

**EXCISE TAX LAW**  
**(cleared text)**

**I. GENERAL PROVISIONS**

Article 1

(1) This law regulates the excise tax system and introduces the requirement to pay excise tax on excise goods as defined by this law (hereinafter: excise goods), which are put into free circulation on the territory of the Republic of Montenegro.

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

- 1) Alcohol and alcohol beverages,
- 2) tobacco products and
- 3) mineral oils, mineral oil derivatives and their substitutes.

Article 2

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

(2) The import of excise goods shall be considered any and every instance of bringing excise goods into Montenegro, unless otherwise specified by this law.

Article 3

Excise tax revenues belong to the Budget of the Republic of Montenegro.

**Interpretation – definition of certain terms**

Article 4

Certain terms used by this law shall have the following meaning:

- An **excise taxpayer** is a producer or importer of excise goods, or person to which the excise tax requirement may be transferred under this law.

- An **excise licensee** is a natural or legal person to which a tax authority may issue an excise license to engage in the following, in the performance of his/her activities in an excise goods warehouse: produce, finish, process, refine (hereinafter: produce), store, receive and dispatch excise goods under a deferred excise tax payment regime.

- An **excise license** is a document issued by a tax authority to a legal or natural person allowing such person, in performing his/her activities in an excise goods warehouse, to engage in the following: produce, store, receive or dispatch excise goods under a deferred excise tax payment regime.

- An **excise goods warehouse** is one or several connected, enclosed areas or facilities that constitute a technological whole, in which an excise licensee produces, stores, receives or dispatches goods under a deferred excise tax payment regime and which must bear clearly visible markings and be physically separate from the other areas or facilities.

- A **deferred excise payment regime** is an institute related to production, storage and movement of excise goods, on the basis of which the obligation to pay an excise tax is postponed.

- An **exempt excise goods beneficiary** is a natural or legal person to which a tax authority may, under conditions defined by this law, issue an excise license allowing such person to procure, in the performance of his/her activity, excise tax-free excise goods for purposes specified in Articles 44 and 54 of this law.

- An **exempt excise goods beneficiary plant** is an area, installation or equipment where excise goods are kept, which an exempt excise goods beneficiary procured excise tax free to carry out his/her activities.

An **excise goods importer** is a customs debtor, defined under the customs regulations, or a foreign excise goods consignee.

## II. ESTABLISHMENT OF AN EXCISE REQUIREMENT

### Article 5

- (1) An excise requirement is established when:
- 1) excise goods are produced in the Republic of Montenegro (hereinafter: Montenegro) and
  - 2) excise goods are imported into Montenegro.

- An excise requirement may be transferred from the producer or importer to an excise licensee, or exempt excise goods beneficiary under terms and conditions 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 goods warehouse,
  - 2) excise goods are stored in an exempt excise goods beneficiary plant,
  - 3) excise goods are transported under the terms prescribed by this law.

(2) Payment of the excise tax on imported excise goods may be deferred if, immediately upon the entry of such goods in Montenegro, their storage is allowed or the procedure for customs transit or storage in a bonded warehouse is initiated, if imported for export under the deferred excise tax payment regime, if such goods are processed under customs supervision or in the case of temporary importation, or if such goods enter a free zone.

(3) In case the imported excise goods are put into circulation in accordance with customs regulations, payment of the excise tax may be deferred if such goods are placed in an excise goods warehouse or an exempt excise goods beneficiary plant directly after being released for use.

(4) In case an excise license expires, excluding such cases as specified in paragraphs 6 and 7 of this article, payment of the excise tax on excise goods in stock may be deferred for a period of up to 30 days from the day of expiry of such license unless such excise goods were released for use prior to the expiry of the above term or were dispatched to another excise goods warehouse or an exempt excise goods beneficiary plant.

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

(6) In case an excise goods warehouse or exempt excise goods beneficiary should cease to operate for reasons of liquidation or bankruptcy, payment of the excise tax shall be deferred until such excise goods are put into free circulation in a liquidation or bankruptcy proceeding, or as long as they are stored in such or other excise goods warehouse or exempt excise goods beneficiary plant, but no later than the day such goods are dispatched to the creditor under a decision on property division.

(7) In case an excise license or license of an exempt excise goods beneficiary expires as a result of a merger, payment of the excise tax shall be deferred until the day the excise goods in stock are released for use under a merger procedure or until they are stored in another excise goods warehouse or exempt excise goods beneficiary plant, or until they are dispatched, but no longer than 60 days from the day of submission of an application to enter the merger in an authorized court register.

### **Transportation 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 goods warehouse to another excise goods warehouse, from an exempt excise goods beneficiary plant to an excise goods warehouse and upon import to an excise goods warehouse,
- 2) from an excise goods warehouse to an exempt excise goods beneficiary plant and upon import to an exempt excise goods beneficiary plant,
- 3) from an excise goods warehouse into export,

- 4) if, immediately upon entry into Montenegro, excise goods are allowed to be stored temporarily or a customs transit procedure is initiated for such goods, a procedure for storage in a bonded warehouse, import for export under the deferred excise tax payment regime, processing under customs supervision or temporary import, or if transported to a free zone.
- (2) For transporting excise goods imported for needs of the exempt excise goods beneficiary, an importer shall submit to the customs authority a statement by the exempt excise goods beneficiary in which the beneficiary shall specify that the quantitative limit in the license issued by a tax authority has not been used.
- (3) Transportation of excise goods under the deferred excise tax payment regime is permitted only if such goods are accompanied by an excise document, unless otherwise regulated by this law.
- (4) The provisions of paragraph 3 of this article shall apply to transportation of all excise goods.

### **Excise document**

#### Article 8

- (1) An administrative excise document (hereinafter: excise document) is a legal document that accompanies transportation 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 goods warehouse or entry of goods in an excise goods warehouse;
  - 3) the dispatch and entry of excise goods for an exempt excise goods beneficiary and
  - 4) the export of excise goods, as well as the type and quantity of excise goods under such regime.
- (2) An excise document shall be issued by the person transporting the excise goods under the deferred excise tax payment regime.
- (3) An excise document is issued in 4 copies of which:
- 1) one copy for the dispatcher,
  - 2) two copies accompanying the goods for the consignee, out of which one
  - 3) copy is to be signed by the consignee and returned to the dispatcher or tax authority and
  - 4) one copy for the competent tax authority.

#### Article 9

- (1) An excise licensee and exempt excise goods beneficiary receiving excise goods shall confirm the receipt of the consignment to the excise licensee or exempt excise goods beneficiary that dispatched the consignment and to the customs authority confirm receipt of the consignment dispatched by the importer.

(2) The consignee as defined in paragraph 1 of this article shall confirm receipt of the consignment on a copy of the excise document and note that the contents of the consignment were checked, and shall return such document to the consignor within 15 days at latest as of the day when such consignment is received.

(3) The export of excise goods shall be confirmed by a customs authority on the excise document when such goods are physically carried outside the customs territory of Montenegro.

#### Article 10

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

### **IV. TERMINATION OF THE DEFERRED EXCISE TAX PAYMENT REGIME**

#### Article 11

The deferred excise tax payment regime shall be terminated:

- 1) when the excise tax is due for payment,
- 2) when an excise licensee, exempt excise goods beneficiary or importer are excise tax exempt.

