

Pursuant to Article 88 item 2 of the Constitution of the Republic of Montenegro I hereby enact

DECREE

PROMULGATING THE LAW ON EXCISE TAXES

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I hereby promulgate the Law on Excise Taxes, adopted by the Parliament of the Republic of Montenegro on its second sitting of the second regular session in 2001, on 27 December 2001.

Number: 01-3868/2
Podgorica, 28 December 2001
President of the Republic of Montenegro
Milo Đukanović, m.p.

LAW ON EXCISE TAXES

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 the “excise goods”), which are released into free circulation on the territory of Montenegro.
- (2) The excise goods referred to in paragraph 1 of this Article shall be:
- 1) Alcohol and alcoholic beverages;
 - 2) Tobacco products;
 - 3) Mineral oils, their derivatives and substitutes;
 - 4) Coffee;
 - 5) Carbonated water.

Article 2

- (1) Excise tax shall be 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 taxes shall belong to the Budget of Montenegro

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 with an excise license by the customs authority 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 customs 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 with the excise license by the customs authority 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 an excise license-holder, or an 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 was allowed or if any of the following was 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 a duty-free zone.
- (3) In case the imported excise goods were released into circulation in accordance with customs regulations, payment of the excise tax may be deferred, if such goods were placed in an excise warehouse or facility of an exempt excise goods user immediately upon being released for consumption.
- (4) In case when an excise license expires, with the exemption of cases referred to 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 consumption prior to the expiry of the above deadline 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 referred to 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 facility but no later than until 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 consumption 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 as follows:
- 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 was 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 when transporting excise goods imported for the needs of an exempt excise goods user, the importer must 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 customs authority was not fully used.
- (3) Transport of excise goods under the deferred excise tax payment regime shall be 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 apply to transport of all excise goods.

Excise document

Article 8

- (1) Administrative excise document (hereinafter referred to as the excise document) is a document 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) Person transporting the excise goods under the deferred excise tax payment regime shall issue the excise document.

(3) Excise document shall be made in 4 copies which are distributed as follows:

- 1) one copy to be kept by the dispatcher;
- 2) two copies accompanying the goods for the consignee, out of which one copy is to be signed by the consignee and returned to the dispatcher or customs authority;
- 3) one copy for the competent customs authority.

Article 9

(1) Excise license-holder and exempt excise goods user receiving excise goods must 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 were examined, and shall return such document to the consignor no later than 15 days from the day such consignment is received.

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

Article 10

The state administration authority in charge of finance (hereinafter referred to as the Ministry 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 when:

- 1) the excise tax becomes payable,
- 2) 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 shall be 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 confirmed on the document that such goods were physically taken outside the customs area of Montenegro in accordance with the customs regulations.
- (2) Excise license-holder shall be 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 samples for analysis in a production testing 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 warehouse,
 - 5) the excise goods are destroyed under the supervision of the customs 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 process of production, 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 shall be 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 covered by 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 the customs authority,

- 5) the shortage of excise goods is established and proved to be the result of *force majeure* (excluding theft), and the shortage which is inseparable from the production process, storage and transport of goods for the production of which the excise goods were utilized.
- (5) The exemption referred to 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 customs authority issued consent for the excise goods to be used for such purposes.
- (6) Importer shall be exempted from payment of excise tax:
 - 1) in cases referred to 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, were 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 was paid by the buyer;
 - 2) excise goods are sold under a 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 being an 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 was 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 such goods were dispatched.
- (3) If the exempt excise goods user utilizes the excise goods for the purposes for which the 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 consumption.
- (4) In case of excise goods used in an excise warehouse as raw material 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 were used or in which the shortage thereof was detected.
- (5) Excise tax with deferred payment in accordance with Article 6, paragraphs 4 and 5 of this Law must 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 must 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 shall be paid according to the amounts or rates that are applicable on the day when the liability to account for the excise tax occurs.

(8) Notwithstanding paragraph 1 of this Article, the liability to account for excise tax for cigarettes shall occur on the day of takeover of control 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 shall be paid according to the amounts or rates applicable on the day when the liability for calculation of the excise tax occurs.

(3) Notwithstanding 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 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 a force majeure or inseparable from the production process, storage or transport of excise goods;
- 6) when legal entity or an entrepreneur who is not the excise taxpayer releases into free circulation tobacco products and alcoholic beverages (except beer and still wine) without the control excise stamp.

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 shall be a producer or excise goods importer, unless otherwise prescribed by this Law.
- (2) The excise taxpayer shall also be a natural person – producer of alcoholic beverages in excess of quantities allowed for personal use, if such alcoholic beverages are released into circulation (sale).
- (3) In addition to the persons referred to in paragraphs 1 and 2 of this Article, the 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 with the license by the customs authority (hereinafter referred to as the excise license), unless otherwise prescribed by this Law.
- (2) The Ministry of Finance shall prescribe more details concerning 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 has an registered office in Montenegro;
- 2) to keep business books under the double-entry bookkeeping system;
- 3) to regularly fulfil its tax liabilities;
- 4) that no bankruptcy or liquidation proceeding was instituted against such

- person;
- 5) to offer an 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) The customs authority shall issue an excise license 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) Planned quantities of annual production, quantities produced and quantities of the goods stored 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) Data evidencing that conditions for supervision by the customs 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 data 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 an approval for using the type of measuring device from the 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 refer for one or more excise warehouses.
- (4) Excise license shall be issued for an open-ending period and 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 customs authority;
 - 5) the form of excise tax payment guarantee;
 - 6) the title of the customs authority.
- (5) Prior to issuing the excise license, the customs authority shall establish on site whether all requirements for issuance of the excise license are met.
- (6) Customs authority shall make a decision on the application for the excise license within 30 days from the day the complete application is received.

Liabilities of excise license-holder

Article 22

- (1) Excise license-holder must:
- 1) provide for appropriate safekeeping 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 customs 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 customs authority monthly excise tax calculations and monthly inventories of goods in stock;
 - 4) inform the customs authority of all changes in the information indicated in the application for the excise license;
 - 5) in the case of status alteration, expansion, reduction or termination of the business activity, request from the customs authority a change of the excise license.
- (2) If the customs authority decides that the excise license-holder does not meet the obligations referred to in paragraph 1 of this Article, such authority shall specify the deadline for elimination of the irregularities.
- (3) The Ministry 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 must submit a guarantee instrument for payment of the excise tax to the customs authority in accordance with this Law.

