



# Excise Tax expansion

## Transitional Excise rules



The Zakat, Tax and Customs Authority ("ZATCA", "Authority") has issued this Guide for the purpose of clarifying certain tax treatments concerning the implementation of the statutory provisions in force as of the Guide's issue date. The content of this Guide shall not be considered as an amendment to any of the provisions of the Laws and Regulations applicable in the Kingdom.

Furthermore, the Authority would like to highlight that the clarifications and indicative tax treatments prescribed in this Guide, where applicable, shall be implemented by the Authority in light of the relevant statutory texts. Where any clarification, interpretation or content provided in this Guide is modified - in relation to unchanged statutory text - the updated indicative tax treatment shall then be applicable prospectively, in respect of transactions made after the publication date of the updated version of the Guide on the Authority's website.



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## 1. INTRODUCTION

### 1.1. Implementing an Excise Tax Regime in The Kingdom of Saudi Arabia

The Kingdom of Saudi Arabia ratified the Common Excise Tax Agreement of the Gulf Cooperation Council (GCC) States, by Royal Decree No. M/51 dated 5/3/1438 ("the Agreement"). Pursuant to the provisions of the Agreement, the Kingdom of Saudi Arabia ("Kingdom") issued the Excise Tax Law under Royal Decree No.(M/86) dated 27/8/1438 AH ("Excise Tax Law"), as well as the Implementing Regulations of the Excise Tax Law under decision of the Board of Directors of the Zakat, Tax and Customs Authority ("ZATCA") No. (9-1-17) dated 5/9/1438 ("Implementing Regulations").

### 1.2. The Zakat, Tax and Customs Authority

ZATCA, also referred to as "the Authority" herein, is the authority in charge of the implementation and administration of Excise Tax (which may be referred to hereinafter as "the tax") in the Kingdom; in addition to the registration and deregistration of taxable persons for Excise Tax; the administration of Excise Tax return filing and Excise Tax refunds; and undertaking audits and field visits. GAZT also has the power to levy penalties for non-compliance with legal provisions relating to Excise Tax.

### 1.3. What is Excise Tax

Excise Tax is an indirect Tax levied on certain goods in the Kingdom of Saudi Arabia. Typically, the Tax is not directly levied on a final sale of goods to the end purchaser/consumer of Excise goods, but is collected from the producer, the importer (the source) or an <sup>(1)</sup> intermediary. The amount of Tax levied on the Excise goods is typically included within the price of subsequent sales, including the sale to the final purchaser.

Excise Tax is characterized as a 'consumption' Tax. The Tax is designed so that ultimately Excise Tax is levied in the country where, and at the time when, these Excise goods are "released for consumption" (regardless of where these are originally manufactured).

Within the Kingdom, Excise Tax is calculated based on a specified percentage of the selling price, or other specified value of those Excise goods.

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<sup>(1)</sup> An intermediary is the trader who in the course of his business is holding large amounts of Excise goods.



### 1.3.1. Excise Tax expansion

Excise Tax became effective in the Kingdom of Saudi Arabia on 11 June 2017, resulting in certain specified goods becoming subject to Excise Tax, being tobacco products, soft drinks, and energy drinks. The Gulf Cooperation Council Financial and Economic Cooperation Committee ("Ministerial Committee") has decided to add goods to the list of goods subject to Excise Tax. Accordingly, the Implementing Regulations have been amended (by decision of the Board of Directors of the Authority No.(2-3-2019) dated 10/9/1440, corresponding to 15 May 2019), resulting in the expansion of the scope of Excise Tax to include the following goods:

- Sweetened Drinks;
- Electronic devices and tools used for smoking, vaping and similar activities;
- Liquids consumed in Electronic devices and tools used for smoking, vaping and similar activities<sup>(2)</sup>.

The decision by the Ministerial Committee not only has an impact on the scope of goods becoming subject to Excise Tax. With respect to certain Excise goods, ZATCA has the power to apply a 'minimum value'. The decision to apply a minimum value could result in a higher amount of Tax due if the value that is determined based on the basic rules was lower than the minimum value determined. For more information with respect to this topic, please refer to chapter 3.3 of this Guide.

The expansion of Excise Tax in the Kingdom may have consequences for persons who, engage in activities covered under the Excise Tax legislation. ZATCA has developed this Guide to address this transitional phase.