#### **Excise tax exemptions of excise licensee or exempt excise goods beneficiary**

#### Article 12

- (1) An excise licensee may be excise tax exempt when:
  - 1) excise goods are stored in an excise goods warehouse of another excise licensee and such licensee confirms receipt of the consignment on a copy of the excise document,
  - 2) excise goods are stored in an exempt excise tax beneficiary plant and such beneficiary confirms receipt of the consignment on a copy of the excise document,
  - 3) excise goods are exported and the customs authority confirms on the document that such goods have been physically conveyed outside the customs territory of Montenegro in accordance with customs regulations.
- (2) An excise licensee is exempt from paying excise tax on excise goods stored in such licensee's excise goods warehouse, if the excise goods are:
  - 1) used as the basic component in the production of other excise goods in the excise goods warehouse,
  - 2) used as analysis samples in testing production or for scientific purposes,
  - 3) used for purposes of customs control,

- 4) used for quality control which is performed by authorized persons in a bonded warehouse,
  - 5) destroyed under the supervision of a tax authority,
  - 6) a shortfall of excise goods is established which an excise licensee proves to be the result of force major (excluding theft) or which is necessarily related to the production process, storage and transportation of such good,
  - 7) alcohol fully denatured in accordance with article 44 of this law,
  - 8) tobacco products, denatured and used for industrial or horticultural purposes.
- (3) An exempt excise goods beneficiary is exempt from paying an excise tax if:
- 1) the excise goods are dispatched and stored in an excise goods warehouse and if an excise licensee confirms receipt of the consignment on a copy of the excise document,
  - 2) the excise goods are used for purposes specified in article 44 or article 54 of this law and indicated in the license of an exempt excise goods beneficiary.
- (4) An exempt excise goods beneficiary shall also be exempted from paying an excise tax if:
- 1) the excise goods are used as analysis samples in production testing in the production facilities or warehouse of such beneficiary,
  - 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 beneficiary's facilities or warehouse,
  - 4) the excise good are destroyed under the supervision of a tax authority,
  - 5) a shortfall of excise goods is established which is proved to be the result of force major (excluding theft) and a shortfall which is necessarily related to the production process, storage or transportation of goods in the production of which excise goods are utilized.
- (5) The exemption specified in paragraph 2, items 2) through 4) and paragraph 4, items 1) through 3) of this article shall be realized providing that a tax authority issued approval for the excise goods to be used for such purposes.
- (6) An importer shall be exempt from paying an excise tax:
- 1) in such case as specified in article 6, paragraph 3 of this law if such importer receives, within 15 days from the day of dispatch, confirmation by the excise licensee or exempt excise goods beneficiary that such licensee or beneficiary is in possession of the consignment,
  - 2) if such importer proves that the excise goods, which were imported under a deferred customs procedure, have been physically transported outside Montenegro.
- (7) An excise licensee and an exempt excise goods beneficiary as specified in article 6, pgs 4 and 5 of this law shall be exempt from paying excise tax if excise goods are stored in another excise goods warehouse and if the excise licensee of such other excise goods warehouse certifies this on the excise document.

(8) An excise licensee and an exempt excise goods beneficiary as specified in article 6, pgs 4 and 5 of this law shall be exempt from paying excise tax if:

- 1) the excise goods are put into free circulation and if the excise tax was paid by the buyer;
- 2) if excise goods in a bankruptcy or liquidation proceeding are sold to an excise licensee or exempt excise goods beneficiary and their storage certified in the administrative document,
- 3) the excise goods are dispatched from an excise goods warehouse or exempt excise goods beneficiary plant to a creditor (under division of property) and the excise tax is paid at the same time, or if the creditor – excise licensee certified receipt of the consignment on the administrative document.

(9) An excise licensee and exempt excise goods beneficiary as specified in article 6 paragraph 7 of this law shall be exempt from paying excise tax if the excise goods are stored in another excise goods warehouse or exempt excise goods beneficiary plant and such action is recorded in the excise document or if assets are acquired within a period of 60 days from the day the application is submitted for entry in the register and the excise goods are dispatched for such purpose and the excise tax is paid at the same time.

## **V. ESTABLISHMENT OF REQUIREMENT TO ASSESS AND PAY EXCISE TAX**

### **Establishment of Requirement to Assess Excise Tax by a Producer**

#### Article 13

(1) The requirement to assess excise tax shall be established at the time when excise goods are put to into free circulation. The free circulation shall be considered:

- 1) Any and every dispatch of excise goods from an excise goods warehouse or an exempt excise goods beneficiary plant, except if the excise goods are dispatched to: another excise goods warehouse or other exempt excise goods beneficiary plant, a bonded warehouse, a free zone, under the customs transit procedure or export, and
- 2) Any and every dispatch from the production plant of an excise taxpayer that is not an excise licensee.

(2) In case of dispatch of excise goods from the excise warehouse or exempt excise goods beneficiary plant for which it has not been confirmed within 15 days time as of the day of delivery that the consignment reached the destination the requirement to assess excise tax shall be established on 16<sup>th</sup> day from the day such goods were dispatched.

(3) If the exempt excise goods beneficiary utilizes the excise goods for purposes for which excise tax exemption is not prescribed, the requirement to determine the excise tax shall be established on the last day of the month when the excise goods are put in use.

(4) If excise goods are used in an excise goods warehouse as a raw material for producing other goods, which are used as fuel or heating fuel, and the shortfall as specified in article 12,

paragraph 2, item 6) of this law, the requirement to assess excise tax shall be established on the last day of the month in which such excise goods are used or in which such shortfall was established.

(5) An excise tax with deferred payment under article 6, paragraphs 4 and 5 of this law must be determined on 30<sup>th</sup> day after the expiry of the license if the person whose license expired failed to receive a copy of the administrative document from the excise goods consignee.

(6) An excise tax with deferred payment under article 6, paragraph 6 of this law shall be determined on 30<sup>th</sup> day after the expiry of the license if the person whose license expired failed to receive a copy of the administrative document from the excise goods consignee.

(7) The excise tax is paid according to the amount or rates which are valid on the day when the requirement to determine the excise tax is established.

(8) Notwithstanding paragraph 1 of this article, a requirement of assessment of excise tax for cigarettes at importation, shall be established on the day of taking over of controlling excise stamps.

### **Establishment of Requirement to Pay Excise on Imports**

#### Article 14

(1) The requirement to pay excise tax on the import of excise goods shall be established in the moment of paying import duties, except in cases when the payment of the excise tax is deferred in accordance with this law.

(2) The excise tax is paid according to the amounts or rates, which are valid on the day when the requirement to determine the excise tax is established.

(3) Notwithstanding paragraph 1 of this article, a requirement of computation of the excise for cigarettes at importation, is established on the day of taking over of excise stamps.

## **Other Cases of Establishment of Requirement to Pay Excise**

### Article 15

The requirement to pay an excise tax shall be established also in the following circumstances:

- 1) when a customs or tax authority sells confiscated excise goods, except if such authority sells the goods to an excise licensee or an exempt excise goods beneficiary;
- 2) in a merger, when excise goods are put into free circulation, except if the buyer is an excise licensee or exempt excise goods beneficiary;
- 3) when the merger is completed, if the excise goods are dispatched to the creditor, except if the creditor is an excise licensee or an exempt excise goods beneficiary;
- 4) in a liquidation or bankruptcy proceeding, when excise goods are placed into free circulation, or when dispatched to a creditor, except if the creditor is an excise licensee or exempt excise goods beneficiary;
- 5) when a shortfall of excise goods is established, except a shortfall which an excise licensee proves to be the result of a force major or to be necessarily related to the production process, storage or transportation of excise goods.

### Article 16

The requirement to pay an excise tax shall be also established also when excise goods are imported, produced, transported and in other manner placed into circulation contrary to the provisions of this law.

## **VI. EXCISE TAXPAYERS**

### Article 17

- (1) The excise taxpayer is a producer or excise goods importer, unless otherwise prescribed by this law.
- (2) The excise taxpayer is also a natural person – producer of alcohol beverages in excess of quantities allowed for personal use if those alcohol beverages are placed into circulation (sale).
- (3) In addition to the person referred to in paragraphs 1 and 2 of this article, an excise taxpayer shall also be:
  - 1) an exempt excise goods beneficiary as defined in article 13, paragraph 3 of this law;
  - 2) a buyer, recipient of excise goods, as defined in article 15, item 1) of this law;
  - 3) a buyer as defined in article 15, item 2) of this law;
  - 4) a creditor as defined in article 15, item 3) of this law;
  - 5) a creditor as defined in article 15, item 4) of this law;

- 6) a person that produces, imports, transports or in any other manner places goods into circulation contrary to the provisions of this law.

## **VII. GENERAL WORKING CONDITIONS OF EXCISE GOODS WAREHOUSES**

### **Excise goods warehouse**

#### Article 18

- (1) The production or storage of excise goods under the deferred excise goods payment regime may be carried out only in an excise goods warehouse that is issued a working license by a tax authority (hereinafter: excise license), unless otherwise prescribed by this law.
- (2) The ministry in charge of finance shall prescribe in greater detail conditions for establishment and operation of the excise goods warehouse.

