)In case of dispatch of excise goods from the excise warehouse or exempt excise goods user's facility for which it is not confirmed within 15 days from the day of dispatch of excise goods that the consignment has reached the destination, the liability of accounting for the excise tax shall occur on the 16th day from the day when such goods are dispatched.

(3)If the exempt excise goods user utilizes the excise goods for the purposes for which excise tax exemption is not prescribed, the liability to account for excise tax shall occur on the last day of the month when the excise goods have been released for use.

(4)In case of excise goods used in an excise warehouse as raw materials for production of other goods, which are used as engine fuel or fuel for heating or the shortage referred to in Article 12, paragraph 2, item 6) of this Law, the liability to account for the excise tax shall occur on the last day of the month in which such excise goods have been used or in which the shortage thereof has been detected.

(5)Excise tax with deferred payment in accordance with Article 6, paragraphs 4 and 5 of this Law shall be accounted for on the 30th day after the expiry of the license, if the person whose license expired failed to receive the copy of the excise document from the excise goods consignee.

(6)Excise tax with deferred payment in accordance with the Article 6, paragraph 6 of this Law shall be accounted for on 30th day after expiry of the license, if the person whose license expired failed to receive the copy of the excise document from the excise goods consignee.

(7)The excise tax is paid according to the amounts or rates that are applicable on the day when the liability to account for the excise tax occurs.

(8)Exceptionally from paragraph 1 of this Article, the liability to account for excise tax for cigarettes shall occur on the day of takeover of excise stamps.

Occurrence of liability for payment of excise tax on import

Article 14

(1)The liability for payment of excise tax on import of excise goods shall occur at the moment of payment of import duties, except for the cases when the payment of the excise tax is deferred in accordance with this Law.

(2)The excise tax is paid according to the amounts or rates applicable on the day when the liability for calculation of the excise tax occurs.

(3)Exceptionally from paragraph 1 of this Article, the liability to account for the excise tax on imported cigarettes shall occur on the day of taking over of control excise stamps.

Other cases of occurrence of the liability for payment of excise tax

Article 15

The liability for payment of excise tax shall also occur in the following cases:

- 1)when the customs or tax authority sells confiscated excise goods, except if such authority sells the goods to an excise license-holder or an exempt excise goods user;
- 2)in a merger, when excise goods are released into free circulation, except if the buyer is an excise license-holder or exempt excise goods user;
- 3)when the merger is completed, if the excise goods are dispatched to the creditor, except if the creditor is an excise license-holder or an exempt excise goods user;
- 4)in the liquidation or bankruptcy proceeding, when excise goods are released into free circulation, or when dispatched to a creditor, except if the creditor is an excise license-holder or exempt excise goods user;
- 5)when the shortage of excise goods is detected, except for the shortage which the excise license-holder proves to be the result of force majeure or inseparable from the production process, storage or transport of excise goods.

Article 16

The liability for payment of excise tax shall also occur when excise goods are imported, produced, transported and in other manner released into circulation contrary to the provisions of this Law.

VI EXCISE TAXPAYERS

Article 17

(1)The excise taxpayer is a producer or excise goods importer, unless otherwise prescribed by this Law.

(2)The excise taxpayer is also a natural person – producer of alcoholic beverages in excess of quantities allowed for personal use, if those alcohol beverages are released into circulation (sale).

(3)In addition to the persons referred to in paragraphs 1 and 2 of this Article, excise taxpayers shall also be:

- 1)the exempt excise goods user referred to in Article 13, paragraph 3 of this Law;
- 2)the buyer, recipient of excise goods, referred to in Article 15, item 1) of this Law;
- 3)the buyer referred to in Article 15, item 2) of this Law;
- 4)the creditor referred to in Article 15, item 3) of this Law;
- 5)the creditor referred to in Article 15, item 4) of this Law;
- 6)the person that produces, imports, transports or in any other manner releases excise goods into circulation contrary to the provisions of this Law.

VII GENERAL WORKING CONDITIONS OF EXCISE WAREHOUSES

Excise warehouse

Article 18

(1)The production or storage of excise goods under the deferred excise tax payment regime may be carried out only in the excise warehouse that is issued the license for work by the tax authority (hereinafter: excise license), unless otherwise prescribed by this Law.

(2)The Ministry in charge of finance shall prescribe in greater details the conditions for establishment and operation of excise warehouses.

Conditions for obtaining the excise license

Article 19

The legal person fulfilling the following conditions may apply for the excise license:

- 1)to perform an activity related to excise goods in accordance with the prescribed conditions and to have the head office registered in Montenegro;
- 2)to keep business books under the double-entry bookkeeping system;
- 3)to regularly fulfill its tax liabilities;
- 4)that no bankruptcy or liquidation proceeding has been instituted against such person;
- 5)to offer excise tax payment guarantee in accordance with this Law;
- 6)to meet the requirements for the electronic exchange of data on excise goods flows.

Excise license application

Article 20

(1)Excise license shall be issued by the tax authority upon a written application.