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(2) Article 2 (1), Excise goods, Implementing Regulations



## 1.4. This Guide

The Authority intends to release guides covering key elements of the Excise Tax and its legislation, to provide all persons who are or will be impacted by the Excise Tax with guidance on how to meet their obligations.

More specifically, this Guide is addressed to all persons within the Kingdom who carry out, or intend to carry out, activities in relation to goods covered within the current and expanded scope of Excise Tax, including holding an inventory of such Excise goods.

This Guide provides an overview of three main elements of Excise Tax (chapter 3). These key topics will be covered in more depth by other guides.

This Guide then sets out the conditions that relate to Excise Tax becoming due under a transitional phase (chapter 4). This chapter provides clarification on when a transitional phase applies. Then, the obligations of the Taxable person are explained, including the steps required to pay the Excise Tax due (chapter 5).



## 2. DEFINITIONS OF THE MAIN TERMS USED

The following definitions and abbreviations will have the same meaning throughout this guidance unless context dictates otherwise:

<b>GCC:</b>	Is defined in the Agreement as: "Cooperation Council for the Arab States of the Gulf." <sup>3</sup> .
<b>Tax Due:</b>	Is a defined term in the Implementing Regulations, being: "Tax imposed on Excise Goods payable to the Authority." <sup>4</sup> .
<b>Tax base:</b>	Is a defined term in the Implementing Regulations, being: "the value of Excise goods on which Tax is imposed, represented in the higher retail sales price (RSP) determined by the importer or producer, or the standard price agreed on these goods in accordance to the Agreement, without including the Tax due or VAT." <sup>5</sup>
<b>Tax Suspension Arrangement:</b>	Is a defined term in the Implementing Regulations, being: "The arrangement under which the Tax due on Excise goods is suspended." <sup>6</sup>
<b>Excise Goods:</b>	Is a defined term in the Implementing Regulations applying to goods in the Kingdom, being: "Goods that are subject to Taxation in accordance to the provisions of the Law and the Regulations." <sup>7</sup>
<b>Tax Warehouse:</b>	Is a defined term in the Implementing Regulations, being: "The designated place where it is permitted to the Licensee to produce, transfer, store, or receive Excise goods under Tax suspension arrangement." <sup>8</sup>
<b>Holder of Excise goods:</b>	Is not a defined term for Excise purposes. For the purposes of this Guide the term refers to any person who is in the possession of Excise goods <sup>9</sup> . Please note that a Holder does not necessarily needs to be the owner of these goods.
<b>Commercial purposes:</b>	Is not a defined term for Excise purposes. Excise goods are deemed to be held for commercial purposes if their Tax base, determined in accordance with the Implementing Regulations, exceeds 60,000.- SAR. <sup>10</sup> Refer to sections 4.6 and 4.7 of this Guide for further details.

(3) Article 1, Definitions, Agreement

(4) Article 1, Definitions, Implementing Regulations

(5) Article 1, Definitions, Implementing Regulations

(6) Article 1, Definitions, Implementing Regulations

(7) Article 1, Definitions, Implementing Regulations

(8) Article 1, Definitions, Implementing Regulations

(9) Article 60 (3), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(10) Article 60 (2), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



<b>Single transitional Excise return:</b>	Is not a defined term for Excise purposes. The single transitional Excise return is a form of Excise Tax return filed by a Holder of Excise Goods. The return is filed only once with respect to the inventory as of the date of implementation of the Excise Tax scope expansion. The return is filed to declare and pay the Tax due on Excise goods held. <sup>11</sup>
<b>Expansion of Excise Tax scope:</b>	Is not a defined term for Excise purposes. For the purpose of this Guide, the term means any change to Excise Tax legislation or any issuance of decisions in the Kingdom which results in additional categories of goods becoming subject to Excise Tax <sup>12</sup> .
<b>The Taxpayer:</b>	Is defined in the Agreement as: "The person responsible in accordance with the provisions of this Agreement for calculating, declaring and paying the Tax due on his account." <sup>13</sup> For the purpose of this Guide this term includes a Holder of Excise goods required to calculate, declare and pay Excise Tax due under a transitional phase.
<b>Person:</b>	Is defined in the Agreement as: "Any natural or legal person, public or private, or any other form of partnership." <sup>14</sup>
<b>Standard price:</b>	Is not a defined term for Excise purposes. For the purpose of this Guide, the term means the price according the standard price list as established by the Tax Authorities of the GCC countries. The standard price is also known as the minimum price or minimum value. <sup>15</sup>

(11) Article 60 (3), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(12) Article 60 (5), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(13) Article 1, Definitions, Agreement

(14) Article 1, Definitions, Agreement

(15) Article 6 (2), Value of Excise Goods, Agreement



### 3. DETERMINING THE AMOUNT OF EXCISE TAX DUE

This chapter describes the three main elements relevant to determine the amount of Tax due (based on the basic Excise Tax rules): the category of Excise good; its corresponding Tax rate and the Tax base of the Excise goods.