- (2) The value of the excise tax payment guarantee instrument must correspond to the amount of the 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 instrument refers to all such warehouses, the value of the guarantee instrument must correspond to the total amount of the excise tax liability.
- (4) In the case of expiry of the excise license validity, the excise tax payment guarantee instrument cannot be released until the excise tax for goods in stock is paid.
- (5) The Ministry of Finance shall prescribe in details the guarantee procedure and types of excise tax payment guarantee instruments.

Expiry of excise license validity

Article 24

- (1) Validity of an excise license shall expire:
 - 1) when the performance of the activity related to the excise goods is terminated;
 - 2) by returning the excise license;
 - 3) when the customs authority revokes the excise license.
- (2) The customs 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 fails to provide an appropriate stock control system and fails to make the inventory within deadlines specified in the excise license;
 - 2) if the value 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 and incorrect information;
 - 5) if the excise license-holder fails to eliminate irregularities within the deadline determined by the customs authority;
 - 6) if a liquidation or bankruptcy proceeding is initiated.
- (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) In order to be released into free circulation, with obligatory issuance of an invoice, or another document that may serve as an invoice;
- 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 the excise tax only if issued the relevant license by the customs authority.
- (2) Legal entity may apply for the license referred to 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 bookkeeping 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, submits an excise tax payment guarantee instrument in accordance with this Law;
 - 6) meets other requirements determined under this Law.
- (3) The entity that meets the requirements referred to in paragraph 2 of this Article may be issued the license if the following requirements are also fulfilled:
 - 1) the production facilities, warehouse, or other facilities for storing excise goods are 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 of Finance shall prescribe detailed requirements specified in paragraph 3 of this Article.
- (5) In the event the expiry of the license validity, 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 of Finance shall regulate in details the guarantee procedure and types of excise tax payment guarantee instruments.
- (7) Prior to issuing the license, the customs authority must 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 customs authority shall determine on site whether the requirements for issuance of the license are met.

- (8) If the customs 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 customs authority shall issue 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 customs authority shall notify the entity applying for the license to submit an excise tax payment guarantee instrument, or shall deny the application.
- (3) The customs 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 in 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 referred to in paragraph 1 of this Article shall be issued in the name of the applicant and cannot be transferred to another entity.
- (6) The customs 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 will 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 referred to in paragraph 6 of this Article shall be made and the approval of the quantities for the following period shall be given on the basis of a subsequent application.

Expiry of validity 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 customs authority revokes the excise license;
 - 3) as of returning the excise license.

- (2) The customs authority shall revoke the license if an exempt excise goods user no longer meets the requirements specified by the license, and particularly:
- 1) if fails to provide an appropriate stock control system;
 - 2) if the value of the excise tax payment guarantee instrument does not correspond to the amount of the excise tax liability;
 - 1) if the license is issued on the basis of incomplete or incorrect information;
 - 2) if fails to eliminate irregularities within the deadline determined by the customs authority;
 - 3) when liquidation or bankruptcy proceeding is instituted.
- (3) An appeal against the decision on revocation of the license shall not postpone the enforcement of the decision.

Records kept by exempt excise goods user Article 29

- (1) Exempt excise goods user shall be obliged to keep records on the purchase, movement and consumption of excise goods according to type, quantity and value.
- (2) The Ministry of Finance shall regulate the contents and manner of keeping of the records referred to 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 the 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 was paid;
 - 4) person that procured excise goods at the price with the 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) Persons referred to in paragraph 1 of this Article shall submit the request for a paid excise tax refund to the customs authority within 30 days as of the lapse of the month in which the excise duty was paid.
- (3) A buyer of mineral oils (gas oils) referred to in Article 52 paragraph 3 item 4 indents 2 and 3 of this Law may exercise the right to a refund of a part of the paid excise tax.

- (4) Persons referred to in paragraph 3 of this Article shall submit the request for refund of a part of the paid excise tax to the customs authority within 15 days as of the lapse of the quarter in which the gas oil was procured.
- (5) Legal persons and entrepreneurs may exercise the right to refund of a part of the paid excise tax at the event of procuring gas oils used as engine fuel for industrial and commercial purposes that are registered and carrying out an activity classified under the Law on Classification of Activities (Official Gazette of Montenegro, No 18/11) as part of the Section C (Manufacturing) and so as follows: Division 10 (Manufacture of Food Products) and Division 16 (Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting material); and Section H (Transportation and Storage) and so as follows: Class 49.31 - Urban and Suburban passenger transport (bus passenger transport), class 49.39 - other passenger land transport (scheduled long-distance transport, unscheduled transport, charter transport and other occasional transport services, airport shuttles passenger transport, transport by teleferics, funiculars, ski and cable lifts, transport by school buses and buses for transport of employees) and class 49.41 - Freight transport by road (logging haulage, stock haulage, refrigerated haulage, heavy freight haulage, bulk freight haulage - including haulage in trucks and tanker trucks such milk collection at farms, haulage of automobiles, transport of waste and waste materials without collection and disposal, except for excise goods), except for use by passenger motor vehicles.
- (6) Legal persons and entrepreneurs may exercise the right to refund of a part of the paid excise tax at the event of procuring gas oils used as engine fuel for industrial and commercial purposes that are using such oils for carrying out works for the Bar-Boljare Highway Project.
- (7) The Ministry of Finance shall regulate in details the conditions and manner for paid excise tax refund.

X EXCISE TAX EXEMPTIONS

Excise tax exemption for diplomatic and consular missions and international organizations

Article 31

- (1) Excise tax shall not be 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 referred to in paragraph 1 of this Article shall be exercised on the basis of the certificate issued by the Ministry in charge of foreign affairs.
- (3) If an exemption may be exercised only on the basis of reciprocity under an 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 must not be disposed of, unless the excise tax has been paid for such goods.
- (5) The Ministry of Finance shall regulate in details the right for exemption from the payment of excise tax according to the provisions of this Article.