(2)The application referred to in paragraph 1 of this Article shall contain the following information:

- 1)Type of the activity and title of excise goods for which the excise license is requested;
- 2)Estimated quantities of annual production, quantities produced and quantities of the goods in stock;
- 3)Name and identification of the person applying for the excise license;
- 4)Documentation that must clearly give the full description of the accounting system operation in accordance with the law regulating tax procedure;
- 5)Information to prove that conditions for supervision by the tax authority are fulfilled;
- 6)Detailed description of individual production processes, including information on measuring devices that enable measuring of the produced, processed, stored and dispatched quantities of excise goods;
- 7)The location and description of facilities as well as the manner of securing them;
- 8)The manner of dispatching excise goods;
- 9)Statement that conditions for electronic exchange of information related to movement of excise goods are fulfilled.

(3)The person applying for excise license for the measuring devices defined in paragraph 2 of this Article shall be obliged to obtain approval for using the type of measuring device from authority in charge of measures.

Excise license

Article 21

(1)Excise license may be issued if the facilities, technical and economic requirements prescribed by this Law are met.

(2)Excise license shall be issued in the name of the applicant and cannot be transferred to another person.

(3)Excise license may be issued for one or more excise warehouses.

(4)Excise license shall include the data on:

1)the location of the excise warehouse;

2)working conditions of the excise warehouse or excise warehouses;

3)the type of excise goods that may be produced and stored in the excise warehouse and dispatched from the excise warehouse;

4)liabilities of the excise license-holder towards the tax authority;

5)the form of excise tax payment guarantee;

6)the title of the tax authority and

7)period for which the excise license is issued.

(5)Prior to issuing excise license, the tax authority shall establish on site whether all requirements for issuance of the excise license are met.

(6)Tax authority shall make a decision on the application for excise license within 60 days from the day the complete application is received.

Liabilities of excise license-holder

Article 22

(1)Excise license-holder shall:

1)provide for appropriate safeguarding of excise goods in the excise warehouse; supervise the dispatch and receipt of excise goods; identify losses or shortages;

2)provide for smooth supervision by the tax authority;

3)keep the records of excise goods by type and quantity and records on the movement of excise goods for each excise warehouse and submit to the tax authority monthly excise tax calculations and monthly inventories of goods in stock;

4)inform the tax authority of all changes in the information indicated in the application for the excise license;

5)in the case of status alteration, extension, reduction or termination of the business activity, request from the tax authority to change the excise license.

(2)If the tax authority decides that the excise license-holder does not meet the obligations defined in paragraph 1 of this Article, such authority shall specify the deadline for elimination of the irregularities.

(3)The Ministry in charge of finance shall prescribe the contents and manner of keeping records referred to in item 3), paragraph 1 of this Article.

Excise tax payment guarantee instruments

Article 23

- (1) To ensure the fulfilment of the liability of payment of excise tax, excise license-holder shall submit a guarantee instrument for payment of excise tax to the tax authority in accordance with this Law.
- (2) The value of the excise tax payment guarantee instrument shall correspond to the amount of excise tax chargeable for excise goods to which the excise license relate.
- (3) If the excise license-holder keeps several excise warehouses, and the excise tax payment guarantee refers to all such warehouses, the value of the guarantee shall correspond to the total amount of the excise tax liability.
- (4) In the case of expiry of the excise license, the excise tax payment guarantee instrument may not be released until the excise tax for goods in stock is paid.
- (5) The Ministry in charge of finance shall prescribe in details the guarantee procedure and types of excise tax payment guarantee instruments.

Expiry of excise license

Article 24

- (1) Excise license expires:
- 1) when the performance of the activity related to the excise goods is terminated;
 - 2) by returning the excise license;
 - 3) when the tax authority revokes the excise license.
- (2) The tax authority shall revoke the excise license if the excise license-holder fails to meet the requirements specified in the excise license, but particularly:
- 1) if the excise license-holder fails to provide an appropriate stock control system or fails to make the inventory within the timeframe specified in the excise license;
 - 2) if the amount of the excise tax payment guarantee instrument does not correspond to the amount of the excise tax liability;
 - 3) if reasons and conditions based on which excise license was issued cease to exist;
 - 4) if the excise license is issued on the basis of incomplete or incorrect information;
 - 5) if the excise license-holder fails to eliminate irregularities within the timeframe determined by the tax authority; or
 - 6) if a liquidation or bankruptcy proceeding is instituted.
- (3) An appeal against the decision on revocation of the excise license shall not postpone the enforcement of the decision.

Dispatch of excise goods from excise warehouse

Article 25

Excise goods may be dispatched from the excise warehouse:

- 1) to be released into free circulation, with obligatory issuance of the receipt, or another document that may serve as a receipt; or
- 2) when under the deferred excise tax payment regime, if the consignment is accompanied by the excise document.

VIII EXEMPT EXCISE GOODS USER Conditions for Issuance of Excise License

Article 26

(1) Exempt excise goods user may procure excise goods without paying excise tax only if issued the relevant license by the tax authority.

