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On the basis of Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 49th session of the House of Representatives held on 29th December 2004 and at the 36th session of the House of Peoples held on 29th December 2004 adopted

LAW ON EXCISE DUTIES IN BOSNIA AND HERZEGOVINA

Official Gazette of BiH, No. 62/04

I - general provisions

Article 1

(1) This Law shall regulate the taxation of trade in certain types of products (hereinafter: excise products) with a special type of tax – excise duty in the territory of Bosnia and Herzegovina (hereinafter: Bosnia and Herzegovina).

(2) The provisions of this Law shall also apply to road toll.

Article 2

(1) Excise duty revenues shall be paid on to the Single Account of the Indirect Taxation Authority (hereinafter: Authority) and their allocation shall be carried out in compliance with the Law on Payments on to the Single Account and Distribution of Revenues ("Official Gazette of Bosnia and Herzegovina", No. 55/04).

Article 3

(1) Within the meaning of this Law:

"Legal entity" means any legal person, which is, in compliance with current regulations, registered with the responsible court - for production, import or trade in the excise products referred to in Article 4 of this Law.

"Entrepreneur" means any physical person registered with the responsible authority for production or trade in the excise products referred to in Article 4 of this Law.

"Citizen" means any individual being citizen of Bosnia and Herzegovina.

"Authority" means the Indirect Taxation Authority.

"Governing Board" means Governing Board of the Indirect Taxation Authority.

II - SUBJECT OF TAXATION

Article 4

- (1) The subject of taxation shall be the trade in excise products.
- (2) Excise products shall be deemed to be:
 1. oil products;
 2. tobacco products;
 3. non-alcoholic drinks;
 4. alcohol and alcoholic drinks;
 5. beer and wine;
 6. coffee (raw, roasted, ground and coffee extracts).

III - INCURRENCE OF LIABILITY TO CALCULATE EXCISE DUTY

Article 5

- (1) The liability to calculate excise duty on trade in excise products shall be incurred:
 1. at the time of issuing an invoice on sale i.e. at the time of supply of products to another person, if the supply had taken place before the invoice was issued;
 2. at the time of customs clearance on importation of excise products and supply of excise products to free zones and specialised warehouses.
- (2) The liability to calculate excise duty shall also be incurred at the time of:
 1. establishing shortfalls that cannot be justified by force majeure;
 2. write-offs (ullage, loss of weight, defect and crash) exceeding the quantity determined in an enactment by the Governing Board, which will be based on general trade practices;
 3. one's own consumption of excise products.
- (3) For tobacco products, the tax liability shall be incurred at the time of submitting a request for printing tax stamps.
- (4) For alcoholic drinks, the tax liability shall be incurred at the time of taking over control stamps.

IV - TAXPAYER

Article 6

(1) The taxpayer shall be the legal person and entrepreneur that releases into free circulation the excise products referred to in Article 4 of this Law within the meaning of Article 5 of this Law.

(2) The legal person or the entrepreneur that purchases alcoholic drinks and wine directly from a citizen – producer shall be considered taxpayer within the meaning of this Law.

(3) Before they begin to carry out an activity from which a tax liability arises, the taxpayer shall be required to report to the tax authority the location of carrying out the activity.

V - TAX BASE

Article 7

(1) The tax base shall be determined by:

1. the quantity, for excise products for which excise duty is to be paid per measuring unit;
2. the retail price, which does not include the value, added tax (hereinafter: VAT), and until it is introduced – the sales tax on products for tobacco products.

(2) In the case of trade referred to in Article 5, paragraph 2, the tax base shall be determined by the quantity of shortfall that cannot be justified by force majeure, quantity of goods that have been written-off (ullage, loss of weight, defect and crash) exceeding the quantity determined in an enactment by the Governing Board.

VI - TAX RATES

Article 8

(1) The excise duty shall be paid in the absolute amount per unit of measure or at a proportional rate.

Article 9

(1) Excise duty per litre shall be paid on trade in oil products, as follows:

1. petroleum KM 0.30;
2. diesel fuel KM 0.30;
3. heating oil, extra light (EL) and special light (SL) KM 0.30;
4. motor petrol – unleaded KM 0.35;
5. motor petrol KM 0.40.

(2) The road toll in the amount of KM 0.15 per litre shall be paid on trade in the oil products referred to in paragraph 1, items 2, 4 and 5 of this Article.

Article 10

(1) Excise duty per litre shall be paid on trade of following excise products:

1. non-alcoholic drinks KM 0.10;
2. beer KM 0.20;
3. wine KM 0.25;

(2) Within the meaning of this Law, natural juices without preservative and natural mineral carbonated and non-carbonated waters shall not be considered non-alcoholic drinks.

