

105
A C T
of 3 February 2004

on the excise duty on spirit and on amendment of Act No. 467/2002 Coll.
on the production and distribution of spirit into the market as amended by Act No. 211/2003 Coll.

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

Section I
Article 1
Subject of act

This act regulates the taxing of spirit 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 spirit 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 spirit 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 spirit 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 spirit from another Member State under tax suspension, and which must neither hold nor dispatch spirit under tax suspension
- i) releasing spirit into tax free circulation shall mean
 - 1. any departure of spirit from tax suspension,
 - 2. any production of spirit outside tax suspension,
 - 3. any importation of spirit 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,

¹⁾ Article 2 of the Commercial Code.

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⁾

(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 the local jurisdiction cannot be stated in this way or if it is more efficient for the performing of the 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 the tax administration.

Article 4

Subject of tax

(1) The subject of tax is spirit produced in the tax territory, transported 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, spirit shall mean products falling within the CN code

- a) 2207 and 2208, an actual alcoholic strength by volume exceeding 1.2 % of the volume,
- b) other than of 22 chapter, an actual alcoholic strength by volume exceeding 1.2 % of the volume,
- c) 2204, 2205 and 2206, an actual alcoholic strength by volume exceeding 22 % of the volume.

(3) 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 6 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

Tax base, tax calculation

(1) The tax base is the amount of spirit stated in hectolitres of 100% alcohol (hereinafter “hl a.”) at temperature of 20 °C.

(2) For the purposes of this act alcohol shall mean ethyl alcohol in mixture with other alcohols and fluids, while the volume concentration of alcohol shall be established and calculated in a manner under a special regulation.³⁾

²⁾ Article 116 and 117 of the Civil Code.

³⁾ Annex No. 16, part three to Decree of the Institute for Normalisation, Metrology and Testing of the Slovak Republic No. 210/2000 Coll. on measures and metrology control as amended.

- (3) The tax shall be calculated as the product of the tax base and the appropriate tax rate.
- (4) Derived volume unit of spirit is litre of 100 % alcohol (hereinafter the “l a.”) at temperature of 20 °C.
- (5) The tax base in hl a. shall be rounded up to four decimal places.

Article 6 **Tax rate**

- (1) The tax rate is fixed as follows:
- a) basic tax rate 25 000 SKK/hl a.,
 - b) reduced tax rate 12 500 SKK/hl a.
- (2) The reduced tax rate shall be applied to spirit produced in fruit grower’s distillery in the amount of no more than 30 l a. of the produced spirit per one grower and the grower’s household for one production period⁴⁾ under conditions determined by this act.

Article 7 **Tax exemption**

- (1) Exempt from tax is that spirit when used
- a) denatured by vinegar for the production of vinegar falling within CN code 2209,
 - b) for the production and preparation of pharmaceuticals⁵⁾ and other products serving health protection and support by persons authorized to produce them under a special regulation,⁵⁾
 - c) for the production of flavours in preparation of foodstuffs and beverages with an alcoholic strength not exceeding 1.2 % of the volume,
 - d) for the production of foodstuffs, if the alcohol content does not exceed the amount of 8.5 l a. per 100 kg of product for chocolate products and the amount of 5 l a. per 100 kg of product for other foodstuffs with the exception of beverages,
 - e) especially denatured for the production of products or for other purpose of use determined under this act and under generally binding legal regulation issued by the ministry under Article 8 Paragraph 2,
 - f) for the scientific purposes or for the scientific research, if it is provably not possible to use especially denatured alcohol,
 - g) in the manufacturing process in the volume stated by the production standard of consumption, if the final product does not contain spirit,
 - h) for the production of mineral oils in the volume stated by the production standard of consumption.
- (2) Also exempt from tax is spirit
- a) completely denatured under this act and under generally binding legal regulation issued by the ministry according to Article 8 Paragraph 2, intended for industrial purposes, if it is being transported with a simplified accompanying document; denatured alcohol under a legal regulation of the union⁶⁾ is also considered as completely denatured alcohol,
 - b) contained in a product that is the product of the production under Paragraph 1; the product produced from the spirit exempt from tax under legal regulations of single Member States or third countries and

⁴⁾ Article 3 Paragraph 1 of Decree of the Ministry of Agriculture of the Slovak Republic No. 653/2002 Coll. on operation of fruit grower’s distilleries and on method of using spirit samples.

⁵⁾ Act No.140/1998 Coll. on medicines and medical aids, on change of Act No. 455/1991 Coll. on small business (Small Business Act) as amended and on amendment of Act of the National Council of the Slovak Republic No. 220/1996 Coll. on Advertising as amended.

⁶⁾ Commission Regulation (EC) No 3199/93 of 22 November 1993 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty (Official Journal of the European Communities L 288, 23/11/1993, p. 12 – 15) as amended.

- which may be produced in the tax territory from spirit exempt from tax under Paragraph 1 is considered as the product produced from spirit exempt from tax under this act,
- c) taken as sample for the purposes of tax supervision or other official control, official test or official determination⁷⁾, in a technologically justified amount,
 - d) used in a tax warehouse for own laboratory tests or analysis in a technologically justified amount accepted by the customs office,
 - e) under tax suspension in the volume of spirit for production losses, manipulation losses, transport and natural decrements of spirit, if these losses are accepted by the customs office or tax administrator of another Member State, while such accepted losses may not be higher than standards of spirit losses stated under a generally binding legal regulation issued under a special act,⁸⁾
 - f) is under tax suspension
 - 1. if it was irrecoverably 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,
 - 2. if it was provably devalued and destroyed (disposed) by the authorised authority or on its initiative⁹⁾ under the supervision of the customs office in a manner under a special regulation,¹⁰⁾
 - g) destroyed by the customs office or under its supervision, even if the state has become the owner of the spirit under a special regulation,¹¹⁾
 - h) transported to the tax territory from other Member States by persons stated in Article 16 Paragraph 2, or transported to the tax territory from other Member States by the armed forces of 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 the act (hereinafter “international treaty”);¹²⁾ the transport of spirit 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 a legal regulation of the union¹³⁾,
 - i) imported to the tax territory from the territory of third countries by persons stated in Article 16 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,¹²⁾
 - j) 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 nature 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.¹⁴⁾

⁷⁾ For example Act of the National Council of the Slovak Republic No.152/1995 Coll. on Foodstuffs as amended, Act of the National Council of the Slovak Republic No. 277/1994 Coll. on Health Care as amended.

⁸⁾ Article 9 Paragraph 7 of Act No. 467/2002 Coll. on the Production and Distribution of Spirit into the Market as amended.

⁹⁾ Article 19 Paragraph 8 letter a) of Act of the National Council of the Slovak Republic No. 152/1995 Coll. as amended by Act No. 23/2002 Coll.

¹⁰⁾ For example Act No. 223/2001 Coll. on Wastes and on amendment of certain acts as amended, Act No. 184/2002 Coll. on Waters and on amendment of certain acts (Water Act) as amended by Act No. 245/2003 Coll.

¹¹⁾ For example Article 386, 435 and 436 of Act No. 238/2001 Coll. Customs Act, Article 14a of Act of the National Council of the Slovak Republic No. 511/1992 Coll. on Taxes and Fees Administration and on Changes in System of Regional Financial Bodies as amended, Civil Code, Act No. 140/1961 Coll., Penal Code as amended.

¹²⁾ For example notification of the Ministry of Foreign Affairs of the Slovak Republic No. 324/1997 Coll. on concluding 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.

¹³⁾ Commission Regulation (EC) No. 31/96 of 10 January 1996 on the excise duty exemption certificate (Official Journal of the European Communities L 008 of 11/01/1996, p. 11 – 15) as amended.

¹⁴⁾ Article 29 to 31 and Article 45, 46 to 49 of Council Regulation (EEC) No. 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (Official Journal of the European Communities L 105, 23/04/1983, p. 1 – 37) as amended.

Article 8

Spirit denaturation

(1) For the purposes of this act denaturation shall mean the mixing of spirit with allowed denaturation agent in the amount stated, while the denaturation agent cannot be separated from the spirit via generally available methods. The denaturation agent is a substance or mixture of substances which are soluble in spirit which will change features of the spirit after mixing up with the spirit so that the spirit is no longer suitable for a direct human consumption and for the production of foodstuffs.

(2) Allowed denaturation agents, their determined volume for denaturation, requirements for denaturation and manipulation¹⁵⁾ with the denatured alcohol, requirements for features of the denatured alcohol and the determined purpose of use of the denatured alcohol will be stated by a generally binding legal regulation issued by the ministry after agreement with the Ministry of Agriculture of the Slovak Republic, the Ministry of Health of the Slovak Republic, the Ministry of Economy of the Slovak Republic and with the Customs Directorate.

(3) After agreement with the Ministry of Agriculture of the Slovak Republic, the Ministry of Health of the Slovak Republic, the Ministry Economy of the Slovak Republic and with the Customs Office, the ministry may allow also other denaturation agent for the production of the denatured alcohol if it is necessary with respect to the purpose of use of the denatured alcohol or with respect to the product which is to be produced from the denatured alcohol.

(4) The spirit may be denatured in the tax territory only with the presence of the customs office employee in the tax warehouse for an authorized keeper to which an authorization for the denaturation was issued under Article 9. The producer of the denatured alcohol shall draw up a written record on the performed denaturation, where he shall state the trade name and the amount of spirit used for the denaturation in 1 a., the trade name and the amount of the denaturation agent used and the amount of the denatured alcohol produced in 1 a. The written record about the performed denaturation shall be signed by the present employee of the customs office.

(5) The tax warehouse where spirit is being denatured must be equipped with dosing, mixing or other similar equipment, which shall secure the denaturation under Paragraph 1.

(6) Unless this act states otherwise, it is forbidden to use

- a) other than the stated amount of the allowed denaturation agent or to change features of the denatured alcohol or to add such substance in the denatured alcohol which will change features of the denatured alcohol,
- b) the especially denatured alcohol without the exemption certificate under Article 11 Paragraph 1,
- c) the especially denatured alcohol for other purpose of use than the one stated in a generally binding legal regulation issued by the ministry under Paragraph 2.

Article 9

Authorization for denaturation

(1) The authorized warehouse keeper who wants to denature spirit in the tax territory must ask the customs office in written form for the issue of an authorization for denaturation. The application must include

- a) the trade name and registered office, or name and surname and permanent residence (hereinafter "identification data") of the applicant and addresses 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 and the amount of the denaturation agent which it will use,

¹⁵⁾ Article 2 Paragraph 2 letter f) of Act No. 467/2002 Coll.

d) the trade name of the denatured alcohol and the estimated amount of its annual production.

(2) The customs office shall verify facts and data stated in the application, if these facts and data are true and equipment under Article 8 Paragraph 4 is suitable for denaturation, the customs office shall issue the authorization for denaturation to the authorized warehouse keeper no later than 30 days after the submission of the application; if facts and data stated in the application are not true and the equipment is not suitable for the spirit denaturation, the customs office shall invite the applicant to remove the aforesaid shortcomings and issue the authorization to no later than 15 days after the day of removal of shortcomings.

(3) The customs office

a) shall withdraw the authorization for the denaturation to the authorized warehouse keeper, if the equipment under Article 8 Paragraph 4 is no longer suitable for the denaturation or if the authorized warehouse keeper asked for it,

b) may withdraw the authorization for the denaturation to the authorized warehouse keeper, if the denaturation is not performed under this act.

Article 10 **Marking of the consumer packaging of spirit** **with tax stamp**

(1) For the purposes of this act consumer packaging of spirit (hereinafter “consumer packaging”) shall mean closed consumer package¹⁶⁾ filled with spirit for a direct human consumption.

(2) For the purposes of this act, tax stamp shall mean Slovak tax stamp intended for marking of the consumer packaging which comply with other prerequisites under this act and under a generally binding legal regulation issued under Paragraph 38. For the purposes of this act, the tax stamp shall have a nature of a duty stamp.

(3) The consumer packaging falling within CN code 2207 and 2208 may be released in the tax free circulation in the tax territory only when it is marked with the tax stamp. The consumer packaging may only be marked by a legal person or natural person that will release it in tax free circulation in the tax territory, which is an authorized warehouse keeper, registered trader, authorized tax representative and importer of the consumer packaging (hereinafter “purchaser of tax stamp”).

(4) The tax stamp must include the identification number of the consumer packaging (hereinafter “identification number”) which expresses the registration purchase number for purchase of tax stamps (hereinafter “registration purchase number”), the amount of spirit and the volume concentration of spirit in the consumer packaging. The tax stamp may include also other graphical elements and data, unless they prevent from identification of elements and data stated in this act and in generally binding legal regulation issued under Paragraph 38.

(5) For marking of the consumer packaging may be used only the tax stamp which identification number corresponds with the amount of the consumer packaging, the volume concentration of spirit in the

¹⁶⁾ For example Article 4 Paragraph 2 of Act No. 529/2002 Coll. on Packages and on amendment of certain acts as amended, Decree of the Ministry of Agriculture of the Slovak Republic and of the Ministry of Health of the Slovak Republic No. 2745/2002-100 issuing chapter of Food Codex of the Slovak Republic amending the marking of foodstuffs (Notification No. 634/2002 Coll.), Article 21 Paragraph 2 of Act No. 142/2000 Coll. on metrology and on amendment of come acts, Decree of the Institute for Normalisation, Metrology and Testing of the Slovak Republic No. 207/2000 Coll. on marked consumer packaging as amended by Decree No. 420/2001 Coll.

consumer packaging and with the purchaser of tax stamp which released the consumer packaging in the tax free circulation.