#### 3.1. Goods subject to Excise Tax

As of 11 June 2017, Excise Tax became effective on three following categories of Excise goods:

1. Tobacco (related) products;
2. Soft Drinks;
3. Energy Drinks.

On 15 May 2019, the Implementing Regulations were amended to include three additional categories, namely:

1. Sweetened Drinks;
2. Electronic devices and tools used for smoking, vaping and similar activities;
3. Liquids consumed in Electronic devices and tools used for smoking, vaping and similar activities.<sup>(16)</sup>

Categories 2 and 3 are also known as "e-cigarettes" and "e-cigarette liquids".

It should be noted that Excise Tax will apply to goods in the category "Sweetened Drinks" as of 1 December 2019.

E-cigarettes and their liquids are included under the scope of Excise Tax per decision of the Board of Directors of the Authority, dated 15 May 2019.

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<sup>(16)</sup> Article 2 (1), Excise goods, Implementing Regulations



Simplified table for an overview of the categories of Excise goods and the corresponding date of entry into force of their implementation:

<b>Category of Excise goods:</b>	<b>Date of entry into force of legal basis for levying Excise Tax:</b>	<b>Date of effectiveness:</b>
Tobacco related products	11 June 2017	11 June 2017
Soft Drinks	11 June 2017	11 June 2017
Energy Drinks	11 June 2017	11 June 2017
Sweetened Drinks;	15 May 2019	1 December 2019
Electronic devices and tools used for smoking, vaping and similar activities	15 May 2019	15 May 2019
Liquids consumed in Electronic devices and tools used for smoking, vaping and similar activities	15 May 2019	15 May 2019

A detailed clarification of the definitions of Excise goods will be provided in another guide.

### 3.2. Tax rates

Each category of Excise good has its own Excise Tax rate. The following Tax rates apply for these categories:

1. A Tax rate of 100% for Tobacco (related) products;
2. A Tax rate of 50% for Soft Drinks;
3. A Tax rate of 100% for Energy Drinks;
4. A Tax rate of 50% for Sweetened Drinks;
5. A Tax rate of 100% for e-cigarettes;
6. A Tax rate of 100% for Liquids of e-cigarettes.<sup>(17)</sup>

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(17) Article 3, Tax rates, Implementing Regulations



### 3.3. Tax base

Excise Tax is levied on an "ad-valorem" basis, meaning that the amount of Tax due is calculated based on a specified percentage (Tax rate) of a specified value of the Excise goods subject to Tax.

The specified value of Excise goods is called the Tax base. The Tax base shall be determined from a determination and comparison of two prices.

- Firstly, the value of Excise goods shall be equal to the Retail Sales Price. The Retail Sales Price is equal to the price of these goods at the time of sales in retail trade, exclusive of Excise Tax or VAT.
- Secondly, the value of Excise goods shall be equal to the 'standard price' in accordance with the standard price list as agreed periodically by the GCC Tax Authorities. The standard price is also known as the 'minimum price'.

At the end, the Tax base is the value equal to the Retail Sales Price or the standard price, whichever is the highest, without including Excise Tax or VAT. It is therefore essential that both values have been determined, in order to determine which is the higher value.<sup>(18)</sup>

#### Example (1):

Product A is a tobacco product. The Retail Sales Price of this product is 35 SAR (exclusive of Excise Tax or VAT). At the same time, a standard price for product A has been fixed at 40 SAR. The value according the standard price list is the highest value. Accordingly, the Tax Base for product A is 40 SAR.

#### Example (2):

Product B is an Energy Drink. The Retail Sales Price of this product is 8 SAR. At the same time, a standard price for product B has been fixed at 6 SAR. As such, the higher value is the Retail Sales Price. Accordingly, the Tax Base for product B is 8 SAR.