(2) Legal entity may apply for the license defined in paragraph 1 of this Article if fulfils the following requirements:

- 1) in accordance with the prescribed requirements performs the activity for which such legal entity uses the excise goods for the purposes specified in Articles 44 and 54 of this Law;
- 2) keeps business books according to the double entry book-keeping system;
- 3) regularly meets tax and customs liabilities;
- 4) no bankruptcy or liquidation proceeding has been instituted against such entity;
- 5) prior to the license issuance, the user submits an excise tax payment guarantee instrument in accordance with this Law;
- 6) the user meets other requirements determined under this Law.

(3) The legal entity that meets the requirements specified in paragraph 2 of this Article may be issued the license if the following requirements are also fulfilled:

- 1) the production facility, warehouse, or other facility for storing excise goods is organized and equipped to allow for the safe storage and use of excise goods and proper measuring of stocks of such goods;
- 2) the tracing of book entries of such goods provides a precise insight into the consumption of excise goods and goods in stock for the production of which excise goods are used;
- 3) conditions for control are provided.

(4) The Ministry in charge of finance shall prescribe detailed requirements specified in paragraph 3 of this Article.

(5) If the license expires, the excise tax payment guarantee instrument may be released only after the excise tax is paid for excise goods in stock, or when the liability for payment of excise tax can no longer occur.

(6) The Ministry in charge of finance shall regulate in details the guarantee procedure and types of excise tax payment guarantee instruments.

(7) Prior to issuing the license, the tax authority shall determine whether the excise goods are actually used for the purposes specified in the application for license, as well as the norms for using excise goods in the production of other goods. The tax authority shall determine on site whether the requirements for issuance of the license are met.

(8) If the tax authority establishes that the exempt excise goods user does not meet the requirements defined in this Article, the authority shall specify a deadline for elimination of any irregularities.

License for exempt excise goods user

Article 27

(1) The tax authority issues the license for an exempt excise goods user on the basis of a written application.

(2) Within 30 days from the day of receipt of the complete application, the tax authority shall inform the entity applying for the license to submit an excise tax payment guarantee instrument, or deny the application.

(3) The tax authority shall issue the license within 15 days from the day it receives the excise tax

payment guarantee instrument.

(4)The application for issuing the license shall include the following details: the purpose and manner of using the excise goods; the usage norms for each product for the production of which excise goods are used; the quantity of excise goods for which the license is being issued, but not exceeding the quantity of one-year production, or estimated production for the same period.

(5)The license defined in paragraph 1 of this Article is issued in the name of the applicant and cannot be transferred to another entity.

(6)The tax authority shall state the following in the license: the quantities of excise goods that may be procured excise tax-free for the prescribed purposes within a defined period that may not exceed 12 months; the location where the excise goods shall be used and the purpose of such goods. The quantities shall be determined depending on the production capacities and the period for which the license is issued.

(7)Alteration of the quantities specified in paragraph 6 of this Article is made and the approval of the quantities for the following period is given on the basis of a subsequent application.

Expiry of license of the exempt excise goods user

Article 28

(1)License of exempt excise goods user shall expire:

- 1)when the performance of the activity related to the excise goods terminates;
- 2)when the tax authority revokes the excise license;
- 3)by returning the excise license.

(2)The tax authority shall revoke the license if an exempt excise goods user no longer meets the requirements specified by the license, and particularly:

- 1)if the user fails to provide an appropriate stock control system;
- 2)if the amount of the excise tax payment guarantee instrument does not correspond to the amount of the excise tax liability;
- 3)if the excise license is issued on the basis of incomplete or incorrect information;
- 4)if the excise license-holder fails to eliminate irregularities within the timeframe determined by the tax authority;
- 5)when liquidation or bankruptcy proceeding is instituted.

(3)An appeal against the decision on revocation of the excise license shall not postpone the enforcement of the decision.

Records kept by exempt excise goods user

Article 29

(1)Exempt excise goods user shall keep records on the purchase, movement and consumption of excise goods according to type, quantity and value.

(2)The Ministry in charge of finance shall regulate the contents and manner of keeping of the records defined in paragraph 1 of this Article.

IX EXCISE TAX REFUND

Article 30

(1)The following shall have the right to excise tax refund:

- 1)excise license-holder that procured excise goods at the price with excise tax included and used such goods in the excise warehouse for the production of excise goods;
- 2) importer that is returning imported goods abroad in the unchanged condition, and that paid the excise tax for such goods on their import;
- 3) exporter exporting excise goods for which the excise tax has been paid;
- 4)entity that procured excise goods at the price with excise tax included or the excise tax for such goods is paid on import, and the excise goods are used for the purposes defined in Articles 44 and 54 of this Law

(2)The Ministry in charge of finance shall regulate in details the conditions and manner for paid excise tax refund.

(3)Excise tax shall be refunded within the deadlines specified by the law regulating tax procedure.