(6) The tax stamp shall be pasted on the consumer packaging through a place intended for opening so that the tax stamp will break, when opening the consumer packaging. It must not be able to unglue the tax stamp without breaking or other visible damage. If the place intended for opening of the consumer packaging is covered by a translucent foil, the tax stamp must be pasted under this foil.

(7) The consumer packaging marked with broken tax stamp, forgery of tax stamp or with tax stamp which does not comply with this act and with generally binding legal regulation issued under Paragraph 38 and the consumer packaging without any tax stamp or with marking which does not comply with this act and with generally binding legal regulation issued under Paragraph 38 is considered to be unmarked for the purposes of this act. As an unmarked consumer packaging is considered also each consumer packaging with broken tax stamp, which exceeds one open piece of one assortment of the consumer packaging with broken tax stamp, when being sold from the consumer packaging for direct human consumption on the spot, including warehouse and other special-purpose premises.

(8) Sale of unmarked consumer packaging in the tax territory is forbidden with the exception of Paragraph 34.

(9) A legal person or natural person which has authorization for printing of tax stamps issued by the Customs Directorate (hereinafter "printing works") with the exception under Article 51 Paragraph 32 is entitled to work out tax stamps. The authorization for printing of tax stamps may be issued only to a legal person or natural person which

a) has registered office or permanent residence in the tax territory and which comply with the following conditions:

1. it has technical equipment for printing of documents protected against forgery, changing and other misuse,
2. it has an implemented regime system of production, storage, manipulation and recording of material and products under a special regulation,
3. it protects its production premises and warehouses by means of installed mechanical and electronic protection systems,
4. it arranges work out and application of protection elements of documents against forgery, changing and other misuse via special techniques, technologies and security materials,
5. it keeps records of inventories of duty stamp paper for work out of tax stamps and keeps records of tax stamps worked out,
6. neither the customs office nor the tax authority have receivables after pay date towards this legal person or natural person,
7. it is not personnel-linked or property-linked with the purchaser of tax stamps,
8. has no unpaid amounts in compulsory insurance levies under a special regulation,¹⁷⁾
9. is not in liquidation, nor is subject to a lawfully announced bankruptcy, permitted composition or confirmed compulsory composition,
10. keeps accounts under a special regulation¹⁸⁾ or,

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.

¹⁸⁾ Act No. 431/2002 Coll. on Accounting as amended by Act No. 562/2003 Coll.

b) has registered office or permanent residence in another Member State, if it has an authorization for printing of stamps issued by the relevant authority of the Member State where it has its registered office or permanent residence.

(10) A legal person or natural person that wants to acquire the authorization for printing of tax stamps will ask the Customs Directorate in written form for issuing of the authorization for printing of tax stamps. The application must include the identification data of the applicant, the tax identification number of the applicant or a similar identification data of the applicant for tax purposes in other Member State. The applicant is obliged to prove fulfilment of conditions

a) under Paragraph 9 letter a), if the applicant's registered office or permanent residence is in the tax territory,

b) under Paragraph 9 letter b), if the applicant's registered office or permanent residence is in another Member State.

(11) Before distribution of tax stamps, the printing works is obliged to submit the Customs Directorate a specimen printout of tax stamp (specimen) worked out under generally binding legal regulation issued under Paragraph 38. The printing works is obliged to submit the specimen printout of tax stamp (specimen) before each change of elements and data of the tax stamp.

(12) The authorized warehouse keeper, registered trader and authorized tax representative which wants to release the consumer packaging in tax free circulation in the tax territory is obliged to ask the Customs Directorate in a written form for assignment of a registration purchase number. It is obliged to attach to the application an authorization for the operation of a tax warehouse under Article 23, if it is a authorized warehouse keeper, an authorization to receive spirit from another Member State under tax suspension under Article 27, if it is a registered trader, or certificate of registration under Article 28, if it is an authorized tax representative.

(13) A legal person or natural person not stated in Paragraph 12 which, within its commercial activities, wants to import the consumer packaging from the territory of third countries or to release it in tax free circulation in the tax territory (hereinafter "importer of consumer packaging") is obliged to ask the customs office in written form for filing in a register of importers of consumer packaging. The application for filing in the register must include

a) the identification data of the applicant,

b) the tax identification number,

c) the authorization for import, if required by a special regulation¹⁹⁾,

d) the trade name of the imported spirit, country of origin of spirit and the estimated annual amount of the imported spirit in hl a.

(14) The importer of the consumer packaging is obliged after filing in the register of importers of consumer packaging at the customs office to ask the Customs Directorate in written form for assignment of the registration purchase number. The application for assignment of the registration purchase number must include

a) the identification data of the applicant,

b) the certificate of the customs office on filing the applicant in the register of importers of consumer packaging.

¹⁹⁾ Decree of the Ministry of Economy of the Slovak Republic No. 15/1998 Coll. on conditions for granting official permit to import and export goods and services as amended.

(15) After assignment of the registration purchase number, the purchaser of tax stamps

- a) will conclude written agreement on work out of tax stamps with the printing works and will submit a copy of the agreement to the customs office no later than 15 days; this shall apply also in case of amendments to valid the agreement,
- b) will apply at the customs office for issuing of the exemption certificate for tax stamps (“hereinafter “certificate”); the application for issuing of the certificate must include
 - 1. the identification data of the applicant,
 - 2. the registration purchase number of the applicant,
 - 3. the number of ordered pieces of tax stamps according to amount and volume concentration of spirit in the consumer packaging,
- c) will send to the customs office, no later than with submitting of the application for issuing of the first certificate, a list of spirit released in tax free circulation, where he shall state the trade name of the consumer packaging, amount of spirit and volume concentration in the consumer packaging, country of origin of the spirit and the identification data of the foreign supplier of spirit, where tax stamps will be pasted, if it is not a producer of spirit in the tax territory; if tax stamps will be pasted in the customs warehouse, he shall state the identification data of the foreign producer of spirit, the identification data of a legal person or natural person responsible for spirit held in the customs warehouse and address of location of the customs warehouse.

(16) The purchaser of tax stamps is obliged to inform the customs office about change in data in the application for issuing of certificate or complementing of its data no later than on the day of spirit release in tax free circulation.

(17) Before issuing of the certificate the importer of consumer packaging and the authorized tax representative is obliged to deposit tax guarantee under Article 24 Paragraph 5 letter a) in the amount of the tax for the amount of spirit which it wants to release in tax free circulation. Article 24 applies appropriately to the tax guarantee.

(18) The customs office will issue to the authorized warehouse keeper and to the registered trader after fulfilment of obligations under Paragraph 15 and to the authorized tax representative and to the importer of the consumer packaging after fulfilment of obligations under Paragraph 15 and 17, a certificate worked out in three parts marked with letters A, B and C, while the customs office will keep part C.

(19) The purchaser of tax stamps will submit the part A to printing works and will keep part B of the certificate where the printing works will certify a real number of tax stamps received by the purchaser. The purchaser of tax stamps may purchase tax stamps from the printing works only on the basis of the certificate issued by the customs office.

(20) Printing works will issue tax stamps to the purchaser of tax stamps after submitting of the certificate. It will deliver the amount of tax stamps of which complaint was accepted by the printing works to the customs office relevant for the registered office of the printing works. In case the printing works is located outside the tax territory, it will deliver the complaint tax stamps to the Customs Office Bratislava. The customs office will destroy such tax stamps and shall draw up an official record about their destroying in two copies. One copy shall be delivered to the printing works.

(21) Tax stamps may be used only by the purchaser of tax stamps and the purchaser of tax stamps may not sell or otherwise deliver such tax stamps to another legal person or natural person with the exception of delivery of tax stamps to the producer of spirit in the tax territory or to the foreign producer of spirit to be pasted on the consumer packaging which shall be released in tax free circulation in the tax territory.

(22) If the purchaser of tax stamps did not take over a part or the whole amount of ordered tax stamps 30 days after the agreed deadline for take over, the printing works will deliver tax stamps, which were not taken over, to the customs office relevant for the registered office of the printing works; if the printing works is outside the tax territory, it will deliver tax stamps, which were not taken over, to the Customs Office Bratislava. The customs office will destroy such tax stamps and draw up an official record about their destroying in two copies. One copy shall be delivered to the printing works.

(23) The purchaser of tax stamps will deliver damaged or otherwise unusable tax stamps to the customs office. The customs office will destroy such tax stamps and draw up an official record about their destroying in two copies. One copy shall be delivered to the purchaser of tax stamps.

(24) If damaged or otherwise unusable tax stamps are outside the tax territory, the purchaser of tax stamps is obliged to transport such tax stamps to the tax territory. Procedure under Paragraph 23 applies to destroying of tax stamps. In case of destroying tax stamps outside the tax territory as the result of an accident, incident, technological defect or by force majeure, the purchaser of tax stamps is obliged to prove such facts by certificate of the relevant authority of the state on the territory of which such facts occurred.

(25) The importer of the consumer packaging is obliged to let verify at customs office of exit the number

- a) of tax stamps exported to the territory of third country according to the identification number of the consumer packaging,
- b) of tax stamps imported back from the territory of third country according to the identification number of the consumer packaging,

(26) In case of import of the consumer packaging the importer of consumer packaging will state in a written customs declaration the number of pieces of consumer packaging according to the trade name of spirit, volume concentration of the spirit, the amount of consumer packaging and the amount of spirit in hl a., which the importer will submit for a look at the customs office during settlement of tax stamps together with verification referred to in Paragraph 25.

(27) The purchaser of tax stamps will perform settlement of purchase and use of taken over tax stamps with the customs office on a monthly basis and within the deadline for submission of a tax return with the exception of the importer of consumer packaging, who is obliged to perform settlement of tax stamps used for declared imported amount of spirit no later than 30 working days after the day of origination of tax liability.

(28) The purchaser of tax stamps will perform settlement of the number of tax stamps according to the identification number. During performance of the settlement

- a) he will submit part B of the certificate certified by printing works,
- b) he will state the number of tax stamps inputted in the technological equipment used for their pasting on the consumer packaging,
- c) he will state the number of consumer packaging on which undamaged tax stamps were really pasted,
- d) he will state the number of tax stamps damaged during their pasting on the consumer packaging in the technological equipment,
- e) he will state the number of tax stamps not used,
- f) he will state the number of tax stamps destroyed and will submit an official record about destroying of tax stamps under Paragraph 23 and 24,
- g) he will state the number of tax stamps pasted on the consumer packaging released in tax free circulation,
- h) he will state the number of tax stamps pasted on the consumer packaging not released in tax free circulation,

i) he will state difference between tax stamps taken over and tax stamps under letters d) through h) and its justification.

(29) During performance of the settlement of tax stamps with the exception of data under Paragraph 28 the importer of consumer packaging will submit also verification of the relevant customs office of exit about the number tax stamps exported to the territory of third country and on the number of tax stamps imported back to the tax territory under Paragraph 25.

(30) The customs office keeps records on certificates issued and on tax stamps settled according to purchasers of tax stamps.

(31) The purchaser of tax stamps may ask for cancellation of the registration purchase number for purchase of tax stamps, if reasons based on which it was issued expired.

(32) The Customs Directorate will cancel the registration purchase number for purchase of tax stamps, if

- a) the purchaser of tax stamps does not take over a part or the whole number of ordered tax stamps no later than 30 days after the deadline for take over agreed with printing works, while reasons for not taking over tax stamps are on the purchaser's side,
- b) the importer of the consumer packaging does not perform the import within six months since its assignment or since the day of performance of the last import of spirit,
- c) reasons based on which the registration purchase number was issued expired.

(33) The Customs Directorate will cancel the registration purchase number under Paragraph 31 and 32 first after final settlement of the purchase and use of tax stamps by the purchaser of tax stamps; it shall immediately inform printing works about the cancellation of the registration purchase number.

(34) The obligation to mark consumer packaging under Paragraph 3 does not apply to spirit which is

- a) produced for a grower in fruit grower's distilleries,
- b) goods falling within the CN code 2207, if it is provably taxed and being sold in another packaging than in the consumer packaging under Paragraph 1 for other purposes than for direct human consumption, for example for scientific purposes or research purposes,
- c) exempt from tax under Article 7,
- d) exported to the territory of third countries,
- e) imported to another Member States,
- f) intended for sale at a price without tax in the transit area of international airports to natural persons if they immediately leave from the tax territory to the territory of third countries,
- g) in the consumer packaging with face amount of not more than 0.05 litre.

(35) Without authorization of the customs office it is forbidden to sell the consumer packaging at a price lower than a sum of tax corresponding with the amount and the volume concentration of spirit in the consumer packaging and the amount of SKK 25 per one litre of spirits increased for the added value tax relating to such sum; this does not apply to sale under tax suspension.

(36) A legal person or natural person which wants to sell the consumer packaging at a lower price than the price under Paragraph 35 will submit the customs office an application for authorization for sale, where it will state the amount of the consumer packaging, which it wants to sell for a such price and reasons. It shall enclose a document on acquisition of spirit provably taxed under Article 15 Paragraph 5 to the application. The customs office will verify data in the application and in the annex and if the applicant proved reasons for sale of the consumer packaging for a such price it may issue the authorization for sale.