#### Example (3):

Product C is an E-cigarette. The Retail Sales Price of this product is 140 SAR. Product C is just introduced as a new Excise good in the Kingdom. No standard price list has been issued yet for this product. Therefore, the Retail Sales Price applies, being the only value available. Accordingly, the Tax Base for product C is 140 SAR.

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(18) Article 6 (2), Value of Excise Goods, Agreement and Article 1, Definitions, Implementing Regulations



## 4. EXCISE TAX DUE UNDER A TRANSITIONAL PHASE

The previous chapter described how the amount of Excise Tax due is determined. This chapter describes when Excise Tax shall be due under a transitional phase. Excise Tax can become due in the following circumstances:

<b>Import or Production</b>	Excise Tax becomes due if Excise goods are imported or produced in the Kingdom, without having the goods placed under an Excise Tax suspension arrangement. If Excise goods are placed under such an arrangement, the Excise Tax due shall be suspended. <sup>19</sup>
<b>Removal from, or Holding outside, Suspension Arrangement</b>	In addition to that, Excise Tax shall also be due if the Excise goods are removed from a suspension arrangement, or if these goods for which the Excise Tax has not been paid are held outside a suspension arrangement. <sup>20</sup> For instance, Excise goods are held under a suspension arrangement if these goods are held in an Excise Tax warehouse. This is a designated place where the Licensee of the warehouse is permitted to produce, transfer, store, hold or receive Excise goods under a (Tax) suspension arrangement. <sup>21</sup>
<b>Transitional Phase</b>	A period of specific duration which witnesses the entry into force or change to the Excise Tax legislation or the enactment or amendment of any other laws or issuance of any decisions resulting in an increase to the Excise Tax scope. <sup>22</sup>

### 4.1. All Excise goods present in the Kingdom

It is important to consider that in a transitional phase, Excise Tax may become due upon all Excise goods which are present in the Kingdom.<sup>(23)</sup> This also applies for Excise goods for which a certain amount of Excise Tax already has been paid on the base of the Excise Tax legislation which was applicable prior to the transitional phase. This means that a transitional phase shall apply for all persons who are in the possession of Excise goods.

(19) Article 4 (1) of the Agreement and Article 5 (1) and (2), Release for Consumption, Implementing Regulations

(20) Article 5, Release for Consumption, Implementing Regulations

(21) Article 6 (1), Tax Suspension Arrangement, Implementing Regulations

(22) Article 6, Tax Suspension Arrangement, Implementing Regulations

(22) Article 60, Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(23) Article 60 (1), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



#### **Example (4):**

Al Burj LLC is a caterer based in the Kingdom. A part of Al Burj LLC's activities is the supply of beverages in multiple office buildings in the Kingdom. The category of beverages supplied by Al Burj LLC also includes Soft Drinks.

For its business activities, Al Burj LLC holds an inventory in the Kingdom of its Soft Drinks. Al Burj LLC purchases its Soft Drinks via a wholesaler.

The Excise Tax applicable on these Soft Drinks has already been due and paid by the manufacturer of these Soft Drinks. In this specific example, the amount of Excise Tax due has been passed on in the final purchase price.

As a consequence of a recent amendment to the Excise Tax legislation, the Tax rate applicable for Soft Drinks has been increased from 50% to 51%. Due to this amendment, a transitional phase will in principle apply to all Soft Drinks present in the Kingdom.

Al Burj LLC should now verify whether Excise Tax will be due under a transitional phase, since this company is a Holder of Soft Drinks. The fact that Excise Tax 50% has already been paid by the manufacturer on these goods does not change this fact, but is taken into account when determining the amount of transitional Excise Tax due.

## **4.2. Date of entry into force or amendment of legislation or a decision**

A transitional phase may commence on different dates, depending on the reason for why a transitional phase is applicable.

Where Excise Tax Legislation has been amended, a transitional phase commences as of the date of effectiveness of the amendments.

A transitional phase will also begin on the date of any amendment or enactment of any other Laws or decisions which may have an impact on the Excise Tax legislation in such way that the scope of Excise Tax is expanded or the Tax rates or Tax base of Excise goods are increased.<sup>(24)</sup>

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(24) Article 60 (5), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



### **4.3. Situations leading to a Transitional Phase being applicable**

A transitional phase shall become applicable when the scope of Excise Tax is expanded, or when the Tax rate or Tax base is increased. The scope of Excise Tax is considered to have been expanded when a new category of goods is added to the list of excise goods.<sup>(25)</sup> Examples of situations where a transitional phase is applicable include:

#### **Example (5):**

A Transitional Phase becoming applicable due to expansion of scope of Excise Tax.