Article 11

(1) Excise duty per litre of absolute alcohol shall be paid on trade in alcohol and alcoholic drinks, as follows:

1. Alcoholic drinks KM 15;
2. Ethyl alcohol KM 15.

Article 12

(1) If the drinks referred to in Article 10 and 11 of this Law are released into free circulation in packages larger or smaller than one litre, the excise duty shall be paid proportionally to the quantity in the package.

Article 13

(1) Excise duty per kilo shall be paid on trade in coffee, as follows:

1. raw coffee KM 1.00;
2. roasted and ground coffee KM 2.50;
3. coffee extract, roasted coffee shells and membranes KM 3.50.

(2) If coffee is released into free circulation in packages larger or smaller than one kilo, excise duty shall be paid proportionally to the quantity in the package.

Article 14

(1) Excise duty on tobacco products shall be paid at the rate of 49% on the tax base determined in compliance with Article 7, item 2 of this Law.

Article 15

(1) A producer i.e. importer shall be required to indicate on a label and other document accompanying excise products composition of raw material, type, quality and other characteristics of the excise products essential for the determination of tax base and to indicate on an invoice nominal amount and measuring unit i.e. the rate at which excise duty is to be calculated and paid, as well as the amount of tax liability.

(2) In case excise goods are produced of two or more different materials, they shall be deemed to be produced of the material which is predominantly contained in them as per its value as compared to the total value of the excise products.

Article 16

(1) The payer of excise duty on the excise products referred to in Article 4, paragraph 2, item 1, 3, 4 and 5 of this Law shall be required to purchase and install at his own expense measuring instruments, installations, input and output counters and other devices necessary for measuring of excise products with a certificate from responsible metrology authority that the mentioned devices meet the measuring requirements.

(2) ITA shall seal the devices referred to in paragraph 1 of this Article and the repair and replacement of the mentioned devices may be performed solely with the authorisation from a tax authority representative.

VII - EXEMPTION FROM EXCISE DUTY

Article 17

(1) Excise duty shall not be paid on:

1. export excise products;
2. excise products that are destroyed or rendered useless under the tax authority's supervision.

(2) Provisions of paragraph 1, item 1 of this Article shall not refer to excise products, which are, in compliance with separate regulations, sold in specialised warehouses and free zones.

VIII - PAYMENT OF EXCISE DUTY

Article 18

(1) The taxpayer shall be required to pay the calculated excise duty referred to in Article 5 within the periods laid down in this Law.

(2) In the cases referred to in Article 5, paragraph 1, item 1 the taxpayer shall be required to pay excise duty on the value of sold excise products within 5 days following the expiration of the week in which the trade was carried out.

(3) In the cases referred to in Article 5, paragraph 1, item 2 of this Law, the taxpayer shall be required to pay excise duty within the period set for the payment of customs duty and other import charges;

(4) In the cases referred to in Article 5, paragraph 2 of this Law, the taxpayer shall be required to pay excise duty at the time of its calculation;

(5) For tobacco products the liability to pay calculated excise duty shall be incurred at the time of taking over tax stamps;

(6) For alcoholic drinks the liability to pay calculated excise duty shall be incurred at the time of taking over control stamps.

(7) For ethyl alcohol a bank guarantee shall be obligatorily submitted, which the Authority shall accept on the amount of calculated excise and which shall be discharged by taking over control stamps for excisable goods for which ethyl alcohol is used as reproduction material.

Article 19

(1) Interest in the amount of 0.06% per day shall be paid on the amount of excise duty, which has not been paid within a legally prescribed period and on to a prescribed account.

(2) The enforced collection shall be carried out from the taxpayer that has not paid excise duty within a prescribed period and in a prescribed manner.

(3) The responsible Tax Administration shall carry out the enforced collection procedure by issuing an order for enforced collection through transfer of funds from the taxpayer's account on to an appropriate account for tax payment.

(4) If the tax liability cannot be fully collected in the manner referred to in paragraph 2 of this Article, the responsible Tax Administration shall issue a decision on enforced collection of tax from the taxpayer's entire property.

(5) The expenses of enforced collection shall be borne by the taxpayer.

IX - TAX RECORDS

Article 20

(1) The taxpayer shall be required to make:

1. a monthly calculation of the tax liability and submit it to the tax authority maximum until the tenth day of the current month for the previous month;

2. an annual calculation of the tax liability and submit it to the tax authority maximum until 10th March of the current year for the previous year.

Article 21

(1) The taxpayer that produces, imports and/or trades in excise products in another way within the meaning of Article 5 shall be required to keep daily records on their production, importation, procurement, trade and condition.

(2) The taxpayer shall be required to make non-bookkeeping records, which should contain data not contained in the books and which pertain to tax bases and tax rates on the basis of which the calculation and payment of excise duty has been carried out.

Article 22

(1) When making an annual calculation of the tax liability, the taxpayer shall be required to make an inventory of excise products and reproduction material in stock as of 31st December of the year for which they are making the calculation.