Other exemptions from excise tax payment

Article 32

Excise tax shall not be 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 shall calculate the excise tax by him/herself.
- (2) The excise tax shall be calculated for one calendar month.
- (3) The excise taxpayer shall be obliged to 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 customs authority by the 15th day of the month following the expiry of the calculation period.
- (2) Excise taxpayer shall be obliged to submit the excise tax return, regardless whether such taxpayer was 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 excise tax return 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 excise tax return 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 15 days from the due date.
- (2) The excise tax referred to in Article 15, item 3 of this Law shall become due on 30th day from of the day when the excise document is issued and must be paid within 15 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 15 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 referred to in Article 30, paragraph 1, item 1 of this Law may be realised 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 of Finance shall prescribe in details the excise tax refund procedure referred to in paragraph 5 of this Article.

- (7) Notwithstanding 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 be obliged to 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) Notwithstanding paragraph 1 of this Article, the importer shall calculate the excise tax for imported cigarettes and shall pay it 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 be obliged to 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 alcoholic beverages and ethyl alcohol.
- (2) Type of alcohol or alcoholic beverages referred to in paragraph 1 of this Article shall be determined in accordance with the classification of these products and their Tariff codes or codes contained in the nomenclature of the Customs Tariff (hereinafter referred to as the CN) valid on the day of commencement of application of this Law, and depending on the content of alcohol in such products.
- (3) The content of alcohol shall be 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-alcoholic beverages covered by the CN code 22.06, with the content of alcohol exceeding 0.5%vol.

Wine **Article 39**

- (1) Still wines and sparkling wines shall be considered as wine.
- (2) Still wines shall be all products covered by the tariff codes CN 22.04 and 22.05, excluding sparkling wines:
- 1) with alcoholic content exceeding 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 exceeding 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, 2204 21 10 00, 2204 29 10 00 and tariff code CN 2205, namely:
- 1) wines in bottles with 'mushroom' stoppers held in place by ties or fastenings, with an excess pressure due to carbon dioxide in solution of 3 bar or more;
 - 2) wines with alcohol content exceeding 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**

- (1) Other non-sparkling fermented beverages shall be considered to be the products covered by the Tariff code CN 22.04 and 22.05 that are not classified as wines in Article 39 of this Law and products covered by the Tariff code CN 22.06 that are not classified as beers in Article 38 of this Law and products that are not classified as other fermented beverages according to the provisions of this Article, as follows:
- 1) with alcohol content exceeding 1.2 %vol. and not exceeding 10 %vol.;
 - 2) with alcohol content exceeding 10 %vol. and not exceeding 15 %vol. provided that the quantity of alcohol in the final product is entirely of fermented origin.
- (2) Other sparkling fermented beverages shall be considered to be the products covered by the tariff codes CN 2206 00 31, 2204 10, 2204 21 10, 2204 29 10 i 2205 that are not classified as wines and sparkling wines, namely:
- 1) in bottles with 'mushroom' stoppers held in place by ties or fastenings, with an excess pressure due to carbon dioxide in solution of 3 bar or more;
 - 2) with alcohol content exceeding 1.2 %vol. but not exceeding 13 %vol.
 - 3) with alcohol content exceeding 13 vol%, but not exceeding 15 vol%, provided that the quantity of alcohol in the final product is entirely of fermented origin.

Intermediate alcoholic beverages

Article 41

- (1) Intermediate alcoholic 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 exceeding 1.2 %vol. and not exceeding 22 %vol.
- (2) Notwithstanding Article 40 of this Law, intermediate alcoholic beverages are considered to be:
- 1) all non-sparkling fermented beverages referred to in Article 40 paragraph 1 of this Law, with the content of alcohol exceeding 5.5 vol. % that are not entirely of fermented origin;
 - 2) all sparkling fermented beverages referred to in Article 40 paragraph 2 of this Law, with the content of alcohol exceeding 8.5 vol% % that are not entirely of fermented origin.

Ethyl alcohol

Article 42

Ethyl alcohol shall be considered to be:

- 1) products covered by the Tariff code CN 22.07 and 22.08 with alcohol content exceeding 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 exceeding 22 %vol.;
- 3) other alcoholic 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 alcoholic beverages and other fermented beverages shall be the quantity of the excise goods in hectolitres; and for beer and ethyl alcohol shall be the content of alcohol by volume per hectolitre.
- (2) Excise tax shall be paid in the following amounts:
- 1) 5.00 EUR per content of alcohol by volume per hectolitre of beer;
 - 2) 0 (null) EUR per hectolitre of still wine;
 - 3) 35 EUR per hectolitre of sparkling wine;
 - 4) 0 (null) EUR per hectolitre of other non-sparkling fermented beverages;
 - 5) 35 EUR per hectolitre of other sparkling fermented beverages
 - 6) 100 EUR per hectolitre of intermediate alcoholic beverages; and
 - 7) 650 EUR per hectolitre of pure alcohol.

Usage of ethyl alcohol for excise tax exempted purposes

Article 44

- (1) The ethyl alcohol covered by the Tariff code CN 22.07 shall be excise tax exempted if used as a raw material in the following:
 - 1) the production of fermented products;
 - 2) the production of vinegar covered by the Tariff code CN 22.09;
 - 3) the production of food items provided that the alcohol content in chocolate goods covered by the Tariff code CN 18.06 does not exceed 8.5 litres of pure alcohol per 100 kilograms of goods, or for other food items - 5 litres of pure alcohol per 100 kilograms of goods;
 - 4) the manufacturing of chemical and cosmetics goods.
- (2) Ethyl alcohol may be dispatched from the excise warehouse to the exempt excise goods user in the chemical and cosmetics industries only if such alcohol is denatured.
- (3) The procedure for complete 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 shall be exempted from payment of excise tax if procured by healthcare institutions, which are issued with a license by tax authorities in accordance with Article 26 of this Law. Healthcare institutions shall not have a duty to submit documents to guarantee the excise tax payment, as envisaged in the provisions of Article 26, paragraph 2, item 5 of this Law.
- (5) The Ministry of Finance shall regulate the denaturing procedure and application of denaturing agents.

Small producers of alcoholic beverages

Article 45

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

Tobacco products Article 46

Tobacco products subject to payment of excise tax are: cigarettes, cigars, cigarillos, fine cut smoking tobacco (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 shall be deemed to be two cigarettes of the length over 8cm but not exceeding 11cm not including filter or cigarette-holder; three cigarettes of the length over 11cm but not exceeding 14cm not including filter or cigarette holder, and so on.
- (3) Cigarettes shall also considered to be the products that are in whole or in part made of tobacco substitutes and which fulfil the conditions referred to in paragraph 1 of this Article, with the exception of those products used exclusively for health purposes.