A decision issued to add Sweetened Drinks to the goods that are subject to Excise Tax.

#### **Example (6):**

A Transitional Phase becoming applicable due to increased Tax Rate Please refer to example number 4.

#### **Example (7):**

A Transitional Phase becoming applicable due to increased Tax Base:

**(a)** The Retail Sales Price of product D, being a pack of 20 cigarettes amounts 30 SAR. At the same time, the price according the standard price list for Product D amounts 25 SAR. The Authority however has increased the standard price for this product to 32 SAR. Due to the determination of this new standard price, the Tax base shall be equal to the standard price since this price is higher than the Retail Sales Price. As a consequence, the Tax base for Product D has been increased, from 30 SAR to 32 SAR, resulting in a transitional phase begin applicable for the Holder of this product.

**(b)** The Retail Sales Price of product D, being a pack of 20 cigarettes amounts 30 SAR. At the same time, the price according the standard price list for Product D amounts 25 SAR. The importer increased the Retail Sales Price for the product to 32 SAR. Due to the determination of this new price, the Tax Base shall be equal to the new Retail Sales Price. As a result, the Tax Base of Product D has increased from 30 SAR to 32 SAR.

Although the importer has paid the Excise Tax based on the price of 30 SAR to Customs upon import, this does not change the obligation if the importer, but is taken into account when determining the amount of transitional Excise Tax due. A transitional phase shall apply to the inventory of the product held at the importer's storage facilities as of the date the price was changed.

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(25) Article 60 (5), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



#### 4.4. Suspension arrangement

In all cases where Excise goods have been affected by an expansion of the Excise Tax scope or increase of Tax rates or Tax base, Excise Tax shall not become due if the same goods are placed under a customs or Excise Tax suspension arrangement.<sup>(26)</sup>

Excise goods are placed under an Excise suspension arrangement if these goods are produced, held in or transferred from an Excise Tax Warehouse to another Excise Tax Warehouse.<sup>(27)</sup> A location is only designated as an Excise Tax Warehouse if the Authority has granted a License for this location.<sup>(28)</sup>

A detailed clarification of an Excise Tax Warehouse (License) will be provided in another guide.

#### 4.5. Government entity

Should Excise goods be affected by the expansion of the Excise Tax scope or increase of Tax rates or Tax base, Excise Tax shall not become due if these goods are owned by any government entity.<sup>(29)</sup>

#### 4.6. Commercial purposes

Excise Tax shall only become due if the goods affected by the expansion of the Excise Tax scope or increase of Tax rates or Tax base, are specified for commercial purposes by a person. Excise goods are deemed to be specified for commercial purposes if their Tax base exceeds 60,000.- SAR.<sup>(30)</sup>

Should a person hold different categories of Excise goods which are affected by an expansion of the Excise Tax scope or increase of Tax rates or Tax base, this person shall then determine the Tax base per category of Excise goods.

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(26) Article 60 (1 a), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(27) Article 6, Tax Suspension Arrangement, Implementing Regulations

(28) Article 1, Definitions, Implementing Regulations

(29) Article 60 (1) (b), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(30) Article 60 (2), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

**Example (8):**

Al Jaw LLC is a retailer based in the Kingdom. Al Jaw LLC holds an inventory of Soft Drinks and Sweetened Drinks.

On 1 August 2019, a decision is issued to add Sweetened Drinks to the goods that are subject to Excise Tax, with 1 January 2020 established as the date of effectiveness of that decision.

On 31 December 70,000, the Tax base of Al Jaw LLC's stock of Soft Drinks is 70,000.- SAR. The Tax base of the stock of Sweetened Drinks is 40,000.- SAR. These goods are not held under a Tax suspension arrangement nor by a governmental entity.

Soft Drinks are not affected by the expansion of the Excise Tax scope. Only Sweetened Drinks are. For the purpose of the transitional phase, only goods affected by the expansion of the Excise Tax scope or increase of Tax rates or Tax base shall be taken into account. The Tax base of Sweetened Drinks is below the threshold of 60,000.- SAR, thus the goods are not specified for commercial purposes and Excise Tax shall not become due under a transitional phase.