X - TAX AND CONTROL STAMPS

Article 23

(1) Tobacco products on the market in Bosnia and Herzegovina must be labelled with tax stamps. The form, content and protection of tax stamps, printing procedure, safeguarding and handling shall be prescribed in a separate enactment by the Governing Board.

(2) Alcoholic drinks and wines on the market within the Bosnia and Herzegovina territory must be marked with control stamps. The form, content and protection of control stamps, printing procedure, safeguarding and handling shall be prescribed in a separate enactment by the Governing Board.

(3) Notwithstanding the provisions of paragraph 2 of this Article, alcoholic drinks not exceeding 5% of alcohol content may be released into free circulation without control stamps.

(4) Tax and control stamps shall be issued by the Authority at a taxpayer's request.

(5) The taxpayer must report to the Authority the retail prices of tobacco products before releasing them into free circulation.

(6) For tobacco products, alcoholic drinks and wine the taxpayer shall be required to glue tax i.e. control stamps on a package intended for retail sale in the manner which prevents the use of the content without damaging the tax or control stamp (beneath cellophane or other wrapping excise goods are coated with and the like).

(7) Tobacco products, alcoholic drinks and wine without tax or control stamps shall be considered excise products on which excise duty has not been calculated, except for alcoholic drinks referred to in paragraph 3 of this Article.

(8) Tobacco products, alcoholic drinks and wine for exported, except for those that are sold in duty-free shops, specialised warehouses and free zones, need not be marked with tax or control stamps, but the words "samo za izvoz" or in English "for export only" must be impressed on the package or on a special stamp.

XI - CONTROL OF CALCULATION AND PAYMENT OF EXCISE DUTIES

Article 24

(1) Control of calculation and payment of excise duty shall be performed by the Authority.

(2) If the ITA establishes through control that the taxpayer has not calculated, accurately calculated and/or paid excise duty, it shall issue a decision on determining the tax liability and order its payment.

(3) If it is established during the control that accounts have not been kept or have not been kept properly, the ITA shall establish the tax liability on the basis of available data. If such data do not exist, that is, if they are not available, the determination of the tax liability shall be carried out by way of comparison with another taxpayer who carries out the same or similar activity under the same or similar conditions.

XII - LEGAL REMEDIES

Article 25

(1) The taxpayer shall have the right to lodge an appeal against the decision referred to in Article 24, paragraph 2 and 3 of this Law within 15 days from the date of receiving the decision.

(2) The appeal shall be lodged with the Authority's Director via the responsible tax authority that issued the first-instance decision.

(3) The appeal shall not postpone the execution of the decision.

XIII - TAX REFUND

Article 26

(1) The taxpayer that exports excise products for which excise duty was previously paid shall be entitled to the refund of the amount paid.

(2) The taxpayer referred to in paragraph 1 of this Article shall submit to the Authority a request for refund of excise duty paid.

(3) The taxpayer that previously paid excise duty, which he was not required to pay, shall be entitled to the refund of the amount paid in excise duty, interests, costs of enforced collection and/or fine, unless he calculated and collected excise duty from another person.

XIV - PENAL PROVISIONS

Article 27

(1) A legal entity and an entrepreneur shall be penalised for a misdemeanour by a fine ranging from KM 3,000 to KM 20,000:

1. if they fail to calculate or incorrectly calculate excise duty (Article 5);
2. if they do not report the location where they perform their activity (Article 6, paragraph 3);
3. if the document that accompanies excise product or excise product itself does not display information on composition of raw material, type, quality and other characteristics essential for the determination of tax liability, or if these data are incorrect, or if an invoice does not contain prescribed data (Article 15);
4. if they do not install measuring instruments and devices or do not obtain a certificate from the responsible metrology authority (Article 16);
5. if they do not pay excise duty to a prescribed account or do not pay it within a prescribed period (Article 2 and Article 18);
6. if they do not keep prescribed records (Article 20 and 21);
7. if they do not make an inventory of excise products in stock and reproduction material (Article 22);
8. if they do not report retail prices of tobacco products to the Authority prior to their releasing into free circulation, or if they are sold at prices higher or lower than the reported ones (Article 23, paragraph 5);
9. if they release tobacco products and alcoholic drinks into free circulation without marking each individual excise product with a tax or control stamp, except for alcoholic drinks of up to 5% of alcohol (Article 23).

(2) The responsible physical person employed with the legal person shall be penalised for the misdemeanour referred to in paragraph 1 of this article by a fine ranging from km 1,000 to km 10,000

(3) Excise products found on the market without fixed tax or control stamps, except for alcoholic drinks of up to 5% of alcohol, shall be seized and destroyed under the supervision of Authority.