X EXCISE TAX EXEMPTIONS

Excise tax exemption for diplomatic and consular missions and international organizations

Article 31

(1)Excise tax is not paid for the following excise goods:

- 1)for the official needs of diplomatic and consular missions accredited in Montenegro;
- 2)for the official needs of international organizations, if this is established by international agreements;
- 3)for the personal needs of foreign staff members of diplomatic and consular missions accredited in Montenegro, including their family members;
- 4)for the personal needs of foreign staff members of international organizations, including their family members, if this is established by international agreements.

(2)The exemption specified in paragraph 1 of this Article is realized on the basis of the attestation issued by the Ministry in charge of foreign affairs.

(3)If exemption is possible only on the basis of reciprocity under international agreement, such case shall be attested to by the Ministry in charge of foreign affairs.

(4)Excise goods exempted from payment of excise tax according to the provisions of this Article may not be disposed of, unless excise tax has been paid for such goods.

(5)The Ministry in charge of finance shall regulate in details the right for exemption from the payment of excise tax according to the provisions of this Article.

Other excise tax exemptions

Article 32

Excise tax is not paid for excise goods:

- 1) that are sold on ships and aircrafts on international traffic routes;
- 2) that a passenger may bring in from abroad as a part of his/her personal luggage, and they are exempted from payment of import duty in accordance with customs regulations;

3) mineral oils, mineral oil derivatives and substitutes in the standard reservoirs of motor vehicles, watercrafts or aircrafts incoming from abroad and are not intended for further sale and are exempted from import duties in accordance with customs regulations.

4) which are dispatched from customs bonded warehouses to duty free shops opened at international border crossings with customs and passport control provided, for sale to passengers in accordance with customs regulations.

XI ACCOUNTING FOR AND PAYMENT OF EXCISE TAX

Excise tax calculation

Article 33

- (1) Excise taxpayer calculates the excise tax by him/herself.
- (2) Tax period for calculation of the excise tax is one calendar month.
- (3) The excise taxpayer shall present the calculated excise tax in the monthly excise tax return.

Article 34

- (1) The return referred to in paragraph 3 of Article 33 of this Law shall be submitted to the tax authority by the 15th day of the month following the expiry of the calculation period.
- (2) Excise taxpayer shall submit the excise tax return, regardless whether such taxpayer is required to pay the excise tax in the prescribed period.
- (3) If the excise license-holder has more than one excise warehouse, such license-holder may submit a joint return with the calculation of the excise tax for all excise warehouses provided that he/she maintains separate records on the calculated excise tax for each excise warehouse in his/her bookkeeping.
- (4) If the exempt excise goods user stores excise goods in several facilities, he/she may submit a joint return with the excise tax calculation for all facilities provided that he/she maintains separate records of the calculated excise tax for each facility in his/her bookkeeping.
- (5) The excise tax return shall be submitted within 30 days from the day when the excise license expires.
- (6) In the cases of bankruptcy, liquidation or merger of the excise taxpayer, the return shall be submitted no later than 30 days after the proceeding is concluded.

Excise tax payment

Article 35

- (1) Excise tax calculated for a given tax period shall become due on the last day of such tax period, and must be paid within fifteen days from the due date.
- (2) The excise tax referred to in Article 15, item 3 of this Law shall become due on 30 day from of the day when the excise document is issued and must be paid within fifteen days from the due date.
- (3) The excise tax referred to in Article 34, paragraph 5 of this Law shall become due on the day the excise license expires, and must be paid within fifteen days from the due date.
- (4) The excise tax referred to in Article 34, paragraph 6 of this Law shall become due on the day when bankruptcy, liquidation or merger proceeding is concluded, and must be paid within 30 days from the due date.
- (5) Refund of paid excise tax to excise license-holders from Article 30, paragraph 1, item 1 of this Law may be offset through the request for reduction of excise tax liability presented on the monthly

return or through the request for refund of the excise tax.

(6)The Ministry in charge of finance shall prescribe in detail the excise tax refund procedure referred to in paragraph 5 of this Article.

(7)Exceptionally from paragraph 1 of this Article, the calculated excise tax for cigarettes shall be paid within 60 days from the day of takeover of control excise stamps.

(8)During the period of deferred excise tax payment regime referred to in paragraph 7 of this Article, the excise taxpayer shall provide the payment guarantee instrument in the amount of calculated excise tax.

Accounting for and payment of import excise tax

Article 36

(1)Excise tax for import of excise goods shall be calculated and paid as an import duty, unless the excise tax payment is deferred in accordance with this Law.

(2)Exceptionally from paragraph 1 of this Article, the excise tax for imported cigarettes shall be calculated by importer and paid within 60 days from the date of takeover of control excise stamps.

(3)During the period of deferred excise tax payment regime referred to in paragraph 2 of this Article, the importer shall provide the payment guarantee instrument in the amount of calculated excise tax.

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 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.

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.

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 1.2vol% 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 hectoliter.

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

- 1) 1.90 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) 40 EUR per hectolitre of other fermented beverages;
- 5) 70 EUR per hectolitre of intermediate alcohol beverages;
- 6) 550 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 liters of pure alcohol per 100 kilograms of goods, or for other food items - 5 liters 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 fulfill 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 than1.65mm 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 1.00 EUR for 1000 pieces.