(37) The Customs Directorate shall withdraw the authorization for printing of tax stamps to printing works which does not comply with conditions under which the authorization was issued under Paragraph 9 or which does not observe obligations stated in this act.

(38) Details on work out of tax stamps and on graphical elements and data on tax stamp shall be stated by a generally binding legal regulation issued by the ministry.

Article 11

User enterprise

(1) For the purposes of this act, user enterprise shall mean a legal person or natural person entitled to use spirit exempt from tax under Article 7 Paragraph 1. The legal person or natural person which wishes to use such spirit must ask the customs office in written form to issue a tax exemption certificate for receipt of spirit exempt from tax (hereinafter „exemption certificate“).

(2) The application for the issuing of an exemption certificate must include

- a) identification data of the applicant and addresses 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 spirit exempt from tax and the appropriate CN code,
- d) the purpose of use of spirit exempt from tax under Article 7 Paragraph 1, the estimated amount of annual consumption of spirit exempt from tax in hl a.,
- e) identification data of the supplier of spirit exempt from tax.

(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, if the spirit exempt from tax is being received by a legal person which is not established or founded for enterprise purposes
- b) in case of import of spirit, a certified copy of authorization for import if it is required by a special regulation;¹⁹⁾ in the case of import of spirit for medical or pharmaceutical purposes an affirmative statement of the Ministry of Health of the Slovak Republic,
- c) technological documentation of the place of use and of the place of the holding of spirit exempt from tax, description of the place of use and of the place of the holding of spirit and description of the manner of securing it against unauthorised use, while spirit must be held in certified tanks²⁰⁾ with certified measures for establishing of spirit inventories, if the applicant has storage facility,
- d) technological documentation of facility where spirit exempt from tax is to be used,
- e) technological description of use of spirit exempt from tax, standards of spirit consumption for single purposes of use according to approved formulas or other documents stating the consumption of spirit exempt from tax, if spirit is to be used as a raw material or auxiliary material in the technological process, list of products for production of which the spirit exempt from tax under Article 7 Paragraph 1 shall be used and declaration on creating of conditions for presence of a tax administrator in the user enterprise which uses the spirit for purposes exempt from tax under Article 7 Paragraph 1 letter a).

(4) The applicant must comply with the following conditions:

- a) keeps accounts under a special regulation,¹⁸⁾
- b) has deposited tax guarantee for transported spirit exempt from tax; if the applicant is going to use spirit which is not denatured for the purposes exempted from tax, the applicant is obliged to deposit the tax

²⁰⁾ Annex No. 48 to Decree of the Institute for Normalisation, Metrology and Testing of the Slovak Republic No. 210/2000 Coll. as amended.

guarantee in the amount of tax for average monthly amount of such spirit, which the applicant uses or which the applicant assumes to use,

- c) neither the customs office nor the tax authority have receivables after pay date towards it,,
- d) neither the customs office nor the tax authority 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,²¹⁾
- e) has no unpaid amounts in compulsory insurance levies under special regulations,¹⁷⁾
- f) 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,
- g) is not in liquidation, nor is subject to a lawfully announced bankruptcy, permitted composition or confirmed compulsory composition.

(5) Before issuing of the exemption certificate the customs office shall verify with the applicant facts and data stated in the application and in annexes, shall verify credibility of standard of spirit consumption in the technological process, if the spirit is to be used as a raw materials or as auxiliary material and it shall require opinion of the Customs Directorate in respect to the application submitted. If facts and data given in the application and in annexes are true and the applicant meets conditions under Paragraph 4, the customs office shall issue for the applicant the exemption certificate no later than 60 days after the day of the submission of the application for issuing of the exemption certificate. If facts and data stated in the application and in annexes are not true and the applicant does not prove fulfilment of all conditions under Paragraph 4 within this period, the customs office shall invite the applicant to remove the aforesaid shortcomings and it shall issue the exemption certificate to it no later than 15 days after the removal of shortcomings.

(6) 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 tax identification number of the applicant if it contains the birth identification number of the applicant, state the validity period of the exemption certificate not longer than one year and the permitted amount of receipt of spirit exempt from tax for a validity period of the certificate. Each exemption certificate shall be issued in three copies, the customs office keeping one and submitting the other two copies to the user enterprise, which shall keep one and submit the other to its supplier stated in the exemption certificate.

(7) The user enterprise is obliged to submit to the supplier the exemption certificate no later than at the first receipt of spirit exempt from tax in the tax territory or to the customs office, if the user enterprise proceeds as an registered trader during transport of spirit from another Member State under tax suspension for purposes exempted from duty.

(8) The user enterprise which wants to use also taxed spirit is obliged to inform the customs office in written form of this fact in advance; the user enterprise is obliged to keep separate records on purchase and use of the taxed spirit. The user enterprise is obliged to arrange separate holding of spirit exempt from tax in premises which must be separated.

(9) 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

²¹⁾ Article 459a of Act No. 238/2001 Coll. as amended by Act No. 464/2003 Coll.

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

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 2 have changed. In the case of a change in the purpose of use [Paragraph 2 letter d)], the user enterprise can use spirit exempt from tax for the purposes it announced only after the customs office has supplemented the original exemption certificate or issued a new exemption certificate.

(10) The user enterprise is obliged to store spirit exempt from tax without undue delay after its receipt in the place of storage stated in the attachment of the application under Paragraph 2 and to use it only for the purposes stated in this exemption certificate.

(11) 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 spirit exempt from tax,
- c) the trade name of spirit exempt from tax and the appropriate CN code and place of holding of spirit exempt from tax,
- d) the purpose of the use of spirit exempt from tax under Article 7 Paragraph 1 and the estimated amount of annual consumption in h. a.

(12) The customs office shall withdraw the exemption certificate, if

- a) spirit exempt from tax was repeatedly used for other purposes than the those stated in the exemption certificate,
- b) the user enterprise has ceased to meet the conditions stated in Paragraph 4,
- c) the exemption certificate was not used for a purchase of spirit exempt from tax within 12 consecutive calendar months since its date of issue,
- d) registration was performed and authorization issued operation of a tax warehouse,
- e) the user enterprise has submitted an application for deletion from the Commercial Register or a similar register, or it submitted an application 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 if the decision of a court of act on pronouncing this natural person dead has come into effect,
- g) the user enterprise has applied for a withdrawal of the exemption certificate.

(13) Article 23 Paragraph 10 and Paragraph 11 apply equally to the withdrawal of the exemption certificate under Paragraph 12. The customs office shall announce the withdrawal of the exemption certificate

no later than three working days after the day of its withdrawal to the supplier of spirit exempt from tax stated in the exemption certificate.

(14) In the case of receipt of spirit for the purposes exempt from tax from another Member State or from territory of third country through the territory of the union, the user enterprise proceeds under Article 27 adequately.

(15) The customs office is obliged to arrange presence of its employee in the user enterprise which uses spirit for the purposes exempt from tax pursuant to Article 7 Paragraph 1 letter a). Such user enterprise is obliged to tolerate the presence of the employee of the customs office

(16) If the user enterprise terminates its activity and has inventories of spirit exempt from tax, which it cannot use for the purposes stated in the exemption certificate any more, with the approval of the customs office the spirit exempt from tax can be supplied to a legal person or natural person which has an exemption certificate for the receipt of such spirit or to a tax warehouse; in such case Article 25 applies appropriately and 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 spirit exempt from tax.

Article 12 **Origination of tax liability**

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

- a) submitting spirit to a legal person or natural person, which is not entitled to receive spirit under tax suspension, or on the day of exempting spirit from tax suspension in another manner than that stated in letters b) through e),
- b) own consumption of spirit in the tax warehouse,
- c) receiving spirit transported to the tax territory under tax suspension by the registered trader or authorized tax representative,
- d) establishing the stealing of spirit under tax suspension or of spirit exempt from tax,
- e) establishing missing spirit,
 1. under tax suspension with the exception of spirit stated in Article 7 Paragraph 2 letter e) and f),
 2. exempt from tax with the exception of the amount of spirit related to production losses, manipulation losses, transport losses and natural decrements, if these amounts accepted by the customs office, while such accepted losses may not be higher than standards of spirit losses determined by a generally binding legal regulation issued under a special act,⁸⁾ as well as of the amount of irrecoverably destroyed spirit 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 and verification,
- f) producing spirit 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 spirit into the customs regime free circulation, 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 spirit 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 spirit 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 13 **Tax debtor**

(1) Unless this act states otherwise, tax debtor is a legal person or natural person,

- a) which submitted spirit to a legal person or natural person which is not entitled to receive spirit under tax suspension or spirit 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 use of spirit for own consumption took place,

- c) which is an entitled consignee or authorized tax representative and has accepted spirit transported into the tax territory under tax suspension,
- d) which has kept spirit under tax suspension or exempt from tax and this was stolen from it; if a tax guarantee was deposited on such spirit, the tax debtor is the legal person or natural person which deposited this tax guarantee,
- e) which keeps spirit and the spirit has been established missing
 - 1. under tax suspension with the exception of the amount of spirit under Article 7 Paragraph 2 letter e) and f),
 - 2. exempt from tax with the exception of an amount of spirit related to production losses, manipulation losses, transport losses and natural decrements, if these amounts are technologically justified and accepted by the customs office, while such accepted losses may not be higher than standards of spirit losses determined by a generally binding legal regulation issued under a special act,⁸⁾ as well as the amount of irrecoverably destroyed spirit 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 and verification; if tax guarantee was deposited to the spirit exempt from tax, the tax debtor is a legal person or natural person which deposited this tax guarantee,
- f) which produced the spirit outside the tax suspension,
- g) to whose account was submitted a customs declaration, in case of import, on releasing spirit 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 12 Paragraph 2 is a legal person or natural person which

- a) cannot prove the origin and manner of acquisition of the spirit it holds,
- b) submitted for use or used spirit exempt from tax for a purpose other than the stated purpose.

(3) If the spirit, the owner of which has become the state under a special regulation,¹¹⁾ was released in tax free circulation by the customs office, the tax debtor is a legal person or natural person which acquired or used such spirit.

Article 14

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 spirit 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 49 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 12 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 spirit in hl a. 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 spirit in hl a. and from the spirit stated in letter a) which was released under tax suspension, exempt from tax, and the amount of spirit from which tax is reimbursed,
 - c) the difference between the amount of spirit under letter a) and the amount of spirit under letter b),
 - d) the resulting tax related to the amount of spirit in hl a. under letter c).

(6) The tax debtor with the exception under Paragraph 5 states in the tax return the amount of spirit from which the tax liability resulted, divided according to the subject of duty and tax rated stated in the sample of the tax return and the tax related to this amount.

(7) Tax debtor is obliged to calculate the tax itself; if the tax liability originates under Article 12 Paragraph 1 letters g) and h) the tax duty shall be calculated by the customs office. The tax is rounded up to whole Slovak crowns.

(8) If 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 and incompleteness of tax return, stating the period to which the additional tax return is related and to 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 it shall proceed according to Article 15.

Article 15

Tax reimbursement

- (1) The tax from provably taxed spirit in the tax territory can be reimbursed to
- a) the authorized warehouse keeper if the it received such spirit or has spirit taxed under this act; in case of take over of the consumer packaging marked with tax stamp, it shall enclose an official record about destroying of tax stamps to the tax reimbursement application,
 - b) the user enterprise if it received such spirit for the purposes exempt from tax or has spirit taxed under this act and it has the use of such spirit stated in the exemption certificate.

(2) The tax from provably taxed spirit in the tax territory can be reimbursed to a legal person or natural person if its commercial activities with such spirit 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
 1. copy 3 of the simplified accompanying document certified by the consignee (purchaser) of the spirit,
 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 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 third country and if it proved the export with standard customs document confirming that the spirit has left the territory of the union; upon request of the customs office the export of spirit must be proved also by another document, especially by a document on transport of spirit to the territory of third country or by a document of payment.

(3) The tax may be reimbursed to the authorized warehouse keeper under a special regulation,²²⁾ which used provably taxed spirit for the production of intermediate product, if such intermediate product was supplied outside the tax territory or if it was supplied for purposes exempt from tax pursuant to a special regulation.²²⁾

(4) Supplying spirit for commercial purposes under Paragraph 2 letter a) also includes the supplying of provably taxed spirit to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.

(5) For the purposes of this act, provably taxed spirit is such spirit 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 spirit, 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.

(6) 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 spirit 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 spirit,
- b) by the tax debtor to its own detriment,
- c) by the customs office to the detriment of the tax debtor.

(7) The tax reimbursement shall be claimed

- a) by the authorized warehouse keeper in the tax return (Article 14 Paragraph 2) or in the additional tax return (Article 14 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 generally binding legal regulation issued under Article 49 Paragraph 3.

(8) 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.

(9) If a legal person or natural person stated in Paragraph 7 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

²²⁾ Act No. 104/2004 Coll. on the Excise duty on Wine as amended.

amount of the tax that should be reimbursed and shall pay this tax before the deadline under Article 14, 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 of the reimbursement application is related; tax cannot be reimbursed on the basis of an additional tax reimbursement application submitted after the deadline.

