

Cabinet Resolution No. (38) of 2017
Concerning the Excise Goods, Excise Tax Rates, and Method of Calculating
Excise Price

The Cabinet,

- Having reviewed:
- The Constitution; and
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
and
- Federal Law No. (7) of 2017 on Tax Procedures; and
- Federal Decree-Law No. (7) of 2017 on Excise Tax; and
- Federal Decree-Law No. (32) of 2017 Ratifying the Common Excise Tax Agreement of the
States of the Gulf Cooperation Council (GCC); and
- The proposal submitted by the Minister of Finance and the approval thereof by the
Cabinet,

Hereby resolved as follows:

Article (1)

Definitions

For the purposes of applying the provisions of this Resolution, the following words and expressions shall have the meanings assigned thereto respectively, unless the context requires otherwise:

State	: The United Arab Emirates.
Authority	: The Federal Tax Authority.
Tax	: The Excise Tax.
Decree-Law	: Federal Decree-Law No. (7) of 2017 Concerning the Excise Tax.

Excise Goods	: Goods to be defined as taxable goods herein.
Taxable Person	: Each person that is, or ought to be, registered for the tax purposes pursuant to the provisions of the Decree-Law.
Importer	: The natural or legal person that acts as the importer of excise goods on the date of importation for the purposes of customs clearance.
Excise Price	: The price calculated in accordance with the provisions of this Resolution.
Value Added Tax (VAT)	: A tax levied on the importation and supply of goods and services in accordance with Federal Decree-Law No. (8) of 2017 Concerning the Value-Added Tax (VAT).

Article (2)

Excise Goods

For the purposes of Article (2) of the Decree-Law, the tax shall be levied on the following excise goods:

1. Tobacco and its products.
2. Soft drinks.
3. Energy drinks.

Article (3)

Tobacco and Its Products

For the purposes of Article (2) of this Resolution, tobacco and its products shall include all items set forth in Chapter (24) of the Common Customs Tariff of the GCC States, which are imported, cultivated or produced in the State.

Article (4)

Soft Drinks

1. For the purposes of Article (2) of this Resolution, soft drinks shall mean all of the following:
 - a. Any beverage that contains carbonated water, except for unflavored carbonated water.
 - b. Any concentrates, powder, gel, or extracts that can be converted into soft drinks.
2. For the purposes of this Article, soft drinks shall not include any beverage containing alcohol, even if the product is considered a soft drink.
3. If the product referred to in Paragraph (b) of Clause (1) of this Article is previously taxed in the State; the soft drink produced from mixing such product with a gaseous agent at the place of selling the product by a non-taxable person shall not be deemed as an excise goods for the purposes of the Decree-Law and no tax shall be due thereon. Further, the tax paid on the product referred to in Paragraph (b) of Clause (1) of this Article may not be deemed as a deductible tax in accordance with Article (16) of the Decree-Law.
4. If any product is compatible with the definition of soft drinks set out in this Article and also compatible with the definition of energy drinks set out in Article (5) of this Resolution, such product shall be classified as an energy drink and shall be taxed at the rate applicable to energy drinks.

Article (5)

Energy Drinks

1. For the purposes of Article (2) of this Resolution, energy drinks shall mean all of the following:
 - a. Any beverages marketed or sold as energy drinks that may contain stimulants or provide mental and physical stimulation, including but not limited to caffeine, taurine, ginseng and guarana and any ingredients that have an identical or similar effect as the said ingredients.
 - b. Any concentrates, powder, gel, or extracts that can be converted into energy drinks.
2. For the purposes of this Article, energy drinks shall not include any beverage containing alcohol, even if the product is considered an energy drink.

3. If the product referred to in Paragraph (b) of Clause (1) of this Article is previously taxed in the State; the energy drink produced from mixing such product with any other products at the place of selling the product by a non-taxable person shall not be deemed as an excise goods for the purposes of the Decree-Law and no further tax shall be due thereon. Further, the tax paid on the product referred to in Paragraph (b) of Clause (1) of this Article may not be deemed as a deductible tax in accordance with Article (16) of the Decree-Law.