Cigars and cigarillos Article 48

- (1) Cigars and cigarillos shall be deemed to be tobacco rolls if they can be smoked, given their properties and normal consumer expectations, if they are:

- 1) with an outer wrapper of natural tobacco;
 - 2) with a threshed blend filler and with the outer wrapper of the normal tobacco colour, of reconstituted tobacco, covering the product in full, and depending on the type and the filter, but in the case of cigars with cigarette holder not covering the cigarette holder, which unit weight, excluding filter or cigarette holder, is not less than 2.3 grams and not more than 10 grams and the circumference is not less than 34mm.
- (2) Cigars and cigarillos shall also be deemed to be the products that contain in part substances other than tobacco and which fulfil the criteria referred to in paragraph 1 of this Article.

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, and which is not classified in the goods referred to in Articles 47 and 48 of this Law.
- (2) Tobacco for smoking shall also be considered to be the products that are entirely or in part produced from tobacco substitutes and fulfil 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 deemed to be the fine-cut tobacco for the rolling of cigarettes containing more than 25% by weight of tobacco particles with width of less than 1.5mm.
- (4) For the purpose of paragraph 1 item 2 of this Article, the tobacco refuse shall be deemed to be remnants of tobacco leaves and by-products obtained from tobacco processing or manufacturing, treating or processing of tobacco products.

Excise tax base, rate and amount of excise tax

Article 50

- (1) Excise tax base for tobacco goods is 1,000 pieces and retail price, or kilogram of the goods.
- (2) The excise tax for cigarettes shall be paid as a specific excise tax determined as an amount for 1,000 pieces and as an ad valorem excise tax determined as a percentage of retail price of cigarettes.
- (3) The specific excise tax on cigarettes shall amount to 17.50 EUR for 1000 pieces.

- (4) The Ad valorem excise tax for cigarettes shall amount to 35% of their retail price.
- (5) The excise tax on other tobacco goods shall be paid per kilogram of those goods, and amount as follows:
- 1) For cigars and cigarillos: 25.00 EUR
 - 2) For fine-cut tobacco: 25.00 EUR
 - 3) For other tobacco for smoking: 25.00 EUR.
- (6) The retail price of cigarettes referred to in paragraph 4 of this Article shall be the price determined by the producer or importer, which includes the excise tax and value added tax.
- (7) The producer or importer shall be obliged to report the retail prices of cigarettes to the competent customs authority and publish them in the Official Gazette of Montenegro prior to releasing them for consumption or into free circulation.
- (8) The sale of cigarettes at retail prices exceeding or below 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 referred to in paragraph 1 of this Article, shall be 110% of the total amount of excise tax (specific and ad valorem) determined for the category of cigarettes with most popular price (most popular price category).
- (3) Most popular price referred to in the paragraph 2 of this Article, shall be the retail price of that price category of cigarettes that had the largest volume of sale in Montenegro in the preceding year.
- (4) The Government of Montenegro shall prescribe method and procedure of determining the amount of most popular price of cigarettes referred to in paragraph 3 of this Article
- (5) Following the proposal of the administrative authority competent for tobacco, the Ministry of Finance shall determine the amount of most popular price of cigarettes referred to in 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 referred to in paragraph 5 of this Article shall apply as of the 1 January of the following year.

Minimum Excise Tax

Article 50b

- (1) If the calculated excise tax on cigarettes referred to in Article 50 paragraphs 3 and 4 of this Law is less than the minimum excise tax set forth under this Law, the minimum excise tax shall be paid which shall be 100% of the total excise tax (specific and ad-valorem) determined for the weighted average retail selling price of cigarettes.
- (2) The weighted average retail selling price shall be calculated by dividing the total value of all cigarettes released into free circulation at retail selling prices and the total quantity of all cigarettes released into free circulation in the preceding year.
- (3) The Government shall stipulate the manner and the procedure for determining the amount of the weighted average retail selling price of cigarettes.
- (4) The Ministry of Finance shall stipulates the amount of the weighted average retail selling price of cigarettes in line with the regulation referred to in paragraph 3 of this Article and shall publish it in the Official Gazette of Montenegro.

Article 50c

In the case of change in retail selling prices, the producers and importers of tobacco products shall be obliged to take an inventory of tobacco products, accepted but unused excise duty stamps in the wholesale storages, excise and customs bond warehouses and in the supplier's factory for which the excise tax was paid and for which the excise tax was not paid, as of the day of the change in the retail selling prices, and submit the inventory lists to the competent customs authority and to the authority competent for tobacco by no later than 15 days as of the day of application of changed retail selling prices.

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 referred to as the mineral oils) as determined in this Law.
- (2) The type of mineral oils referred to in paragraph 1 of this Article shall be determined in accordance with the classification of these products in the Customs tariff, or based on the features of specific goods.
- (3) Mineral oils shall include petroleum oil, coal tar and oil obtained from coal shale, 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, and which is sold or used as heating fuel except for black coal, lignite, peat or biomass.

(5) The excise tax shall also be paid on biofuel.

(6) Biomass referred to in paragraph 4 item 3 of this Article shall be regarded as the biodegradable fraction of products, waste and residues of biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste.

(7) Biofuel referred to in paragraph 5 of this Article shall be regarded as liquid or gaseous fuels used as engine fuels for transport, produced from 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 expressed in litres or kilograms.

(2) If the quantity unit for the excise tax is a litre, such litre shall be measured at the temperature of +15⁰ C.

(3) For products referred to in paragraph 1 of this Article, the excise tax shall amount as follows for:

- 1) Leaded 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 litres;
- 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 litres;
- 3) kerosene (tariff code CN 2710 19 21 00 and 2710 19 25 00) used:
 - as motor fuel 330 EUR on 1000 litres;
 - for heating 89.7 EUR on 1000 litres;
- 4) gas oils (tariff code CN 2710 19 41 to 2710 19 49) used:
 - as motor fuel 350 EUR on 1000 litres;
 - as motor fuel for industrial and commercial purposes 169 EUR on 1000 litres;
 - for heating 117 EUR on 1000 litres;
- 5) fuel 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 125 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;
- 7) bio fuel “350” euro on 1000 litres .