(4)Ad valorem excise tax for cigarettes amounts to 26% 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: 10.00 EUR

2)Fine-cut tobacco: 20.00 EUR

3)Other tobacco for smoking: 15.00 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 100% 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 370 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.

XIII EXCISE GOODS MARKING

Excise tax stamps

Article 57

(1) Producer or importer shall mark tobacco products and alcohol beverages, with the exception of beer, with control excise stamps, prior to releasing them for use, or into free circulation.

(2) Excise tax stamps for tobacco products must be affixed on the packaging under the cellophane wrapping or other wrapping in such a way that it is visible and may not be removed without damaging the packaging, except for the original packaging of cigars and cigarillos, which are not wrapped in cellophane or other wrapping, and in such cases the excise stamp may be affixed directly on the packaging.

(3) Imported cigarettes and imported bottled alcohol beverages must bear the mark and the name of the importer, which are impressed on the box or bottle directly by printing or in the form of an adhesive label that is affixed on the packaging under the cellophane or other wrapping in which the box or bottle is packed.

(4) Exported tobacco products and alcohol beverages shall be marked with special export stamps, if foreign supplier does not provide excise tax stamps for them.

(5) Tobacco products and bottled alcohol beverages sold in duty free shops must be marked with special stamps.

(6) Possession, sale and transport of tobacco products and alcohol beverages in the quantity exceeding the prescribed in this Law, without corresponding excise tax stamp is not allowed.

(7) The Government shall prescribe: the form and content of a control excise tax stamp; manner and procedure of approving, printing and issuing, and the manner of keeping records on issued, used and unused excise tax stamps from this Article.

XIV EXCISE TAXPAYER BOOKKEEPING AND DOCUMENT ARCHIVING

Issue of invoices or other documents

Article 58

(1) Excise taxpayer must issue an invoice or other document when releasing excise goods into use, thereby certifying the dispatch of such excise goods.

(2) For excise goods being dispatched to an exempt excise goods user, the invoice or other document must include a note that such excise goods are being dispatched without payment of excise tax on the basis of the license of the exempt excise goods user, which number and date must be indicated.

(3) Excise taxpayer shall issue the receipts or other documents in two copies. The first copy is given to the excise goods consignee, and the second copy and other documents of significance for establishing the level of the excise tax liability are retained and kept in accordance with Article 61 of this Law.

Excise taxpayer bookkeeping

Article 59

(1) Excise taxpayer shall provide in the bookkeeping the information required for calculation and payment of excise tax, particularly on:

- 1) quantities of excise goods produced;
- 2) quantities of excise goods in stock, in production, in warehouses or other business premises;
- 3) quantities of excise goods sold for which excise tax has been paid according to the prescribed rates;
- 4) quantities of excise goods sold for which excise tax has not been paid;
- 5) quantities of excise goods used for the taxpayer's own purposes;
- 6) quantities of excise goods that are exempted from excise tax liability;
- 7) amounts of accounted for and paid excise tax at prescribed rates.

(2) Excise taxpayer– importer shall provide in the bookkeeping the information particularly on: import of excise goods, stocks of excise goods in the excise warehouse, the dispatch of excise goods from an excise warehouse and on the excise tax calculation and payment according to the prescribed rates.

(3) Natural person referred to in Article 17, paragraph 2 of this Law, that is a producer of alcohol beverages, shall keep separate records on the production, personal consumption and sale of such beverages, as prescribed by the Ministry in charge of finance.

Recording of equipment for production of ethyl alcohol

Article 60

Producers, sellers and importers of equipment for production of ethyl alcohol shall keep records of buyers of such equipment and submit them to the tax authority upon its request. The records shall not be kept for glass devices for distillation, which are used for scientific and educational purposes and for juicers for households.

Document archiving

Article 61

Excise taxpayer shall archive the issued and received invoices, excise documents and other bookkeeping documents related to the production, storage and dispatch, import and export of excise goods for the period of five years upon the expiry of the year which the documents refer to.

XV CONTROL OF ACCOUNTING FOR AND PAYMENT OF EXCISE TAX

Article 62

(1) Accounting of and payment of excise tax shall be controlled by the tax authority in accordance with this Law and the Law regulating tax procedure, and in the case of importation by the customs authority in accordance with customs regulations as if the excise tax were an import duty.

(2) If excise taxpayer fails to submit excise tax return or submits an incomplete return, or if the tax authority establishes that the excise tax is not properly calculated, the law prescribing tax procedure shall be applied.

**XVI APPLICATION FOR REGISTRATION OF BUSINESS ACTIVITIES AND
REGISTRATION OF EXCISE TAXPAYERS**

Submission of registration application

Article 63

(1) Excise taxpayer shall inform the tax authority about the commencement, alteration or termination of the business activity that is subject to accounting for and payment of excise tax.

(2) Any entity that becomes an excise taxpayer shall submit the application for registration to the tax authority no later than 15 days prior to the commencement of the production, storage, receipt or dispatch of excise goods.