(10) 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, or after the day of the submission of the 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 16

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 treaty²³⁾ (hereinafter „foreign representative“), from provably taxed spirit (Article 15 Paragraph 5) 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 treaty²³⁾
- 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.

²³⁾ 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.

(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 if they enjoy privileges and immunities under an international treaty²³) (hereinafter „Slovak representative“), in the scope under Paragraphs 6 through 11.

(4) If another state does not reimburse tax or does not 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 only 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 spirit up to the amount of SKK 200 000 per calendar year.

(6) The foreign representative stated in Paragraph 2 letter b) shall be reimbursed tax paid in the price of spirit up to the amount of SKK 100 000 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 spirit used for personal consumption per calendar year up to the amount of for

- a) head of mission SKK 20 000,
- b) head of consular office SKK 20 000,
- c) member of diplomatic personnel SKK 15 000,
- d) member of administrative and technological personnel SKK 10 000.

(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 spirit used for personal consumption per calendar year up to the amount of for

- a) head of mission SKK 10 000,
- b) head of consular office SKK 10 000,
- c) member of diplomatic personnel SKK 7 000,
- d) member of administrative and technological personnel SKK 5 000.

(9) The foreign representative stated in Paragraph 2 letter g) shall be reimbursed tax paid in the price of spirit used for personal consumption up to the amount of SKK 10 000 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 spirit in the tax territory and a document proving the payment of the tax in the price of spirit (Article 15 Paragraph 5). The amount and volume concentration of the acquired spirit must be obvious from the document. 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, amount of spirit, volume and volume concentration of spirit,
- 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 spirit 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 15 Paragraph 9 letter a) are applied; the provisions of a special regulation²⁴⁾ 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 spirit, otherwise the possibility of tax reimbursement expires.

Article 17

Tax suspension arrangements, tax warehouse

(1) Tax suspension applies to spirit

- a) held in a tax warehouse,
- b) transported under conditions stated in Article 25 and 26, or
- c) that has become state property under a special regulation¹⁾ with the exception of provably taxed spirit.

(2) A tax warehouse can only be an enterprise for the production spirit (Article 18 Paragraph 1 and 2) or a spirit warehouse (Article 22 Paragraph 1 and 2) located in the tax territory. Tax warehouse is also an enterprise for the production of spirit or spirit warehouse located in the territory of another Member State whose operation is permitted under the legislation of the given Member State.

(3) A tax warehouse can also be a part of an enterprise for the production of spirit or a part of a spirit warehouse with the exception of independent spirit warehouse²⁵⁾, which is not Administration of State Tangible Reserves²⁶⁾.

(4) In the tax warehouse, production equipment and equipment for the processing and holding of spirit must be adjusted so that the customs office may anytime examine the amount of the produced and processed spirit, spirit held, spirit inventories and the alcoholic strength in it and in order to can hold single types of spirit separately.

(5) Receiving and releasing of the spirit in the tax warehouse is possible only with the presence of an employee of the customs office employee. The customs office is obliged to secure a permanent presence of the employee of the customs office in the tax warehouse. The authorized warehouse keeper is obliged to tolerate the presence of the employee of the customs office in the tax warehouse.

²⁴⁾ Article 35b of Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

²⁵⁾ Article 2 Paragraph 3 letter i) of Act No. 467/2002 Coll.

²⁶⁾ Act of the National Council of the Slovak Republic No. 82/1994 Coll. On state tangible reserves as amended.

- (6) In the production, processing and use of the spirit, it is forbidden to
- a) mix together spirit of agricultural origin with sulphite spirit, synthetic spirit and denatured alcohol,
 - b) use synthetic spirit, sulphite spirit and raw spirit for the production of spirits, foodstuffs or medicines and other products serving health protection and support,
 - c) use denatured alcohol for the production of spirits, foodstuffs or medicines and other products serving health protection and support containing spirit; this does not apply if the spirit is denatured by vinegar for the production of ferment vinegar and spirit especially denatured for the production of medicines and other products serving health protection and support under a generally binding legal regulation issued by the ministry under Article 8 Paragraph 2.
- (7) It is forbidden to release in tax free circulation the spirit
- a) labelled in a misleading manner or marked in the manner causing danger of confusion,
 - b) devaluated and spirit of unknown origin.
- (8) Synthetic spirit and sulphite spirit produced in the tax territory, supplied to the tax territory from another Member State or transported to the tax territory from the territory of third country and intended for industrial processing may be released in tax free circulation only denatured.
- (9) Fruit grower's distillery is not a tax warehouse.
- (10) A tax warehouse can only hold spirit under tax suspension.

Article 18

Enterprise for the production of spirit

- (1) For the purposes of this act, an enterprise for the production of spirit is distillery²⁷⁾ situated in the tax territory where commercial activities include production, processing, holding, receiving or dispatching of spirit. In the enterprise for the production of spirit, the whole produced amount of spirit is registered by drum meters for alcohol²⁸⁾ (hereinafter "control spirit measure"). The production equipment and control spirit measure must be secured by seals of the customs office.
- (2) For the purposes of this act, an enterprise for the production of spirit is also an enterprise not stated in Paragraph 1,
- a) which acquires spirit via regeneration (distillation or rectification) from spirit wastes arisen by the production for which pure or denatured alcohol was used as a raw material, ingredient or auxiliary substance,
 - b) which is an yeast establishment where the spirit is a collateral product of yeast production.
- (3) Enterprises for the production of spirit under Paragraph 1 and 2 must have a separate spirit warehouse,²⁵⁾ where produced, processed or purchased spirit is stored in certified tanks²⁰⁾ with certified measures for establishing of spirit inventories.
- (4) A legal person or natural person which wants to operate an enterprise for the production of spirit must have an authorization for the operation of a tax warehouse. The above-mentioned does not apply to fruit grower's distillery.

²⁷⁾ Act No. 467/2002 Coll.

²⁸⁾ Annex No. 24 to Decree of the Institute for Normalisation, Metrology and Testing of the Slovak Republic No. 210/2000 Coll. as amended.

Article 19
Grower distillation of fruit

(1) A legal person or natural person which wants to operate a fruit grower's distillery must ask the customs office in written form for registration. The application for registration must include

- a) identification data of the applicant and the addresses 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,

(2) Annexes to application shall be

- a) an authorization for the production of spirit in the fruit grower's distillery issued under a special regulation,²⁷⁾
- b) 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,
- c) technological documentation and sketch of production equipment in the fruit grower's distillery with marking of places to which the customs office attached seals, technological documentation of control spirit measure for measuring the volume of spirit produced, temperature of the spirit and a document on official verification of such equipment,
- d) confirmation of the tax authority on meeting the conditions stated in Paragraph 3 letter a) and d) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 3 letter c).

(3) The applicant must meet these conditions:

- a) neither the customs office nor the tax authority have receivables after pay date towards it,
- b) 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,²¹⁾
- c) has no unpaid amounts in compulsory insurance levies under special regulations¹⁷⁾,
- 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.

(4) Before the registration, the customs office shall verify with the applicant the facts and data under Paragraph 1 and 2 and shall compare the factual state of the production equipment with technological documentation and with sketch of the production equipment submitted in the annex; if the facts and data stated in the application and in annexes are true and the applicant meets conditions under Paragraph 3, the customs office shall assign the applicant a registration number and shall issue a certificate of registration no later than 30 days after the day of the submission of the application for registering. If the facts and data stated in the application and in annexes are not true or if the applicant does not prove fulfilment of all conditions stated in Paragraph 3 within this period, the customs office shall invite the applicant to remove the mentioned shortcomings, and it shall assign the applicant a registration number and shall issue the certificate of registration no later than 15 days after the day of the shortcomings removal.

(5) To spirit produced in the fruit grower's distillery shall be used the decreased tax rate under conditions stated in this act.

(6) The authorized keeper of the fruit grower's distillery shall notify the customs office of

- a) the start, stoppage and an the estimated end of the production of spirit no later than 15 days in advance,
- b) interruption of the production of spirit due to unpredictable reasons immediately,
- c) the production of spirit production for grower three days before the agreed day of the production of spirit.

(7) If the day the production of spirit for the grower changed the authorized keeper shall immediately notify the customs office of such change.

(8) The authorized keeper of fruit grower's distillery is obliged to keep records of growers to which it produced spirit with stating

- a) the amount and type of the received ferment²⁹⁾ in litres processing of which the grower required,
- b) the amount of spirit in l a. produced for the grower and the day of its production,
- c) the amount of spirit in l a. taken over by the grower and the day of its take over,
- d) the amount of tax paid by the grower to the authorized keeper of the fruit grower's distillery.

(9) The authorized keeper of fruit grower's distillery is obliged to submit the local customs office relevant according to the permanent residence of the grower a copy of an application for the production of distillate 30) signed by the grower no later than 10 days after the day of take over of the distillate produced by the grower; annex to the application must be a confirmation of the authorized keeper of fruit grower's distillery where it shall state the amount of distillate in l a. produced for the grower and taken over by the grower, and registered office of the fruit grower's distillery where it produced the spirit.

(10) The tax debtor is the authorized keeper of fruit grower's distillery. When calculation the amount of tax the tax debtor is obliged to use an appropriate tax rate according to the amount of spirit in l a. produced for the grower and taken over by the grower, while it shall take into account the amount of spirit distilled so far, which the grower stated in the application for the production of distillate.³⁰⁾

(11) The authorized keeper of fruit grower's distillery is obliged to submit a tax return to the customs office and to pay tax no later than on the 25th day of the calendar month following the months in which the tax liability originated to the operator. Provisions of Article 14 apply appropriately to the tax return. An annex to tax return is a list of growers with stating of the amount of spirit in l a. produced for single growers and the amount of spirit in l a. which was really taken over by single growers and with stating the day of the production of spirit.

(12) The authorized keeper of fruit grower's distillery collects tax from the grower when delivery of the spirit.

(13) If the customs office relevant for the grower establishes on the basis of the data in the application for the production of distillate and in the annex under Paragraph 9 which it became from the authorized keeper of fruit grower's distillery that more than 30 l a. were produced for a grower and his household for one production period, it shall invite the customs office in the registered office of the fruit grower's distillery, which exceeded the limit, to perform control of correct taxation of the spirit.

(14) Spirit produced in the fruit grower's distillery must not be subject of further sale neither of other distribution into the market.

²⁹⁾ Article 2 Paragraph 1 of decree of the Ministry of Agriculture of the Slovak Republic No. 653/2002 Coll.

³⁰⁾ Article 4 of decree of the Ministry of Agriculture of the Slovak Republic No. 653/2002 Coll.

(15) The customs office shall withdraw the certificate of registration to the authorized keeper of fruit grower's distillery, if

- a) it no longer meets conditions stated in Paragraph 3,
- b) provable infringement in organisation of the production equipment occurred in the fruit grower's distillery,
- c) it holds or keeps spirit origin of which it cannot prove,
- d) it asked for termination of the registration of the fruit grower's distillery,
- e) the authorization for the production and processing of spirit in the distillery under a special regulation²⁷⁾ terminated or was withdrawn.

(16) The customs office may withdraw the certificate of registration, if the authorized warehouse keeper does not produce the spirit during period exceeding 12 consecutive calendar months, taking into account seriousness of reasons.

Article 20

Production equipment in the enterprise for the production of spirit, its protection and organisation

(1) A legal person or natural person which produces spirit may use only such production equipment which secures reliable establishing of the amount of spirit produced.

(2) Production equipment in enterprises for the production of spirit must be secured with seals of the customs office and all spirit produced must be registered by control spirit measure with the exception of the yeast establishment.

(3) Seals of the entire area must be used everywhere, where technical problems with securing of the production equipment occur, for example production plants of synthetic spirit. The seal of the entire area shall mean locking of all possible places of access in the tax warehouse by the customs office and by the authorized warehouse keeper, while unlocking is possible only at the presence of the customs office and the authorized keeper.

(4) The production equipment of distillery cannot be used for other purposes during the operation.

(5) Damage or removal of seals placed by the customs office and infringement in the organisation of the production equipment is forbidden.

(6) Details on requirements on the production equipment in enterprises for spirit production, on manners of the organisation of the production equipment and on manners of securing it by the customs office shall be determined by a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4.

Article 21

Measuring and determination of the amount of spirit produced and establishing of spirit inventories

(1) The authorized keeper of an enterprise for spirit production is obliged

- a) to measure the entire amount of the spirit produced with control spirit measures,²⁸⁾ which type is approved and certified under a special regulation,³¹⁾

³¹⁾ Act No. 142/2000 Coll.

- b) in case of breakdown of the control spirit measure, to take samples of the spirit produced in certified tanks²⁰⁾ secured by the tax administrator,
- c) to determine temperature of the spirit flowing through the control spirit measure,
- d) during measuring of the spirit, to observe conditions enabling proper operation of the control spirit measure and reliable establishing of the amount of the spirit produced.

(2) For the measuring of the spirit only such control spirit measure may be used which is secured with certification signs of a metrological authority and with seals of the customs office. The use of the control spirit measures, manner of securing control spirit measures or of certified tanks²⁰⁾ by the customs office in case of breakdown of the control spirit measure [Paragraph 1 letter b)] shall be determined by a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4.

(3) The customs office performs control and adjustment of the control spirit measure and establishes and calculates the amount of the spirit produced in enterprises for the production of spirit in a manner and in deadlines according to a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4.