Article 52a

Deleted (Official Gazette of Montenegro, No. 76/08)

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 payment 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 and 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) and for use of machinery used for maintenance of ski slopes and ski resort parking lots, buyers shall be entitled to excise tax refund prescribed for that purpose.
- (4) Buyers of mineral oils shall exercise the refund of the excise tax referred to in paragraph 3 of this Article within seven days as of the day of lodging an orderly request to the competent customs authority.
- (5) The Ministry of Finance, in cooperation with the state administration authority in charge of agriculture, forestry and water management and state administration authority in charge of sustainable development and tourism, shall prescribe in details the manner of excise tax refund and the conditions that the buyer of mineral oils referred to in paragraph 3 of this Article must fulfil.

Usage of mineral oils for purposes exempt from excise tax

Article 54

- (1) Excise tax shall not be 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 generation of electrical energy and in plants for co-generation of electrical and heat 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 means of 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 of Finance shall prescribe in details the procedure for realization of rights referred to in paragraph 1 of this Article.

Mineral oils marking

Article 55

- (1) Mineral oils that are used as heating fuel must be marked with the prescribed colour and indicator. The marking of mineral oils may be carried out only in the excise warehouse that is issued the marking license by the customs 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 customs authority, producer, or foreign body in charge of marking, that such oil was marked outside Montenegro and that with respect to the type and quantity, it contains at least the marking substances prescribed pursuant to 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 must be organized in such a way as to ensure that other products do not have the effect of neutralizing the colour or indicator.
- (4) The Ministry in charge of economy shall prescribe the procedure for colouring and marking mineral oils in accordance with this Article.

Article 56

- (1) Marked mineral oils used for heating must not be used for other purposes and thus 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 must not be released into circulation at petrol stations or other retail locations designated for sale of oil derivatives.

Coffee

Article 56a

- (1) Coffee subject to the excise tax payment shall be: roasted coffee and green coffee with or without caffeine, extracts, essences and concentrates of coffee and other coffee-based products.
- (2) The coffee types referred to in paragraph 1 of this Article shall be determined based on the type of such products in the Customs Tariff and with reference to the features of certain products.

Excise tax base and amount of the excise tax
Article 56b

- (1) The excise tax base for calculation of the excise tax on import of the coffee shall consist of the value of the product established in line with the customs regulations plus the amount of the customs duty and other import duties.
- (2) The excise tax on coffee shall be paid at the rate of 20% on the tax base referred to in paragraph 1 of this Article.

Carbonated water with added sugar or other sweeteners or aromatisation agents
Article 56c

- (1) Carbonated water subject to the excise tax payment shall be such carbonated water with added sugar or other sweeteners or aromatisation agents.
- (2) The carbonated water types referred to in paragraph 1 of this Article shall be determined based on the type of such products in the Customs Tariff and with reference to the features of certain products.
- (3) The carbonated water referred to in paragraph 1 of this Article shall be such products referred to in Tariff Code CN 2202 10 00.

Excise tax base and amount of the excise tax

Article 56d

- (1) The excise tax base for carbonated water shall be the quantity of the excise products expressed in hectolitres.
- (2) The excise tax shall be paid in the amount of 10 euro per hectolitre of carbonated water.

Article 56e

The Tariff codes referred to in Articles 38, 39, 40, 41, 42, 44, and 52 of this Law shall be harmonised with the regulation governing the Customs Tariff nomenclature.

XIII EXCISE GOODS MARKING

Excise tax stamps
Article 57

- (1) Producer or importer shall be obliged to mark tobacco products and alcoholic beverages, with the exception of beer and still wine, with control excise stamps, prior to releasing them for use, or into free circulation.
- (2) Control excise tax stamp 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 cannot 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 alcoholic 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 alcoholic beverages shall be marked with special export stamps, if foreign supplier does not provide excise tax stamps for them.
- (5) Notwithstanding paragraph 4 of this Article, tobacco products being exported do not have to be marked with special export stamp, provided that a law of the import country does not stipulate the obligation for tobacco products to be marked with an excise tax stamp.
- (6) The Ministry of Finance shall stipulate in details the procedure for export of tobacco products referred to in paragraph 5 of this Article.
- (7) Tobacco products and bottled alcoholic beverages sold in duty free shops must be marked with special stamps.
- (8) Possession, sale and transport of tobacco products and alcoholic beverages in the quantity exceeding those prescribed under this Law, without corresponding excise tax stamp shall not be allowed.
- (9) The Government shall prescribe: the form and content of a control and special 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 SAFEKEEPING

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 invoice or other documents in two copies. The first copy shall be given to the excise goods consignee, and the second copy and other documents of significance for establishing the level of the excise tax liability shall be retained and kept in accordance with Article 61 of this Law.

Excise taxpayer bookkeeping Article 59

- (1) Excise taxpayer must provide in the bookkeeping the data required for calculation and payment of the 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 the excise tax was paid according to the prescribed rates;
 - 4) quantities of excise goods sold for which excise tax was not 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 be obliged to provide in its 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, who is a producer of alcoholic beverages, must keep separate records on the production, personal consumption and sale of such beverages, as prescribed by the Ministry 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 customs authority upon its request. The records shall not be kept for glass apparatuses for distillation, which are used for scientific and educational purposes and for juicers for households.

Safekeeping of documents Article 61

Excise taxpayer shall be obliged to safekeep 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 to which the documents refer.

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 customs authority in accordance with this Law and the Law governing the customs procedure.
- (2) If the excise taxpayer fails to submit excise tax return or submits an incomplete return, or if the customs authority establishes that the excise tax is not properly calculated, the law governing the 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 be obliged to inform the customs authority about the day of commencement, alteration or termination of the business activity that is subject to accounting for and payment of the excise tax.
- (2) Any entity that becomes an excise taxpayer shall be obliged to submit the application for registration to the customs authority no later than 15 days prior to the commencement of the production, storage, receipt or dispatch of excise goods.
- (3) Excise taxpayer shall be obliged to report to the customs authority the intention to terminate the business activity within the deadline 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 customs 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 shall be obliged to pay the due excise tax liabilities prior to adoption of an enactment on termination of registration.

Register of excise license-holders and excise warehouses

Article 65

- (1) Customs authority shall establish and keep 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 the customs authority;
 - 2) the name and address of excise license-holder and name and address of the excise warehouse;
 - 3) the type of excise goods which the excise license is issued for;
 - 4) the registered office of the competent customs authority;
 - 5) the date of issuance of the identification number and date of revocation of the identification number.