Article (6)

Tax Rate

For the purposes of Article (3) of the Decree-Law, the tax shall be levied on the excise goods referred to in Article (2) of this Resolution as per the following rates:

Excise Goods	Rate (%)
Tobacco and its products	100%
Soft Drinks	50%
Energy Drinks	100%

Article (7)

Excise Price

1. In accordance with Article (3) of the Decree-Law, the excise price shall be the higher of:
 - a. The price declared by the Authority for the excise goods in the price list issued thereby, if any.
 - b. The designated retail price for such goods, less the tax included therein.
2. In order to deduct the value of the tax included in the designated retail price, the following calculations shall be used:
 - a. As to the excise goods taxable at a rate of (50%) of the excise price, the excise price shall be equal to two thirds of the designated retail price of such goods.
 - b. As to the excise goods taxable at a rate of (100%) of the excise price, the excise price shall be equal to half of the designated retail price of such goods.

3. Notwithstanding the provision of Paragraph (b) of Clause (1) of this Article, the excise price of soft drinks referred to in Paragraph (b) of Clause (1) of Article (4) of this Resolution shall be calculated in accordance with the mechanism determined by the Minister of Finance.

Article (8)

Designated Retail Price

1. For the purposes of Article (7) of this Resolution, the designated retail price shall be the higher of:
 - a. The recommended retail price of the excise goods, which is specified, declared, and affixed to the goods by the importer or producer. "The recommended retail price of the excise goods" shall mean the price achieved when the excise goods are sold for retail purposes directly to the consumer, and it shall not include the cases of increasing the price due to selling the excise goods in a hotel, restaurant, or similar facility for the purpose of consumption in such facilities.
 - b. The average retail price of the goods in the market.
2. For the purposes of Paragraph (b) of Clause (1) of this Article, the taxable person shall calculate the average retail price of the goods in the market as follows:
 - a. Identifying the different retail prices of the excise goods in the market based on the previous twelve months.
 - b. Deducting the value of the tax included in the retail price in the market in accordance with Clause (2) of Article (7) of this Resolution or, if the retail price relates to a period preceding the application of the tax, the full value of the retail price in the market shall be used.
 - c. Calculating the total excise goods sold at each retail price in the market in order to define the total revenues in the market for the period of twelve months.
 - d. Dividing the total revenues in the market by the total excise goods sold during the twelve-month period.
 - e. Multiplying the quotient as referred to in Paragraph (d) by the tax rate applicable to the excise goods to arrive at the assumed tax due on the excise goods.

- f. Adding the resulting values as referred to in Paragraphs (d) and (e) together to arrive at the average retail price of such goods in the market.
- 3. The taxable person shall re-calculate the average retail price of the goods in the market at least once every six (6) months. In the event that the calculation of the average retail price results in adjusting the designated retail price in accordance with Clause (1) of this Article, such adjustment shall be made from the tax period following the calculation of the average retail price, or the tax period following the date in which the calculation is supposed to be made, whichever is earlier.
- 4. If the taxable person is unable to identify the designated retail price referred to in Paragraphs (a) and (b) of Clause (1) of this Article, such taxable person shall notify the Authority thereof within no less than (15) days prior to the date of submitting the tax return.
- 5. In the event that the Authority ascertains that the taxable person is unable to identify the price referred to in Paragraphs (a) and (b) of Clause (1) of this Article, it may permit the taxable person to calculate the tax based on the cost of the excise goods.
- 6. The designated retail price shall include all the duties and taxes due on the excise goods, except for the value-added tax.

Article (9)

Repealing Conflicting Provisions

Any provision inconsistent or discrepant with the provisions of this Resolution is hereby repealed.

Article (10)

Publication and Enforcement

This Resolution shall enter into force as of 1st October 2017 and shall be published in the Official Gazette.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by Us,

On: 4 Muharram 1439 A.H.

Corresponding to: 24 September 2017 AD