

107
A C T
of 3 February 2004
on the Excise Duty on Beer

The National Council of the Slovak Republic has approved the following act:

Article 1
Subject of act

This act regulates the taxing of beer by an excise duty (hereinafter „tax“) in the tax territory.

Article 2
Definition of basic terms

(1) For the purposes of this act

- a) tax territory shall mean the territory of the Slovak Republic,
- b) territory of the European Union (hereinafter „union“) shall mean the territory in which are applied union regulations on general arrangements, holding, movement and monitoring of products subject to excise duty,
- c) Member State shall mean a Member State of the union,
- d) territory of third countries shall mean a territory which is not territory of the union,
- e) tax warehouse shall mean a place where beer on the basis of an authorization for the operation of a tax warehouse under tax suspension is produced, processed, held, received or dispatched,
- f) authorized warehouse keeper shall mean a legal person or natural person whose commercial activities include the production, processing, holding, receiving or dispatching of beer on the basis of an authorization for the operation of a tax warehouse under tax suspension,
- g) tax suspension shall mean a tax regime in which the origination of tax liability is moved to the day of releasing beer into tax free circulation,
- h) registered trader shall mean a legal person or natural person which is not an authorized warehouse keeper, whose commercial activities include on the basis of an authorization repeatedly or occasionally receiving beer from another Member State under tax suspension, and which must neither hold nor dispatch beer under tax suspension,
- i) releasing beer into tax free circulation shall mean
 - 1. any departure of beer from tax suspension,
 - 2. any production of beer outside tax suspension,
 - 3. any importation of beer not followed by tax suspension,
- j) combined nomenclature shall mean goods nomenclature under the regulations of the union,
- k) commercial activities shall mean activities performed in the tax territory in accordance with a special regulation¹⁾ and the same or similar activity performed in other Member States under the regulations of Member States,
- l) property-linked persons shall mean persons one of which has directly or indirectly at least a 25 % share in the registered capital or in the voting rights in another person; if one person has such share in more persons, all of them are considered property-linked,
- m) personnel-linked persons shall mean
 - 1. a natural person or legal person, if this natural person or a person close to it²⁾ has directly or indirectly decisive influence on the management or on the control of this legal person, or
 - 2. legal persons, if the same person or a person close to it has directly or indirectly decisive influence on the management or control of these legal persons.²⁾

¹⁾ Article 2 of the Commercial Code as amended by Act No. 500/2001 Coll.

²⁾ Article 116 and 117 of the Civil Code.

(2) For the purposes of this act, transactions originating in or intended for the Principality of Monaco are treated as transactions originating in or intended for the French Republic, transactions originating in or intended for Jungholz and Mittelberg (Kleines Walsertal) are treated as transactions originating in or intended for the Federal Republic of Germany, transactions originating in or intended for the Isle of Man are treated as transactions originating in or intended for the United Kingdom of Great Britain and Northern Ireland, and transactions originating in or intended for San Marino are treated as transactions originating in or intended for the Italian Republic.

Article 3

Tax administration

Tax administration is performed by the customs office, and its local jurisdiction is governed, in the case of a legal person, by its registered office, and in the case of a natural person, by its permanent residence; if local jurisdiction cannot be stated in this way or if it is more efficient for the performing of tax administration, it will be stated by the Customs Directorate of the Slovak Republic (hereinafter „Customs Directorate“). The Customs Directorate can for the branch of a business, another organizational unit or operational unit of a legal person or natural person also state local jurisdiction in other ways, if it is more efficient for tax administration.

Article 4

Subject of tax

(1) The subject of tax is beer produced in the tax territory, delivered to the tax territory from another Member State or imported to the tax territory from the territory of a third country.

(2) For the purposes of this act, beer shall mean

- a) an alcoholic beverage falling within the CN code 2203 with an alcoholic strength exceeding 0.5 % of the volume, which originated by the spirituous fermentation of young beer,
- b) an alcoholic beverage falling within the CN code 2206 with an alcoholic strength exceeding 0.5 % of the volume, which is a mixture of beer under letter a) and non-alcoholic beverages.

(3) The concentration of beer is expressed in degrees Plato.

(4) For the purposes of this act

- a) degree Plato shall mean the content of the extract of the original young beer calculated according to the big Balling formula stated in the Slovak Technological Norm,³⁾ expressed in weight percentage,
- b) young beer shall mean a solution of sugars and other materials acquired from various types of malts, sugar or non-malt cereals, cooked with hop or other hop products.

(5) In the case of a change in the CN code which has no impact on a change of the subject of the tax or on the tax rate, the valid tax rate stated in Article 7 shall be used, and the transferral key between the original and the new CN code will be stated in a document issued by the Ministry of Finance of the Slovak Republic (hereinafter „ministry“) and announced in the Collection of Acts of the Slovak Republic by the publishing of its full version.

Article 5

Independent small brewery

(1) Independent small brewery is a legal person or natural person whose commercial activities include the production of beer and which meets the following conditions:

- a) the annual beer production does not exceed 200 000 hectolitres,

³⁾ STN 56 0186 Method of Beer Testing.

- b) has no property- or personnel-link with another legal person or natural person whose commercial activities include the production of beer,
- c) does not produce beer under licence,⁴⁾
- d) the production and operational areas are not technologically or in other ways linked with the production and operational areas of another legal person or natural person whose commercial activities include the production of beer.

(2) For the purposes of this act, annual beer production shall mean the total amount of beer produced in the given calendar year in the independent small brewery.

(3) The independent small brewery is obliged to inform the customs office by 31 January of the calendar year of the estimated annual beer production in hectolitres and document the fulfillment of the conditions under Paragraph 1.

(4) An independent small brewery which begins to produce beer during the course of a calendar year is obliged to inform the customs office before the end of the month in which it began to produce beer of the estimated annual beer production and document the fulfillment of the conditions under Paragraph 1. The estimated annual beer production shall be calculated as twelve times the share of the estimated production from its beginning to the end of the year and the number of the months of production in the calendar year including the month in which production began.

(5) If the real volume of produced beer in a calendar year exceeds 200 000 hectolitres or if any of the other conditions under Paragraph 1 is not met, the independent small brewery is obliged to inform the tax administrator of these facts no later than 15 days after their origination and to apply the basic tax rate on the volume of beer released into tax free circulation in a calendar year.

(6) For each tax period preceding the tax period in which facts under Paragraph 5 originated, the independent small brewery is obliged to submit an additional tax return before the deadline for the submission of a tax return for the tax period in which the facts under Paragraph 5 originated. In the additional tax return it will indicate the tax period to which it relates and will state the difference between the tax calculated from the basic tax rate and the tax stated in the regular tax return. This tax difference will not be subject to a fine under a special regulation.⁵⁾

Article 6

Tax base, tax calculation

- (1) The tax base is the amount of beer stated in hectolitres.
- (2) The tax shall be calculated as the product of the tax base, beer concentration in degrees Plato and the appropriate tax rate.
- (3) Degrees Plato are rounded down to the whole number.

⁴⁾ Articles 14 and 24 of Act No. 435/2001 Coll. on Patents, Additional Protection Certificates and on Amending Certain Acts (Patent Act).

⁵⁾ Article 35b of the Act of the Slovak National Council No. 511/1992 Coll. on the Administration of Taxes and Fees and on Changes in the System of Territorial Financial Bodies as amended by Act No. 609/2003 Coll.

Article 7

Tax rate

- (1) The tax rate is fixed as follows:
 - a) basic tax rate SKK 50/degree Plato/hl,
 - b) reduced tax rate SKK 37/degree Plato/hl.
- (2) The reduced tax rate shall be applied to beer produced by an independent small brewery (Article 5).
- (3) The reduced tax rate shall also be applied to beer delivered to the tax territory from another Member State, if it is certified by a confirmation of the tax administrator of this Member State that this beer was produced by an independent small brewery under the legislation of this Member State.
- (4) If it is not proved that beer was produced in an independent small brewery, the basic tax rate is applied.
- (5) Beer produced under licence is always subject to the basic tax rate.

Article 8

Tax exemption

- (1) Exempt from tax is that beer when used for
 - a) the production of vinegar falling within the CN code 2209,
 - b) the production and preparation of pharmaceuticals and other products serving health protection and support by persons authorized to produce them under a special regulation,⁶⁾
 - c) the production of flavours in preparation of foodstuffs and beverages with an alcoholic strength not exceeding 1.2 % of the volume,
 - d) the production of foodstuffs, if the alcohol content in them does not exceed the amount of 5 litres of alcohol per 100 kg of finalized product,
 - e) the manufacturing process provided that the final product is not subject to tax under this act, under the Act on the Excise Duty on Spirits or under the Act on the Excise Duty on Wine.
- (2) Also exempt from tax is beer
 - a) taken as sample for the purposes of tax supervision or other official control, official test or official determination, in a technologically justified amount,
 - b) used in a tax warehouse (Article 15 Paragraph 2) for own laboratory tests or analyses in a technologically justified amount accepted by the customs office,
 - c) under tax suspension in the case of establishing a missing quantity related to technological losses, manipulation losses, transport losses and natural decrements, if these amounts are technologically justified and accepted by the customs office or tax administrator of another Member State,
 - d) under tax suspension, if it was irrecoverably destroyed or destroyed as the result of an accident, incident, technological defect or by force majeure and if these losses are on the basis of official finding and verification accepted by the customs office or by the tax administrator of another Member State,
 - e) devalued or destroyed under the supervision of the customs office, even if the state has become the owner of the beer under a special regulation,⁷⁾

⁶⁾ Act No. 140/1998 Coll. on Pharmaceuticals and Health Aids, on Amending Act No. 455/1991 Coll. on Trade Licence Enterprise (Small Business Act) as Amended and on Amending Act of the National Council of the Slovak Republic No. 220/1996 Coll. on Advertising as amended.

- f) dispatched by a natural person from the territory of third countries to a natural person in the tax territory in small consignments of non-commercial nature⁸⁾ or located in the personal luggage of a traveller as goods of non-commercial nature at the most in the amount stated by a special regulation,⁹⁾
- g) transported to the tax territory from other Member States by persons stated in Article 14 Paragraph 2 or transported to the tax territory from Member States by the armed forces any State party to the North Atlantic Treaty and by their civil employees for use in activities under an international treaty which was ratified and announced in the way stated by act (hereinafter „international treaty“);¹⁰⁾ the transport of beer by the armed forces of Member States must be performed with an accompanying document and must be certified by an exemption certificate from excise duty made according to the sample and manner stated in the Commission provisions,¹¹⁾
- h) imported to the tax territory from the territory of third countries by persons stated in Article 14 Paragraph 2 or imported to the tax territory from the territory of third countries by the armed forces of other than Member states which are State party to the North Atlantic Treaty and by their civil employees for use in activities under an international treaty.

Article 9

User enterprise

- (1) For the purposes of this act, user enterprise shall mean a legal person or natural person entitled to use beer exempt from tax under Article 8 Paragraph 1. The legal person or natural person which wishes to use such beer must ask the customs office in written form to issue a tax exemption certificate (hereinafter „exemption certificate“).
- (2) The application for the issuing of an exemption certificate must include
 - a) the trade name and registered office or the name and surname and permanent residence (hereinafter „identification data“) of the applicant and the address of the location of his operational outlets, unless they are the same as the registered office or permanent residence of the applicant,
 - b) the tax identification number of the applicant,
 - c) the trade name of beer and the appropriate CN code,
 - d) the purpose of use of beer exempt from tax under Article 8 Paragraph 1 and the estimated amount of annual consumption in hectolitres,
 - e) identification data of the supplier of beer exempt from tax under Article 8 Paragraph 1.
- (3) Attachments to the application are:
 - a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
 - b) technological documentation and description of the place of use and of the place of the holding of beer exempt from tax under Article 8 Paragraph 1 and description of the manner of securing it against illegal use,

⁷⁾ For example Articles 386, 435 and 436 of Act No. 238/2001 Coll. Customs Act, Article 14a of the Act of the Slovak National Council No. 511/1992 Coll. as amended, Civil Code, Criminal Act.