XVII Deleted

Article 66

Deleted. (Official Gazette of Montenegro, No. 76/08)

Article 67

Deleted. (Official Gazette of Montenegro, No. 76/08)

Article 68

Deleted. (Official Gazette of Montenegro, No. 76/08)

XVIII SPECIAL PROVISIONS

Application of other regulations

Article 69

The provisions of a law regulating tax or customs procedures shall be applied accordingly to the relations that are not specifically regulated by this Law (interests, appeal procedure, enforced collection and other).

XIX PENALTY PROVISIONS

Article 70

- (1) A pecuniary fine from 2,000 euro to 20,000 euro shall be imposed for an offence on a legal entity:
- 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 fails to issue the excise document for excise goods being transported under the deferred excise tax payment regime (Article 8, paragraph 2);
- 3) if fails to issue the excise document in four copies (Article 8, paragraph 3);
- 4) if fails to confirm the receipt of the consignment and if fails to return the excise document to the dispatcher within the prescribed timeframe (Article 9, paragraphs 1 and 2);
- 5) if 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 fails to pay it within the prescribed timeframe (Articles 13, 14, 15, 16 and 45);
- 6) if imports, produces, transports or otherwise releases the excise goods into circulation contrary to the provisions of this Law (Article 16);
- 7) if transfers the excise license to a third person (Article 21, paragraph 2);
- 8) if fails to meet the requirements defined in Article 22, paragraph 1 of this Law;
- 9) if fails to submit excise tax payment guarantee instruments (Article 23, paragraph 1, Article 35, paragraph 8 and Article 36, paragraph 3);
- 10) if fails to account for the excise tax, or fails to do so in the accounting period (Article 33);
- 11) if fails to enter excise tax in a monthly excise tax return, fails to submit the excise tax return to the customs 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 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, or free circulation, fails to report the retail prices of cigarettes to the competent customs authority and fails to publish them in the Official Gazette of Montenegro, or if sells cigarettes at the retail prices which exceed or are below the reported (Article 50, paragraphs 7 and 8);
- 16) if fails to mark or organize storage of mineral oils used as heating fuel in the prescribed manner (Article 55);
- 17) if uses the mineral oils used for heating contrary to the provisions of Article 56, paragraph 1 of this Law,
 - 17a) if releases into circulation 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 fails to mark tobacco products and alcoholic beverages in the prescribed manner prior to releasing them into use, or free circulation (Article 57, paragraphs 1, 2, 3 and 4);
 - 17c) if possesses, sells and transports tobacco products and alcoholic beverages in the quantities exceeding those determined in this Law, without corresponding excise tax stamp (Article 57, paragraph 6);

- 18) if fails to provide the prescribed information in its bookkeeping and fails to keep proper records (Article 59);
 - 19) if fails to safekeep the documentation for the envisaged time period (Article 61);
 - 20) if fails to inform the customs authority about the day of commencement, alteration or termination of the business activity (Article 63).
- (2) A pecuniary fine from 500 euro to 1,000 euro shall also be imposed on a responsible person in the legal entity for the offence referred to in paragraph 1 of this Article.
- (3) A pecuniary fine from 1,000 euro to 6,000 euro shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.
- (4) A pecuniary fine from 250 euro to 1,000 euro shall be imposed on a natural person for the offence referred to in paragraph 1 item 17c) of this Article.¹

Article 71²

- (1) A pecuniary fine from 2,500 to 20,000 euro shall be imposed for an offence on a legal entity -exempt excise goods user:
- 1) if fails to keep records on the purchase, movement and consumption of excise goods by type, quantity and value (Article 29);
 - 2) if exercises the right to excise tax exemption contrary to Articles 44 and 54 of this Law.
- (2) A pecuniary fine from 250 euro to 2,000 euro shall also be imposed on a responsible person in the legal entity for the offence referred to in paragraph 1 of this Article.
- (3) A pecuniary fine from 1,000 euro to 6,000 euro shall be imposed on an entrepreneur-exempt excise goods user for the office referred to in paragraph 1 of this Article.

Article 72³

- (1) A pecuniary fine from 1,000 euro to 20,000 euro shall be imposed for an offence on a legal entity that fails to keep records of buyers of such equipment and fails to submit them to the customs authority at its request (Article 60).
- (2) A pecuniary fine from 250 euro to 1,000 euro shall also be imposed on a responsible person in the legal entity for the offence referred to in paragraph 1 of this Article.

¹ Paragraph amended to include this provision from Article 132 of the Law Amending and Supplementing the Law Stipulating Pecuniary Fines for Offences (Official Gazette of Montenegro, No 40/11), however the text remains the same.

² Article amended to include this provision from Article 132 of the Law Amending and Supplementing the Law Stipulating Pecuniary Fines for Offences (Official Gazette of Montenegro, No 40/11), however the text remains the same.

³ ditto

- (3) A pecuniary fine from 500 euro to 6,000 euro shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

Article 73⁴

- (1) A pecuniary fine from 2,500 euro to 20,000 euro shall be imposed for an offence on: a legal entity 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 from 250 euro to 1,000 euro shall also be imposed on a responsible person in the legal entity for the offence referred to in paragraph 1 of this Article.
- (3) A pecuniary fine from 1,000 euro to 6,000 euro shall be imposed on an entrepreneur for the offence referred to in 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 also be imposed on the legal entity or entrepreneur for the offence referred to in 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 for the period from one to three months may also be imposed on the legal entity or entrepreneur for the offence referred to in Article 70 paragraph 1 items 9) and 11) and Article 71, paragraph 1 item 2).

XX TRANSITIONAL PROVISIONS

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

Article 74

Notwithstanding Article 38 of this Law, beer with alcohol strength below 0.5 vol.%, regardless of its content and the manner of packaging, shall also be considered as alcohol beverage until 2005.

⁴ ditto

Article 75

(1) Notwithstanding 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; and
- 3) 1.55 EUR per degree of alcohol /hl until 1 January 2004.

(2) Notwithstanding 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 until 2005.

Article 76

Deleted (Official Gazette of Montenegro, No. 76/08)

Postponement of obligation to fulfil requirements for electronic exchange of data 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 be obliged to submit to the competent tax authority by 31 June 2002 an application for registration of the business activity for which they are obliged to calculate and pay the excise tax.