(3) Excise taxpayer shall report to the tax authority the intention to terminate the business activity within the timeframe specified in paragraph 2 of this Article, or immediately if there is a case of suspension or interruption of production.

Termination of registration

Article 64

(1) If an excise taxpayer stops performing the business activity, the tax authority shall make the decision with regard to the termination of the registration *ex officio* or at request of the excise taxpayer.

(2) Excise taxpayer is obliged to settle the matured excise tax liabilities prior to adoption of the enactment on termination of registration.

Register of excise license-holders and excise warehouses

Article 65

(1) Tax authority establishes and keeps a register of excise license-holders and excise warehouses.

(2) The register referred to in paragraph 1 of this Article shall include particularly the following:

- 1)the identification number issued to excise license-holders or excise warehouse owners by tax authority;
- 2)the name and address of excise license-holder and name and address of the excise warehouse facilities;
- 3)the type of excise goods which the excise license is issued for;
- 4)the main office of the competent tax authority;
- 5)the date of issuance of the identification number and date of revocation of the identification number.

Article 66

Deleted.

Article 67

Deleted.

Article 68

Deleted.

**XVIII SPECIAL PROVISIONS Application
of other regulations**

Article 69

The provisions of the Law regulating tax, i.e. customs procedures shall be applied accordingly to the relations which are not specifically regulated by this Law (interest, appeal procedure, enforced collection and other).

XIX PENALTY PROVISIONS

Article 70

(1)A pecuniary fine in the amount of 50 fold to 300 fold amount of the minimum wages in Montenegro shall be imposed on a legal entity or entrepreneur:

- 1)if the transport of excise goods under the deferred excise tax payment regime is not accompanied by the excise document (Article 7, paragraph 3);
- 2)if such entity fails to issue the excise document for excise goods being transported under the deferred excise tax payment regime (Article 8, paragraph 2);
- 3)if such entity fails to issue the excise document in four copies (Article 8, paragraph 3);
- 4)if such entity fails to confirm the receipt of the consignment and to return the excise document to the dispatcher within the prescribed timeframe (Article 9, paragraphs 1 and 2);
- 5)if such entity fails to pay excise tax on the prescribed tax bases according to the rates or amounts valid on the day when the liability for payment of excise tax occurs and if such entity fails to pay it within the prescribed timeframe (Articles 13, 14, 15, 16 and 45);
- 6)if such entity imports, produces, transports or otherwise releases the excise goods into circulation contrary to the provisions of this Law (Article 16);

- 7)if such entity transfers the excise license to a third person (Article 21, paragraph 2);
- 8)if such entity fails to meet the requirements defined in Article 22, paragraph 1 of this Law;
- 9)if such entity fails to submit excise tax payment guarantee instruments (Article 23, paragraph 1, Article 35, paragraph 8 and Article 36, paragraph 3);
- 10)if such entity fails to account for the excise tax, or fails to do so in the specified tax accounting period (Article 33);
- 11)if such entity fails to enter excise tax in a monthly excise tax return, fails to submit the excise tax return to the tax authority within the prescribed timeframe and fails to pay the excise tax within the prescribed timeframe (Articles 34, 35 and 45);
- 12)if alcohol products are dispatched from an excise warehouse to be used in the production of chemicals and cosmetics without being denatured (Article 44, paragraph 2);
- 13)if the denaturing procedure is not carried out in the plant for the production of ethyl alcohol and if it is not carried out according to the prescribed procedure and using the prescribed denaturing agent (Article 44, paragraph 3);
- 14)if such entity fails to classify the excise goods as provided under this Law (Articles 37, 38, 39, 40, 41, 42, 47, 48, 49 and 51);
- 15)if, prior to release into use, i.e. free circulation, such entity fails to report the retail prices of cigarettes to the competent tax authority and to publish them in the Official Gazette of the Republic of Montenegro, or if sells cigarettes at the retail prices which exceed the reported (Article 50, paragraphs 7 and 8);
- 16) if such entity fails to mark or organize storage of mineral oils used as heating fuel in the prescribed manner (Article 55);
- 17)if such entity uses the mineral oils used for heating contrary to the provisions of Article 56, paragraph 1 of this Law,
 - 17a) if such entity releases the mineral oils used for heating at petrol stations or other retail locations designated for sale of oil derivatives (Article 56, paragraph 2);
 - 17b)if such entity fails to mark tobacco products and alcohol beverages in the prescribed manner prior to releasing them into use, i.e. free circulation (Article 57, paragraphs 1,2,3 and 4);
 - 17c)if such entity possesses, sells and transports tobacco products and alcohol beverages in the quantities exceeding those determined in this Law, without corresponding excise tax stamp (Article 57, paragraph 6);
- 18)if such entity fails to mark gas oil and kerosene using the prescribed color and indicator and fails to organize the proper storage of such goods (Article 55 and 56);
- 19)if such entity fails to provide the prescribed information in the bookkeeping and fails to keep proper records (Article 59);
- 20)if such entity fails to archive the documentation for the envisaged time period (Article 61);
- 21)if such entity fails to inform the tax authority about the day of commencement, alteration or termination of the business activity (Article 63).