⁸⁾ Sections 29 through 31 of the Council Regulation (EEC) No. 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (O. J. E. C., L 105, 23/04/1983, p. 1 – 37) as amended.

⁹⁾ Sections 45, 46 and 49 of the Council Regulation (EEC) No. 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (O. J. E. C., L 105, 23/04/1983, p. 1 – 37) as amended.

¹⁰⁾ For example the Treaty between states which are parties to the North Atlantic Treaty and other states participating in Partnership for Peace related to the status of their armed forces as amended by further additional protocols (notification No. 324/1997 Coll.).

¹¹⁾ Commission Regulation (EC) No. 31/96 of 10 January 1996 on the excise duty exemption certificate (O. J. E. C., L 008, 11/1/1996, p. 11 – 15).

- c) technological procedure and data on the consumption of beer exempt from tax stated in Article 8 Paragraph 1, if the beer is to be used as raw material or auxiliary material in a technological process,
 - d) declaration of the applicant that it meets the conditions stated in Article 18 Paragraph 4 letters c) through f).
- (4) Before issuing the exemption certificate, the customs office shall verify with the applicant the facts and data stated in the application and in its attachments. If the facts and data stated in the application and in its attachments are true, the customs office shall issue the exemption certificate to the applicant.
- (5) The customs office shall issue to the applicant an exemption certificate for each supplier stated in Paragraph 2 letter e), in which it will state the data under Paragraph 2 with the exception of the birth identification number and the tax identification number if it contains the birth identification number of the applicant, state the validity period of the exemption certificate and in the case of a limited validity period also the permitted amount of receipt of beer exempt from tax under Article 8 Paragraph 1. Each exemption certificate shall be issued in three copies, the customs office keeping one and submitting the other two to the user enterprise, which shall keep one and submit the other to its supplier stated in the exemption certificate.
- (6) The user enterprise is obliged to submit to the supplier the exemption certificate no later than at the first receipt of beer exempt from tax under Article 8 Paragraph 1.
- (7) The user enterprise is obliged to inform the customs office of each change in the data under Paragraph 2 and Paragraph 3 letters b) through d) no later than 15 days after the day of its origination with the exception of the data under Paragraph 2 letter d), when it is obliged to inform of a change in the data in advance. It is obliged to inform the customs office of a change in the data under Paragraph 3 letter a) no later than 15 days after the day of the submission of the proposal for the change in the data to the competent authority. The customs office shall supplement the original exemption certificate or issue a new exemption certificate if the data under Paragraph 5 have changed. In the case of a change in the purpose of use [Paragraph 2 letter d)], the user enterprise can use beer exempt from tax under Article 8 Paragraph 1 for the purposes it announced only after the customs office has supplemented the original exemption certificate or issued a new exemption certificate.
- (8) The user enterprise is obliged to store beer exempt from tax under Article 8 Paragraph 1 without undue delay after its receipt in the place of storage it stated in the attachment of the application under Paragraph 3 and use it only for the purposes stated in the exemption certificate.
- (9) In a repeated application for the issuing of an exemption certificate, if the data under Paragraph 3 have not changed, the user enterprise shall state
- a) its identification data,
 - b) the identification data of the supplier of beer exempt from tax under Article 8 Paragraph 1,
 - c) the trade name of beer exempt from tax under Article 8 Paragraph 1 and the appropriate CN code,
 - d) the purpose of the use of beer exempt from tax under Article 8 Paragraph 1 and the estimated amount of annual consumption in hectolitres.
- (10) The customs office shall withdraw the exemption certificate, if
- a) beer exempt from tax under Article 8 Paragraph 1 was repeatedly used for other purposes than those stated in the exemption certificate,
 - b) the user enterprise has ceased to meet the conditions stated in Article 18 Paragraph 4 letters. c) through e),
 - c) the exemption certificate was not used for a purchase of beer exempt from tax under Article 8 Paragraph 1 within 12 consecutive calendar months since its date of issue,
 - d) registration was performed and authorization issued for the operation of a tax warehouse,
 - e) the user enterprise has applied for deletion from the Commercial Register or a similar register, or applied for a cancellation of the trade licence, or announced termination of enterprise, or was closed down, unless it was established or founded for enterprise purposes,
 - f) the user enterprise is a natural person and this has died or the decision of a court of act on pronouncing this natural person dead has come into effect,

g) a decision of the court of act on announcing bankruptcy, on rejection of the proposal to announce bankruptcy because of a lack of property or on the cancellation of bankruptcy because of a lack of property has come into effect or a compulsory composition or permitted composition has been confirmed,

h) the user enterprise enters liquidation,

i) the user enterprise applies for a withdrawal of the exemption certificate.

(11) Article 18 Paragraph 10 letter a) and Paragraph 11 apply equally to the withdrawal of the exemption certificate under Paragraph 10. The customs office shall announce the withdrawal of the exemption certificate no later than three working days after the day of the withdrawal of the exemption certificate to the supplier of beer exempt from tax stated in the exemption certificate.

(12) During the transport of beer exempt from tax under Article 8 Paragraph 1, the transport documents must contain

a) the purpose of the exemption of beer from tax under Article 8 Paragraph for which the exemption certificate was issued,

b) the name and address of the customs office which issued the exemption certificate,

c) the date of the issuing of the exemption certificate.

(13) If the user enterprise terminates its activity and has inventories of beer exempt from tax under Article 8 Paragraph 1 which cannot be used for the purposes stated in the exemption certificate any more, with the approval of the customs office the beer exempt from tax can be supplied to a legal person or natural person which has an exemption certificate for the receipt of such beer, or to a tax warehouse, in this case Article 40 Paragraph 2 shall not apply. The same process applies to the trusteeship of the user enterprise or judicial executor, or another person if during the performance of decision they release into circulation beer exempt from tax under Article 8 Paragraph 1.

Article 10

Origination of tax liability

(1) Unless this act states otherwise, tax liability originates with the releasing of beer into tax free circulation on the day of

a) submitting beer to a legal person or natural person which is not entitled to receive beer under tax suspension, or on the day of exempting beer from tax suspension in another manner than that stated in letters b) through e),

b) own consumption of beer in the tax warehouse,

c) receiving beer transported to the tax territory under tax suspension by the registered trader or authorized tax representative,

d) establishing the stealing of beer under tax suspension or of beer exempt from tax,

e) establishing missing beer

1. under tax suspension with the exception of the amount of beer stated in Article 8 Paragraph 2 letters d) and e),

2. exempt from tax with the exception of the amount of beer related to technological losses, manipulation losses, transport losses and natural decrements, if these amounts are technologically justified and accepted by the customs office, as well as of the amount of irrecoverably destroyed or devalued beer as the result of an accident, incident, technological defect or by force majeure, if these losses are accepted by the customs office on the basis of an official finding,

f) producing beer outside tax suspension with the exception of the processing of foreign goods in the customs regime inward processing or in the customs regime processing of foreign goods under customs surveillance,

g) accepting the customs declaration on releasing beer into the customs regime free circulation, if such releasing is not followed by tax suspension,

h) the incurrance of a customs debt by another manner than accepting a customs declaration.

(2) Tax liability also originates on the day of

- a) establishing a holding of beer whose origin and manner of acquisition in accordance with this act cannot be proved by a legal person or natural person,
 - b) delivery or day of use of beer exempt from tax for a purpose other than the stated purpose.
- (3) The day of establishing the facts under Paragraph 1 letters d) and e) and Paragraph 2 letter a) is considered to be the day on which the customs office learns of these facts.

Article 11

Tax debtor

- (1) Unless this act states otherwise, tax debtor is a legal person or natural person
- a) which submitted beer to a legal person or natural person which is not entitled to receive beer under tax suspension, or beer exempt from tax suspension in another manner than those stated in letters b) through e),
 - b) which is the authorized keeper of a tax warehouse in which own consumption of beer took place,
 - c) which is an entitled consignee or authorized tax representative and has accepted beer transported into the tax territory under tax suspension,
 - d) which has kept beer under tax suspension or exempt from tax and this was stolen from it; if a tax guarantee was deposited on such beer, the tax debtor is the legal person or natural person which deposited this tax guarantee,
 - e) which keeps beer and the beer has been established missing:
 - 1. under tax suspension,
 - 2. exempt from tax with the exception of an amount of beer related to technological losses, manipulation losses, transport losses and natural decrements, if these amounts are technologically justified and accepted by the customs office, as well as amount of irrecoverably destroyed or devalued beer as the result of accident, incident, technological defect or by force majeure, if these losses are accepted by the customs office on the basis of official finding,
 - f) which produced beer outside tax suspension,
 - g) to whose account was submitted a customs declaration on releasing beer into the customs regime free circulation, if such release is not followed by tax suspension,
 - h) whose customs debt incurred in another manner than the accepting of a customs declaration.
- (2) A tax debtor in the origination of tax liability under Article 10 Paragraph 2 is a legal person or natural person which
- a) cannot prove the origin and manner of acquisition of the beer it holds,
 - b) submitted for use or used beer exempt from tax for a purpose other than the stated purpose.

Article 12

Tax period, tax return, additional tax return, tax maturity

- (1) The tax period is a calendar month, unless this act states otherwise.
- (2) If the tax debtor is an authorized warehouse keeper or if the tax debtor is a registered trader whose commercial activities include the repeated receipt of beer under tax suspension from another Member State, it is obliged no later than on the 25th day of the calendar month following the month in which its tax liability originated to submit to the customs office a tax return made according to the sample stated in a regulation issued under Article 41 Paragraph 3 and pay the tax before the same deadline. It is also obliged to Submit the tax return for a tax period in which no tax liability originated.
- (3) The tax debtor not stated in Paragraph 2 is obliged to submit to the customs office a tax return no later than three working days after the day of the origination of the tax liability and pay the tax before the same deadline, unless this act states otherwise.
- (4) In the case of the origination of tax liability under Article 10 Paragraph 1 letters g) and h), customs debt maturity deadlines under customs regulations apply to tax maturity.
- (5) In the tax return, the authorized warehouse keeper states

- a) the amount of beer which was released from the tax warehouse, including own consumption in the tax warehouse divided according to the subject of tax and the tax rate,
 - b) the amount of beer from the beer stated in letter a) which was released under tax suspension, exempt from tax, and the amount of beer from which tax is reimbursed,
 - c) the difference between the amount of beer under letter a) and the amount of beer under letter b),
 - d) the resulting tax related to the amount of beer under letter c).
- (6) The tax debtor with the exception under Paragraph 5 states in the tax return the amount of beer from which tax liability resulted, divided according to the sample of the tax return and the tax related to this amount.
- (7) The tax debtor is obliged to calculate the tax itself; if tax liability originates under Article 10 Paragraph 1 letters g) and h), the tax shall be calculated by the customs office. The resulting tax is rounded up to whole Slovak crowns.
- (8) If the tax debtor finds out that the submitted tax return is incorrect or incomplete and that its correction results in an increase of the tax, it is obliged to submit to the customs office an additional tax return without undue delay after establishing the incorrectness or incompleteness of the tax return, stating the period to which the additional tax return is related, and pay the tax no later than ten working days after the day of the submission of the additional tax return. The additional tax return must be indicated as „Additional“. The additional tax return shall only contain the differences from the originally submitted tax return.
- (9) The additional tax return under Paragraph 8 shall not be taken into account if the customs office has already begun the tax control leading towards the investigation of facts decisive for the correct stating of tax or for reimbursing tax for the period to which the additional tax return would be related.
- (10) If the submitted tax return is incorrect or incomplete and its correction results in a decrease of the tax,
- a) the authorized warehouse keeper can perform correction by an additional tax return, however no later than three years after the end of the tax period to which the correction is related,
 - b) the tax debtor not stated in letter a) shall apply tax reimbursement in the tax reimbursement application and proceed according to Article 13.