Final excise tax return and payment deadlines Article 79

(1) Excise tax, for which the obligation to account for it occurred prior to the day of application of this Law, shall be paid within the deadlines and in the manner 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 be obliged to 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 alcoholic beverages and tobacco products

Article 80

- (1) The existing producers of alcoholic beverages and tobacco products shall be obliged to take an inventory of such goods in stock by type and quantity as of 31 March 2002, and establish the selling prices of such products with included excise tax in accordance with the provisions of this Law.
- (2) The producers referred to in paragraph 1 of this Article shall be obliged to submit to the tax authority a minutes 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 shall also refer to the stocks of tobacco products and alcoholic beverages in excise warehouses.

Article 80a

- (1) Producers and importers of tobacco products shall be obliged to take an inventory of such goods in stock in storages, excise and customs warehouses as of 1 January 2011 and submit to the competent tax authority inventory lists within 15 days from the day of this Law.
- (2) Importers of tobacco products shall also be obliged to take an inventory of such goods in stock in the factory of the supplier on 1 January 2011 and submit to the competent tax authority inventory lists within 15 days from the day of commencement of application of this Law.
- (3) Producers and importers of tobacco products shall be obliged to calculate and make payments of the excise tax on stocks referred to in paragraphs 1 and 2 of this Article, or excise tax difference at the rate referred to in Article 50 of this Law.
- (4) Monthly excise tax calculation (return) referred to in paragraph 3 of this Article shall be submitted to the competent tax authority within the deadline referred to in Article 34, paragraph 1 of this Law.
- (5) The excise tax referred to in paragraph 3 of this Article shall become due for payment within the deadline referred to in Article 35, paragraph 1 of this Law.

Article 80b

- (1) Producers and importers of tobacco products shall be obliged to take an inventory of stock of products, accepted and unused excise stamps in storages, excise and customs bond warehouses as of 31 December 2011 and submit inventory lists to a competent tax authority within 15 days as of the day of commencement of application of this Law.
- (2) Importers of tobacco products shall be obliged to take an inventory of stocks of their products, accepted and unused excise stamps in the factory of a supplier as of 31 December 2011 and submit inventory lists to a competent tax authority within 15 days as of the day of commencement of application of this Law.

Article 80c

- (1) Producers and importers of tobacco products shall be obliged to calculate and make payments of the difference in excise taxes applying rates referred to in Article 50 of this Law to the excise stamps quantities exceeding the quantity taken over for the period from 1 October 2010 until 30 September 2011.
- (2) Producers and importers of tobacco products, who do not use quantities of excise stamps taken over for the period from 1 October 2010 until 30 September 2011, shall be obliged to calculate and make payments of the difference in excise taxes applying rates referred to in Article 50 of this Law on such unused excise stamps.
- (3) Unused excise stamps referred to in paragraph 2 of this Article shall include all stock of excise stamps, including also excise stamps affixed to products in stock.
- (4) Producers and importers of tobacco products shall be obliged to calculate and make payments of the difference in excise taxes applying rates referred to in Article 50 of this Law to quantities of tobacco products not delivered to buyers (wholesale and retail) in excess of annual quantities the excise taxpayer delivered in 2011.
- (5) Annual quantities referred to in paragraph 4 of this Article shall be determined based on the monthly average of quantities delivered to buyers (wholesale and retail) in the first nine months of 2011 multiplied by 12.5.

Article 80d

- (1) Monthly excise tax calculation (return) referred to in Article 80c of this Law shall be submitted to the competent tax authority within the deadline referred to in Article 34, paragraph 1 of this Law.
- (2) The excise tax referred to in paragraph 1 of this Article shall become due for payment within the deadline referred to in Article 35, paragraph 1 of this Law

Article 80e

- (1) Producers and importers of tobacco products shall be obliged to take an inventory of stock of tobacco products, accepted and unused excise stamps in wholesale storages, excise and customs bond warehouses and the supplier's factory as of the day this Law enters into force and submit inventory lists to the competent tax authority and the authority competent for tobacco within 15 days as of the day of this Law enters into force.
- (2) Producers and importers of tobacco products shall be obliged to calculate and make payments of the excise tax or excise tax difference on stocks for which the excise tax was paid and for which the excise tax was not paid at the rates referred to in Article 50 of this Law.

- (3) Excise tax calculation (return) referred to in paragraph 2 of this Article shall be submitted to the competent tax authority within the deadline referred to in Article 34, paragraph 1 of this Law.
- (4) The excise tax referred to in paragraph 2 of this Article shall become due for payment within the deadline referred to in Article 35, paragraph 1 of this Law.

Article 80f

- (1) The specific excise tax on cigarettes referred to in Article 47 of this Law shall be paid for 1,000 pieces and so as follows:
- 1) From 1 November 2014 until 31 March 2015 – amount of 19.00 EUR;
 - 2) From 1 April 2015 until 31 March 2016 – amount of 20.00 EUR;
 - 3) From 1 April 2016 until 31 March 2017 – amount of 22.00 EUR;
 - 4) From 1 April 2017 until 31 March 2018 – amount of 24.00 EUR;
 - 5) From 1 April 2018 until 31 March 2019 – amount of 26.00 EUR.
- (2) The ad-valorem excise tax on cigarettes referred to in Article 47 of this Law shall be paid from the retail selling price of cigarettes and so as follows:
- 1) From 1 November 2014 until 31 March 2015 – 35%;
 - 2) From 1 April 2015 until 31 March 2016 – 34%;
 - 3) From 1 April 2016 until 31 March 2017 – 33%;
 - 4) From 1 April 2017 until 31 March 2018 – 33%;
 - 5) From 1 April 2018 until 31 March 2019 – 31%.

Inventory of mineral oils

Article 81

- (1) Persons trading in mineral oils that are not subject to the excise tax payment 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 as of 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 alcoholic beverages issued prior to the day of commencement of application of this Law shall be applied by 31 December 2002.

Article 82a

Provision of Article 4 indent 2 and other provisions of this Law transferring the competencies of the tax authority to the customs authority shall apply from 1 January 2015.

Handover between the customs authority and the tax authority of the register of excise license holders and excise warehouses, and supporting documentation, shall be carried out by 1 January 2015.