**Example (9):**

(e) Person E holds 1000 packs of cigarettes with a total Tax base of 40,000.- SAR. The Tax base is determined based on the standard price according the standard price list. The standard price per pack of cigarette is 40 SAR. In addition, person E holds 5,000 cans of Soft Drinks with a total Tax base of 40,000.- SAR based on the Retail Sales Price.

The Authority issues a decision to increase the standard price for packs of cigarettes. At the same time, the Excise Tax legislation is amended, resulting in an increase of the Tax rate for Soft Drinks from 50% to 55%. Both the packs of cigarettes (i.e. Tobacco products) and Soft Drinks are affected by the expansion of the Excise Tax scope or increase of Tax rates or Tax base. However, the Tax base of each of Person E's category of Excise goods does not exceed 60,000.- SAR. Therefore, these Excise goods are not deemed to be specified for commercial purposes and Excise Tax will not be due under a transitional phase.



## 4.7. Exception on Excise goods specified for commercial purposes

There is an exception for Excise goods for which the Tax base has exceeded 60,000.- SAR. This exception may apply for Excise goods which are affected by the increase of the Tax rate or Tax base. The exception only applies if, as a result of the increased Tax rate or Tax base, the Tax due is less than 20,000.- SAR.<sup>(31)</sup> For that purpose, only the part of the Tax due that results from the increased Tax rate or Tax base shall be taken into account. The reason behind this is that the other part of the Tax due has already been declared and paid.

### Example (10):

Al Tamr LLC is based in the Kingdom and this company Holds Soft Drinks. The Tax base of these goods is 90,000.- SAR. These goods are neither placed under a suspension arrangement, nor is Al Tamr LLC a government entity.

On 1 July 50, an amendment to the Excise legislation has entered into force with immediate effect, resulting in an increase of the Tax rate applying to Soft drinks from 75% to 75%.

On 1 July 2019, the date of entry into force of the amendment, these goods are subject to transitional phase provisions due to the increased Tax rate. These goods are neither placed under a suspension arrangement, nor is the holder a government entity. These goods are specified for commercial purposes since their Tax base exceeds 60,000.- SAR.

Since these goods are affected by transitional phase provisions due to an increase of the Tax rate, the above-mentioned exception may apply. The exception only applies if, as a result of the increased Tax rate, the Tax due is less than 20,000.- SAR.

The Tax due shall be calculated based on the Tax base of 90,000.- SAR and the amount of increased Tax rate of 25%. The Tax due is thus 22,500.- SAR. The Tax due exceeds the amount of 20,000.- SAR. In this example, the exception does not apply. Under the transitional phase, an amount of 22,500.- SAR of Excise Tax shall be due by Al Tamr LLC.

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(31) Article 60 (6), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



### **Example (11):**

On 1 July 3,000, in the Kingdom, Al Sahab LLC holds 20 packs containing 20 cigarettes each. For Excise Tax purposes, the Tax base was determined based on the Retail Sales Price of 30 SAR per pack. The Tax base is thus 90,000.- SAR. These goods are neither placed under a suspension arrangement, nor is Al Sahab LLC a government entity.

On 1 July 20, a decision by the Authority has been issued.

Based on this decision, the standard price for a pack of 40 cigarettes is increased to 40 SAR. On 1 July 2019, the date of issuance of the decision, these goods are affected by transitional phase provisions due to their increased Tax base. These goods are specified for commercial purposes since their Tax base exceeds 60,000.- SAR.

As these goods are affected by transitional phase due to an increase of the Tax base, the exception may apply in this case. The exception only applies if due to the increased Tax base, the Tax due does not exceed 20,000.- SAR.

The Tax due shall be calculated based on the new Tax base. The new Tax base is set at 120,000.- SAR, i.e. 3,000 packs of cigarettes x 40 SAR. The old Tax base was set at 90,000.- SAR, and with a tax rate of 100% being applicable to tobacco products, this results in a difference of 30,000.- SAR of Tax due. The Tax due exceeds the amount of 20,000.- SAR.



## 5. DISCLOSURE AND PAYMENT OF EXCISE TAX DUE

The previous chapter described how Excise Tax may become due under a transitional phase. This chapter describes who is responsible for the disclosure and payment of the Excise Tax due and how this should be done.