### **Conditions for obtaining an excise license**

#### Article 19

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

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

### **Application for an excise license**

#### Article 20

- (1) An excise license shall be issued by a tax authority upon a written application.
- (2) The application referred to in paragraph 1 of this article shall contain the following information:
  - 1) Type of the activity and title of excise goods for which the excise license is requested;
  - 2) Estimated quantities of annual production, quantities produced and quantities of the good in stock;
  - 3) Name and identification of the person applying for an excise license;

- 4) Documentation that must clearly give a full description of the accounting system operation in accordance with the Law on Tax Procedure;
- 5) Information to prove that conditions for supervision are fulfilled by the tax authority;
- 6) Closer description of individual production processes, including information on measuring devices for measuring produced, processed, stored and dispatched quantities of excise goods;
- 7) The location and description of facilities as well the manner of securing them;
- 8) The method of dispatching excise goods;
- 9) Statement that conditions for electronic exchange of information related to movement of excise goods are satisfied.

(3) For the measuring devices defined in paragraph 2 of this article, a person applying for excise license shall be obliged to obtain approval for using a type of measuring device from the competent authority for measures.

## **Excise license**

### Article 21

- (1) An excise license may be issued if the facility- technical and economic requirements under this law are met.
- (2) An excise license shall be issued solely in the name of the applicant and can not be transferred to another person.
- (3) An excise license may be issued for one or more excise goods warehouses.
- (4) An excise license shall include data on:
  - 1) the location of the excise goods warehouse;
  - 2) working conditions of the excise goods warehouse or excise goods warehouses;
  - 3) the type of excise goods that may be produced in the excise goods warehouse, stored and dispatched;
  - 4) responsibilities of an excise licensee to a tax authority;
  - 5) the method of excise tax payment insurance;
  - 6) the name of the tax authority and
  - 7) period for which the excise license is issued.
- (5) Prior to issuing an excise license, a tax authority shall establish in the place whether all requirements for issuing an excise license are met.
- (6) A tax authority shall pass a decision on the application for an excise license within 60 days from the day a complete application is received.

## **Requirements of an excise licensee**

### Article 22

- (1) An excise licensee shall:
  - 1) provide for the appropriate safeguarding of excise goods in an excise goods warehouse; supervise the dispatch and receipt of excise goods; establish losses or shortfalls;
  - 2) ensure that supervision by a tax authority is carried out without any obstacles;
  - 3) keep a record of excise goods by type and quantity and a record of the movement of excise goods for each excise goods warehouse and submit to the tax authority a monthly excise tax assessment and a monthly inventory of goods in stock;
  - 4) inform the tax authority of all changes in the information cited in the request for an excise license;
  - 5) in the case of a status change, extension, reduction or abandonment of activity request the tax authority to change excise license
- (2) If the tax authority establishes that an excise licensee does not meet the obligations defined in paragraph 1 of this article, such authority shall specify a term for eliminating the irregularities.
- (3) The Ministry in charge of finance shall prescribe contents and manner of keeping record referred to in item 3), paragraph 1 of this article.

## **Excise tax payment insurance**

### Article 23

- (1) To ensure fulfillment of the requirement to pay the excise tax to a tax authority, an excise licensee shall submit an instrument for excise tax payment insurance in accordance with this law.
- (2) The amount of the instrument for excise tax payment insurance shall correspond to the amount of excise for excise goods indicated in the excise license.
- (3) If an excise licensee holds several excise goods warehouses, and the excise tax payment insurance refers to all such warehouses, the amount of insurance shall correspond to the total amount of the excise tax.
- (4) In the case of expiry of an excise license, the instrument of excise tax payment insurance may not be released until the excise tax for goods in stock is paid.
- (5) The Ministry in charge of finance shall prescribe in detail the insurance procedure and types of instrument of excise tax payment insurance.

## **Expiry of excise license**

### Article 24

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

## **Dispatch of excise goods from an excise goods warehouse**

### Article 25

Excise goods may be dispatched from an excise goods warehouse:

- 1) to be put into free circulation with a receipt being necessarily issued, or another document that may serve as a receipt; or
- 2) when under the deferred excise tax payment regime, if the consignment is accompanied by an accompanying excise document .

## **VIII. EXEMPT EXCISE GOODS BENEFICIARY**

### **Conditions for Issuance of the Excise Licence**

#### Article 26

- (1) An exempt excise goods beneficiary may receive excise goods without paying an excise tax only if issued a relevant licence by the tax authority.
  
- (2) A legal entity that meets the following requirements may apply for a licence as defined in paragraph 1 of this article:

- 1) to perform in accordance with regulations an activity for which such legal entity uses excise goods for purposes as specified in articles 44 and 54 of this law;
- 2) to keep business books according to the double entry book-keeping system;
- 3) to pay tax and customs dues regularly;
- 4) that no bankruptcy or liquidation proceeding has been instituted against such entity;
- 5) that prior to licence issuance, the beneficiary submitted an instrument for excise tax payment insurance under this law; and
- 6) that the beneficiary meets other requirements established under this law.

(3) A legal entity that meets the requirements specified in paragraph 2 of this article may be issued a licence if the following requirements are also fulfilled:

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

(4) The Ministry in charge of Finance regulates in detail the requirements specified in paragraph 3 of this article.

(5) If the license expires, the instrument for excise tax payment insurance may be released only after the excise tax is paid for excise goods in stock, or when the responsibility to pay excise tax no longer exists.

(6) The Ministry in charge of Finance regulates in detail the insurance procedure and type of instrument of excise tax payment insurance.

(7) Prior to issuing a licence, the tax authority must establish whether the excise goods are actually used for the purposes specified in the application for a licence, as well as the norms for using excise goods in the production of other goods. The tax authority shall establish at the place whether the requirements are met for issuing a licence.

(8) If the tax authority establishes that an exempt excise goods beneficiary does not meet the requirements defined in this article, the authority shall specify a term for eliminating any irregularities.

### **Licence for an exempt excise goods beneficiary**

#### Article 27

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

- (2) Within 30 days from the day the tax authority receives a complete application, such authority shall inform the entity applying for a licence to submit an instrument for excise tax payment insurance or reject the application.
- (3) The tax authority issues a licence within 15 days from the day it receives the instruments for excise tax payment insurance.
- (4) The application for issuing a licence shall include the following details: the purpose and method of using excise goods; the usage norms for each product for the production of which excise goods are used; the quantity of excise goods for which the licence is being issued, however such quantity shall not exceed the quantity required for one year of production, or estimated production for such period.
- (5) The license as defined in paragraph 1 of this article is issued in the name of the applicant and cannot be transferred to another entity.
- (6) The tax authority shall state the following in the licence: the quantities of excise goods that may be procured excise tax-free for the specified purposes within a defined period that may not exceed 12 months; the place where the excise goods shall be used and the purpose of such goods. Quantities are determined on the basis of production capacity and the period for which the licence is issued.
- (7) Changes in the quantities specified in paragraph 6 of this article and approval of quantities for the subsequent period are given on the basis of a subsequent application.

### **Expiry of license of a exempt excise goods beneficiary**

#### Article 28

- (1) An excise licence expires:
  - 1) when action related to the activity of the excise goods ceases;
  - 2) when the tax authority revokes an excise license.
  - 3) by returning the excise licence;
- (2) The tax authority shall revoke a licence if an exempt excise goods beneficiary no longer meets the requirements specified by the licence, but particularly:
  - 1) if the beneficiary fails to provide an appropriate stock control system;
  - 2) if the amount of the instrument for excise tax payment insurance does not correspond with the amount of the excise tax liability;
  - 3) if the licence is issued on the basis of incomplete or incorrect information;
  - 4) if the beneficiary fails to eliminate irregularities as established by the tax authority; or
  - 5) when a liquidation or bankruptcy proceeding is instituted.
- (3) An appeal against the decision to revoke a licence shall not postpone implementation of the decision.

## **Records kept by exempt excise goods beneficiary**

### Article 29

- (1) An exempt excise goods beneficiary must keep records on the purchase, movement and consumption of excise goods according to type, quantity and value.
- (2) The Ministry in charge of Finance regulates the contents and methods of keeping the records defined in paragraph 1 of this article.