Secondary legislation **Article 83**

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

Deadline for adoption of secondary legislation **Article 83a**

Secondary legislation referred to in Article 30 paragraph 3 of this Law shall be adopted within 30 days as of the day this Law enters into force.

Authorizations related to distribution of revenues collected from excise tax

Article 84

Notwithstanding Article 3 of this Law, until 2004 one portion of revenues collected from excise tax may be directed, according to the special program of the Government, to other users as well, provided that such users are funded from allocated revenues (compensations and similar) in accordance with special regulations, which shall be abrogated on the day of commencement of application of this Law.

Article 84a

Notwithstanding Article 43, paragraph 2, item 1 of this Law, the excise tax on beer in 2012 shall amount 3.50 euro per degree of alcohol by volume per hectolitre of beer.

Article 84b

Provision of Article 52, paragraph 3, item 4, indent 1 of this Law shall apply from 4 January 2012.

Article 84c

Provisions of Articles 56b and 56d of this Law shall apply from 1 April 2012.

Article 84d

Provisions of Article 50a of this Law shall apply until 31 January 2014.

Provisions of Article 50b shall apply from 1 February 2014.

Article 84e

Provisions of Articles 56a and 56b of this Law shall apply until 31 December 2014.

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 commencement of application of this Law.

Article 85a

Notwithstanding Article 50 paragraphs 3 and 4 of this Law, the 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 shall be obliged to take an inventory on the day this Law is applied 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 referred to in paragraph 1 of this Article shall be submitted to competent tax authority by 31 January 2009.

(3) The excise tax referred to in 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.

Article 85d

Notwithstanding Article 43 paragraph 2, item 1 of this Law, the excise tax on beer in 2011 shall amount 3.50 EUR of alcohol content by volume per hectolitre of beer.

Article 85e

The Ministry of Finance shall updated the list of tariff codes for excise goods by way of its regulation by the end of the current year for the next year, in line with the regulation governing harmonisation of the customs tariff nomenclature.

Article 85f

Provisions of Article 132 of the Law Amending and Supplementing the Law Stipulating Pecuniary Fines for Offences (Official Gazette of Montenegro, No 40/11) shall cease to have effect as of the day this Law enters into force.

Entry into force and implementation of the Law

Article 86

This Law shall enter into force on the eighth day following the day of its publication in the Official Gazette of the Republic of Montenegro and shall apply from 1 April 2002.

PUBLISHER'S NOTE:

The consolidate text of the Law does not include the following provisions of the Law on Amendments and Supplements to the Law on Excises (Official Gazette of the Republic of Montenegro 76/05):

“TRANSITIONAL AND FINAL PROVISIONS

Article 17

- (1) Producers and importers of cigarettes on the day of commencement of application of this Law shall be obliged to take 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 be obliged, on the day of commencement of application of this Law, to take inventory of excise stamps they provided to foreign suppliers, but for which the cigarettes were been delivered, and submit the inventory lists to the competent tax authority by 20 January 2006.*
- (3) Producers and importers of cigarettes shall be obliged, on the day of commencement of application of this Law, to take inventory of taken over, but unused excise stamps and return them together with the inventory lists to the competent tax authority by 20 January 2006.*

Article 18

- (1) Excise tax on cigarettes in stock referred to in Article 17 paragraph 1 of this Law shall be paid within 60 days from the day of commencement of application of this Law.*
- (2) Excise tax on cigarettes for which the excise stamps were delivered to a foreign supplier, but for which the delivery was not made by the day of commencement of application of this Law, shall be paid within 60 days from the day of their import.*
- (3) During the period of deferred payment of excise tax referred to in this Article, the taxpayer shall be obliged to 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 of the minimum wages in Montenegro shall be imposed for an offence on a legal entity or entrepreneur, if

- 1) fails to take inventory of cigarettes in stock, excise and customs warehouses and submit the inventory lists to the competent tax authority within the prescribed deadline (Article 17 paragraph 1);*
- 2) fails to take inventory of excise stamps provided to foreign suppliers, but for which the cigarettes were been delivered, and submit the inventory lists to the competent tax authority within the prescribed deadline (Article 17 paragraph 2);*
- 3) fails to take inventory of taken over, but unused excise stamps and return them together with the inventory lists to the competent tax authority within the prescribed deadline (Article 17 paragraph 3);*
- 4) fails to pay the excise tax on cigarettes within the stipulated deadline and fails to 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 this Law enters into force.

Article 21

As of the day of application of this Law, the Decree on determination of specific and ad valorem excise tax on cigarettes (Official Gazette of the Republic of Montenegro, No 15/02 and 34/03) and the Rulebook on classification of cigarettes into quality groups (Official Gazette of the Republic of Montenegro, No 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 apply from 1 January 2006."

The consolidate text of the Law does not include the following provisions of the Law on Amendments and Supplements to the Law on Excises (Official Gazette of Montenegro 76/08):

"Article 15

This Law shall enter into force on the eighth day after its publication in the Official Gazette of Montenegro and shall apply from 1 January 2009."

The consolidate text of the Law does not include the following provisions of the Law on Amendments to the Law on Excises (Official Gazette of Montenegro 50/09):

"Article 3

This Law shall enter into force on the eighth day after its publication in the Official Gazette of Montenegro and shall apply from 4 August 2009."

The consolidate text of the Law does not include the following provisions of the Law on Amendments to the Law on Excises (Official Gazette of Montenegro 61/11):

"Article 10

This Law shall enter into force on the eighth day after its publication in the Official Gazette of Montenegro and shall apply from 1 January 2012."

The consolidate text of the Law does not include the following provisions of the Law on Supplements to the Law on Excises (Official Gazette of Montenegro, No 28/12):

"Article 4

This Law shall enter into force on the day following the day of its publication in the Official Gazette of Montenegro, and shall apply upon expiry of 15 days as of the day this Law enters into force."

The consolidate text of the Law does not include the following provisions of the Law on Amending and Supplementing the Law on Excises (*Official Gazette of Montenegro*, No 38/13):

"Article 18

This Law shall enter into force on the day following the day of its publication in the Official Gazette of Montenegro, and shall apply from 1 August 2013."

The consolidate text of the Law does not include the following provisions of the Law Amending and Supplementing the Law on Excises (*Official Gazette of Montenegro*, No 45/14):

"Article 16

This Law shall enter into force on the eighth day following the day of its publication in the Official Gazette of Montenegro."