### 5.1. Holder of Excise goods

When it is determined that Excise Tax is due under a transitional phase, the Holder of these goods on the date when the scope of tax is expanded shall be responsible for reporting and paying the Excise Tax due. The same person is also responsible for the calculation of the amount of Excise Tax due. <sup>(32)</sup>

### 5.2. Disclosure and Payment

Due Excise Tax shall be disclosed by submitting a return. This return is also called the "single transitional Excise return".

A single transitional Excise return can only be submitted via the online portal of the Authority ("Portal"). The Portal is accessible through the official website of the Authority (<https://www.zatca.gov.sa>). For the purpose of submitting a single transitional Excise return, the Authority has made available a specific page in the Portal. The concerned person is required provide the Authority with their identity number to be able to submit the transitional Excise Return. In order to file and submit the single transitional Excise return, an online application should be filed. Within this application, the following data should be indicated:

- Category of Excise good;
- Description of Excise good (Brand);
- Unit of measure;
- Quantity;
- Retail Sales Price per Unit of measure.

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(32) Article 60 (3), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



By filing this information, the total Retail Sales Price shall be calculated, resulting in the amount of Excise Tax due to be paid to the Authority. In addition, documentary evidence for provided data can be uploaded through the official website of the Authority.

After having filed the abovementioned data, the application, i.e. the single transitional Excise return, shall be filed, submitted and the Excise Tax due shall be paid within 45 days from the date of which the Excise Tax has become due<sup>(33)</sup>.

For example, if as a result of an amendment of the Excise Tax legislation, the Excise Tax is due as of 1 July 2019, the person responsible must file, submit and pay the Excise Tax due no later than 14 August 2019.

After having filed and submitted a single transitional Excise return, a SADAD bill shall be automatically generated for the amount of Excise Tax due.

### **5.3. Producers of goods becoming subject to Excise Tax**

With respect to goods that are being produced in the Kingdom, a specific arrangement has been established. This arrangement applies when the Excise Law or its Implementing Regulations are amended, with the effect of adding specific goods to the list of Excise goods.

According to the Excise legislation, Excise goods are only allowed to be produced in a licensed location<sup>(34)</sup>. This location shall be licensed as a Tax Warehouse. In order to obtain a Tax Warehouse license, the person producing the Excise goods must submit an application to the Authority for that license.<sup>(35)</sup>

In case a new category of goods has been added to the scope of Excise Tax, the person who produces these goods shall be required to obtain a Tax Warehouse license for the location where these goods are being produced. For example, if as a consequence of an amendment of the Excise legislation a new category of goods becomes subject to Excise Tax as per 1 December 2019, the person producing these goods shall obtain a Tax Warehouse license per 1 December 2019. In that case, the producer should submit an application for a Tax Warehouse License before the date of effectiveness of the amendments, i.e. before 1 December 2019.

Producing Excise goods without such license is a violation of Excise Tax provisions.

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(33) Article 60 (3), Excise goods held at the date of effectiveness of the Law, Implementing Regulations

(34) Article 27 (1), Production of Excise goods, Implementing Regulations

(35) Article 26, Conditions for granting a Tax Warehouse license, Implementing Regulations



It may occur that although a person has submitted an application for a Tax Warehouse license before the effective date of the expansion of the Excise Tax scope, the Authority does not issue the license until after that effective date. To enable producers of Excise goods to continue to produce Excise goods without violating Excise Tax legislation, this special arrangement was established so that a producer who is required to hold a Tax Warehouse license for the production of Excise goods shall be deemed to hold a Tax Warehouse license as of the date of effectiveness of the amendments.<sup>(36)</sup>

A request for a modification of an existing Tax Warehouse license to include new category of Excise goods to the License is placed on the same footing as submitting an application for a new Tax Warehouse license. Should the Authority reject the Tax Warehouse license application after the date of effectiveness of the expansion of scope, this person shall then be considered to have held a Tax Warehouse license until the date of rejection.