(4) If the control spirit measure does not meet requirements under a special regulation,²⁸⁾ the customs office shall secure it so that it may not be used.

(5) If during testing of correctness of the control spirit measure under a special regulation²⁸⁾ a deviation exceeding double of the highest allowed error of the control spirit measure is detected or if a regular certification of the control spirit measure under a special regulation²⁸⁾ does not take place, the customs office shall put the control spirit measure out of service.

(6) In case of detecting the deviation under Paragraph 5 in a range from the highest allowed error of the control spirit measure during certification up to a double of the highest allowed error of the control spirit measure during the certification, the correction of the amount of the produced spirit calculated according to the amount measured by the control spirit measure shall take place since the day of establishing the deviation until the day of carrying out of the certification of the control spirit measure. Lower deviations than the highest allowed error of the control spirit measure during certification, including, shall not be taken into account.

(7) The customs office establishes inventories of the spirit in enterprises for spirit production, in spirit warehouses, in user enterprises and at registered traders by a manner and within deadlines under a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4.

Article 22

Spirit warehouse

(1) For purposes of this act, a spirit warehouse is a distillery²⁷⁾ situated in the tax territory where commercial activities include receiving, processing, denaturation, holding or dispatching of spirit produced in the enterprise for the production of spirit, unless this act states otherwise.

(2) The spirit warehouse under Paragraph 1 is

- a) spirits production plant,²⁷⁾ where spirit is being processed to spirits,
- b) homogenisation station,²⁷⁾
- c) denaturation plant,²⁷⁾ where spirit is being denatured under this act,
- d) bottling plant.²⁷⁾

(3) The spirit warehouse is also an enterprise the authorized keeper of which is a legal person which under the act is not established or founded for commercial purposes, but it stores spirit of a special purpose the owner of which is the state.²⁶⁾

(4) All spirit warehouses under Paragraph 2 must also have an independent spirit warehouse under a special regulation,²⁵⁾ where spirit produced, processed or purchased is stored in certified tanks²⁰⁾ with certified measures for establishing of inventories of spirit.

(5) The spirit warehouse under Paragraph 2 and 3 where spirit under tax suspension is to be received, processed, denatured, held and dispatched, must

- a) have holding, mixing and transport tanks officially certified²⁰⁾ with certified measuring device which enable reliable establishment of the amount of spirit at receiving and at distributing of the spirit, the amount of spirit held, the amount of spirit processed and the amount of spirit transported,
- b) be sufficiently secured against unauthorised use of spirit.

(6) In the spirit warehouse, all rooms where spirit is placed must be secured with an official seal of the customs office so that entry into the room or other infringement necessary for servicing of the equipment of the spirit warehouse after the operation is not possible without breaking the seal. Only the customs office which attached the seal is authorised to remove the seal before each start of the production.

(7) Details on requirements on the equipment for the holding of spirit and its organisation, on the equipment for dispatching and receiving of spirit shall be stated by a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4.

(8) A legal person or natural person which wants to operate a spirit warehouse under Paragraph 2 and 3 must have an authorization for the operation of a tax warehouse, and, if it is spirit warehouse under Paragraph 2 letter. c), it must also have an authorization for denaturation under Article 9.

Article 23 **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 addresses of the location of his operational units, if they are not the same as the registered office or the 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) the trade name and the appropriate CN code of the produced, processed, received, held and dispatched spirit,
- e) estimated annual volume of the production of spirit, holding of spirit and sale of spirit in hl. a, in the case of an enterprise for the production of spirit, or the estimated annual volume of the holding of spirit, processing of spirit and sale of spirit in hl. A., in the case of a spirit 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,
- b) an authorization for the production of spirit and for the processing of spirit in the distillery and an authorization for distribution of this spirit on the market under a special regulation²⁷⁾,

- c) technological documentation and sketch of the production equipment in the enterprise for the production of spirit with marking of places to which the customs office attached seals, description of the production and holding premises and equipment for processing and holding of spirit in the spirit warehouse with attached sketch and marking of location of seal of rooms, brief description of activity and description of tax warehouse, manner securing the spirit against unauthorised use, technological documentation and description of the control spirit measure for measuring of the amount of the spirit produced and of equipment for establishing of inventories of the spirit, temperature of spirit and document on official certification of such equipment, declaration on creating of conditions for permanent presence of a tax administrator,
- d) technological description of the production procedures with stating of list of processed raw materials, list of products to be produced, collateral products, or waste,
- e) 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,³²⁾ as well as the form of account keeping,
- f) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter c) and d) and confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter e),
- g) list of Member States to which the applicant expects to supply (dispatch) spirit 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,¹⁸⁾
- b) has deposited tax guarantee under Article 24,
- c) neither the customs office nor the tax authority have receivables after pay date towards the application,
- d) neither the customs office nor the tax authority have receivables after pay date towards a person personnel- linked or property-linked to the applicant, 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,²¹⁾
- e) has no unpaid amounts in compulsory insurance levies under special regulations,¹⁷⁾
- f) 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,
- g) 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 3 and shall verify fulfilment of conditions stated in Paragraph 4 and in Articles 17, 18, 20 through 22, and shall compare the factual state of the production equipment with technological documentation and with sketch of the production equipment submitted in the annex and shall require statement of the Customs Directorate to the submitted application. If the facts and data stated in the application and in annexes are true and the applicant meets conditions under Paragraph 4 and in Articles 17, 18, 20 through 22, the customs office shall assign the applicant 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

³²⁾ Article 19 of Act No. 431/2002 Coll.
Article 39 of Commercial Code.

registering and issuing of the authorization for the operation of a tax warehouse. If the facts and data stated in the application and in annexes are not true or if the applicant does not prove the correctness of all the data and compliance with all the conditions within this period of time, the customs office shall invite the applicant to remove the stated shortcomings and assign the applicant a registration number, a certificate of registration and authorization for the operation of a tax warehouse no later than 15 days after the removal of shortcomings.

(6) The authorized warehouse keeper is obliged to announce every change of the facts and data under Paragraph 1 and Paragraph 2 letters b) through d), and Paragraph 4 letters e) through g) 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 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 of the authorized keeper 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 an notification on the termination of enterprise,
- 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. payment of the tax, if the due tax was not paid and if the customs office waived the deposition of tax guarantee under Article 24 Paragraph 8, partially or completely, in case of the authorized warehouse keeper,
 2. obligation to complement the tax guarantee under Article 24 Paragraph 6 letter a) second point, if tax guarantee was not complemented,
 3. obligation to deposit or complement the tax guarantee under Article 24 Paragraph 9 stated by the customs office under Article 24 Paragraph 10, if the authorized keeper paid the due tax within ten days, but it did not deposit or complemented the tax guarantee within the deadline stated by the customs office,
- 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 f),
- c) provable interference in the organisation of the production equipment, holding facilities, control spirit measures and their security occurred in tax warehouse,
- d) the authorized warehouse keeper holds or keeps spirit, the origin of which it cannot prove,
- e) the authorized warehouse keeper breaches provisions of Article 10 during release of the consumer packaging of spirit in tax free circulation,

- f) the authorized warehouse keeper breaches obligations under this act not stated in letter c) through e), breaches valid legal regulations in the field of production and distribution of the spirit on the market and the imposition of a penalty and appeals of the customs office have not led to a correction,
- g) the authorized warehouse keeper applies for the withdrawal of the authorization for the operation of a tax warehouse,
- h) authorization for the operation of a tax warehouse and for the production of spirit in distillery under a special regulation²⁷⁾ terminated or was withdrawn to the authorized warehouse keeper.

(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 spirit, 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, in the case under Paragraph 7 letter b) heir or trustee determined by the court, during the presence of the customs office performs a stock-taking of spirit 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 within the same period of time,
- b) the customs office shall use the deposited tax guarantee 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,³³⁾
- d) the customs office shall withdraw the certificate of registration and cancel the registration number.

(11) An authorized warehouse keeper who has had its authorization for the operation of a tax warehouse withdrawn under Paragraph 8 letter c) through f) can have a new authorization for the operation of a tax warehouse issued by the customs office 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 by the customs office 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 24

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 month amount of spirit 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 spirit 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 month amount of spirit which it enters into tax free circulation in a common year.

³³⁾ Article 2 Paragraph 2 letter f) of Act No. 483/2001 Coll. on Banks and on Amending Certain Acts as amended. Article 313 to 322 of the Commercial Code.

(2) The obligation to deposit the tax guarantee does not apply to the spirit of a special purposes the owner of which is the state²⁶⁾.

(3) 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 25 and 26.

(4) 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.

(5) 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 guaranty³³⁾ 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.

(6) 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 spirit released into tax free circulation for the preceding calendar month is 20% higher than the deposited tax guarantee, no later than on the 25th day of the calendar month following the month in which tax exceeded the deposited tax guarantee,

2. to complement the tax guarantee to include the sum which the customs office used to pay the tax and tax-related receivables, no later than ten days after the day of the notification under Paragraph 7,

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 spirit released into tax free circulation for preceding calendar month if this state lasts for at least two consecutive calendar months; the customs office shall return the appropriate difference no later than 15 days after the submission of the application.

(7) 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.

(8) If the applicant for the authorization for the operation of a tax warehouse is an enterprise for spirit production and the enforceability of tax 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 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 spirit production,

b) partially in the amount of 50 %, if the applicant has been tax-reliable during a period of at least 12 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 spirit production.

(9) 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 8 to deposit the tax guarantee or

complement it under Paragraph 1 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 fulfilment of its financial obligations under this act or under special regulations stipulating taxes and customs³⁴⁾, or
- b) the authorized warehouse keeper is during a period of more than 20 days late with the fulfilment of its financial obligations not stated in letter a), or
- 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.

(10) 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.

(11) The deadline for submission of another application for waiving from depositing of the tax guarantee under Paragraph 8 shall start to pass again after the day of fulfilment of obligations under Paragraph 10.

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

- a) a legal person or natural person, if it meets the conditions under Article 23 Paragraph 4 letters a), c) through g),
- b) the authorized keeper of a tax warehouse which is an enterprise for spirit production if it meets the conditions under Article 23 Paragraph 4.

Article 25

Procedures for movement of spirit under tax suspension and of spirit exempt from tax in tax territory

(1) Spirit under tax suspension may 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 tax warehouse, if spirit owner of which has become the state under a special regulation¹¹⁾ is being transported.

(2) Spirit exempt from tax under Article 7 Paragraph 1 may only be transported in the tax territory

- a) from a tax warehouse into a user enterprise,
- b) during import performed by the user enterprise, to the place of holding spirit in the user enterprise.

(3) For spirit which is to be transported under tax suspension or which is to be transported exempt from tax (Article 7 Paragraph 1) 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 spirit. The deposition of the tax guarantee for spirit which is to be transported under tax suspension is not required if the tax guarantee under Article 24 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for spirit which is to be transported under tax suspension. Depositing of the tax guarantee for spirit, which is to be transported exempt from tax and which is not denatured, shall not be required, if the tax guarantee under Article 11 Paragraph 4 letter b) is deposited in such amount that it also covers the tax guarantee for spirit which is to be transported exempt from tax.

(4) For the transport of spirit

- a) under tax suspension the tax guarantee shall be deposited by
 - 1. the authorized warehouse keeper which is the

³⁴⁾ For example Act No. 238/2001 Coll. as amended, Act No. 595/2003 Coll. on Income Tax, Act of the National Council of the Slovak Republic No. 289/1995 Coll. on the Added Value Tax as amended, Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended.

- 1a. consignor (supplier) in the tax territory,
 - 1b. consignee (importer) in the import to the tax territory,
 - 1c. consignor (exporter) in the export from the tax territory, or
 - 1d. consignee of spirit owner of which has become the state under a special regulation¹¹⁾, or
 - 1e. consignee (purchaser) of spirit in the tax territory, if spirit transported under tax suspension under Paragraph 1 letter a) is in its ownership,
 - 2. transporter instead of the consignor, if they have agreed so and the customs office approves of it
- b) exempt from tax the tax guarantee shall be deposited by the user enterprise which is purchaser in the tax territory, during import by consignee (importer) to the tax territory.

(5) Spirit under tax suspension and spirit exempt from tax may only be transported with an accompanying document under Article 29 Paragraph 1. The consignor (supplier) of spirit shall keep copy 1 of the accompanying document. Copies 2 through 4 of the accompanying document shall accompany the transported spirit. The consignee (purchaser) shall keep copy 2, confirm the receipt of spirit 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 spirit. The customs office of the consignee (purchaser) shall keep copy 4. If during the transport of spirit 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 29 Paragraph 4 applies equally. The transport of spirit is considered finished when the consignor (supplier) receives copy 3 of the accompanying document certified by the customs office.

(6) Spirit which was transported under tax suspension or exempt from tax 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 spirit is certified by the customs office of the consignee (purchaser).

Article 26

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

- (1) Spirit under tax suspension may be transported
- a) from a tax warehouse in the tax 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 spirit 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 29 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 spirit. The transport of spirit 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 spirit, and
- b) the tax administrator of another Member State of the consignee (purchaser).

(4) During the transportation of spirit from the tax warehouse in the tax territory to the tax warehouse or to a registered trader, or to authorized tax representative in another Member State, the consignor (supplier) is obliged on the day of start of the transportation to send a copy of the copy 1 of the accompanying document via fax or electronically to the Customs Office Poprad; the consignor (supplier) is obliged to send this copy in written form also to the customs office no later than five working days after the day of the start of the transportation.