(2)A pecuniary fine in the amount of 5 fold to 20 fold amount of the minimum wages in Montenegro shall be imposed on the responsible person in the legal entity for the infringement from paragraph 1 of this Article.

(3)A pecuniary fine in the amount of 2 fold to 10 fold amount of the minimum wages in Montenegro shall be imposed on the physical person for the infringement from paragraph 1 item 17c) of this Article.

Article 71

(1) A pecuniary fine in the amount of 50 fold to 300 fold amount of the minimum wages in Montenegro shall be imposed on a legal entity or entrepreneur- exempt excise goods user for an infringement:

- 1) if such user fails to keep records on the purchase, movement and consumption of excise goods by type, quantity and value (Article 29);
- 2) if such user exercises the right to excise tax exemption contrary to Articles 44 and 54 of this Law.

(2) A pecuniary fine in the amount of 5 fold to 20 fold amount of the minimum wages in Montenegro shall be imposed on the responsible person in the legal entity for the infringements from paragraph 1 of this Article.

Article 72

(1) A pecuniary fine in the amount of 10 fold to 100 fold amount of the minimum wages in Montenegro shall be imposed on: the producer, seller and importer of equipment for production of ethyl alcohol for not keeping records of buyers of such equipment and failing to submit them to the tax authority at request (Article 60).

(2) A pecuniary fine in the amount of 5 fold to 20 fold amount of the minimum wages in Montenegro shall be imposed on the responsible person in the legal entity for the infringement from paragraph 1 of this Article.

Article 73

(1) A pecuniary fine in the amount of 50 fold to 200 fold amount of the minimum wages in Montenegro shall be imposed for an infringement on: a legal entity or entrepreneur for using mineral oil marked red which is intended for use as heating fuel for purposes other than those for which it is marked, or for selling such oil as propellant for motor vehicles and watercrafts or other engines, or for selling it for the standard reservoir of motor vehicles, watercrafts or other engines (Article 56).

(2) A pecuniary fine in the amount of 5 fold to 20 fold amount of the minimum wages in Montenegro shall be imposed on the responsible person in the legal entity for the infringement from paragraph 1 of this Article.

Protective measures

Article 73a

In addition to pecuniary fine, the protective measure of the seizure of the object (excise goods) may be imposed on the legal entity or entrepreneur for the infringements from Article 70 paragraph 1 items 1), 15), 16), 17), 17a), 17b) and 17c).

Article 73b

In addition to pecuniary fine, the protective measure of the prohibition to exercise the business activity may be imposed on the legal entity or entrepreneur for the infringement from Article 70 paragraph 1 items 9) and 11), for the period from one to three months.

XX TRANSITIONAL PROVISIONS

Period of harmonization of excise tax liability amount with the minimum amount in European Union

Article 74

Exceptionally from Article 38 of this Law, beer with alcohol strength below 0.5vol% shall also be considered as alcohol beverage by 2005.

Article 75

(1)Exceptionally from Article 43, paragraph 2, item 1 of this Law, the excise tax on beer shall amount to:

- 1)0.91 EUR per degree of alcohol / hl until 1 April 2002;
- 2)1.23 EUR per degree of alcohol / hl until 1 January 2003,
- 3)1.55 EUR per degree of alcohol /hl until 1 January 2004.

(2)Exceptionally from Article 43, paragraph 2, item 6) of this Law, the excise tax on natural homemade brandy shall amount to 100 EUR per hectolitre of pure alcohol by 2005.

Article 76

Deleted.

Article 77

The provision of Article 19, paragraph (1), item 6 shall be applied as of 1 January 2003.

Application for registration of current excise taxpayers

Article 78

In accordance with the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) excise taxpayers and excise license-holders who are excise taxpayers according to this Law, shall submit to the tax authority by 31 June 2002 an application for registration of the business activity for which they are liable to calculate and pay excise tax.

Final excise tax return and payment terms

Article 79

(1)Excise tax, for which the obligation to account for it occurred prior to the day of implementation of this Law, shall be paid under the terms and conditions specified by the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94,42/94, 13/96, 45/98 and 55/2000).

(2)According to the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) excise taxpayers shall generate the final excise tax return for the period from 1 January to 31 March 2002 and submit it to the tax authority by 30 April 2002.

Inventory of alcohol beverages and tobacco products

Article 80

(1)The existing producers of alcohol beverages and tobacco products shall make an inventory of

such goods in stock by type and quantity on 31 April 2002, and establish the selling prices of such products to include the excise tax in accordance with the provisions of this Law.

(2)The producers referred to in paragraph 1 of this Article shall submit to the tax authority a record of the inventory of goods in stock and the selling prices of such goods (with the excise tax amount shown separately) by 30 April, 2002.

(3)The provisions of paragraphs 1 and 2 of this Article also refer to the stocks of tobacco products and alcohol beverages in excise warehouses.