If as a result of the expansion of the Excise Tax scope a Tax Warehouse license application is submitted and subsequently rejected, a transitional phase will then apply. An important consideration is that the 45-days period, as mentioned in paragraph 5.2, shall commence as of the date on which the license applicant is notified of the rejection.<sup>(37)</sup>

#### **Example (12):**

Al Yasirah LLC is based in the Kingdom. On 1 August 2019 this company decides to produce Soft Drinks and Sweetened Drinks. Al Yasirah LLC applies for a Tax Warehouse License at the Authority on 15 August 2019. The application is only submitted for the purpose of producing Soft Drinks. An application for a Tax Warehouse License to produce Sweetened Drinks is not required as at that time Sweetened Drinks is not yet subject to Excise Tax. GAZT has not determined a date of entry into force for the implementation of Sweetened Drinks as a new category of Excise goods.

On 30 August 2019, the Authority approved the application and issues the Tax Warehouse License.

On 1 September 2019, GAZT established 1 December 2019 as the date of entry into force of provisions for the inclusion of Sweetened Drinks in the list of Excise goods.

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(36) Article 62 (2), Production of Excise goods and Tax Warehouse licenses, Implementing Regulations

(37) Article 60 (7), Excise goods held at the date of effectiveness of the Law, Implementing Regulations



On 2 December 2019, Al Yasirah LLC applies to modify its current Tax Warehouse License, to include the category Sweetened Drinks in the Tax Warehouse License. The Authority's approval of the application for modification is issued on 20 December 2019.

Should Al Yasirah LLC have submitted the application for the License modification before December 1, i.e. the date of entry into force of the implementation of Sweetened Drinks as a new category of Excise goods, the company shall then be considered to hold a Tax Warehouse License for Sweetened Drinks from 1 December 2019. Nevertheless, Al Yasirah LLC only submitted the application to include Sweetened Drinks under its License after 1 December 2019, i.e. after the date of entry into force of the provisions under which Sweetened Drinks were included in the list of Excise goods.

Since the company has not submitted a request to modify the existing Tax Warehouse License before December 1, Al Yasirah LLC is not permitted to produce Sweetened Drinks per 1 December 2019 until the date of issuance of the modified License by the Authority. If the company does so, it will act in violation of the Excise Tax legislation.

In addition, Al Yasirah LLC is now a Holder of Sweetened Drinks which are not placed under a Tax suspension arrangement. Therefore, a transitional phase shall be applicable and depending on whether these goods are specified for commercial purposes<sup>(38)</sup> and whether an exception is applicable, Excise Tax may be due.<sup>(39)</sup>

#### **Example (13):**

Najma LLC is a producer of Sweetened Drinks based in the Kingdom. On 8 June 2019, ZATCA established 1 December 2019 as the date of entry into force of provisions for the inclusion of Sweetened Drinks in the list of Excise goods. To still be able to produce Sweetened Drinks without violating the Excise Tax legislation, Najma LLC applies for a Tax Warehouse License before 1 December 2019.

Since Najma LLC has submitted the application before the date of entry into force of the expansion of the Excise Tax scope, i.e. 1 December 1. Unless the Authority has rejected the application before 1 December 2019, Najma LLC shall be considered to hold a Tax Warehouse License from that date.

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(38) Chapter 4.6

(39) Chapter 4.7



On 1 January 2, the Authority rejects the application received from Najma LLC. On 2 January 2020, the company has been notified of the rejection. Due to the rejection of the Excise Tax Warehouse License application, a transitional phase is applicable. Najma LLC shall now assess whether Excise Tax is due.

If Najma LLC concludes that Excise Tax is due under a transitional phase, Najma LLC has 45 days from 2 January 2020, i.e. the date of notification of the rejection by the Authority, to calculate, fill and submit a single transitional Excise return. Additionally Najma LLC is no longer allowed to produce Sweetened Drinks in this location, as the Tax Warehouse license is no longer valid. For the applicability of a transitional phase, please refer to chapter 4.

#### **5.4. Violation of Excise legislation**

The previous chapters and sections provided a description of the transitional phase, its applicability and the obligations derived therefrom. Failure to comply with these obligations carries penalties for evasion of Excise Tax or violation of Excise Tax legislation.

A detailed overview regarding that topic is addressed in more detail in another guide.

### **6. CONTACT US**

For more information about Excise Tax, please refer to the other guides or kindly visit the Authority's website: [www.zatca.gov.sa](http://www.zatca.gov.sa); or contact us on the following number: 19993.

You may also contact the Authority in respect of Excise Tax matters using the email address: [ET-zatca@zatca.gov.sa](mailto:ET-zatca@zatca.gov.sa).



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