Article 13

Tax reimbursement

- (1) The tax from provably taxed beer in the tax territory can be reimbursed to
- a) the authorized warehouse keeper if it received such beer or as beer taxed under this act,
 - b) the user enterprise if it received such beer or has beer taxed under this act
- (2) The tax from provably taxed beer in the tax territory can be reimbursed to a legal person or natural person if its commercial activities with such beer included
- a) supplying it to the territory of another Member State to a legal person or natural person for commercial purposes and attached to the tax reimbursement application (Article 28 Paragraph 9)
 - 1. copy 3 of the simplified accompanying document under Article 29 Paragraph 1 certified by the consignee (purchaser) of the beer,
 - 2. certification of the tax administrator of another Member State on the settlement of the tax in this Member State,
 - b) supplying it to the territory of another Member State in the form of distant selling and if it submitted a confirmation of the tax administrator of another Member State respective for the consignee on the settlement of the tax in this Member State,
 - c) exporting it to the territory of a third country and if it proved the export with a standard customs document confirming that the beer has left the territory of the union; upon request of the customs office the export of beer must also be proved by another document, especially by a document on the transport of beer to the territory of a third country or a document of payment.
- (3) Supplying beer for commercial purposes under Paragraph 2 letter a) also includes the supplying of provably taxed beer to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.

(4) For the purposes of this act, provably taxed beer is such beer whose taxing is proved by a document proving its acquisition at a price with tax and a document proving the payment of tax in the price of the beer, for example by a statement from the account in a bank or in the branch of a foreign bank (hereinafter „bank“), expenditure cash voucher, document from the cash register or document proving the payment of tax to the customs office.

(5) Tax can also be reimbursed to the tax debtor, if tax has already been paid and if the tax has been calculated

a) by the tax debtor to the detriment of the consignee (purchaser) of beer to whom it issued a credit note; it can only apply for tax reimbursement after it has paid the credit note to the consignee (purchaser) of beer,

b) by the tax debtor to its own detriment,

c) by the customs office to the detriment of the tax debtor.

(6) The tax reimbursement shall be claimed

a) by the authorized warehouse keeper in the tax return (Article 12 Paragraph 2) or in the additional tax return [Article 12 Paragraph 10 letter a)], if it claims tax reimbursement after the end of the tax period for which it has already submitted the tax return,

b) by a legal person or natural person not stated in letter a) in the tax reimbursement application made according to the sample stated in a regulation issued under Article 41 Paragraph 3.

(7) The tax reimbursement application for the tax period can be submitted to the customs office only after the end of that calendar month in which all conditions for the claiming of tax reimbursement were met, however no later than three years after the end of the calendar month in which the possibility of a tax reimbursement claiming originated; tax cannot be reimbursed on the basis of a tax reimbursement application submitted after the deadline.

(8) If a legal person or natural person stated in Paragraph 6 letter b) finds out that the submitted tax reimbursement application is incorrect or incomplete and that its correction results in

a) a decrease in the claimed tax reimbursement, it is obliged to submit a tax return; in the tax return it shall state the tax in the amount of the difference between the already claimed tax reimbursement and the amount of the tax that should be reimbursed and shall pay this tax before the deadline under Article 12, if the tax has already been reimbursed,

b) an increase in the claimed tax reimbursement, it can submit an additional tax reimbursement application, in which it shall state the difference from the originally claimed amount of tax reimbursement as well as the tax period to which the correction is related; this also applies if the customs office establishes it; the additional tax reimbursement application can be submitted no later than three years after the end of the tax period to which the correction is related, otherwise the possibility of submitting an additional tax reimbursement application expires.

(9) The customs office shall reimburse the tax no later than 30 days after the day of the submission of the tax return or additional tax return, tax reimbursement application or additional tax reimbursement application, if all conditions required for tax reimbursement are met. If the customs office starts in this period of time a tax control for establishing the justification of the tax reimbursement and establishes that the tax return or additional tax return, tax reimbursement application or additional tax reimbursement application is justified, it shall reimburse the tax no later than 15 days after the end of the tax control.

Article 14
**Tax reimbursement to persons from other states who enjoy privileges
and immunities under international treaties**

(1) Tax can be reimbursed to persons from other states who enjoy privileges and immunities under an international treaty¹²⁾ (hereinafter „foreign representative“), from provably taxed beer (Article 13 Paragraph 4) in the tax territory.

(2) For the purposes of this act, a foreign representative is

- a) a diplomatic mission and consular office with registered office in the territory of the Slovak Republic with the exception of consular office led by a honorary consul,
- b) an international organization and its regional office (hereinafter „international organization“) with registered office in the territory of the Slovak Republic which is established under an international treaty¹²⁾
- c) a diplomatic mission representative who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic,
- d) a consular official who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic with the exception of honorary consular official,
- e) a member of the administrative personnel and technological personnel of the mission who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic,
- f) a consular employee who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic, with the exception of employee of consular office led by a honorary consul,
- g) an official of an international organization who is not a citizen of the Slovak Republic, does not have permanent residence in the territory of the Slovak Republic and is permanently assigned to performing official functions in the Slovak Republic.

(3) Tax shall be reimbursed to the foreign representatives of those states which reimburse tax or offer similar advantages to the citizens of the Slovak Republic who enjoy privileges and immunities under an international treaty¹²⁾ (hereinafter „Slovak representative“), in the scope under Paragraphs 5 through 9.

(4) If another state does not reimburse tax or offer similar advantages to Slovak representatives in the scope offered by the Slovak Republic, the foreign representatives of this state shall have tax reimbursed or be given similar advantages at most in the scope in which this state provides it to Slovak representatives. The mutuality does not concern international organizations and their officials.

(5) The foreign representative stated in Paragraph 2 letter a) shall be reimbursed tax paid in the price of beer up to the amount of SKK 50 000 per calendar year.

(6) The foreign representative stated in Paragraph 2 letter b) shall be reimbursed tax paid in the price of beer up to the amount of SKK 10 000 per calendar year.

(7) The foreign representative stated in Paragraph 2 letters c) through f) whose diplomatic mission or consular office has registered office in the territory of the Slovak Republic shall be reimbursed tax paid in the price of beer used for personal consumption per calendar year up to the amount of for

- a) head of mission SKK 5 000,
- b) head of consular office SKK 3 000,
- c) member of diplomatic personnel SKK 1 000,
- d) member of administrative and technological personnel SKK 500.

¹²⁾ For example decree of the Minister of Foreign Affairs No. 157/1964 Coll. on the Vienna Convention on Diplomatic Relations, decree of the Minister of Foreign Affairs No. 32/1969 Coll. on the Vienna Convention on Consular Relations, decree of the Minister of Foreign Affairs No. 40/1987 Coll. on the Convention on Special Missions, decree of the Minister of Foreign Affairs No. 21/1968 Coll. on the Convention on Privileges and Immunities of International Professional Organizations.

(8) The foreign representative stated in Paragraph 2 letters c) through f) whose diplomatic mission or consular office has registered office outside the territory of the Slovak Republic shall be reimbursed tax paid in the price of beer used for personal consumption per calendar year up to the amount of for

- a) head of mission SKK 2 500,
- b) head of consular office SKK 1 500,
- c) member of diplomatic personnel SKK 500,
- d) member of administrative and technological personnel SKK 250.

(9) The foreign representative stated in Paragraph 2 letter g) shall be reimbursed tax paid in the price of beer used for personal consumption up to the amount of SKK 2 500 per calendar year.

(10) The application for tax reimbursement to a foreign representative shall be submitted by the foreign representative to Customs Office Bratislava for the period of a calendar quarter, no later than on the 25th day after the end of this calendar quarter. The sample of the application for tax reimbursement to a foreign representative is stated in Annex No. 2.

(11) The annex to the application for tax reimbursement to a foreign representative is a document proving the acquisition of provably taxed beer in the tax territory and a document proving the payment of the tax in the price of beer (Article 13 Paragraph 4). The original of the document can be replaced by its copy certified by the head of the mission, head of the consular office or appointed representative. The document must contain

- a) identification data of the supplier and its tax identification number
- b) trade name or name and surname of the purchaser,
- c) trade name of beer and amount of beer in hectolitres,
- d) date of sale,
- e) tax rate,
- f) tax amount,
- g) price including tax.

(12) The foreign representative can claim tax reimbursement if the total price including the tax on one document of purchase of beer is at least SKK 2 000.

(13) Tax shall be reimbursed after a control of the justification of the application for tax reimbursement to a foreign representative no later than 30 days after the end of this control. If the control of the justification of the application for tax reimbursement to a foreign representative establishes that this application is incorrect or incomplete, an additional application for tax reimbursement to a foreign representative shall be submitted in which only the differences from the original application for tax reimbursement to a foreign representative shall be stated, the deadline under the first sentence applying equally here. If it is found out that the claimed tax reimbursement should have been lower, procedures under Article 13 Paragraph 8 letter a) are applied; the provisions of a special regulation¹³⁾ shall not be used in this case.

(14) The foreign representative can claim tax reimbursement no later than for the calendar quarter following the calendar quarter in which he bought provably taxed beer, otherwise the possibility of tax reimbursement expires.

Article 15

Tax suspension, tax warehouse

(1) Tax suspension applies to beer

- a) held in a tax warehouse,
- b) transported under conditions under Article 20 and 21, or
- c) that has become state property under a special regulation.⁷⁾

(2) A tax warehouse can only be an enterprise for the production of beer (Article 16 Paragraph 1) or a beer warehouse (Article 17 Paragraph 1) located in the tax territory. Tax warehouse is also an enterprise for the production of beer or beer warehouse located in the territory of another Member State whose operation is permitted under the legislation of the given Member State.

¹³⁾ Article 35b of the Act of the Slovak National Council No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

- (3) A tax warehouse can also be a part of an enterprise for the production of beer or a part of a beer warehouse.
- (4) A tax warehouse can only hold beer under tax suspension.

Article 16

Enterprise for the production of beer

- (1) For the purposes of this act, an enterprise for the production of beer is a specially delimited place situated in the tax territory where commercial activities include production, processing, holding, receiving or dispatching beer stated in Article 4 Paragraph 2.
- (2) Production of beer is also a change in the amount or content of young beer in beer, if it changes the tax base.
- (3) In an enterprise for the production of beer which is a tax warehouse, beer under tax suspension can also be used for the production of beverages which are not subject to tax.
- (4) A legal person or natural person whose commercial activities include the production of beer and which wants to operate an enterprise for the production of beer under tax suspension must have an authorization for the operation of a tax warehouse.

Article 17

Beer warehouse

- (1) For the purposes of this act, a beer warehouse is a specially delimited place situated in the tax territory where commercial activities include receiving, holding, dispatching or processing beer.
- (2) A legal person or natural person which wants to operate a warehouse of beer under tax suspension must have an authorization for the operation of a tax warehouse.
- (3) A beer warehouse where beer under tax suspension should be received, held and dispatched must comply with the following conditions:
 - a) the authorized warehouse keeper performs commercial activities in beer distribution,
 - b) the minimum beer turnover is 5 000 hectolitres per year,
 - c) the average storage time is at least 1 month.