## **IX. RIGHT TO EXCISE TAX REIMBURSEMENT (DRAWBACK)**

### Article 30

- (1) The following have the right to excise reimbursement and drawback:
  - 1) an excise licensee that procured excise goods at a price that includes excise, and that used such goods in an excise goods warehouse for the production of excise goods;
  - 2) an importer that is returning imported goods abroad in an unchanged condition, and that paid an excise tax for such goods on their import;
  - 3) an exporter who is exporting excise goods upon which an excise tax has been paid;
  - 4) an entity that procured excise goods for a price in which the excise tax is included or the excise tax for such goods was paid on import, and which were used for purposes defined in Article 44 and Article 54 of this law.
- (2) The Ministry in charge of Finance regulates in detail the terms and manner for the reimbursement of paid excise tax.
- (3) Excise tax is reimbursed within a time period specified by the law that regulates tax procedure.

## **X. EXCISE TAX EXEMPTIONS**

### **Excise tax exemption for diplomatic and consular missions and international organisations**

#### Article 31

- (1) Excise tax is not paid for the following excise goods:
  - 1) for the official needs of diplomatic and consular missions accredited in Montenegro;
  - 2) for the official needs of international organisations, 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 organisations, including their family members, if this is established by international agreements.
- (2) The exemption specified in the foregoing paragraph 1 of this article is realised on the basis of an attestation issued by the Ministry of Foreign Affairs.
  - (3) If exemption is possible only on the basis of reciprocity under international agreement, such case shall be attested to by the Ministry of Foreign Affairs.
  - (4) Excise tax-exempt excise goods under this article may not be transferred, except if excise tax is paid for such goods.
  - (5) The Ministry of Finance regulates in detail the manner in which exemption is recognized under this article.

### **Other excise tax exemptions**

#### Article 32

Excise tax is not paid for excise goods:

- 1) that are sold on ships and in aircraft on international traffic routes;
- 2) that a passenger may bring in from abroad as part of his/her personal luggage, and they are exempted from paying import duty in line with Customs regulations;
- 3) mineral oils, mineral oil derivatives and their substitutes in the standard reservoirs of motor vehicles, watercraft or aircraft arriving from abroad and are not intended for further sale and are exempt from import duties in accordance with customs regulations.
- 4) dispatched from the bonded warehouse to duty free shops that are opened at international border crossings to sell the goods to the passengers in accordance with the customs regulation, where customs and passport control has been provided.

## **XI. ASSESSMENT AND PAYMENT OF AN EXCISE TAX**

### **Excise tax assessment**

#### Article 33

- (1) An excise taxpayer assesses the excise tax by him/herself.
- (2) Tax period for assessing the excise tax is one calendar month.
- (3) The excise taxpayer shall be obliged to present the assessed excise tax in a monthly excise tax return.

## Article 34

- (1) The return as defined in paragraph 3 of Article 33 of this law shall be submitted to the tax authority by the 15<sup>th</sup> day of the month following the month in which the period for assessment expired.
- (2) An excise taxpayer must submit a tax return whether or not such taxpayer is required to pay excise tax in the assessment period.
- (3) If an excise licensee has more than one excise goods warehouse, such licensee may submit a joint return for the assessment of the excise tax for all excise goods warehouses provided that he/she has a separate record of the assessed excise tax for each excise goods warehouse in his/her bookkeeping.
- (4) If an exempt excise goods beneficiary stores excise goods in several plants, he/she may submit a joint return for the assessment of the excise tax for all plants provided that he/she has a separate record of the assessed excise tax for each plant in his/her bookkeeping.
- (5) The excise tax return shall be submitted within 30 days time as of the day when the excise license expires.
- (6) In the cases of bankruptcy, liquidation or merger, an excise tax return shall be submitted no later than 30 days after the proceeding is concluded.

## Excise tax payment

### Article 35

- (1) Excise tax that is assessed for a given tax period is payable on the last day of such tax period, and must be paid within fifteen days as of the day when the excise tax became due to be paid.
- (2) The excise tax as specified in Article 15, item 3 of this law is payable on 30<sup>th</sup> day as of the day when the excise document was submitted and shall be paid within fifteen days from the due date.
- (3) The excise tax as specified in Article 34, paragraph 5 of this law is payable on the day the excise licence is no longer valid, and must be paid within fifteen days from the day it matures.
- (4) The excise tax as specified in Article 34, paragraph 6 of this law is payable on the day a bankruptcy, liquidation or merger proceeding is concluded, and must be paid within 30 days from the day it matures.
- (5) Reimbursement of paid excise tax to excise licensees under Article 30, paragraph 1, item 1 of this law may be offset against the excise tax due as presented on the monthly return or by a request for reimbursement of the excise tax.

- (6) The Ministry of Finance shall prescribe in detail the excise tax reimbursement procedure referred to in paragraph 5 of this article.
- (7) Notwithstanding paragraph 1 of this article, the excise tax for cigarettes shall be paid within 60 days from taking over of controlling excise stamps.
- (8) During the period of deferred excise tax payment, from paragraph 7 of this article, the excise taxpayer is bound to provide an instrument for securing payment in the amount of the assessed excise.

### **Excise tax assessment and payment on import**

#### Article 36

- (1) The excise tax, in the event of import of excise goods, shall be assessed and paid in the same manner as if an import duty, unless excise tax payment is deferred under this law.
- (2) Notwithstanding paragraph 1 of this article, in the event of import, the excise tax on cigarettes shall be assessed by the importer and paid within 60 days from the day of taking over of excise stamps.
- (3) During the period of deferred excise tax payment, from paragraph 2 of this article, an importer is bound to provide the instrument for securing payment in the amount of the assessed excise.

## **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 beverages and ethyl alcohol.
- (2) Type of alcohol or alcoholic beverages referred to in paragraph 1 of this article is determined in accordance with the classification of these products and their Tariff number contained in the nomenclature of the Customs Tariff valid at the day when the law is being applied (hereinafter: CN), and upon the content of alcohol in these products.
- (3) Alcoholic content is the amount of alcohol in the product expressed as a percentage of the total volume of the product at a temperature of 20° Celsius. Alcoholic content is marked with “ vol%”.

## **Beers**

### Article 38

Beer is defined as any product falling within CN code 2203 or any product containing a mixture of beer with non-alcoholic drinks falling within CN code 2206, in either case with an actual alcoholic strength by volume exceeding 0.5% vol.

## **Wines**

### Article 39

- (1) Wines shall be considered table wines and sparkling wines.
- (2) Table wines shall be all products falling within tariff number CN 22.04 and 22.05, excluding sparkling wines:
  - 1) with alcoholic content exceeding 1,2 % vol., and does not exceed 15 % vol. provided that the entire content of alcohol in final alcohol product is derived only by process of fermentation;
  - 2) with alcoholic content that exceeds 15 % vol., and does not exceed 18 % vol., provided that the entire content of alcohol in final alcohol product is derived only by process of fermentation, and that wines are without enrichment.
- (3) Sparkling wines shall be all products falling within tariff numbers CN 2204. 10 11 00, 2204. 10 19 00, 2204. 10 90 00 and tariff number CN 22.05 and that are:
  - 1) wines contained in bottles with 'mushroom stoppers' held in place by ties or fastenings, or they have an excess pressure due to carbon dioxide in solution of three bar or more; and
  - 2) wines that have an actual alcoholic strength by volume exceeding 1.2 % vol. but not exceeding 15 % vol., provided that the alcohol contained in the finished product is entirely of fermented origin.

## **Other fermented beverages, except for wines and beers**

### Article 40

Other fermented beverages shall be considered all products falling within Tariff Number CN 2204 and 2205 that are not classified as wines in Article 39 of this law and products falling within Tariff Number CN 2206 that are not classified as beers in Article 38 of this law and products that are not classified as 'other fermented beverages' under the provisions of this Article provided that they:

- 1) have an alcoholic content that exceeds 1.2 % vol. and does not exceed 10 % vol.;
- 2) have an alcoholic content that exceeds 10 % vol. and does not exceed 15 % vol. on condition that the entire content of alcohol in the final product is derived only by fermentation.

## **Intermediate alcoholic drinks**

### Article 41

Intermediate alcoholic drinks are all products falling within tariff number CN 22.04, 22.05 and 22.06 that are not included in Article 38, 39, or 40 of this Law with the content of alcohol, that exceeds 1,2 % vol. and does not exceed 22 % vol.

## **Ethyl alcohol**

### Article 42

Ethyl alcohol shall be considered:

- 1) all products falling within tariff number CN 22.07 and 22.08 with an actual alcoholic strength by volume exceeding 1.2vol% regardless whether those products form part of a product which falls within another tariff number,
- 2) all products falling within Tariff numbers CN 22.04, 22.05 and 22.06 that have an alcoholic strength by volume exceeding 22 % vol. and
- 3) other alcoholic drinks that are not included in Articles 38 through 41 of this law containing ethyl alcohol whether in solution or not.