XV - INTERIM AND FINAL PROVISIONS

Article 28

(1) The Governing Board shall, within 30 days from the date this Law enters into force, issue regulations on the manner of calculation and payment of excise duties, content and manner of keeping records, developing and submitting of monthly and annual reports.

(2) The Governing Board shall, within a period of 60 days from the date this Law enters into force, issue:

1. regulations on the installation of measuring instruments and powers of the Authority referred to in Article 16 of this Law;

2. regulations on printing and issuing of tax and control stamps.

(3) In the period until and within the deadlines stipulated in paragraphs (1) and (2) of this Article the Governing Board adopts complete regulations for the application of this Law in order to achieve secure stability of public revenue and most favourable treatment of taxpayers, the Governing Board may, in situations which are not fully or appropriately resolved in temporary provisions for the application of this Law, chose to apply throughout Bosnia and Herzegovina territory relevant provisions or parts of those provisions which were previously in use in the Federation of Bosnia and Herzegovina, RS and Brcko District.

(4) In cases referred to in paragraph (3) of this Article the Governing Board must issue an appropriate instruction to the Authority and Tax Administrations in the Federation of Bosnia and Herzegovina, Republika Srpska and Brcko District.

Article 29

(1) Until the introduction of a uniform tax and control stamp and at latest by 30th June 2005, tobacco products and alcoholic drinks may be released into free circulation marked with existing tax and control stamps.

(2) Taxpayers of excise duty on tobacco products and legal persons and entrepreneurs dealing in trade of tobacco products shall be required to make an inventory of tobacco products in stock on the date this Law begins to apply and submit their reports to the Tax Administration of the Entities and Brcko District within 7 days from the date this Law begins to apply unless the Governing Board decides otherwise.

(3) Taxpayers of excise duty on tobacco products shall be required to report new retail sale prices to the Tax Administrations of the Entities and the Brcko District as per the place of their seat and to the Authority, within a period of 7 days from the date of performed inventory unless the Governing Board decides otherwise.

Article 30

(1) Taxpayers as well as legal persons and entrepreneurs dealing with trade of tobacco products shall be required to calculate on the found goods in stock specified in the report referred to in Article 29, paragraph 2 of this Law the difference in excise duty on the new tax base consisting of a new retail sale price reduced by the sales tax on products and already paid excise duty.

(2) Taxpayers, legal persons and entrepreneurs shall be required to sell tobacco products at new retail sale prices, which must be displayed on a visible place in a retail sale facility.

Article 31

(1) The respective Entity Ministries of Finance and Brcko District Tax Administration are hereby authorised to ensure continuous printing of existing tax and control stamps until the deadline referred to in Article 29, paragraph 1 of this Law.

Article 32

(1) Notwithstanding the provisions of Article 24 of this Law, control of calculation and collection of excise duties the payer of which is a producer, shall be carried out by the Tax Administrations of the Entities and Brcko District.

(2) Authority shall assume control of the calculation and collection of excise duties referred to in paragraph 1 of this Article latest 30th June 2005 in accordance with Article 25 paragraph 2 of the Law on Indirect Taxation System of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", No. 44/03 and 52/04).

Article 33

(1) On the date this Law begins to apply the following laws shall be repealed:

In the Federation of Bosnia and Herzegovina:

Law on Special Tax on Beer ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 6/95, 51/99, 52/01 and 37/03);

Law on Special Tax on Alcohol ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 6/95, 51/99, 52/01 and 37/03);

Law on Special Tax on Coffee ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 6/95, 51/99, 52/01 and 37/03);

Law on Special Tax on Non-Alcoholic Drinks ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 6/95, 51/99, 52/01, 37/03 and 39/04);

Law on Special Tax on Oil and Oil Products ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 6/95, 27/98, 41/98, 51/99, 29/02 and 37/03);

Law on Special Tax on Tobacco Products ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 6/95, 13/00 and 52/01);

Decision on Amount of Road Toll ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 57/02 and 37/03)

In Republika Srpska

Law on Excise Duty and Sales Tax ("Official Gazette of Republika Srpska", No. 52/02, 30/02, 60/03 and 96/03);

Articles 2a and 2b of the Law on Special Republic Fees ("Official Gazette of Republika Srpska", No. 8/94,29/00, 18/01, 22/01 and 60-II part /03).

In Brcko District

Law on Excise Duty ("Official Gazette of Brcko District", No. 2/02 and 16/03) and

Law on road toll from retail price for oil derivatives ("Official Gazette of Brcko District", No 2/03 and 16/03).

Article 34

(1) This Law shall come into force on the day of its publication in the Official Gazette of Bosnia and Herzegovina and shall apply as from 1st January 2005.

PA Bosnia and Herzegovina number 134/04

29th December 2004.

Sarajevo

Chairman of

House of Representatives of

BH Parliamentary Assembly

Sefik Dzaferovic

Chairman of

House of Peoples of

BH Parliamentary Assembly

Goran Milojevic