Article 18

Authorization for the operation of a tax warehouse

- (1) A legal person or natural person which wants to operate a tax warehouse must ask in written form the customs office for registration and issuing of an authorization for the operation of a tax warehouse. The application must contain
 - a) identification data of the applicant and the address of the location of his operational units, if they are not the same as the registered office or permanent residence of the applicant,
 - b) tax identification number of the applicant,
 - c) identification number for value added tax, if assigned to the applicant,
 - d) trade name of the beer and the appropriate CN code of the produced, processed, received, held and dispatched beer,
 - e) estimated annual volume of the production of beer in hectolitres, in the case of an enterprise for the production of beer, or estimated annual volume of the holding of beer in hectolitres, in the case of a beer warehouse.
- (2) Annexes to the application are:
 - a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
 - b) technological documentation, brief description of activity and description of production and storage facilities with attached sketch, manner of securing against unauthorized entering of these premises and manner of securing beer against unauthorized use,

- c) technological description of the production procedures, list of processed raw materials, products to be produced, collateral products, or waste,
 - d) closing summary accounts for the previous tax period, if the applicant was obliged to compile closing summary accounts; and if the applicant is subject to the obligation to have his closing summary accounts verified by an auditor, closing summary accounts verified by an auditor under a special regulation,¹⁴⁾ as well as the form of account keeping,
 - e) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter c) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter d),
 - f) list of Member States to which the applicant expects to supply (dispatch) beer under tax suspension; this list can be submitted to these Member States upon request.
- (3) Upon request of the customs office, the applicant is obliged to specify the data stated in the application and in its annexes.
- (4) The applicant must also meet these conditions:
- a) keeps accounts under a special regulation,¹⁵⁾
 - b) has deposited tax guarantee under Article 19,
 - c) neither the customs office nor the tax authority
 - 1. have receivables after pay date towards it,
 - 2. have receivables after pay date towards a person personnel-linked or property-linked to it, nor did they have in the period of ten years before the day of the submission of the application towards a person which has been extinguished and which would be considered personnel-linked or property-linked to the applicant tax receivables which would not have been settled before this person was extinguished; this also applies to tax receivables which were transferred to a third person under special regulations,¹⁶⁾
 - d) has no unpaid amounts in compulsory insurance levies under special regulations,¹⁷⁾
 - e) has not been lawfully sentenced for an intentional criminal act; this also applies to the responsible representative and natural persons which are members of managing or control bodies of the applicant,
 - f) is not in liquidation, nor is subject to a lawfully announced bankruptcy, permitted composition or confirmed compulsory composition.
- (5) The customs office shall verify with the applicant the facts and data under Paragraph 1 through 4, and if the facts and data stated in the application and in annexes are correct and the applicant meets conditions under Article 15, 16 and 17, the customs office shall assign it a registration number, issue a certificate of registration and authorization for the operation of a tax warehouse no later than 60 days after the day of the submission of the application for registering and issuing of the authorization for the operation of a tax warehouse. If the applicant does not prove the correctness of all the data and compliance with all the conditions, the customs office shall assign it a registration number, a certificate of registration and authorization for the operation of a tax warehouse no later than 15 days after the proving of the correctness of all the data and compliance with the last of the conditions.
- (6) The authorized warehouse keeper is obliged to announce every change of the facts and data under Paragraph 1, Paragraph 2 letters b) and c), and Paragraph 4 letters d) through f) to the customs office no later than 15 days after the day of their origination. It must announce each change of the data under Paragraph 2 letter a) to the customs office no later than 15 days after the day of the submission of the proposal for change of data to the appropriate body. The customs office shall verify with the authorized

¹⁴⁾ Article 19 of Act No. 431/2002 Coll. on Accounting as amended by Act No. 562/2003 Coll.

Article 39 of the Commercial Code as amended.

¹⁵⁾ Act No. 431/2002 Coll. as amended by Act No. 562/2003 Coll.

¹⁶⁾ Article 459a of Act No. 238/2001 Coll. as amended by Act No. 464/2003 Coll.

Article 65b of the Act of the Slovak National Council No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

¹⁷⁾ Act No. 461/2003 Coll. on Social Insurance as amended.

Act of the National Council of the Slovak Republic No. 273/1994 Coll. on Health Insurance, the Financing of Health Insurance, Establishment of the General Health Insurance Company and the Establishment of Ministry, Branch, Company and Civil Health Insurance Companies as amended.

warehouse keeper the data stated in the notification and, taking into account the scope and seriousness of those changes, shall complement the original authorization for the operation of a tax warehouse or issue a new authorization for the operation of a tax warehouse. In the case of the issuing of a new authorization for the operation of a tax warehouse for the same authorized warehouse keeper, the original registration number under Paragraph 5 remains valid.

(7) The authorization for the operation of a tax warehouse expires

- a) on the day of the submission of an application for the deletion from the Commercial Register or a similar register, or on the day of the submission of an application for the cancellation of the trade licence, or on the day of the submission of a notification on the termination of enterprise, or on the day of cancellation, unless the authorized warehouse keeper was established or founded for enterprise purposes,
- b) on the day of the death of the authorized warehouse keeper or on the day of the entry into effect of a decision of a court of act to pronounce the authorized warehouse keeper dead, if the authorized warehouse keeper is a natural person,
- c) on the day of the entry into effect of a decision of a court of act on the notification of bankruptcy, on rejection of a proposal to announce bankruptcy because of a lack of property or on a cancellation of bankruptcy because of a lack of property, or if a compulsory composition or permitted composition was confirmed,
- d) on the tenth day after the deadline for
 1. complementing the tax guarantee under Article 19 Paragraph 5 letter a) second point, if tax guarantee was not complemented,
 2. depositing and complementing the tax guarantee under Article 19 Paragraph 8 stated by the customs office under Article 19 Paragraph 9, if the tax guarantee was not deposited or complemented,
- e) on the day of the withdrawal of the authorization for the operation of a tax warehouse by the customs office.

(8) The customs office shall withdraw the authorization for the operation of a tax warehouse if

- a) the authorized warehouse keeper enters liquidation,
- b) the authorized warehouse keeper has ceased to meet the conditions stated in Paragraph 4 letters a) through e),
- c) the authorized warehouse keeper breaches obligations under this act and the imposition of a penalty and appeals of the customs office have not led to a correction,
- d) the authorized warehouse keeper applies for the withdrawal of the authorization for the operation of a tax warehouse.

(9) The customs office can withdraw the authorization for the operation of a tax warehouse if the authorized warehouse keeper during a period exceeding 12 consecutive calendar months does not produce, process, hold, receive or dispatch beer, taking into account the seriousness of the reasons.

(10) In the case of a cancellation of the authorization for the operation of a tax warehouse

- a) the authorized warehouse keeper during the presence of the customs office performs a stock-taking of beer inventories as of the day of the cancellation of the authorization for the operation of a tax warehouse and during a period of time stated by the customs office which must not be shorter than ten days submits a tax return and pays the tax,
- b) the customs office shall use the deposited tax guarantee under Article 19 for the payment of tax and tax-related receivables and shall return the contingent remainder of the tax guarantee without undue delay to the legal person or natural person whose authorization for the operation of a tax warehouse has expired,
- c) the customs office shall demand a payment of the tax and of the tax-related receivables from a bank, if the tax is secured by a bank guaranty,¹⁸⁾
- d) the customs office shall withdraw the certificate of registration and cancel the registration number.

¹⁸⁾ Article 2 Paragraph 2 letter f) of Act No. 483/2001 Coll. on Banks and on Amending Certain Acts.

(11) An authorized warehouse keeper who has had its authorization for the operation of a tax warehouse withdrawn under Paragraph 8 letter c) can have a new authorization for the operation of a tax warehouse issued no sooner than five years after the entry into force of the decision on the withdrawal of the authorization for the operation of a tax warehouse; in the case of a person personnel-linked or property-linked with it, it can be issued an authorization for the operation of a tax warehouse no sooner than five years after the entry into force of the decision issued to the authorized warehouse keeper on the withdrawal of the authorization for the operation of a tax warehouse. In the case of a withdrawal of the authorization for the operation of a tax warehouse under Paragraph 9 a new authorization for the operation of a tax warehouse can be issued no sooner than one year after the entry into force of the decision on the withdrawal of the authorization for the operation of a tax warehouse.

Article 19

Tax guarantee

(1) A legal person or natural person which wants to operate a tax warehouse is before the issuing of the authorization for the operation of a tax warehouse obliged to deposit a tax guarantee in the amount of the tax for the average two-month amount of beer which it released into tax free circulation in the preceding calendar year, including in the amount of the tax guarantee also the tax for the amount of beer which it released into tax free circulation for the purposes of exemption from tax. If the tax guarantee cannot be stated in this way, the applicant shall deposit a tax guarantee in the amount of the tax for the estimated average two-month amount of beer which it enters into tax free circulation in a common year.

(2) The applicant is obliged to deposit the tax guarantee for all tax warehouses it wants to operate; this does not affect the provisions of Articles 20 and 21.

(3) If the customs office does not issue an authorization for the operation of a tax warehouse, it shall without undue delay return to the applicant the deposited tax guarantee.

(4) The deposition of the tax guarantee shall mean

a) the deposit of financial means in the account of the customs office, with which no obligation of the customs office to pay interest to the applicant arises,

b) bank guaranty¹⁸⁾ drafted for the benefit of the customs office; the customs office shall not accept the bank guaranty if the guaranty certificate contains objections of the bank.

(5) The authorized warehouse keeper

a) is obliged to modify the deposited tax guarantee, if conditions which served as the basis for its establishment have changed, namely

1. to increase the deposited tax guarantee, if the tax for the amount of beer released into tax free circulation for the preceding two calendar months is 20% higher than the deposited tax guarantee, no later than on the 25th day of the calendar month following the months in which tax exceeded the deposited tax guarantee,

2. to complement the guarantee to include the sum which the customs office used to pay the tax and tax-related receivables, no later than 15 days after the day of the notification under Paragraph 6,

b) can ask the customs office in written form or with the written approval of the customs office can ask the bank for a decrease in the deposited tax guarantee, if the deposited tax guarantee is more than 20% higher than the tax for the amount of beer released into tax free circulation for preceding two calendar months if this state lasts for at least four consecutive calendar months; the customs office shall return the appropriate difference no later than 15 days after the submission of this application.

(6) If the tax is not paid before the maturity date stated in this act, the customs office shall use the tax guarantee to pay the tax and tax-related receivables and inform the tax debtor of this fact.

(7) If the applicant for the authorization for the operation of a tax warehouse is an enterprise for beer production and the enforceability or collection of tax is not jeopardized, the customs office on the basis of an application for waiving the deposition of tax guarantee shall waive the obligation to deposit a tax guarantee

a) completely, if the applicant has been tax-reliable during a period of at least 24 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax

warehouse; under the same conditions the application for waiving the deposition of tax guarantee can also be submitted by the authorized keeper of a tax warehouse which is an enterprise for beer production,

b) partially in the amount of 50 %, if the applicant has been tax-reliable during a period of at least 12 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse; under the same conditions the application for waiving the deposition of tax guarantee can also be submitted by the authorized keeper of a tax warehouse which is an enterprise for beer production.