## **Excise tax base and excise tax payable**

### Article 43

(1) The excise tax base for wine, intermediate alcoholic beverages and other fermented beverages is the quantity of the excise product measured in hectoliters; and for beer and ethyl alcohol is the quantity per hectoliter/degree alcohol.

- (2) Excise tax is paid on alcohol and alcoholic beverages at the following rates:
- 1) 1.90 Euros per hectoliter degree of alcohol for hectoliter of beer
  - 2) "0" Euros per hectoliter of table wine;
  - 3) 35 Euros per hectoliter of sparkling wine;
  - 4) 40 Euros per hectoliter of other fermented beverages;
  - 5) 70 Euros per hectoliter of intermediate alcohol beverages and
  - 6) 550 Euros per hectoliter of pure alcohol.

## **Usage ethyl alcohol for which an excise tax is not paid**

### Article 44

(1) The use of ethyl alcohol from Tariff number CN 22.07 is excise tax exempt if used as a raw material in the following:

- 1) the production of fermented products;
- 2) the production of vinegar from Tariff number CN 22.09;
- 3) the production of food items on condition that the alcohol content in chocolate goods from Tariff number CN 18.06 of the Customs tariff 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; or
- 4) chemical and cosmetics manufacturing.

- (2) Ethyl alcohol may be dispatched from an excise goods warehouse to the exempt excise goods beneficiary in the chemical and cosmetics industries only if such alcohol is denatured.
- (3) The procedure for fully denaturing alcoholic products may be carried out only in a plant for the production of ethyl alcohol, using the regulated denaturing agent and denaturing procedure.
- (4) The use of alcohol for medical purposes is excise tax exempt if procured by institutions in the health sector, which are issued a licence by the tax authority in accordance with Article 26 of this law. Institutions in the health sector are not obliged to submit documents for excise tax payment insurance as regulated under the provisions of Article 26, paragraph 2, item 5.
- (5) The Ministry in charge of Finance shall regulate the denaturing procedure and use of the denaturing agent.

### **Small producers of alcoholic beverages**

#### Article 45

- (1) A producer of alcoholic beverages as specified in Article 17, paragraph 2 of this law that is not an excise licensee, shall assess and pay an excise tax under the provisions of this article.
- (2) A producer as defined in paragraph 1 of this article pays an excise tax on the quantities of alcoholic beverages produced in a calendar year less the quantities allowed for personal use.
- (3) The excise tax payable for quantities of wine produced are paid at the rate that is valid on November 30, or for special vintage wines on March 31, and the excise tax for quantities of other beverages produced at the rates valid on March 31 of a given year.
- (4) A producer submits an excise tax return for wine by December 31 in a given year, and the excise tax statement for special vintage wines and spirits by April 30 in a given year.
- (5) The assessed excise tax is due for payment 30 days after the return is submitted.
- (6) The Ministry of Finance regulates the maximum quantity limit for personal use as specified in paragraph 2 of this article, in agreement with Ministry of Agriculture.
- (7) The Ministry of Finance regulates in detail the procedure for excise tax payment by small producers of alcoholic beverages.

## **Tobacco products**

### Article 46

Tobacco products on which excise tax is paid are cigarettes, cigars and cigarillos, finely shredded tobacco (for rolling cigarettes) and other smoking tobacco.

## **Cigarettes**

### Article 47

- (1) Cigarettes are:
- 1) rolls of tobacco, that can be used for smoking the way they are, and are not classified as cigars and cigarillos in this law;
  - 2) rolls of tobacco which, by simple non-industrial handling, are inserted into cigarette paper tubes; or
  - 3) rolls of tobacco which, by simple non-industrial handling, are wrapped in cigarette paper.
- (2) Pursuant to paragraph 1 of this article, roll of tobacco considers one cigarettes which length excluding filter or mouthpiece is up to 9 cm; two cigarettes without filter or mouthpiece that are longer than 9 cm but not exceeding 18 cm; three cigarettes excluding filter or mouthpiece that are longer than 18cm but not exceeding 27cm, and so on .
- (3) Cigarettes are also products that are totally or partially produced from tobacco substitutes fulfilling the conditions referred to in paragraph 1 except for those products that are used only for health purposes.

## **Cigars and cigarillos**

### Article 48

- (1) Cigars and cigarillos are tobacco rolls, that can be smoked as they are if they are:
- 1) made entirely from natural tobacco;
  - 2) with an outer wrapper of natural tobacco;
  - 3) with an outer wrapper of the normal color of tobacco, and a binder of reconstituted tobacco, where at least 60% by weight of the tobacco particles are both wider and than 1.75mm and where the wrapper is fitted in spiral form with an acute angle of at least 30° to the longitudinal axis of the cigar; or
  - 4) with an outer wrapper, of the normal color of tobacco, of reconstituted tobacco, where the unit weights, not including filter or mouthpiece, is not less than 2.3 grams and if at least 60% by weight of tobacco particles are wider and longer than 1.65mm and the circumference over at least one third of the length is not less than 34 mm.

(2) Cigars and cigarillos are also products that are totally or partially produced from tobacco substitutes and are fulfilling the conditions referred to in paragraph 1 of this article, except for the products that are used only in medical purposes, on condition that they have respectively:

- 1) a wrapper of natural tobacco or reconstituted tobacco and
- 2) a wrapper and binder of tobacco, both of reconstituted tobacco.

## **Smoking tobacco**

### Article 49

(1) Tobacco for smoking is:

- 1) tobacco that is cut or otherwise split, twisted or pressed into blocks and is capable of being smoked without further industrial processing;
- 2) tobacco refuses put up for retail sale that does not fall under Articles 47 and 48 of this law.

(2) Smoking tobacco shall be also considered products that are totally or partially produced from tobacco substitutes and fulfill all conditions referred to in paragraph 1 of this article excluding products that are used exclusively in health purposes.

(3) Smoking tobacco shall be also considered fine-cut tobacco for rolling cigarettes in which more than 25% of tobacco particles with respect to weight have shorter and narrower than 1,4 mm.

## **Excise tax base, rate and amount of excise tax**

### Article 50

(1) The excise tax base for tobacco products is 1000 pieces and retail price or one kilo of the product.

(2) The excise tax for cigarettes shall be paid as a specific excise tax determined per 1000 pieces and as proportional excise tax determined in percentage of retail selling price of cigarettes.

(3) A specific excise tax for cigarettes amounts to Euro 1,00 for 1000 pieces.

(4) Proportional excise tax for cigarettes amounts to 26% of their retail price.

(5) The excise tax on other tobacco products is paid per kilo of those products as follows:

- 1) Cigars and cigarillos: 10.00 Euros per kg.
- 2) Finely shredded tobacco (for rolling cigarettes): 20.00 Euros per kg.
- 3) Other smoking tobacco: 15.00 Euros per kg.

(6) The retail price from paragraph 4 of this article is the price that is determined by the producer or importer which includes the excise tax and value added tax.

- (7) The producer or importer of tobacco products is required to report the retail price to the competent tax authority and to have them published in “Official Gazette of the Republic of Montenegro”, before putting the products into use or free circulation.
- (8) The sale of cigarettes at retail prices in excess of the reported retail prices is not allowed.

### **Mineral oils, mineral oil derivatives and their substitutes**

#### Article 51

- (1) Excise tax is paid on mineral oils, mineral oil derivatives and their substitutes (hereinafter: mineral oils) as established by this law.
- (2) The type of mineral oils referred to in paragraph 1 of this article is determined in accordance with the classification of these products in the Customs tariff or its characteristics.
- (3) Mineral oils are petroleum oil, carbon tar and oil obtained from coal, shale, peat or other bituminous substances, but do not include such hydrocarbons or bituminous substances that are:
- 1) in a solid or semi-solid state at a temperature of 15C; or
  - 2) in a vaporous state at a temperature of 15C and a pressure 1013.25 mill bars.
- (4) For the purposes of this law ‘mineral oils’ shall be considered:
- 1) any product that is sold or used as motor fuel,
  - 2) additives or extenders added in motor fuels,
  - 3) any other hydrocarbon produced from the raw petroleum and that is sold or used as a heating fuel except for coal, lignite, peat or similar solid hydrocarbons.