(5) If during the transport of spirit 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.

(6) If spirit under tax suspension is transported from another Member State to the tax territory, this spirit 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 spirit 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 spirit. The customs office of the consignee (purchaser) shall keep copy 4. Provision of Article 29 Paragraph 4 applies equally here.

(7) For spirit which is to be transported under tax suspension under Paragraph 1 letters a) and b) 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 spirit. The deposition of the tax guarantee for spirit which is to be transported under tax suspension is not required if the tax guarantee under Article 24 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for the spirit 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. Upon request, 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.

(8) Spirit 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 spirit 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 spirit under tax suspension occasionally must be certified by a document proving the tax has been paid in another Member State.

Article 27

Registered trader

(1) The registered trader in the tax territory is a legal person or natural person which has an authorization to receive spirit 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 spirit 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 spirit from another Member State under tax suspension. The application must contain

- a) identification data of the applicant and the addresses 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 spirit and the appropriate CN code,
- e) estimated annual volume of the spirit received under tax suspension in hl. a.

(2) Annex to the application is 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.

(3) The applicant must meet conditions stated in Article 17 Paragraph 4 (if the applicant has a facility for holding wine) and in Article 23 Paragraph 4.

(4) Before registration, the customs office shall verify with the applicant the facts and data stated in the application and in the annex and fulfilment of conditions stated in Paragraph 3. If these facts and data stated in the application and in the annex are true and the applicant meets the conditions stated in Paragraph 3, the customs office shall assign the applicant a registration number, issue a confirmation of registration and authorization to receive spirit from another Member State under tax suspension no later than 60 days after the submission of this application. If the facts and data stated in the application and in the annex are not true or if the applicant in this period of time does not prove fulfilment of all conditions, the customs office shall invite the applicant to removed the aforesaid shortcomings, assign the applicant a registration number, issue a certificate of registration and authorization to receive spirit from another Member State under tax suspension no later than 15 days after the day of removal of shortcomings.

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

(6) A legal person or natural person which wants to receive spirit from another Member State under tax suspension occasionally must have for each occasional receipt an issued authorization to receive spirit 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 spirit 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.

(7) Article 24 applies equally to the tax guarantee under Paragraph 5 and 6.

(8) The registered trader is obliged to notify the customs office of every change of the data under Paragraph 1 and 3 no later than 15 days after the day of its origination. It is obliged to notify the customs office of a change of the data under Paragraph 2 no later than 15 days after the day of the submission of the proposal for a change of data to the competent authority.

(9) Article 23 Paragraph 7 through 10 apply appropriately to the termination of the authorization to receive spirit from another Member State under tax suspension.

Article 28

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 spirit 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 27 applies appropriately to the submission of this application, registration of the authorized tax representative and deposition of the tax guarantee.

Article 29 **Accompanying document**

(1) Spirit under tax suspension can only be transported with an accompanying document drawn up according to the sample and in a manner stated in a legal regulation of the union.³⁵⁾ 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 spirit is to be transported through the territories of the states of the European Free Trade Association³⁶⁾ 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.³⁷⁾

(3) If spirit 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 carnet³⁸⁾ and an A.T.A carnet.³⁹⁾

(4) If the consignor (supplier) demands a faster certification of the receipt of spirit, 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.

³⁵⁾ 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 (Official Journal of the European Communities L 276, 19/09/1992, p. 1 – 10) as amended.

³⁶⁾ Agreement on Free Trade between the Czech and Slovak Federative Republic and the European Association of Free Trade (notification No. 235/2003 Coll.).

³⁷⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (Official Journal of the European Communities L 302, 19/10/1992, p. 1 – 50) as amended.

³⁸⁾ Decree of the Minister of Foreign Affairs No. 144/1982 Coll. on 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.).

³⁹⁾ Decree of the Minister of Foreign Affairs No. 89/1963 Coll. on Customs convention on E.C.S. carnets for Carnets for Commercial Samples and on the Customs Convention on the A.T.A. carnet for the Import Customs Registration of Goods.

Article 30
Irregularities or offences during the movement
of spirit under tax suspension

(1) If an irregularity or offence is committed during the transport of spirit 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 spirit has not been transported to the legal person or natural person authorized to receive spirit under tax suspension,
- b) the transport of spirit under tax suspension has not been finished,
- c) a loss or stealing of spirit has occurred, or
- d) the spirit 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 spirit does not receive a certified copy 3 of the accompanying document on delivery of spirit to the place of delivery or if an irregularity or offence has originated and the place of the irregularity or offence is not possible to determine.

(3) If the consignor of spirit does not receive in 60 days after the day of the dispatching of spirit 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 spirit, it is obliged without undue delay to notify the customs office of this in written form.

(4) If during the transport of spirit under tax suspension this wine is lost or if differences in the amount of the transported or received spirit 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 spirit may be accepted for the purposes of exemption from tax.

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

Article 31

Import of spirit from the territory of third countries

(1) Import of spirit shall mean a transport of spirit from the territory of a third country to the tax territory. If during the import spirit 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 spirit is considered as spirit under tax suspension. Customs regulations apply to the tax and to tax administration during the import of spirit, unless this act or a special regulation⁴⁰⁾ states otherwise.

(2) Spirit after release into the customs regime free circulation can be entered into tax regime tax suspension. In this case, procedure during the transport of spirit under tax suspension is applied.

(3) Spirit 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 or in a warehouse of registered trader which is authorised under this act to use spirit for the purposes exempt from tax in the tax territory. The authorized warehouse keeper or the registered trader under the first sentence is obliged to demonstrate to the customs office which releases spirit into the customs regime free circulation the authorization to operate a tax warehouse or the authorization to receive spirit from another Member State and the confirmation of the customs office on the amount of the deposited tax guarantee for the transported amount of spirit. The deposition of the tax guarantee is not required if the tax guarantee under Article 24 Paragraph 1 also covers the tax guarantee for spirit which is to be transported under tax suspension.

(4) The user enterprise, if imports spirit for the purposes exempt from tax, if it is not being moved through territory of the union, is obliged to demonstrate to the customs office which releases spirit into the customs regime free circulation the exemption certificate and the confirmation of the customs office on the amount of the deposited tax guarantee for the transported amount of spirit. The spirit must be placed in warehouse of the user enterprise immediately after its receipt.

Article 32

Export of spirit under tax suspension

(1) Export of spirit under tax suspension shall mean the transport of spirit from a tax warehouse in the tax territory to the territory of a third country.

(2) During the export of spirit to the territory of a third country shall be applied the process applied in the transport of spirit 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 spirit under tax suspension is finished if the dispatching spirit warehouse receives copy 3 of the accompanying document in which the customs office of exit certified that the spirit has left the territory of the union. If the standard customs document is used as the accompanying document, the transport of spirit 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 spirit has left the territory of the union. Article 26 Paragraph 2 and 7 shall be used for the transport of spirit under tax suspension.

⁴⁰⁾ Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended.

Article 33
Transport of spirit outside tax suspension
for commercial purposes

(1) If spirit 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 spirit in the tax territory. The tax debtor is a legal person or natural person which is the spirit purchaser.

(2) Before the receipt of spirit, the purchaser is obliged

- a) to announce to the customs office in written form its identification data, amount, trade name and the appropriate CN code of spirit which it wants to receive, the identification data of the spirit supplier,
- b) to deposit the tax guarantee in the amount of tax for the amount of received spirit; Article 24 applies appropriately to the tax guarantee.

(3) With the origination of tax obligation, the tax debtor is obliged to submit without a tax return no later than three working days following after the day in which its tax obligation originates and to pay tax in the same period of time. Article 14 applies appropriately to the tax return.

(4) After agreement with the customs office, for the payment of tax may 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.

(5) The provisions of Paragraph 1 through 4 shall also be used if the spirit purchaser is a legal person which is not established or founded for commercial purposes.

(6) If spirit 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 spirit to the tax territory is the first to hold or use the spirit. The tax debtor is obliged no later than on the following working day after the origination of the tax obligation to submit the tax return and within the same period of time to pay the tax calculated under tax rate valid on the day of the dispatching of spirit, 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.

(7) If spirit 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 34. The supply of spirit for commercial purposes is also a supply of spirit to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.

(8) 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 and trade name of the spirit it wants to supply and the identification data of the purchaser as well as submit to the customs office a tax reimbursement application.

(9) Also completely denatured alcohol produced in the tax territory or transported to the tax territory from a territory of another Member States is considered as the spirit released in tax free circulation. During the transportation of the completely denatured alcohol to another Member State for commercial purposes, the consignor (supplier) must draw up the simplified accompanying document and to proceed under Article 34. The tax guarantee is not required for the completely denatured alcohol.

Article 34

Simplified accompanying document

(1) A legal person or natural person whose commercial activities include the supply of spirit 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 in a manner stated in a regulation of the union.⁴¹⁾ The simplified accompanying document comprises of three copies. The consignor (supplier) keeps copy 1, copies 2 and 3 accompany the transported spirit. If the consignor (supplier) demands a certification of the receipt of spirit 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 spirit 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 spirit 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 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 spirit

- a) released into tax free circulation from one place in the tax territory to another place in the tax territory, if the transport of spirit is performed through the territory of one or more Member States.
- b) completely denatured alcohol supplied for commercial purposes in the tax territory.

Article 35

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

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

(2) If spirit 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 spirit. The tax debtor is the natural person who transported spirit to the tax territory, who is obliged no later than three working days following after the tax obligation origination to submit a tax return and pay the tax within the same period of time; Article 14 applies appropriately to tax return.

(3) When establishing whether spirit is aimed at private purposes under Paragraph 1 or at commercial purposes under Article 33, the following is taken into account:

- a) reason of acquisition or holding of spirit and subject of activity of natural person if he is an entrepreneur,

⁴¹⁾ 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 (Official Journal of the European Communities L 369, 18/12/1992, p. 17 – 24).

- b) place where spirit is located or manner in which it was transported,
- c) acquisition documents related to the spirit,
- d) trade name and amount of spirit.

Article 36
Distant selling

(1) For the purposes of this act, distant selling shall mean the delivery of spirit by a legal person or natural person whose commercial activities include the supplying by this person or through another person of spirit 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 by the supply of spirit to the tax territory, supply meaning the day of receipt of spirit by the purchaser. The tax debtor is the consignor (supplier).

(3) Distant selling can be carried out only 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 spirit and the amount of spirit in hl a. which is to be dispatched (supplied),
- c) deposits a tax guarantee in the amount of tax for the amount of spirit which is to be dispatched (supplied).

(4) The tax debtor stated in Paragraph 2 is obliged with the origination of tax obligation to submit a tax return to the customs office of the purchaser no longer than three working days following after the tax obligation originated and pay the tax within the same period of time; Article 14 applies appropriately to the tax return. 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; in this case the tax debtor shall submit the tax return and pay the tax on 25th day after the end of the taxation period.

(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 (Article 24 Paragraph 12).

(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 spirit. The annex to the application are the documents confirming the authenticity of the data stated in the application and in 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) 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).

(9) If a legal person or natural person with registered office in the tax territory wants to dispatch spirit 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 of the spirit it wants to dispatch, the name, surname and address of the purchaser and the day on which the spirit 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 37 **Special regulation of tax suspension and exemption from tax**

(1) Exempt from tax is spirit sold in the transit area of international airports and aboard airplanes exclusively to natural persons which shall immediately leave the territory of the union. Spirit 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 and price of spirit or other goods subject to excise duty under a special regulation⁴²⁾.

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

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

(4) A legal person or natural person which performs the sale of spirit under Paragraph 1 or which performs spirit supply under Paragraph 3 must have spirit supplied under tax suspension; Articles 25 and 26 apply appropriately to procedures with the transport of spirit.

(5) A legal person or natural person which wants to perform in the transit area of international airports and aboard airplanes the sale of spirit exempt from tax or supply spirit 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“).

(6) Article 23 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 spirit or the average month amount of spirit 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,⁴²⁾ one authorization for all goods subject to excise duty under a special regulation can be issued.⁴²⁾

⁴²⁾ Act No. 107/2004 Coll. on the Excise Duty on Beer.

Act No. 104/2004 Coll.

Act No. 106/2004 Coll. on the Excise Duty on Tobacco Products.

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

Record keeping

Article 38

(1) Authorized warehouse keepers, user enterprises and registered traders and authorized tax representative are obliged

a) to keep records documenting production, receipt, use, inventories and release of spirit, the amount of the spirit included in inventories of raw materials, intermediate products and finished products and separate records documenting consumer packaging; records shall be performed on form, sample of which shall be stated by a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4,

b) to keep records under letter a) during ten years and to submit closing of such records to the tax administrator for verification within deadlines under Paragraph 4.

(2) Records under Paragraph 1 must be kept so that state and the entire transport of spirit is obvious from records and so that the notification duty under Article 44 may be met on the basis of such records.

(3) Records documenting production and circulation of synthetic spirit and sulphite spirit shall be kept separately.

(4) Legal persons or natural persons under Paragraph 1 shall submit closing of records to the tax administrator for verification each year as of 30 September of the calendar year and no later than 15 days after the end of production or receipt of spirit. The manner of performance of closing of records, procedure for establishing of the amount of spirit received and spirit released, and manner the of record keeping under Paragraph 1 letter a) shall be stated by a generally binding legal regulation issued by the ministry under Article 49 Paragraph 4.