(8) The customs office shall ask in written form the authorized warehouse keeper to whom it partially or completely waived the deposition of tax guarantee under Paragraph 7 to deposit the tax guarantee or complement it in the stated period of time, which must not be shorter than 15 days nor longer than 30 days, if it established that

a) the authorized warehouse keeper is during a period of more than five days late with the fulfillment of its financial obligations under this act or other tax regulations, or under customs regulations,

b) the authorized warehouse keeper is during a period of more than 20 days late with the fulfillment of its financial obligations not stated in letter a),

c) other circumstances arose on the basis of which it is possible to reasonably expect that the authorized warehouse keeper will not meet properly and in time its obligation to pay the tax under this act.

(9) If the customs office stated a deadline for depositing or complementing the tax guarantee, the authorized warehouse keeper is obliged to deposit or complement the tax guarantee before this deadline.

(10) For the purposes of this act, a tax-reliable person is

a) a legal person or natural person, if it meets the conditions under Article 18 Paragraph 4 letters a), c) through f),

b) the authorized keeper of a tax warehouse which is an enterprise for beer production if it meets the conditions under Article 18 Paragraph 4.

Article 20

Procedures for movement of beer under tax suspension in the tax territory

(1) Beer under tax suspension can only be transported in the tax territory

a) from one tax warehouse to another tax warehouse,

b) during import or export performed by the authorized warehouse keeper,

c) to the tax warehouse, in the case of a transport of beer whose owner has become the state under a special regulation.⁷⁾

(2) Beer exempt from tax under Article 8 Paragraph 1 can only be transported in the tax territory from a tax warehouse into a user enterprise.

(3) For beer which is to be transported under tax suspension must always be deposited a tax guarantee. The tax guarantee shall be deposited at the least in the amount of the tax for the amount of the transported beer. The deposition of the tax guarantee for beer which is to be transported under tax suspension is not required if the tax guarantee under Article 19 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for beer which is to be transported under tax suspension.

(4) For the transport of beer under tax suspension the tax guarantee shall be deposited by

a) the authorized warehouse keeper which is the

1. consignor (supplier) in the tax territory,

2. consignee (importer) in the import to the tax territory,

3. consignor (exporter) in the export from the tax territory, or

4. purchaser in the tax territory, if beer transported under tax suspension [Paragraph 1 letter a)] is in its ownership,

b) transporter instead of the consignor, if they have agreed so and the customs office approves of it.

(5) Beer under tax suspension can only be transported with an accompanying document under Article 24 Paragraph 1. The consignor (supplier) of beer shall keep copy 1 of the accompanying document. Copies 2

through 4 of the accompanying document shall accompany the transported beer. The consignee (purchaser) shall keep copy 2, confirm the receipt of beer in copies 3 and 4 and submit both copies to the customs office. It shall dispatch copy 3 certified by the customs office to the consignor (supplier) no later than on the 15th day of the month following the calendar month in which it received the beer. The customs office of the consignee (purchaser) shall keep copy 4. If during the transport of beer under tax suspension from a tax warehouse in the tax territory to a tax warehouse in the tax territory the consignee or place of delivery changes, the supplier is obliged to notify the customs office without undue delay of these changes and indicate the new consignee or new place of delivery on the back side of the accompanying document; Article 24 Paragraph 4 applies equally. The transport of beer is considered finished when the consignor (supplier) receives copy 3 of the accompanying document certified by the customs office.

(6) Beer which was transported under tax suspension must be without undue delay after its delivery placed in the warehouse of the consignee (purchaser).

(7) The deposited tax guarantee under Paragraph 3 can be returned upon request if the finishing of the transport of beer is certified by the customs office of the consignee (purchaser).

Article 21

Procedures for movement of beer under tax suspension to the territory of the union

(1) Beer under tax suspension can be transported

- a) from a tax warehouse in the territory to a tax warehouse or registered trader, or authorized tax representative in another Member State,
- b) from a tax warehouse in the tax territory to a tax warehouse in the territory through the territory of another Member State,
- c) from a tax warehouse in another Member State to a tax warehouse or registered trader, or authorized tax representative in the tax territory,
- d) from a tax warehouse in another Member State to a tax warehouse or registered trader or authorized tax representative in another Member State through the tax territory.

(2) If beer is to be transported under tax suspension from the tax territory to the territory of another Member State, the consignor (supplier) must draw up the accompanying document stated in Article 24 Paragraph 1.

(3) The accompanying document comprises of four copies. The consignor (supplier) shall keep copy 1 of the accompanying document, copies 2 through 4 shall accompany the transported beer. The transport of beer is considered finished if the consignor (supplier) receives copy 3 of the accompanying document certified by

- a) the consignee (purchaser) that it has received the beer, and
- b) the tax administrator of another Member State of the consignee (purchaser).

(4) If during the transport of beer under tax suspension from a tax warehouse in the tax territory to another Member State the consignee or place of delivery changes, the supplier or its authorized tax representative is obliged to notify the customs office without undue delay of these changes and indicate the new consignee or new place of delivery on the back side of the accompanying document.

(5) If beer under tax suspension is transported from another Member State to the tax territory, this beer must be accompanied by copies 2 through 4 of the accompanying document. The consignee (purchaser) shall keep copy 2 of the accompanying document. It shall certify the receipt of beer in copies 3 and 4 and submit both copies to the customs office. It shall return copy 3 certified by the customs office to the consignor (supplier) no later than on the 15th day of the month following the calendar month in which it received the beer. The customs office of the consignee (purchaser) shall keep copy 4. The provision of Article 24 Paragraph 4 applies equally here.

(6) For beer which is to be transported under Paragraph 1 letters a) and b) under tax suspension must always be deposited a tax guarantee. The tax guarantee shall be deposited by the consignor (supplier) in the amount of the tax for the amount of the transported beer. The deposition of the tax guarantee for beer

which is to be transported under tax suspension is not required if the tax guarantee under Article 19 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for the beer which is to be transported under tax suspension. A tax guarantee deposited in another Member State is valid in the tax territory. Upon request, the customs office shall permit the deposition of the tax guarantee by the transporter or consignee (purchaser) instead of the consignor (supplier), if the consignor (supplier) and the transporter or consignee (purchaser) agreed so. The customs office shall return the deposited tax guarantee if the finishing of the transport is certified by the tax administrator of another Member State.

(7) Beer under tax suspension can only be transported with an accompanying document.

(8) Beer which was transported under tax suspension must be without undue delay after its delivery stored in the warehouse of the consignee (purchaser).

(9) The transport of beer under tax suspension from a tax warehouse in the tax territory to a registered trader in another Member State which has an authorization to receive beer under tax suspension occasionally must be certified by a document proving the tax has been paid in another Member State.

Article 22

Registered trader

(1) The registered trader in the tax territory is a legal person or natural person which has an authorization to receive beer from another Member State under tax suspension, The registered trader is also a legal person or natural person in the territory of another Member State authorized under the legislation of the given Member State to receive beer from another Member State under tax suspension. A legal person or natural person which wants to be a registered trader in the tax territory must ask in written form the customs office for registration and issuing of an authorization to receive beer from another Member State under tax suspension. The application must contain

- a) identification data of the applicant and the address of the location of his operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) tax identification number of the applicant,
- c) identification number for value added tax, if assigned to the applicant,
- d) trade name of the beer and the appropriate CN code,
- e) estimated annual volume of the beer received under tax suspension in hectolitres.

(2) Annexes to the application are a copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or another document proving authorization for enterprise no older than 30 days or its verified copy.

(3) Before registration, the customs office shall verify with the applicant the facts and data stated in the application and in the annexes and if these facts and data are correct and the applicant meets the conditions stated in Article 18 Paragraph 4, the customs office shall assign it a registration number, issue a confirmation of registration and authorization to receive beer from another Member State under tax suspension no later than 60 days after the submission of this application. If the applicant in this period of time does not prove the correctness of all the data and compliance with all the conditions, the customs office shall assign it a registration number, issue a certificate of registration and authorization to receive beer from another Member State under tax suspension no later than 15 days after the day of the proving of the correctness of the data and complying with the last of the conditions.

(4) A legal person or natural person which wants to receive beer from another Member State under tax suspension repeatedly is obliged before the issuing of the authorization to receive beer from another Member State under tax suspension to deposit the tax guarantee in the amount of the tax for the amount of beer it expects to receive during two consecutive calendar months.

(5) A legal person or natural person which wants to receive beer from another Member State under tax suspension occasionally must have for each occasional receipt an issued authorization to receive beer from another Member State under tax suspension and a deposited tax guarantee or paid tax in the amount of the tax for the amount of beer it is to receive in that case. The customs office shall issue a confirmation of the deposition of the tax guarantee or of the payment of tax.

(6) Article 19 applies equally to the tax guarantee under Paragraph 4 and 5.

(7) The registered trader is obliged to notify the customs office of every change of the data under Paragraph 1 and 2 no later than 15 days after the day of its origination. It is obliged to notify the the customs office of a change of the data under Paragraph 2 letter a) no later than 15 days after the day of the submission of the proposal for a change of data to the competent authority. The customs office shall complement the original exemption certificate or issue a new one, if the data under Paragraph 1 have changed.

(8) Article 18 Paragraph 7 through 10 apply appropriately to the termination of the authorization to receive beer from another Member State under tax suspension.

Article 23

Authorized tax representative

(1) For the purposes of this act, an authorized tax representative is a legal person or natural person with registered office or permanent residence in the tax territory authorized by the authorized warehouse keeper with registered office in another Member State to provide in its name beer supplies in the tax territory to persons which are not authorized warehouse keepers and registered by the customs office on the basis of an application of the authorized warehouse keeper with registered office in another Member State as an authorized tax representative in the tax territory. The authorized tax representative must not be the same person as the purchaser.

(2) The application for the registration of an authorized tax representative is submitted to the Customs Directorate which shall assign the customs office that shall perform the registration. The application for the registration of an authorized tax representative must be accompanied with an authorization granted in written form with an officially verified signature and a declaration of the authorized tax representative with an officially verified signature that it agrees with representing the consignor (supplier). Article 22 applies appropriately to the submission of this application, registration of the authorized tax representative and deposition of the tax guarantee.

Article 24

Accompanying document

(1) Beer under tax suspension can only be transported with an accompanying document drawn up according to the sample and manner stated in a regulation of the union.¹⁹⁾ Another document is also considered as accompanying document if its contains the same details as the accompanying document stated in the first sentence.

(2) If beer is to be transported through the territories of the states of the European Free Trade Association²⁰⁾ or to the territory of the states of the European Free Trade Association, instead of the accompanying document stated in Paragraph 1 shall be used the standard customs document.²¹⁾

(3) If beer is to be transported through the territory of one or more third countries which are not states of the European Free Trade Association, instead of the accompanying document stated in Paragraph 1 shall be used a TIR carnet²²⁾ or an A.T.A carnet.²³⁾

¹⁹⁾ Commission Regulation (EEC) No. 2719/92 of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty (O. J. E. C., L 276, 19/09/1992, p. 1 – 10) as amended.

²⁰⁾ Agreement of Free Trade between the Czech and Slovak Federative Republic and the European Association of Free Trade (notification No. 235/2003 Coll.).

²¹⁾ Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code (O. J. E. C., L 302, 19/10/1992, p. 1 – 50) as amended.

²²⁾ Decree of the Minister of Foreign Affairs No. 144/1982 Coll. on the Customs Convention on International Transport of Goods on the basis of TIR carnets (TIR convention) as amended by the Amendment Proposals of the TIR convention (notification No. 132/1999 Coll.).