### **Excise tax base and the amount of the excise tax**

#### Article 52

- (1) The excise tax base for mineral oils is the quantity of mineral oils in kilograms or liters.
- (2) If the unit for determining a quantity for an excise tax is a litre, such litre is measured at a temperature of +15°C.
- (3) The excise tax is paid at the following rates:
- a) petrol and other light oils:
    - 1) 0.120 Euros per kilogram of airplane petrol (tariff number CN 2710.00 11 10);
    - 2) 0.364 Euros per liter of motor petrol unleaded (tariff number CN 2710.00 11 20);

- 3) 0.120 Euros per kilogram of fuel for jets (tariff number CN 2710.00 11 30);
  - 4) 0.364 Euros per liter of other motor petrol, leaded (tariff number CN 2710.00 11 90);
- b) Kerosene:
- 1) 0,120 Euros per kilogram of kerosene for engines (tariff number CN 2710.00 21 10);
  - 2) 0,120 Euros per kilogram of fuel for jet engines (tariff number CN 2710.00 21 20);
  - 3) 0,120 Euros per kilogram of other kerosene (tariff number CN 2710.00 21 90);
- c) gas oils:
- 1) 0,270 Euros per liter of diesel fuels (tariff number CN 2710.00 31 00);
  - 2) 0,120 Euros per liter of diesel fuels (tariff number CN 2710.00 31 00) used as a heating oil;
  - 3) 0,270 Euros per liter of ship fuel (tariff number CN 2710.00 32 00) and
  - 4) 0,120 Euros per liter of other oils (tariff number CN 2710.00 39 00);
- d) heating oils:
- 1) 0,023 Euros per kilogram low sulphur oil (tariff number CN 2710.00 41 00);
  - 2) 0,023 Euros per kilogram of other heating oils (tariff number CN 2710.00 49 00);
- e) oil gases and other gas hydrocarbons:
- 1) 0,069 Euros per kilogram of mixture of propane and butane (tariff number CN 2711. 19 00 00)
  - 2) 0,069 Euros per kilogram of other liquid gases (tariff number CN 2711. 19 00 90).

#### Article 52a

(1) In the event of an important increase of mineral oils prices on the world market, the Government can, as temporary measure, reduce the excise tax amount, provided that such reduction cannot exceed 20%.

(2) In case of drop of mineral oil price, the excise amount that is determined in accordance with paragraph 1 of this article shall be increased for the decreased amount.

#### Article 53

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

(2) Any product put into circulation as an additive or extender to mineral oils shall be subjected to the excise tax as if it is the latter. Any hydrocarbon, except for coal, lignite, peat or similar solid hydrocarbons or natural gas, intended for use, offered for sale or used for heating purposes shall be taxed at the rate for the equivalent mineral oil.

(3) For mineral oils, which are used as fuel for agricultural, and forestry machinery (including tractors) byers shall be entitled to an excise tax drawback to the level of 50% of the excise tax as regulated for use as fuel.

(4) The Ministry of Finance in cooperation with the Minister of Agriculture, Forestry and Water Management, shall regulate in more details the excise drawback procedure and conditions that have to be met by the byer referred to in paragrapf 3 of this article.

### **Usage of mineral oils**

#### Article 54

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

- 1) that are used as fuel in air and maritime traffic and as fuel for fishing trawlers, except when aircraft, watercraft and fishing boats are used for private purposes;
- 2) that are used as fuel in the production of electric energy and in plants for the joint production of electric energy and heat;
- 3) that a producer uses for further processing in his/her production plant, or for the production of other mineral oils, except if they are used as fuel for transportation means; or
- 4) that are injected in blast furnaces for chemical reduction purposes as an additive to coke as the basic fuel.

(2) The use for private purposes as specified in paragraph 1, item 1 of this article means the use of an aircraft, watercraft and fishing boats by its owner or its use under lease or other basis, which may not be defined as business.

(3) Ministry in charge of Finance shall regulate in greater detail the procedure for accomplishment of rights referred to in paragraph 1 of this article.

## **Marking mineral oils**

### Article 55

- (1) Mineral oils that are used as heating oil, must be marked using the prescribed color and indicator. The marking of mineral oils may be carried out only in an excise goods warehouse that is issued a marking licence by the tax authority. If mineral oils are not marked in an excise goods warehouse, they shall be considered not marked.
- (2) Mineral oil imported into Montenegro is considered marked if the importer submits a certificate by a foreign tax or customs authority, producer, or foreign body in charge of marking, that such oil was marked outside Montenegro and that with respect to the type and quantity, it contains at least such marking matter as regulated under this law. If such certificate is not submitted or may not be proven, it shall be considered that the mineral oil is not marked.
- (3) The storage of certain mineral oils must be organized in such a way as to ensure that other products do not have the effect of neutralizing the color or indicator.
- (4) The Ministry of Economy regulates the procedure of coloring and marking mineral oils in accordance with this article.

### Article 56

- (1) Marked mineral oils that are used for heating purposes may not be used for other purposes and may not be used as fuel for motor vehicles, or watercraft or other motors, or for the standard reservoirs of motor vehicles or watercraft or other motors.
- (2) Mineral oils that are used for heating must not be put into circulation on gasoline stations or other retail outlets determined for selling of oil derivatives.

## **XIII. MARKING EXCISE GOODS**

### **Excise tax stamps**

#### Article 57

- (1) The producer or importer is bound to mark tobacco products and alcoholic beverages, except beer, with excise stamp before putting them into use or free circulation.
- (2) An excise tax stamp for tobacco products must be affixed on the packaging under the cellophane wrapping or other wrapping in such way to be visible and not removable without damaging the packing, except for the original packaging of cigars and cigarillos, which are not wrapped in cellophane or other wrapping, and in such cases the tobacco 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) Tobacco products and alcoholic beverages intended for export, for which foreign supplier has not submitted excise tax stamps, shall be marked with special export stamp.
- (5) Tobacco products and bottled alcoholic beverages which are sold in duty free shops shall be marked with special stamp.
- (6) Possessing, selling and transporting of tobacco products and alcoholic beverages in excess to quantities stipulated by this law without appropriate excise stamp, is not allowed.
- (7) The Government proscribes: design and content of control excise stamp; the manner and procedure of approval, printing and issuance and record keeping on issued, used and non used excise stamps, from this article.

#### **XIV. BOOKKEEPING BY AN EXCISE TAXPAYER AND DOCUMENT SAFEGUARDING**

##### **Issuing receipts or other documents**

###### Article 58

- (1) An excise taxpayer must issue a receipt or other document when putting into circulation excise goods, thereby certifying the dispatch of such excise goods.
- (2) For excise goods being dispatched to an exempt excise goods beneficiary, the receipt or other document must include a note that such excise goods are being dispatched without payment of an excise tax on the basis of a licence of an exempt excise goods beneficiary, the number and date of which must be listed.
- (3) An excise taxpayer must issue a receipt or other document in two copies. The first copy is given to the excise goods consignee, and the second copy and other documents of significance in establishing the level of the excise tax, is retained and kept in accordance with Article 61 of this law.

##### **Bookkeeping by an excise taxpayer**

###### Article 59

- (1) An excise taxpayer must include in his/her bookkeeping information necessary to assess and pay the excise tax, but particularly information 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 an excise tax was paid according to the prescribed rates;

- 4) quantities of excise goods sold for which an excise tax was not paid;
- 5) quantities of excise goods used for the taxpayer's own purposes;
- 6) quantities of excise goods that are excise tax-exempt;
- 7) amounts of assessed and paid excise tax at prescribed rates

(2) An excise taxpayer – importer must include, in particular, in his/her bookkeeping information on: the import of excise goods, the stocks of excise goods in an excise goods warehouse, the dispatch of excise goods from an excise goods warehouse and on the excise taxes assessed and paid according to the prescribed rates.

(3) A natural entity as specified in Article 17, paragraph 2 of this law, that is a producer of alcoholic beverages, must keep a separate record of production, of his/her personal consumption and the sale of such drinks, as regulated by the Minister in charge of Finance.

### **Recording the equipment for the production of ethyl alcohol**

#### Article 60

Producers, sellers and importers of equipment for the production of ethyl alcohol shall keep a record of the buyers of such equipment and submit it to the tax authority upon its request. A record shall not be maintained for glass devices for distillation, which are used for scientific and educational purposes and for juice-producing household appliances.