Inventory of mineral oils

Article 81

(1)Persons trading in mineral oils that are not subject to the excise tax according to the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000), shall be obliged to make an inventory of mineral oils in stocks by type and quantity on 31 March 2002 and calculate the excise tax in accordance with the provisions of this Law.

(2)The record on the stocks of mineral oils referred to in paragraph 1 shall be submitted to the competent tax authority by 30 April 2002.

Transitional period for implementation of current excise stamps

Article 82

The excise tax stamps for tobacco products and alcohol beverages issued prior to implementation date of this Law shall be applied by 31 December 2002.

Secondary legislation

Article 83

Secondary legislation for enforcement of this Law shall be passed within 90 days as of the day when this Law comes into force.

Authorizations related to distribution of revenues collected from excise tax

Article 84

Exceptionally from Article 3 of this Law, until 2004 one portion of revenues collected from excise tax could be directed, according to the special Program of the Government, to other users provided that such users are funded from allocated revenues (compensation etc.) in accordance with special regulations, which shall be abrogated on the day of implementation of this Law.

XXI FINAL PROVISIONS Expiry of validity of regulations

Article 85

The Law on Sales Tax (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) – provisions pertaining to excise taxation – shall be rescinded on the day of implementation of this Law.

Article 85a

Notwithstanding the Article 50 paragraph 3 and 4 of this Law, excise tax chargeable on cigarettes for the period from 1 January to 30 September 2009 shall be:

- specific 3 EUR for 1000 pieces
- ad valorem 30% of their retail price

Article 85b

(1) Producers and importers of tobacco products are obligated to make an inventory on the date of effectiveness of this Law of the existing stock of cigarettes, by types and quantities, and calculate the difference of excise tax liability in accordance with the provisions of this Law.

(2) Calculation of difference of the excise tax liability from the paragraph 1 of this Article must be submitted to competent tax authority by 31 January 2009.

(3) Excise tax from the paragraph 2 of this Article must be paid by 28 February 2009.

Article 85c

The regulations for implementation of this law shall be adopted within six months from the date of entry into force of this law.

Coming into force and implementation of the Law

Article 86

This Law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Montenegro and shall be applied as of 1 April 2002.

PUBLISHER' S NOTE:

The clean text of the Law on amendments to this Law (Official Gazette of the Republic of Montenegro 76/05) does not include the "Transitional and Final Provisions" or the provisions of Articles 17 – 32, reading:

TRANSITIONAL AND FINAL PROVISIONS

Article 17

(1) Producers and importers of cigarettes shall, on the day of implementation of this Law make inventory of cigarettes in stock in their storages, excise and customs warehouses and submit the inventory lists to the competent tax authority by 20 January 2006.

(2) Importers of cigarettes shall, on the day of implementation of this Law, make inventory of excise stamps they provided to foreign suppliers, but for which the cigarettes have not been delivered, and submit the inventory lists to the competent tax authority by 20 January 2006.

(3) Producers and importers of cigarettes shall, on the day of implementation of this Law, make inventory of taken over, but unused excise stamps and return them together with the inventory lists to the tax authority by 20 January 2006.

Article 18

(1) Excise tax on cigarettes in stock from Article 17 paragraph 1 of this Law shall be paid within 60 days from the day of implementation of this Law.

(2) Excise tax on cigarettes for which the excise stamps have been delivered to a foreign supplier, but for which the delivery has not been made by the implementation date of this Law, shall be paid within 60 days from the date of their import.

(3) During the period of deferred payment of excise tax from this Article, the taxpayer shall provide payment guarantee instrument, in the amount of calculated excise tax.

Article 19

A pecuniary fine in the amount of 10 fold to 200 fold amount of the minimum wages in Montenegro shall be imposed on a legal entity or entrepreneur, if

1) such entity fails to make inventory of cigarettes in stock, excise and customs warehouses and submit the inventory lists to the competent tax authority within the prescribed timeframe (Article 17 paragraph 1);

2) such entity fails to make inventory of excise stamps provided to foreign suppliers, but for which the cigarettes have not been delivered, and submit the inventory lists to the competent tax authority within the prescribed timeframe (Article 17 paragraph 2);

3) such entity fails to make inventory of taken over, but unused excise stamps and return them together with the inventory lists to the competent tax authority within the prescribed timeframe (Article 17 paragraph 3);

4) such entity fails to pay the excise tax on cigarettes and does not provide the excise tax payment guarantee instrument during the period of deferred excise payment (Article 18).

Article 20

Secondary legislation for enforcement of this Law shall be passed within 90 days as of the day when this Law comes into force.

Article 21

As of the day of implementation of this Law the Decree on determination of specific and unit excise tax rate on cigarettes (Official Gazette of the Republic of Montenegro 15/02 and 34/03) and the Decree on classification of cigarettes into quality groups (Official Gazette of the Republic of Montenegro 17/02) shall be abrogated.

Article 22

This law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Montenegro and shall be applied as of 1 January 2006.