(4) If the consignor (supplier) demands for the purposes of the refunding of the tax guarantee a faster certification of the receipt of beer, the consignee (purchaser) shall dispatch by fax or electronically a copy of copy 3 of the accompanying document certifying that the transport has been finished; this does not affect the obligation to return copy 3 of the accompanying document.

Article 25

Irregularities or offences during the movement of beer under tax suspension

(1) If an irregularity or offence is committed during the transport of beer under tax suspension in the tax territory, tax obligation is due in the tax territory on the day of the origination of the irregularity or offence. The following facts constitute an irregularity or offence:

- a) the beer has not been transported to the legal person or natural person authorized to receive beer under tax suspension,
- b) the transport of beer has not been finished,
- c) a loss or stealing of beer has occurred,
- d) the beer has not been exported.

(2) Tax obligation under Paragraph 1 arises if the consignor in the period of four months after the day of the dispatching of beer does not receive a certified copy 3 of the accompanying document certifying the delivery of beer to the place of delivery or if an irregularity or offence has been detected and the place of the irregularity or offence is not possible to determine.

(3) If the consignor of beer does not receive in 60 days after the day of the dispatching of beer copy 3 of the accompanying document certified by the consignee (purchaser) and tax administrator of the consignee or if the received copy 3 of the accompanying document certified smaller or greater amount of beer, it is obliged without undue delay to notify the customs office of this in written form.

(4) If during the transport of beer under tax suspension this beer is lost or if differences in the amount of the transported or received beer in the tax territory are detected, the customs office shall on the basis of an official finding and certification indicate these facts in copy 3 of the accompanying document and shall also state what amount of beer can be accepted for the purposes of exemption from tax.

(5) A tax debtor is the consignor of beer or a legal person or natural person which deposited the tax guarantee for beer transported under tax suspension. Immediately after detecting an irregularity or offence, the tax debtor is obliged to submit a tax return, calculate the tax under the tax rates valid on the day of the dispatching of beer and pay the tax

- a) to the customs office, if the tax debtor has registered office or permanent residence in the tax territory,
- b) to Customs Office Bratislava, if the tax debtor does not have registered office or permanent residence in the tax territory.

(6) The customs office shall provide information on the obligation to admit and pay the tax in the tax territory to the tax administrator of another Member State in which the dispatching tax warehouse is located.

(7) If it is ascertained before the expiry of three years since the day the accompanying document was drawn up, that the irregularity or offence during the transport of beer under tax suspension occurred

- a) in another Member State and the tax was paid in this Member State, the tax paid in the tax territory can be reimbursed to the tax debtor no later than 30 days after the day of the submission of the document on the payment of tax in another Member State,
- b) in the tax territory during the transport of beer from a tax warehouse in the tax territory to a tax warehouse in the tax territory which resulted in the origination of tax liability and the tax was paid, the tax can be reimbursed to the tax debtor no later than 30 days after the day of submission of a document confirming that the irregularity or offence has been removed.

²³⁾ Decree of the Minister of Foreign Affairs No. 89/1963 Coll. on the Customs Convention on E.C.S. Carnets for Commercial Samples and on the Customs Convention on the A.T.A. carnet for the Import Customs Registration of Goods.

Article 26

Import of beer from the territory of third countries

- (1) Import of beer shall mean a transport of beer from the territory of a third country to the tax territory. If during the import beer is situated in the customs regime exterior transit or in the customs regime warehousing in customs warehouse, or in the customs regime inward processing, or in the customs regime processing under customs surveillance, or in the customs regime temporary use, or is placed in a free customs area or in a free customs warehouse, such beer is considered as beer under tax suspension. Customs regulations apply to the tax and to tax administration during the import of beer, unless this act or a special regulation²⁴⁾ states otherwise.
- (2) Beer after release into the customs regime free circulation can be entered into tax regime tax suspension. In this case, procedure during the transport of beer under tax suspension is applied.
- (3) Beer which is after release into the customs regime free circulation entered into tax regime tax suspension must be without undue delay placed in a tax warehouse. The authorized warehouse keeper is obliged to demonstrate to the customs office which releases beer into the customs regime free circulation the authorization to operate a tax warehouse and the confirmation of the customs office on the amount of the deposited tax guarantee for the transported amount of beer. The deposition of the tax guarantee is not required if the tax guarantee under Article 19 Paragraph 1 also covers the tax guarantee for beer which is to be transported under tax suspension.

Article 27

Export of beer under tax suspension

- (1) Export of beer under tax suspension shall mean the transport of beer from a tax warehouse in the tax territory to the territory of a third country.
- (2) During the export of beer to the territory of a third country shall be applied the process applied in the transport of beer under tax suspension, even if it is transported through one Member State or more Member States, and the customs office of exit shall be stated in the accompanying document instead of the consignee. The transport of beer under tax suspension is finished if the dispatching beer warehouse receives copy 3 of the accompanying document in which the customs office of exit certified that the beer has left the territory of the union. If the standard customs document is used as the accompanying document, the transport of beer under tax suspension is finished if the dispatching tax warehouse receives copy 5 of this document in which the customs office of exit certified that the beer has left the territory of the union. Article 21 Paragraph 6 and 7 shall be used for the transport of beer under tax suspension.

Article 28

Transport of beer outside tax suspension for commercial purposes

- (1) If beer released into tax free circulation in another Member State is transported to the tax territory for commercial purposes, tax obligation originates in the tax territory on the day of the receipt of the beer in the tax territory. The tax debtor is a legal person or natural person which is the beer purchaser.
- (2) Before the receipt of beer, the purchaser is obliged
- a) to announce to the customs office in written form its identification data, amount and trade name of beer and the appropriate CN code which it wants to receive, the identification data of the supplier,
 - b) to deposit the tax guarantee in the amount of tax for the amount of received beer; Article 19 applies appropriately to the tax guarantee.
- (3) With the origination of tax obligation, the tax debtor is obliged to submit without undue delay a tax return to the customs office and pay the tax no later than on the 25th day of the calendar month following the month in which its tax obligation originated. Article 12 is applied appropriately to the tax return and tax maturity.

²⁴⁾ Act of the Slovak National Council No. 511/1992 Coll. as amended.

(4) If beer is transported to the tax territory or received in the tax territory repeatedly, upon request of the purchaser the customs office can authorize the supplies carried out in one tax period to be included in one tax return.

(5) After agreement with the customs office, for the payment of tax can be used a deposited tax guarantee; this does not affect the obligation to set off the contingent differences from the use of the tax guarantee.

(6) The provisions of Paragraph 1 through 5 shall also be used if the beer purchaser is a legal person which is not established or founded for commercial purposes.

(7) If beer is transported to the tax territory or received in the tax territory in another manner than under Paragraph 1, the tax debtor is a person which during the transport of beer to the tax territory is the first to hold or use the beer. The tax debtor is obliged without undue delay after the origination of the tax obligation to submit the tax return and pay the tax calculated under tax rates valid on the day of the dispatching of beer, to

a) the customs office, if the tax debtor has registered office or permanent residence in the tax territory,

b) Customs Office Bratislava, if the tax debtor does not have registered office or permanent residence in the tax territory.

(8) If beer released into tax free circulation in the tax territory is to be transported to another Member State for commercial purposes, the consignor (supplier) must draw up a simplified accompanying document and proceed under Article 29. The supply of beer for commercial purposes is also a supply of beer to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.

(9) Before carrying out the supply, the consignor (supplier) is obliged to submit to the customs office a written notification in which it shall state its identification data, amount in hectolitres, trade name of beer and the appropriate CN code of the beer it wants to supply and the identification data of the purchaser as well as submit to the customs office a tax reimbursement application.

Article 29

Simplified accompanying document

(1) A legal person or natural person whose commercial activities include the supply of beer released into tax free circulation in the tax territory to another Member State for commercial purposes, is obliged to draw up a simplified accompanying document according to the sample and manner stated in a regulation of the union.²⁵⁾ The simplified accompanying document comprises of three copies. The consignor (supplier) keeps copy 1, copies 2 and 3 accompany the transported beer. If the consignor (supplier) demands a certification of the receipt of beer by the purchaser for the purposes of tax reimbursement, it shall state this demand in the appropriate copy of the simplified accompanying document and at the same time apply for a certification by the tax administrator of another Member State of tax settlement by the purchaser.

(2) If beer released into tax free circulation in another Member State is transported to the tax territory for commercial purposes, it must be transported together with copies 2 and 3 of the simplified accompanying document. The purchaser shall keep copy 2. The purchaser shall certify the receipt of beer in the appropriate section of copy 3 of the simplified accompanying document, which it shall return to the consignor (supplier) without undue delay. If the consignor (supplier) demands it, the purchaser shall dispatch to the consignor (supplier) also a confirmation on tax settlement, which must contain the address of the customs office, the date and manner of tax settlement by the deposition of the tax guarantee or by the payment of tax.

(3) Another document shall also be considered a simplified accompanying document if it contains the same details as the simplified accompanying document; such document must bear the heading „Simplified

²⁵⁾ Commission Regulation (EEC) No. 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (O. J. E. C., L 369, 18/12/1992, p. 17 – 24).

accompanying document (goods subject to excise duty) for the purposes of excise duty control“.

(4) The simplified accompanying document shall also be used with the transport of beer released into tax free circulation from one place in the tax territory to another place in the tax territory, if the transport of beer is performed through the territory of one or more Member States.

Article 30

Transport of beer outside tax suspension to the tax territory for private purposes

(1) If a natural person for his own consumption (hereinafter „private purposes“) transports on his own to the tax territory beer released into tax free circulation in another Member State, no tax obligation in the tax territory arises from beer acquired in this way.

(2) If beer under Paragraph 1 is used for other than private purposes, tax obligation in the tax territory arises on the day of such use of the beer. The tax debtor is the natural person who transported beer to the tax territory, who is obliged to submit a tax return and pay the tax without undue delay; Article 12 applies appropriately to tax return.

(3) When establishing whether beer is aimed at private purposes under Paragraph 1 or at commercial purposes under Article 28, the following is taken into account:

- a) reason of acquisition or holding of beer, subject of activity of natural person if he is an entrepreneur,
- b) place where beer is located or manner in which it was transported,
- c) acquisition costs related to the beer,
- d) amount of beer.

Article 31

Distant selling

(1) For the purposes of this act, distant selling shall mean the delivery of beer by a person whose commercial activities include the supplying by this person or through another person of beer released into tax free circulation in another Member State in which it has registered office or permanent residence and place of business to the tax territory for private purposes to a purchaser, who is not

- a) an authorized warehouse keeper under this act,
- b) a registered trader under this act.

(2) Tax obligation arises in the tax territory to the consignor (supplier) by the supply of beer to the tax territory, supply meaning the day of receipt of beer by the purchaser. The tax debtor is the consignor (supplier).

(3) Distant selling can be carried out if the consignor (supplier) to the customs office of the purchaser stated in Paragraph 1 before the carrying out of the supply

- a) submits its identification data in written form,
- b) submits in written form the identification data of the purchaser, trade name, CN code of the beer and the amount of beer in hectolitres which is to be dispatched (supplied),
- c) deposits a tax guarantee in the amount of tax for the amount of beer which is to be dispatched (supplied).

(4) The tax debtor stated in Paragraph 2 is obliged with the origination of tax obligation without undue delay to submit a tax return to the customs office of the purchaser and pay the tax no later than on the 25th day of the calendar month following the month in which tax obligation originated; Article 12 applies appropriately to the tax return and tax maturity.

(5) The deposited tax guarantee can be used for the payment of tax under Paragraph 4 after agreement with the customs office; this does not affect the obligation to set off the contingent differences from the use of the tax guarantee.