### **Storing documents**

#### Article 61

An excise taxpayer must store issued and received receipts, accompanying excise documents, and other bookkeeping documents on production, storage and dispatch, imports and exports of excise goods for a period of five years after the year to which the documents refer.

## **XV. CONTROLLING THE PROCESS OF ASSESSING AND PAYING EXCISE TAX**

#### Article 62

(1) The process of assessing and paying excise tax is controlled by the tax authority in accordance with this law and the law regulating the tax procedure, and in the case of import by a customs authority in accordance with customs regulations as if the excise tax were an import duty.

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

## **XVI. REGISTRATION OF AN ACTIVITY AND REGISTRATION OF AN EXCISE TAXPAYER**

### **Submission of the Registration Application**

#### Article 63

- (1) An excise taxpayer must inform the tax authority when starting, changing or suspending any activity for which such taxpayer is required to assess and pay an excise tax.
- (2) Every entity that becomes an excise taxpayer for the first time must submit an application for registration to the tax authority no later than 15 days before the initiating production, storage, receipt or dispatch of excise goods.
- (3) An excise taxpayer must report to the tax authority within the timeframe specified in paragraph 2 of this article his intention to terminate the activity, and without delay any suspension or interruption of production.

### **Termination of registration**

#### Article 64

- (1) If an excise taxpayer stops performing an activity, the tax authority may decide on terminating the registration *ex officio* or at the request of the excise taxpayer.
- (2) An excise taxpayer must settle all excise taxes due prior to a decision on the termination of registration.

### **Register of excise licensees and excise warehouses**

#### Article 65

- (1) The tax authority establishes and keeps a register of excise licensees and excise goods warehouses.
- (2) The register specified in paragraph 1 of this article shall include the following information:
  - 1) the identification number issued to an excise licensee or excise goods warehouse by the tax authority;
  - 2) the name and address of an excise licensee and the name and address of the excise goods warehouse facilities;
  - 3) the type of excise goods for which an excise licence is issued;
  - 4) the address of the competent tax authority; and
  - 5) the date of issuance of the identification number and date of revocation of the identification number.

## **XVII PAYMENT OF EXCISE TAX IN CIRCULATION OF EXCISE GOODS WITH THE REPUBLIC OF SERBIA**

### Article 66

- (1) For excise goods sold to buyers from the territory of the Republic of Serbia excise tax is assessed and paid in the manner defined in this law.
- (2) For excise goods purchased from sellers from the territory of the Republic of Serbia excise tax is not assessed and paid in Montenegro if excise tax has been paid in the Republic of Serbia.
- (3) If the amount of excise tax paid in the Republic of Serbia is lower than the excise tax prescribed by this law the difference in the amount of the excise tax will be assessed and paid in Montenegro.
- (4) The difference referred to in paragraph 3 shall be paid by the buyer.

### Article 67

- (1) The requirement to assess and pay excise tax on excise goods that are purchased in the territory of the Republic of Serbia is established at the moment of entry of those goods into the territory of Montenegro.
- (2) For excise goods sold by legal persons whose place of business is in the territory of the Republic of Serbia through its branch office in Montenegro the excise tax is paid according to the establishment of the branch office.

### Article 68

The Government of Montenegro may change the amount of excise tax and the method of assessing and paying the excise tax for the purpose of eliminating disruptions in the circulation of excise goods within the territory of the Republic of Serbia.

## **XVIII SPECIAL PROVISIONS**

### **Appropriate application of other rules**

### Article 69

The provisions of the law on tax and customs procedures shall regulate those relations that are not specifically regulated by this law (interest rates, claiming procedure, forced collection etc.).

## XIX. PENAL PROVISIONS

### Article 70

- (1) A legal entity or entrepreneur shall be penalized for an offense with a fine to the level of fifty times to three hundred times the amount of the minimum wage in Montenegro:
- 1) if the transportation of excise goods under the deferred excise tax payment regime is not accompanied by an excise document (Article 7, paragraph 3);
  - 2) if such entity fails to issue an accompanying excise document for excise goods being transported under the deferred excise tax payment regime (Article 8, paragraph 2);
  - 3) if such entity fails to issue an accompanying excise document in four copies (Article 8, paragraph 3);
  - 4) if receipt of the consignment is not confirmed and the excise document is not returned to the dispatcher within the prescribed term (Article 9, paragraphs 1 and 2);
  - 5) if such entity fails to pay an excise tax on the prescribed base according to the rates or amounts valid on the day the requirement to pay an excise tax begins and if such entity fails to pay it in the prescribed timeframe (Articles 13, 14, 15, 16 and 45);
  - 6) if such entity imports, produces, transports excise goods or places them into circulation in any other manner contrary to the provisions of this law. (Article 16);
  - 7) if such entity transferred an excise licence to third persons (Article 21, paragraph 2);
  - 8) if such entity fails to meet the requirements defined in Article 22, paragraph 1;
  - 9) if such entity fails to submit instruments for excise tax payment insurance (under Article 23, paragraph 1, article 35 paragraph 8 and article 36 paragraph 3 of this law);
  - 10) if such entity fails to assess the excise tax, or fails to do so in the specified tax period (Article 33);
  - 11) if such entity fails to enter an excise tax in a monthly excise tax return, fails to submit an excise tax return to the tax authority in the prescribed timeframe and fails to pay the excise tax in the prescribed term (Articles 34, 35 and 45);
  - 12) if alcoholic 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 a plant for the production of ethyl alcohol and if it is not carried out according to the regulated procedure and using the regulated denaturing agent (Article 44, paragraph 3);
  - 14) if such entity fails to classify the excise goods as provided under this law (Articles 37, 38, 39, 40, 41, 42, 47, 48, 49 and 51);
  - 15) if before putting the product into use or free circulation an entity fails to report retail cigarette prices to the competent tax authority and to publish them in "Official Gazette of the Republic of Montenegro" or if

- cigarettes are sold at the retail prices which exceed those reported (Article 50 pg. 7 and 8);
- 16) if marking and storing of mineral oils that are used for heating are not carried out in the manner proscribed (Article 55);
- 17) if mineral oils for heating are used opposite to the provisions of Article 56 paragraph 1 of this law ;
- 17a) if mineral oils that are used for heating are put in circulation at gasoline stations or other retail outlets determined for selling of oil derivatives (article 56 paragraph 2 );
- 17b) if before putting into use or into free circulation of tobacco products and alcoholic beverages the same are not marked in the proscribed manner (Article 57 pg. 1.2.3, and 4);
- 17c) if possesses, sales and transports tobacco products and alcoholic beverages in excess to the quantities specified by this law, without appropriate excise stamp ( article 57 paragraph 6);
- 18) if in its book keeping does not provide proscribed data and does not keep proscribed records ( article 59);
- 19) if the documents are not preserved within the proscribed period ( article 61);
- 20) if such entity fails to inform the tax authority when starting, changing or suspending the activity (Article 63).

(2) A responsible person in the legal entity shall be also penalized for offenses specified in paragraph 1 of this article with a fine to the level of five times to twenty times the amount of the minimum wage in Montenegro.

(3) A physical person shall be also fined with two to ten times amount of minimum wage in Montenegro, for the offence from paragraph 1, point 17c of this article.

#### Article 71

(1) A legal person or entrepreneur who is an exempt excise goods beneficiary shall be penalized with a fine to the level of fifty times to three hundred times the amount of the minimum wage in Montenegro:

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

(2) A responsible person in a legal entity shall be also penalized for offences specified in paragraph 1 of this article with a fine to the level of five times to twenty times the amount of the minimum wage in Montenegro.

#### Article 72

(1) For the offence of failing to keep a record on the buyers of the equipment and to submit such records to the tax authority at its request, a producer, seller and importer of equipment for the production of ethyl alcohol shall be penalized with a fine to the level of ten times to one hundred times the amount of the minimum wage in Montenegro (article 60)

(2) A responsible person in a legal entity shall be penalized for the offenses specified in paragraph 1 of this article with a fine to the level of five times to twenty times the amount of the minimum wage in Montenegro.

#### Article 73

The following shall be penalized with a fine to the level fifty times to two hundred times the amount of the minimum wage in Montenegro: a legal entity or entrepreneur if he/she uses mineral oil marked red, which is used as heating fuel, for purposes other than those for which it is marked, or if he/she sells such oil as fuel for motor vehicles and watercraft or other motors, or sells it for the standard reservoir of motor vehicles, watercraft or other motors (Article 56).