(5) Legal persons or natural persons under Paragraph 1 shall be obliged upon decision of the customs office to keep also other records necessary for correct establishing of the tax.

Article 39

(1) The authorized warehouse keeper which is an enterprise for spirit production is obliged to keep records documenting

a) raw materials for the production of spirit,

b) spirit produced or processed,

c) spirit received,

d) spirit used for own consumption,

e) spirit released,

f) spirit devaluated and destroyed (disposed),

g) other substances used during the production of spirit,

h) state of spirit inventories and of other substances used during the production of spirit,

i) consumer packaging.

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

a) the trade name, amount, volume concentration of spirit and production date of spirit,

b) the trade name, amount, volume concentration of spirit and receipt day of spirit and the identification data of supplier; in the case of spirit import also the date of its release in the customs regime free circulation, place where customs proceedings took place and the identification data of the declarant,

c) the trade name, amount, volume concentration of spirit, date and purpose of use of spirit for own consumption,

- d) the trade name, amount, volume concentration of spirit and date of issuing of spirit and identification data of the purchaser; if the spirit was received by a transporter on whose account spirit was not issued, the identification data of the transporter must also be included,
- e) the trade name, amount, volume concentration of spirit, date and reason of destroying of spirit, data about destroying of spirit,
- f) the trade name, amount, volume concentration of spirit, date of the export of spirit, place where customs proceedings took place, and the identification data of the declarant.

(3) The issuing of spirit exempt from tax under Article 7 Paragraph 1 shall be documented with an exception certificate of the purchaser.

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

Article 40

(1) The authorized warehouse keeper which is a spirit warehouse is obliged to keep records documenting

- a) spirit received,
- b) spirit processed,
- c) spirit in work-in-progress,
- d) spirit used for own consumption,
- e) spirit released,
- f) spirit devaluated and destroyed (disposed),
- g) other substances used during the processing of spirit,
- h) state of spirit inventories and state of inventories of other substances used during the processing of spirit,
- i) products which the authorized warehouse keeper produced from the spirit,
- j) consumer packaging with the exception of plant for denaturation.

(2) Apart from the records under Paragraph 1 the authorized warehouse keeper which has an authorization for the denaturation of spirit is obliged to keep also records documenting

- a) denaturation agent with stating of its trade name,
- b) denatured alcohol produced in hl a.

(3) Article 39 Paragraph 3 and 4 apply equally and Article 39 Paragraph 2 applies appropriately to record keeping under Paragraph 1 and 2.

Article 41

(1) The user enterprise is obliged to keep records documenting

- a) spirit received divided in spirit exempt from tax and spirit taxed, if it purchases such spirit,
- b) spirit received under tax suspension from another Member States as an registered trader,
- c) spirit according to purpose of use,
- d) spirit destroyed and disposed,
- e) goods which it produced from spirit,
- f) goods which it produced from spirit and sold,
- g) state of spirit inventories and state of inventories of goods which it produced from spirit,
- h) consumer packaging of spirit, if it purchases such spirit.

(2) Article 39 Paragraph 4 apply equally and Article 39 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 42

- (1) The registered trader, if he is not obliged to keep records under Article 41, is obliged to keep records documenting
- a) spirit received divided in spirit received
 1. outside the tax suspension,
 2. under the tax suspension from another Member States,
 - b) spirit released,
 - c) state of spirit inventories.
- (2) The registered trader is obliged to keep records documenting consumer packaging under Paragraph 1 separately.
- (3) Article 39 Paragraph 4 apply equally and Article 39 Paragraph 2 applies appropriately to record keeping under Paragraph 1 and 2.

Article 43

- (1) The authorized tax representative is obliged to keep records documenting
- a) spirit received under tax suspension,
 - b) spirit released,
 - c) purchasers.
- (2) The consignor (supplier) performing distant selling is obliged to keep records documenting spirit dispatched to another Member State.
- (3) The authorized tax representation for distant selling is obliged to keep records documenting spirit
- a) received,
 - b) released.
- (4) Article 39 Paragraph 4 apply equally and Article 39 Paragraph 2 applies appropriately to record keeping under Paragraph 1 to 3.

Article 44

Notification obligations

- (1) A legal person or natural person whose commercial activities include the production, receiving and release of the spirit which is not in a consumer packaging is obliged to notify the locally relevant customs office about the amount and the trade name of
- a) spirit produced in I a., the day of the production of spirit and its identification data,
 - b) spirit received in I a., the day of receiving the spirit and the identification data of the supplier of spirit,
 - c) spirit released in I a., the day of release of the spirit and the identification data of purchaser of spirit,
 - d) spirit in state of inventories in I a. as of the last day of a calendar month.
- (2) A legal person or natural person whose commercial activities include the production of consumer packaging, receiving of consumer packaging or release of consumer packaging is obliged to notify the locally relevant customs office about the trade name of the consumer packaging, the amount of spirit and the volume concentration of the spirit in the consumer packaging and
- a) about number of produced consumer packaging in pieces with stating the day of the production and its identification data, if it produces the spirit,
 - b) about number of received consumer packaging in pieces with stating the day of the purchase and the identification data of the supplier of the consumer packaging, if it receives spirit,

- c) about number of sold consumer packaging in pieces with stating the day of the sale and the identification data of the purchaser of the consumer packaging, if the data are known and if it sells spirit,
- d) about total number of sold consumer packaging in pieces with stating the day of the sale, if it sells spirit,
- e) about number of pieces of consumer packaging in the state of inventories in 1 a. as of the last day of a calendar month.

(3) The notification obligation under Paragraph 2 letter b) does not apply to a legal person or natural person which purchased the consumer packaging for own consumption.

(4) A legal person or natural person under Paragraph 1 and 2 notifies data always for a calendar month in written form on a form drawn up according to sample stated by a generally binding legal regulation issued by the ministry; it is obliged to meet the notification obligation no later than on 25th day of a calendar month following after the month for which it notifies the data. After agreement with the customs office, data may be notified also electronically.

(5) A legal person or natural person which wants to purchase or sell the consumer packaging within its commercial activities is obliged to notify the customs office about this fact in written form. It is also obliged to notify the customs office about the termination of such commercial activity.

Article 45

Tax supervision and tax control

(1) The customs office performs tax supervision, which is the performance of supervision of keeping and moving spirit, as well as tax control.⁴³⁾

(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 spirit.

(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 spirit-related commercial activities, as well as enter areas which are known or can be expected to contain or possibly contain spirit,
- b) establish the state of inventories of spirit and goods which are aimed at spirit production or can be used during spirit production, and order the performance of the appropriate stock-taking,
- c) control production facilities, storage facilities, transport packages, storage tanks, containers, tanks and other packagings which contain or could contain spirit or goods produced from the spirit,
- d) perform control of spirit exempt from tax under relevant provisions of this act, establish state of inventories of goods produced from the spirit exempt from tax,
- e) stop vehicles transporting spirit or in the case of which it may be assumed that they could transport spirit, establish the amount of spirit transported in them, control transport documents and indicate the control in these documents,
- f) take samples free of charge in the cases under letters a) through e) in technologically justified amounts; the manner of taking samples shall be determined by generally binding legal regulation issued by the ministry under Article 49 Paragraph 2,
- g) 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,

⁴³⁾ Article 15 of Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended.

- h) establish production losses, manipulation losses, transport losses and other natural spirit decrements with production, processing, holding and transport related to its physical-chemical features and on the basis of long-term monitoring of at least 12 months to establish amount of spirit losses in tax warehouses and user enterprises for single types of losses; according to findings, to submit a proposal for adjustment of valid standards of losses issued under a special regulation.²⁷⁾
- i) to establish and verify standards of spirit consumption in enterprises which use spirit exempt from tax under Article 7 Paragraph 1 and on the basis of a long-term monitoring to adjust standards of spirit consumption.
- (4) The customs office is obliged to control the production equipment in enterprises for spirit production, it shall verify congruence of the production equipment, the state and the placement of seals of the customs office with documentation submitted in the application for the authorization for the operation of a tax warehouse and in the application for registration of an authorized keeper of fruit grower's distillery.
- (5) The customs office is obliged in the case of each spirit denaturation to take samples of spirit intended for the denaturation, of the denaturation agent and of the denatured alcohol. Holder of the authorization for the denaturation is obliged to provide the customs office with necessary cooperation during performance of the control and to enable the customs office to take samples free of charge.
- (6) 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 Paragraphs 3 and 4.
- (7) In enterprises for the production of spirit and in spirit warehouses and in user enterprises, 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.⁴⁴⁾ The provision of a special regulation does not apply to the beginning of a tax control.⁴⁵⁾
- (8) 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.
- (9) If the customs office establishes that the controlled subject when taxing spirit 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.
- (10) Tax supervision can also be performed by the Customs Directorate. In such case, the provision of Paragraph 2 through 9 with the exception of Paragraph 7 apply appropriately to the Customs Directorate.

Article 46
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,
 - b) register of authorized warehouse keepers with the authorization for denaturation of spirit,
 - c) register of registered traders,

⁴⁴⁾ Article 45 of Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended.

⁴⁵⁾ Article 15 Paragraph 2 of Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended.

- d) register of tax warehouses,
- e) register of authorized tax representatives,
- f) list of user enterprises,
- g) list of authorized representatives for distant selling,
- h) list of importers of consumer packaging,
- i) list of authorized keepers of fruit grower's distilleries,
- j) list of fruit grower's distilleries,
- k) list of production equipments according to enterprises for spirit production,
- l) list of issued certificates for receipt of tax stamps.

(2) The electronic database under Paragraph 1 contains especially

- a) the identification data of the authorized warehouse keeper, addresses of its 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, the identification data of the authorized warehouse keeper with registered office in another Member State which is represented by the authorized tax representative,
- 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 identification data of the importer of the consumer packaging,
- g) the identification data of the authorized keeper of fruit grower's distillery,
- h) the production number and the type of production equipment in the enterprise for spirit production,
- i) the registration purchase number for receive of tax stamps according to receivers of tax stamp, the date of assignment and the date of termination of the registration purchase number,
- j) the trade name and the amount of spirit produced, received, processed, held and supplied by a legal person or natural person under Paragraph 1 letter a) through h).

(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 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 regulations⁴⁶⁾ 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 and 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 spirit within the union, upon its request, the validity of the registration of authorized warehouse keepers, registered traders and the placement of tax warehouses.

⁴⁶⁾ 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.

(6) The customs office shall notify data acquired on the basis of the notification obligation under Article 44 to the Customs Directorate no later than ten days of the calendar month following after the month for which data is being notified.

(7) The Customs Directorate shall analyse and evaluate data under Paragraph 6 and shall draw up summary surveys of such data always for a calendar quarter no later than 50 days after its passing. In case of establishing of irregularities or offences the Customs Directorate shall be obliged to file a motion for their examination by the relevant customs office.

Article 47 **Penalties**

(1) A legal person or natural person which breaches provisions under Article 8 Paragraph 5 shall be imposed a penalty by the customs office in the amount of SKK 500 000.

(2) The customs office shall impose a penalty to a legal person or natural person which breaches provisions under

a) Article 17 Paragraph 5, in the amount of tax for the spirit produced without presence of the customs office, however at least SKK 100 000,

b) Article 17 Paragraph 6, in the amount of SKK 100 000,

c) Article 17 Paragraph 7, and, if it is not a break under Paragraph 10, in the amount of SKK 50 000.

(3) A legal person or natural person which released spirit for purposes exempt from tax to the 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 spirit, however at least SKK 500 000,

(4) A legal person or natural person which uses spirit exempt from tax for purposes not stated in the exemption certificate, if it is not a break under Article 8 Paragraph 5, shall be imposed a penalty by the customs office in the amount of tax for the amount of spirit used in this way, however at least SKK 100 000.

(5) A legal person or natural person which produced spirit without authorization for the operation of tax warehouse with the exception of the fruit grower's distillery, shall be imposed a penalty by the customs office in the amount of the tax for the amount of spirit produced in this way, however at least SKK 1 000 000 and it shall secure spirit produced in this way.

(6) A legal person or natural person which produced spirit the fruit grower's distillery and has not been registered by the customs office shall be imposed a penalty by the customs office in the amount of 110% of the basic rate of tax for the amount of spirit produced in this way.

(7) An authorized keeper of the fruit grower's distillery which produced spirit for a grower in the fruit grower's distillery

a) on another day than the day it has notified to the customs office and it did not notify without undue delay the customs office about the change in the day shall be imposed a penalty by the customs office of SKK 10 000,

b) which has stated untrue data in annexes stated in Article 19 Paragraph 9 and 11 shall be imposed a penalty by the customs office of SKK 15 000.

(8) An authorized keeper of the fruit grower's distillery which breached the notification obligation under Article 19 Paragraph 6 and 9 shall be imposed a penalty by the customs office of SKK 20 000.

(9) A legal person or natural person which keeps spirit 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 spirit it keeps, plus SKK 5 000, however at least SKK 1 000 000 in the case of a legal person, and SKK 10 000 in the case of a natural person, and it shall secure such spirit.