(6) Upon request of the consignor (supplier) the customs office can authorize the obligations related to the customs office to be fulfilled by an authorized representative for distant selling. An authorized representative for distant selling can only be a legal person or natural person with registered office or

permanent residence in the tax territory which must not be the same as the purchaser and which is tax reliable under Article 19 Paragraph 10.

(7) The application for the authorization of representation by an authorized representative for distant selling is submitted to the customs office of the authorized representative for distant selling. The application must contain the identification data of the consignor (supplier), the identification data of the authorized representative for distant selling, the trade name and quantity of supplied beer. The annex to the application are the documents confirming the authenticity of the data stated in the application for authorized representation with an officially verified signature and a declaration of the authorized representative for distant selling with an officially verified signature that he agrees with representing the consignor (supplier).

(8) If distant selling is performed repeatedly, upon request of the consignor (supplier) or the authorized representative for distant selling the customs office can authorize the supplies carried out in one tax period to be included in one tax return.

(9) Upon request of the consignor (supplier) or its authorized representative for distant selling the customs office shall issue a confirmation of the payment of the tax for the purposes of the claiming of tax reimbursement to the consignor (supplier).

(10) If a legal person or natural person with registered office in the tax territory wants to dispatch beer released in the tax territory into tax free circulation to another Member State, it is obliged to notify the customs office of this fact in written form. In the notification it shall state the trade name and amount in hectolitres of the beer it wants to dispatch, the name, surname and address of the purchaser and the day on which the beer is to be dispatched. If tax reimbursement is to be performed, the tax reimbursement application is certified by a document proving the tax settlement in the Member State of destination.

Article 32 **Special regulation of tax suspension** **and exemption from tax**

(1) Exempt from tax is beer sold in the transit area of international airports and aboard airplanes exclusively to natural persons which shall immediately leave the territory of the union. Beer exempt from tax can be sold to these persons only after it has been verified that their immediate destination airport is in a third country. A legal person or natural person which performs such sale is obliged to ensure that the document of sale includes the name and surname of the natural person, flight number, destination airport of the purchaser, trade name of beer or other goods subject to excise duty under a special regulation²⁶⁾ and the price of the goods.

(2) The legal person or natural person performing the sale of beer under Paragraph 1 is obliged to archive documents of such sale.

(3) Exempt from tax is also the beer supplied aboard airplanes and used for the consumption of the travellers during the flight.

(4) A legal person or natural person which performs the sale of beer under Paragraph 1 or which performs beer supply under Paragraph 3 must have beer supplied under tax suspension; Articles 20 and 21 apply appropriately to procedures with the transport of beer.

(5) A legal person or natural person which wants to perform in the transit area of international airports and aboard airplanes the sale of beer exempt from tax or supply beer aboard airplanes is obliged to apply for an authorization for the operation of a tax warehouse in the transit area of international airports and aboard airplanes (hereinafter „transit tax warehouse“); the provision of Article 17 Paragraph 3 shall not be used in this case.

²⁶⁾ Act No. 105/2004 Coll. on the Excise Duty on Spirits and on Amending Act No. 467/2002 Coll. on the Production and Entering Spirits in the Market as amended by Act No. 211/2003 Coll.
Act No. 106/2004 Coll. on the Excise Duty on Tobacco Products.
Act No. 104/2004 Coll. on the Excise Duty on Wine.

(6) Article 18 applies appropriately to the application for the authorization for the operation of a transit tax warehouse and to the authorization for the operation of a transit tax warehouse. Before the issuing of the authorization for the operation of a transit tax warehouse the legal person or natural person is obliged to deposit a tax guarantee in the amount of the tax for the average month amount of sold beer or the average month amount of beer supplied aboard airplanes. If the legal person or natural person has already applied for the authorization for the operation of a transit tax warehouse under a special regulation,²⁶⁾ one authorization for all goods subject to excise duty under a special regulation can be issued.²⁶⁾

(7) In the authorization for the operation of a transit tax warehouse, the customs office can state conditions for the operation of such warehouse.

(8) If beer inventories are not sold or if the guarantee period for beer consumption is about to expire, the transit authorized warehouse keeper can release beer into tax free circulation in the tax period on the basis of a written approval of the customs office. Tax obligation arises to the transit authorized warehouse keeper on the day of releasing beer into tax free circulation in the tax territory; Article 12 Paragraph 1, 2, 5, 7 through 10 are used for tax return and tax maturity.

Record keeping

Article 33

(1) The authorized keeper of a tax warehouse which is an enterprise for beer production (Article 16) is obliged to keep records documenting

- a) beer produced in the enterprise for beer production,
- b) beer received by the enterprise for beer production,
- c) beer used for own consumption,
- d) beer released by the enterprise for beer production,
- e) other materials used during beer production in the enterprise for beer production,
- f) state of the inventories of beer and other materials used during beer production.

(2) In the records stated in Paragraph 1 must be according to the CN codes stated

- a) the trade name, amount and production date of beer,
- b) the trade name, amount and receipt day of beer and the identification data of the supplier; in the case of beer import also the date of its release into the customs regime free circulation, place where customs proceedings took place and the identification data of the declarant,
- c) the trade name, amount, date and purpose of use of beer for own consumption,
- d) the trade name, amount and date of issuing of beer and the identification data of the purchaser; if the beer was received by a transporter on whose account beer was not issued, the identification data of the transporter must also be included,
- e) the trade name, amount and date of the export of beer, place where customs proceedings took place and the identification data of the declarant.

(3) The issuing of beer exempt from tax under Article 8 Paragraph 1 must be documented with an exemption certificate of the purchaser.

(4) Entries in the records must be performed daily, no later than on the following working day.

Article 34

(1) The authorized keeper of a tax warehouse which is a beer warehouse (Article 17) is obliged to keep records documenting

- a) beer received by the beer warehouse,
- b) beer used for own consumption divided according to the purpose of use,
- c) beer released by the beer warehouse,
- d) state of beer inventories.

(2) Article 33 Paragraphs 3 and 4 apply equally and Article 33 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 35

- (1) The user enterprise is obliged to keep records documenting
 - a) received beer,
 - b) beer used for purposes stated in the exemption certificate,
 - c) state of the inventories of beer exempt from tax under Article 8 Paragraph 1.
- (2) Entries in the records must be performed on the occasion of a change in the state of inventories, at the last once a month. Article 33 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 36

- (1) The registered trader, if not obliged to keep records under Article 35, is obliged to keep records documenting
 - a) received beer divided in beer received
 1. outside tax suspension,
 2. under tax suspension from other Member States,
 - b) released beer,
 - c) state of beer inventories.
- (2) Article 33 Paragraph 4 applies equally and Article 33 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 37

- (1) The authorized tax representative is obliged to keep records documenting
 - a) received beer under tax suspension,
 - b) released beer,
 - c) purchasers.
- (2) The consignor (supplier) which performs distant selling is obliged to keep records documenting beer dispatched to another Member State.
- (3) The authorized representative for distant selling is obliged to keep records documenting
 - a) received beer,
 - b) released beer.
- (4) Article 33 Paragraph 4 applies equally and Article 33 Paragraph 2 applies appropriately to record keeping under Paragraphs 1 through 3.

Article 38

Tax supervision and tax control

- (1) The customs office performs tax supervision, which is the performance of supervision of keeping and moving beer, as well as tax control.²⁷⁾
- (2) Tax supervision and tax control are performed by the customs office in whose jurisdiction the controlled subject has registered office or permanent residence or in whose jurisdiction is situated the controlled means of transport or transport storage tank, or controlled beer.
- (3) During tax supervision and tax control, the customs office is entitled to
 - a) enter each operational building, room, habitation, or non-residential premises used by the controlled subject for beer-related commercial activities, as well as enter areas which are known or can be expected to contain or possibly contain beer,
 - b) establish the state of inventories of beer and goods which are aimed at beer production or can be used during beer production, and order the performance of the appropriate stock-taking,
 - c) control storage tanks, containers, tanks and other packagings which contain or could contain beer,
 - d) stop vehicles, establish the amount of beer transported in them, control transport documents and indicate the control in these documents,
 - e) take samples free of charge in the cases under letters a) through d) in technologically justified amounts,

²⁷⁾ Article 15 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

- f) demand the submission of documents and data related to the activities of the controlled subject, submission of documents proving the declarations of the controlled subject and all documents stated in this act,
- g) establish natural beer decrements with production, holding and transport related to its physical and chemical characteristics and on the basis of long-term monitoring of at least 12 consecutive months state with the approval of the Customs Directorate the maximum acceptable level of beer losses in tax warehouses and user enterprises which use beer exempt from tax for purposes under Article 8 Paragraph 2 letter a).
- (4) During the performance of tax supervision and tax control the legal person or natural person is obliged to undergo the performance of the rights of the customs office under Paragraph 3.
- (5) In tax warehouses, user enterprises which use beer for purposes exempt from tax, the customs office shall perform tax control once a month; in registered traders, distant sellings, authorized tax representatives and representatives for distant selling it shall perform tax control depending on the need, however at least once before the day of the termination of the right to set a tax.²⁸⁾ The provision of a special regulation does not apply to the beginning of a tax control.²⁹⁾
- (6) According to the character of the facts established during tax supervision the customs office shall compile a minute book or an official record or perform tax control.
- (7) If the customs office establishes that the controlled subject when taxing beer or claiming tax reimbursement acts in the detriment of the purchaser or in its own detriment, it shall inform the controlled subject of this fact.
- (8) Tax supervision can also be performed by the Customs Directorate. In such, the provision of Paragraph 2 through 4, 6 and 7 apply appropriately to the Customs Directorate.

Article 39
Record keeping by the customs office
and the Customs Directorate

- (1) The customs office is obliged to operate an electronic database containing a register of authorized warehouse keepers, registered traders, authorized tax representatives, tax warehouses, as well as records of authorized representatives for distant selling and records of user enterprises.
- (2) The electronic database under Paragraph 1 contains especially
- a) the identification data of the authorized warehouse keeper and the registered office of tax warehouse if they are not the same as the registered office or permanent residence of the authorized warehouse keeper, the registration number of the tax warehouse, the date of the assignment and the date of the cancellation of the registration number,
 - b) the identification data of the registered trader, its registration number, the date of the assignment and the date of the cancellation of the registration number,
 - c) the identification data of the authorized tax representative, its registration number, the date of the assignment and the date of the cancellation of the registration number,
 - d) the identification data of the user enterprise, the number of its exemption certificate, the date of the assignment and the date of the cancellation of the exemption certificate,
 - e) the identification data of the authorized representative for distant selling,
 - f) the trade name of the received and held beer.
- (3) The Customs Directorate or the customs office authorized by it is obliged to operate a central electronic database containing the data under Paragraph 2, and entitled to process these data even without the approval of the appropriate persons; the data under Paragraph 2 letters a) and b) must upon request be

²⁸⁾ Article 45 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

²⁹⁾ Article 15 Paragraph 2 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

submitted to the authorized bodies of the Member States. These data can be provided exclusively for the purposes of the verification of the registration of authorized warehouse keepers, placement of tax warehouses and registration of registered traders. The provisions of special regulations³⁰⁾ are not affected by this.

(4) The Customs Directorate or the customs office authorized by it which operates the central electronic database is obliged to provide access to its contact data for purposes under Paragraph 3, for example the contact person, telephone number, fax number, address of electronic mail.

(5) The Customs Directorate or the customs office authorized by it which operates the central electronic database is entitled to confirm to each legal person or natural person which trades beer within the union, upon its request, the validity of the registration of authorized warehouse keepers, registered traders and the placement of tax warehouses.