2) For the offence from paragraph 1 of this article, a responsible person in the legal entity shall be fined with five times to twenty times the amount of the minimum wage in Montenegro.

#### Protection measures

##### Article 73a

In addition to a fine, for the offences from article 70, paragraph 1, point 1), 15), 16), 17), 17a), 17b) and 17c) a legal person or entrepreneur can also be pronounced the protective measure of confiscation of an object (excise product)

##### Article 73b

For the offences from article 70, paragraph 1, point 9) and 11) and article 71, paragraph 1, point 2) a legal person or entrepreneur can also be pronounced the protection measure of prohibiting activity performance in duration of one to three months.

## **XIX. TRANSITIONAL PROVISIONS**

### **Period of adjusting excise tax rates to the minimum amount in the European Union**

#### Article 74

Notwithstanding article 38, beer with an alcoholic strength below 0.5vol% shall be also considered alcoholic drink by the year 2005.

#### Article 75

(1) Notwithstanding provisions of Article 43, paragraph 2, item 1 of this Law, the excise tax on beer shall be:

- 1) until 1st April 2002 (from 1 May until 31 December) 0.91 Euros per hl/degree of alcohol);
- 2) until 1st January 2003 - 1.23 Euros per hl/degree of alcohol; and
- 3) until 1st January 2004 – 1.55 Euros per hl/degree of alcohol

(2) Notwithstanding the provisions of article 43, paragraph 2, item 6 of this Law, the excise tax on natural rakia shall be 100 Euros per hectoliter of pure alcohol.

#### Article 76

- (1) For the purpose of gradual harmonization of the amount of excise tax for cigarettes with its lowest amount in the European Union, the Government can increase the amount of excise tax for cigarettes ,from article 50 of this law , for 20% the most ,on the annual level.
- (2) The amount of an excise tax increase from paragraph 1 of this article shall be determined depending on the amount of excise which is paid for cigarettes from the best sold price category in Montenegro.
- (3) At least once a year, on the proposal of the tax authority, the Ministry in charge of finance shall determine the amount of retail price of cigarettes , from the best sold price category, and shall publish them in “Official Gazette of the Republic of Montenegro”
- (4) The retail price from paragraph 3 of this article shall be determined on the basis of the retail prices for cigarettes published in “Official Gazette of the Republic of Montenegro” as well as on the volume of cigarettes sold in the period prior to the increase of excise tax.

#### **Deferring meeting the requirement for the electronic exchange of information**

#### Article 77

The provisions of Article 19, paragraph (1), item 6 shall apply as of January 1, 2003.

## **Registration of existing excise taxpayers**

### Article 78

The excise taxpayers and excise licensees must submit, in accordance with provisions of the Law on the Sales Tax (“Official Gazette of the Republic of Montenegro” no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) to the tax authority by 31<sup>st</sup> June, 2002 an application for registering an activity for which they are required to assess and pay an excise tax.

## **Final excise tax return and payment terms**

### Article 79

- (1) An excise tax, for which the assessment requirement had been established before the day this law is applied, shall be paid under the terms and conditions specified by the Law on the Sales Tax (“Official Gazette of the RoM”, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000).
- (2) Excise taxpayers under the Law on the Sales Tax (“Official Gazette of the RoM”, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) are required for the period as of 1<sup>st</sup> January to 31<sup>st</sup> March 2002, to make a final excise annual return and to submit it to the tax authority by 30<sup>th</sup> April 2002.

## **Inventory of alcoholic beverages and tobacco products**

### Article 80

- (1) The existing producers of alcoholic beverages and tobacco products must make an inventory of such goods in stock by type and quantity on 31 April 2002, and establish the selling prices of such products to include the excise tax as established by the provisions of this law.
- (2) The producers specified in paragraph 1 of this article must submit to the tax authority a record of the inventory of goods in stock and the selling prices of such goods (with the excise tax amount shown separately) by 30<sup>th</sup> April, 2002.
- (3) The provisions of paragraphs 1 and 2 of this article also refer to the stocks of tobacco products and alcoholic beverages in excise goods warehouses.

## **Inventory of mineral oils**

### Article 81

- (1) Persons trading in mineral oils that are not subject to the excise tax under the provisions of the current Law on the Sales Tax (“Official Gazette of the RoM”, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000), shall be obliged to make an inventory of mineral

oils in stocks by type and quantity on 31 March 2002 and assess the excise tax in accordance with the provisions of this law.

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

### **Transitional period for applying the current excise stamps**

#### Article 82

The excise tax stamps for tobacco products and alcohol beverages issued by the day when this law is being applied shall be applied until 31<sup>st</sup> December 2002.

### **Regulations**

#### Article 83

Regulations for implementation of this law shall be passed within 90 days as of the day when this law comes into force.

### **Authorization for Distribution of Revenues Collected from Excise**

#### Article 84

Notwithstanding article 3 of this law, until 2004 one portion of revenues collected from the excise tax could be directed, by virtue of a special Program of the Government that expires on the day of application of this law, to other users provided that they are funded in accordance with special rules from the allocated revenues (compensations etc.)

## **XXI FINAL PROVISIONS**

### **Cessation of Regulations' Validity**

#### Article 85

The Law on the Sales Tax (“Official Gazette of the RoM”, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) – provisions pertaining to excise tax payment – shall cease to be valid on the day this law is applied.

### **Coming into Force and Application of the Law**

#### Article 86

This law shall come into force on the eight day of its publishing in the “Official Gazette of the Republic of Montenegro”, and shall be applied from 1<sup>st</sup> April 2002. Provisions

of the Law on changes and amendments of the Law on excise tax (“Official Gazette of the Republic of Montenegro” 76/05) that were not included in the cleared text of the law)

#### Transitional and Final provisions

##### Article 17

- (1) On the day of application of this law, the producers and importers of the cigarettes are requested to make an inventory of the cigarette stocks in warehouses, excise and customs warehouses and to submit inventory lists to the competent tax authority by January, 2006 .
- (2) On the day of application of this law, the importers of cigarettes are bound to make an inventory of excise stamps that they submitted to foreign suppliers and for which delivery of cigarettes has not been carried out, and to submit the inventory lists to the competent tax authority by January 20, 2006.
- (3) On the day of application of this law, the producers and importers of cigarettes are bound to make an inventory of undertaken and not used excise stamps and to return them to the competent tax authority together with inventory lists , by January 20, 2006.

##### Article 18

- (1) An excise tax on cigarettes stocks, from article 17, paragraph 1 of this law, shall be paid within 60 days from the day of application of this law.
- (2) An excise tax for cigarettes for which excise stamps were submitted, but which were not supplied till the day of coming into force of this law, shall be paid within 60 days from the day of their importation.
- (3) During the period of deferred excise payment, from this article, the excise taxpayer is bound to provide an instrument for securing of payment in the amount of assessed excise tax.

##### Article 19

A legal person or entrepreneur shall be fined with ten times to two hundreds time the amount of minimum wage in Montenegro for the following offences:

- (1) if he/she does not make an inventory of cigarette stocks in warehouses, excise and customs warehouses and if he/she does not submit inventory lists to the competent tax authority (article 17, paragraph 1);
- (2) if within proscribed period of time he/she does not make an inventory of excise stamps that were submitted to the foreign suppliers and for which delivery of cigarettes has not been carried out and if he/she does not submit inventory lists to the competent tax authority (Article 17, paragraph 2);
- (3) if within the time period proscribed, he/she does not make an inventory of undertaken but not used excise stamps and does not return the same to the competent tax authority together with inventory lists (Article 17, paragraph 3);

#### Article 20

The sub-laws (regulations) for the enforcement of this law shall be passed within 90 days from the day of its coming into force.

#### Article 21

On the day of application of this law, the Decree on determination of amount of specific and proportional excise tax amount for cigarettes shall cease to be valid (“Official Gazette of the Republic of Montenegro” no. 15/02 and 34/03) as well as the Rule book on classification of cigarettes in quality groups (“Official Gazette of the Republic of Montenegro” no. 17/02).

#### Article 22

This law shall come into force on the eight day of its publishing in “Official Gazette of the Republic of Montenegro” and shall be applied from January 1, 2006.