Article 40 Penalties

(1) A legal person or natural person which releases beer to a purchaser which has not submitted an exemption certificate shall be imposed a penalty by the customs office in the amount of tax for the amount of released beer, however at least SKK 10 000.

(2) A legal person or natural person which uses beer for purposes not stated in the exemption certificate shall be imposed a penalty by the customs office in the amount of 20 % of the tax for the amount of beer used in this way, however at least SKK 10 000.

(3) A legal person or natural person which keeps beer whose manner of acquisition it cannot prove shall be imposed a penalty by the customs office in the amount of the tax for the amount of beer it keeps, plus SKK 5 000, however at least SKK 10 000.

(4) The customs office shall secure the beer under Paragraph 3.³¹⁾ The beer secured in this manner shall be confiscated by the state and the customs office is obliged to destroy it. The provisions of a special regulation shall be applied during its destruction.³¹⁾

Common, transitory and final provisions Article 41

(1) This act approximates the legal acts of the European Community and the European Union stated in Annex No. 1.

(2) A special regulation shall be applied to tax administration,²⁴⁾ unless this act states otherwise.

(3) The samples of tax return, additional tax return, tax reimbursement application and additional tax reimbursement application shall be stated in a regulation issued by the ministry.

Article 42

(1) Under current regulations are assessed all rights and obligations stated in them, which originated before 30 April 2004, as well as all periods of time before their deadlines which started before 1 May 2004 as well as periods of time subsequent to them. The administration of excise duty on beer is performed under current regulations by the current tax administrators.

(2) Unless this act states otherwise, tax under this act applies to beer released into tax free circulation or imported, or exported after 1 May 2004.

Article 43

(1) A legal person or natural person which from 1 May 2004 wants to operate a tax warehouse under this act (Article 15) must ask the customs office in written form for registration and issuing of an authorization

³⁰⁾ For example Act No. 472/2002 Coll. on International Aid and Cooperation in Tax Administration and on Amending Act No. 366/1999 Coll. on Income Taxes as amended.

³¹⁾ For example Article 14a Paragraph 11 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

for the operation of a tax warehouse and submit the application for registration and issuing of this authorization to the customs office no later than 31 March 2004. The application must contain

- a) the identification data of the applicant and the address of location of his operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) the tax identification number of the applicant,
- c) the identification number for value added tax, if assigned to the applicant,
- d) the trade name of beer and the appropriate CN code of the produced, processed, received, held and dispatched beer,
- e) the estimated annual volume of beer production in hectolitres, in the case of an enterprise for beer production, or the estimated annual volume of beer holding in hectolitres, in the case of a beer warehouse.

(2) Annexes to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation, brief description of activity and description of production and storage facilities with attached sketch, manner of securing against unauthorized entering of these premises and manner of securing beer against unauthorized use,
- c) technological description of the production procedures, list of processed raw materials, products to be produced, collateral products, or waste,
- d) closing summary accounts for the previous tax period, if the applicant was obliged to compile closing summary accounts and if the applicant is subject to the obligation to have his closing summary accounts verified by an auditor, closing summary accounts verified by an auditor under a special regulation,¹⁴⁾ as well as the form of account keeping,
- e) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter b) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter c),
- f) list of Member States to which the applicant expects to supply (dispatch) beer under tax suspension; this list can upon request be submitted to these Member States.

(3) Upon request of the customs office, the applicant is obliged to specify the data stated in the application and in its annexes.

(4) The applicant must also meet these conditions:

- a) keeps accounts under a special regulation,¹⁵⁾
- b) neither the customs office nor the tax authority
 1. have receivables after pay date towards it,
 2. have receivables after pay date towards a person personnel-linked or property-linked to it, nor did they have in the period of ten years before the day of the submission of the application towards a person which has been extinguished and which would be considered personnel-linked or property-linked to the applicant tax receivables which would not have been settled before this person was extinguished; this also applies to tax receivables which were transferred to a third person under special regulations,¹⁶⁾
- c) has no unpaid amounts in compulsory insurance levies under special regulations,¹⁷⁾
- d) has not been lawfully sentenced for an intentional criminal act; this also applies to the responsible representative and natural persons which are members of managing or control bodies of the applicant,
- e) is not in liquidation, nor is subject to a lawfully announced bankruptcy, permitted composition or confirmed compulsory composition.

(5) Before the issuing of an authorization for the operation of a tax warehouse, the applicant is obliged to deposit a tax guarantee (Article 19). If the applicant for the authorization for the operation of a tax warehouse is an enterprise for beer production and if the enforceability or collection of tax are not jeopardized, it can ask the customs office in written form to waive the deposition of a tax guarantee

a) completely, if the applicant meets the conditions stated in Paragraph 4 during at least 24 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse,

b) partially in the amount of 50 %, if the applicant meets the conditions stated in Paragraph 4 during at least 12 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse.

(6) The customs office shall verify with the applicant the facts and data under Paragraph 1 through 5, and if the facts and data stated in the application and in annexes are correct and the applicant meets conditions for the issuing of an authorization for the operation of a tax warehouse (Article 15 and 17), the customs office shall assign it a registration number, issue a certificate of registration, decide on tax guarantee and issue an authorization for the operation of a tax warehouse.

(7) A legal person or natural person stated in Paragraph 1 which has been issued by the customs office an authorization for the operation of a tax warehouse with validity after 1 May 2004 is obliged in the presence of the tax authority and the customs office to perform under a special regulation³²⁾ stock-taking of beer inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 6 of the Act of the National Council of Slovak Republic No. 310/1993 Coll. on Excise Duty on Beer as amended as of 30 April 2004, separately from the inventories of beer which it has in accordance with current regulations

a) with tax,

b) without tax.

(8) From the inventories under Paragraph 7 letter a) the authorized warehouse keeper can claim tax reimbursement only in a separate tax return which it shall submit to the customs office by 25 May 2004, if it has documents confirming the amount of the paid tax. The annex of the separate tax return is minutes from the stock-taking. The customs office shall reimburse tax no later than 30 days after the day of the submission of the separate tax return. If in the separate tax return the claimed tax reimbursement is in an incorrect amount, sanctions under the current regulation shall be used. If an authorized warehouse keeper stated in Paragraph 7 had as of 30 April 2004 beer inventories under Paragraph 7 letter a) and did not submit a separate tax return by 25 May 2004, these inventories are as of 1 May 2004 considered as beer under tax suspension.

(9) A legal person or natural person which wants to be from 1 May 2004 a registered trader under this act (Article 22 Paragraph 1) must ask the customs office in written form for registration and the issuing of an authorization to receive beer from another Member State under tax suspension and submit the application for the registration and issuing of this authorization to the customs office no later than on 31 March 2004. Paragraph 1 applies appropriately to the content of the application. The annexes to the application are a copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy and a declaration of the applicant that it meets the conditions stated in Paragraph 4.

(10) The applicant stated in Paragraph 9 before the issuing of an authorization to receive beer from another Member State under tax suspension repeatedly is obliged to deposit a tax guarantee (Article 19).

(11) Before performing registration, the customs office shall verify with the applicant stated in Paragraph 9 the facts and data under Paragraph 1 through 5, and if the facts and data stated in the application and in annexes are correct, the customs office shall assign it a registration number, issue a certificate of registration and an authorization to receive beer from another Member State under tax suspension.

(12) A legal person or natural person stated in Paragraph 9 to which the customs office issued an authorization to receive beer from another Member State under tax suspension with validity from 1 May 2004 and which has beer inventories is obliged to perform under a special regulation³²⁾ the stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 6 of the Act of the National Council of the Slovak Republic No. 310/1993 Coll. on Excise Duty on

³²⁾ Article 29 of Act No. 431/2002 Coll. on Accounting as amended by Act No. 562/2003 Coll.

Beer as amended as of 30 April 2004, separately for inventories of beer which it has in accordance with current regulations

- a) with tax,
- b) without tax.

(13) A registered trader from inventories under Paragraph 12 letter b) is obliged to submit to the customs office a separate tax return before 25 May 2004, admit tax according to the tax rate valid from 1 May 2004 and pay the tax before the same deadline.

(14) A legal person or natural person to which as of 1 May 2004 an authorization for the operation of a tax warehouse or an authorization to receive beer from another Member State under tax suspension was not issued and which has beer inventories is obliged to perform under a special regulation³²⁾ the stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 6 of the Act of the National Council of the Slovak Republic No. 310/1993 Coll. on Excise Duty on Beer as amended as of 30 April 2004, separately for inventories of beer which it has in accordance with current regulations

- a) with tax,
- b) without tax.

(15) A legal person or natural person stated in Paragraph 14 from inventories under Paragraph 14 letter b) is obliged to submit to the customs office a separate tax return before 25 May 2004, admit tax according to the tax rate valid from 1 May 2004 and pay the tax before the same deadline.

(16) To a legal person or natural person stated in Paragraph 14 which submitted an application for the issuing of an authorization for the operation of a tax warehouse or an authorization to receive beer from another Member State under tax suspension, but the proceedings on this application were not finished as of 1 May 2004 the customs office shall state a date as of which it should perform a new stock-taking before the issuing of the appropriate authorization; such application shall be judged as if it was submitted after 30 April 2004.

(17) To a legal person or natural person stated in Paragraph 13 and 14 which has as of 30 April 2004 inventories of beer at a price without tax and which did not submit to the customs office a separate tax return before 25 May 2004 or claimed tax reimbursement in an incorrect amount the customs office shall set the tax and impose a penalty in the amount of the set tax.

(18) If beer was transported to the tax territory from a state which from 1 May 2004 is a Member State and as of 30 April 2004 is situated in customs regimes apart from the customs regime transit and these were not finished, such beer shall be as of 1 May 2004 considered beer under tax suspension. If such beer is not transported to the tax warehouse, tax obligation in the tax territory originates on the day of releasing beer into tax free circulation.

(19) For the documenting of the transport of beer exempt from tax to the territory of another Member State by a Slovak representative (Article 14 Paragraph 3) and the armed forces of the Slovak Republic for the use within activities under an international treaty can be used a certificate of exemption from excise duty according to the sample stated in Annex No. 3, if a document drawn up under the regulation of the union is not used.¹¹⁾

(20) A legal person or natural person to which was issued an authorization for the operation of a tax warehouse with validity from 1 May 2004 and which wants to transport beer under tax suspension can use an accompanying document drawn up according to the sample stated in Annex No. 4, if it does not use a document under the regulation of the union.¹⁹⁾

(21) A legal person or natural person which under this act is entitled from 1 May 2004 to transport beer released into tax free circulation in the tax territory to another Member State for commercial purposes (Article 28) can use a simplified accompanying document drawn up according to the sample stated in Annex No. 5, if it does not use a document under the regulation of the union.²⁵⁾

(22) The provisions of a special regulation²⁴⁾ apply to the proceedings of the customs office under Paragraphs 1 through 21 unless this act states otherwise.

Article 44

The Act of the National Council of the Slovak Republic No. 310/1993 Coll. on the Excise duty on Beer as amended by the Act of the National Council of the Slovak Republic No. 180/1994 Coll., Act of the National Council of the Slovak Republic No. 304/1995 Coll., Act No. 340/1999 Coll., Act No. 250/2000 Coll., Act No. 391/2002 Coll. and Act No. 242/2003 Coll. is cancelled.

Article 45

This act enters into effect on 1 March 2004 apart from the provisions of Article 1 through 42 and Article 44, which enter into effect on 1 May 2004.

Rudolf Schuster, man.sign.
Pavol Hrušovský, man.sign.
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