(10) If the customs office establishes in tax free circulation a sale or holding of unmarked consumer packaging (Article 10 Paragraph 7 and 8), it shall impose to a legal person or natural person that possesses such spirit a penalty in the amount of tax for the amount of unmarked consumer packaging plus SKK 50 000 and it shall secure the spirit. If a legal person or natural person which possesses such spirit proves that it acquired the unmarked consumer packaging with tax, the customs office shall impose to a legal person or natural person which released such spirit in tax free circulation a penalty in the amount of tax for the amount of spirit released in tax free circulation plus SKK 100 000.

(11) A purchaser of tax stamps which will not settle receipt of tax stamps under Article 10 Paragraph 27 through 29 shall be imposed a penalty by the customs office of SKK 50 000.

(12) A purchaser which cannot prove use or devaluation of tax stamps shall be imposed a penalty by the customs office in the amount of tax which corresponds with the duty obligation for the spirit in the consumer packaging for which the missing tax stamps were intended plus SKK 50 000.

(13) A legal person or natural person which breaches provisions under Article 10 Paragraph 35 and Article 44 Paragraph 5 shall be imposed a penalty by the customs office of SKK 50 000.

Article 48 Destruction of spirit

(1) The spirit that has become a property of the state under a special regulation,¹¹⁾ shall be destroyed by the customs office under a special regulation.¹⁰⁾

(2) If spirit is provably destroyed and unsuitable for further processing or is not received by the grower by ten days after the day of the production of spirit in the fruit grower's distillery, it shall be destroyed at the expense of a legal person or natural person which possesses the spirit, by

- a) the authorised authority or on its initiative⁹⁾ under the supervision of the customs office,
- b) by the customs office upon request of such person.

(3) Increment⁴⁷⁾ which cannot be used for further processing as a raw material for denaturation of spirit may be destroyed upon request of the authorized keeper of the enterprise for the production of spirit under the supervision of the customs office at the expense of the authorized warehouse keeper which possessed the increment; also incineration of the increment in the enterprise for the production of spirit by the authorized warehouse keeper which possessed it is considered as destroying of the increment under this act.

Common, transitory and final provisions

Article 49

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

⁴⁷⁾ Article 2 Paragraph 2 letter p) of Act No. 467/2002 Coll.

(2) A special regulation shall be applied to tax administration,⁴⁰⁾ 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 generally binding legal regulation issued by the ministry.

(4) Details about performance of the control of the amount of spirit produced, processed, supplied and received, about establishing of the amount of spirit produced, about establishing of the amount of spirit inventories, about requirements for the organisation of the technological equipment for the production, processing, holding and transport of spirit, details about the use of the control spirit measures, about the manner of securing the control spirit measures and details about the manner of record keeping documenting spirit shall be stated by a generally binding legal regulation issued by the ministry.

Article 50

(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, while the administration of excise duty on spirit is performed under current regulations by the current tax administrators.

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

Article 51

(1) A legal person or natural person which from 1 May 2004 wants to operate a tax warehouse under this act (Article 17) must ask the customs office in written form for registration and issuing of an authorization 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 and the appropriate CN code of spirit produced, processed, received, held and dispatched,
- e) the estimated annual volume of spirit production, spirit holding and sale of spirit in hl a., in the case of an enterprise for spirit production, or the estimated annual volume of spirit holding, spirit processing and sale of spirit in hl a., in the case of a wine 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 certified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy,
- b) an authorization for the production of spirit and for the processing of spirit in the distillery and an authorization for its distribution on the market under a special regulation,²⁷⁾
- c) technological documentation and sketch of the production equipment in the enterprise for the production of spirit with marking of places to which the customs office attached seals, description of the production and holding premises and equipment for processing and holding of spirit in the spirit warehouse with attached sketch and marking of location of seal of rooms, brief description of activity and description of tax warehouse, manner securing the spirit against unauthorised use, technological documentation and description of the control spirit measure for measuring of the amount of the spirit produced and of equipment for establishing of inventories of the spirit, temperature of spirit and

document on official certification of such equipment, proving of creating conditions for permanent presence of a tax administrator,

- d) technological description of the production procedures with stating of list of processed raw materials, list of products to be produced, collateral products, or waste,
- e) 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,³²⁾ as well as the form of account keeping,
- f) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter b) and c) and confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter d),
- g) list of Member States to which the applicant expects to supply (dispatch) spirit under tax suspension; this list can be submitted to Member States of destination 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,¹⁸⁾
- b) neither the customs office nor the tax authority have receivables after pay date towards the applicant,
- c) neither the customs office nor the tax authority have receivables after pay date towards a person personnel-linked or property-linked to the applicant, 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 a special regulation,²¹⁾
- d) has no unpaid amounts in compulsory insurance levies under a special regulation,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) Before the issuing of an authorization for the operation of a tax warehouse, the applicant is obliged to deposit a tax guarantee (Article 24). If the applicant for the authorization for the operation of a tax warehouse is an enterprise for spirit production and if the enforceability of tax 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 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 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, compare the factual state of the production equipment with technological documentation and with sketch of the production equipment submitted in the annex to the application, if the facts and data stated in the application and in annexes are true and the applicant meets conditions for the registration and issuing of the authorization for the operation of a tax warehouse (Article 17, 18, 20 through 22), the customs office shall assign it a registration number, shall issue it a certificate of registration and the authorization for the operation of a tax warehouse and decide on tax guarantee.

(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 on 29 and 30 April 2004

- a) stock-taking of spirit inventories under a special regulation⁴⁸⁾ according to the state of spirit inventories as of 30 April 2004 divided according to the CN code separately from the spirit inventories which it has in accordance with current regulations at a price
- a) with tax,
- b) without tax, price without tax is considered also spirit from which it claimed tax reimbursement according to current regulations,
- b) establishing of the amount of produced spirit under Article 5 of Decree of the Ministry of Finance of the Slovak Republic No. 117/1993 Coll. on Control of Production and Circulation of Spirit as amended as of 30 April 2004 and to perform settlement of the production of spirit as of 30 April 2004,
- c) establishing of the state of equipment for the production of spirit and for spirit holding.

(8) A legal person or natural person under Paragraph 7 shall be obliged to draw up minutes on the state of spirit inventories, the amount of the produced spirit and on the state of equipment for the production of spirit and for spirit holding which must contain elements of minutes under a special regulation⁴⁹⁾ in three copies signed by authorised employees of the tax authority and of the customs office and by person authorised to act in the name of the tax entity.⁴⁹⁾ The state of spirit inventories as of 30 April 2004 established under Paragraph 7 which was acquired according to the current regulations is an initial state of spirit as of 1 May 2004. If a legal person or natural person under Paragraph 7 does not prove in the state of spirit inventories an acquisition of the spirit according to the current regulations, such spirit is considered as spirit acquired illegally and the tax administrator shall impose a penalty to it in the amount of tax under current regulations from spirit established in this way and it shall secure the spirit.

(9) From the inventories under Paragraph 7 letter a) first point the authorized warehouse keeper can claim tax reimbursement in the amount of tax under a regulation valid as of 30 April 2004 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 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 spirit inventories under Paragraph 7 letter a) first point which it acquired under a current regulation and did not submit a separate tax return by 25 May 2004, these inventories are as of 1 May 2004 considered as spirit under tax suspension.

(10) A legal person or natural person which from 1 May 2004 wants to denaturise spirit under this act must ask the customs office in written form for the issuing of an authorization for the denaturation of spirit together with the application for the issuing of the authorization for the operation of a tax warehouse under Paragraph 1. The application for the authorization for the denaturation of spirit must contain

- a) the identification data of the applicant and the addresses 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 trade name and the amount of the denaturation agent which it will use,
- d) the trade name of the denatured alcohol and the estimated amount of its annual production.

(11) The annex to the application under Paragraph 10 is technological documentation about equipment for the spirit denaturation.

⁴⁸⁾ Article 29 of Act No. 431/2002 Coll.

⁴⁹⁾ Article 9 of Act of the National Council of the Slovak Republic No. 511/1992 Coll. as amended.

(12) The customs office shall verify facts and data stated in the application under Paragraph 10 and if the facts and data are true and the applicant has suitable dosing, mixing or other similar equipment for the production of denatured alcohol, the customs office shall issue it an authorization for the denaturation of spirit, if an authorization for the operation of a tax warehouse with validity from 1 May 2004 was already issued to it.

(13) A legal person or natural person which wants to be from 1 May 2004 a user enterprise under this act must ask the customs office in written form for the issuing of an exemption certificate, while the application must be submitted to the customs office by 31 March 2004. The application for issuing of the exemption certificate must contain

- a) the identification data of the applicant and the addresses 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 trade name of spirit exempt from tax and the appropriate CN code,
- d) the purpose of use of spirit exempt from tax under (Article 7 Paragraph 1) and the estimated annual volume of consumption of spirit exempt from tax in hl a.,
- e) the identification data of the supplier of spirit exempt from tax.

(14) 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 certified 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, if a legal person which is not established or founded for enterprise purposes receives the spirit exempt from tax,
- b) in case of import of spirit, certified copy of authorization for import if it is required by a special regulation;19) in case of import of spirit for medical or pharmaceutical purposes an affirmative statement of the Ministry of Health of the Slovak Republic,
- c) technological documentation of place of use and of the place of the holding of spirit exempt from tax, description of the place of use and of the place of the holding of spirit and description of the manner of securing it against unauthorised use, while the spirit must be held in certified tanks 20) with certified measures for establishing of spirit inventories, if the applicant has storage facility,
- d) technological documentation of facility where the spirit exempt from tax is to be used,
- e) technological description of the use of spirit exempt from tax, standards of spirit consumption for single purposes of use according to approved formulas or other documents stating the consumption of spirit exempt from tax, if spirit is to be used as a raw material or auxiliary material in the technological process, list of products for production of which the spirit exempt from tax shall be used.

(15) The applicant stated in Paragraph 13 must meet conditions under Paragraph 4 and if it is going to use spirit which is not denatured for the purposes exempt from tax is obliged before the issuing of the exemption certificate to deposit a tax guarantee in the amount of tax for the average amount of such spirit which it assumes to use.

(16) Before the issuing of the exemption certificate the customs office shall verify with the applicant facts and data stated in the application and in annexes, shall verify credibility of standard of spirit consumption in the technological process, if the spirit is to be used as a raw materials or as auxiliary material. If the facts and data stated in the application and in annexes are true and the applicant meets conditions under Paragraph 4, the customs office shall issue the exemption certificate for each supplier under Paragraph 13 letter e) in which it shall state data under Paragraph 13 with the exception of the tax identification number of the applicant, if it contains the birth registration number of the applicant, it shall state the validity period of the exemption certificate not longer than one year and state permitted amount of receiving spirit exempt from tax for the validity period of the exemption certificate.

(17) A legal person or natural person stated in Paragraph 13 which has been issued by the customs office the exemption certificate with validity after 1 May 2004 and it wants to receive spirit for the purposes exempt from tax from another Member State or from the territory of third state through the territory of the union shall ask for the registration and for the issuing of the authorization to receive spirit from another Member State under tax suspension. Paragraphs 21 through 23 apply to submission of such application, the registration and the depositing of a tax guarantee.

(18) A legal person or natural person stated in Paragraph 13 which has been issued by the customs office the exemption certificate with validity after 1 May 2004 and it has spirit inventories, is obliged in the presence of the tax authority and the customs office to perform on 29 and 30 April 2004 stocktaking of spirit inventories under a special regulation⁴⁸⁾ as of 30 April 2004 divided according to CN code, separately from the inventories of spirit which it has in accordance with current regulations at a price with tax and at a price without tax. The provision of Paragraph 8 applies appropriately to draw up of minutes from the stock-taking of spirit inventories.

(19) If a legal person or natural person under Paragraph 18 does not prove in the state of spirit inventories an acquisition of the spirit according to the current regulations, such spirit is considered as spirit acquired illegally and the tax administrator shall impose a penalty to it in the amount of tax under current regulations from spirit established in this way and it shall secure the spirit.

(20) If the user enterprise under Paragraph 18 has spirit inventories acquired under the current regulations at a price with tax and it has the use of such spirit exempt from tax stated in the exemption certificate, it can claim tax reimbursement in the amount of tax according to the regulation as amended as of 30 April 2004 in a separate tax reimbursement application, if it has documents confirming the amount of the paid tax. It is obliged to submit the separate tax reimbursement application to the customs office by 25 May 2004. If the user enterprise does not submit the separate tax reimbursement application by 25 May 2004, spirit inventories are considered after 1 May 2004 as the spirit purchased without tax and the claim for tax reimbursement expires. From inventories of spirit acquired without tax which purpose of use is not stated in the exemption certificate of the user enterprise, it shall admit a tax according to rate valid from 1 May 2004 in a separate tax return submitted to the customs office before 25 May 2004 and pay the tax according the tax rate valid from 1 May 2004 within the same period of time.

(21) A legal person or natural person which wants to be from 1 May 2004 a registered trader under this act (Article 27 Paragraph 1) must ask the customs office in written form for registration and the issuing of an authorization to receive spirit 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. Annexes to the application is 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.

(22) The applicant stated in Paragraph 21 must meet conditions stated in Paragraph 4 and if it has a facility for holding of spirit, it must be officially certified²⁰⁾. Before the issuing of an authorization to receive spirit from another Member State under tax suspension repeatedly, the applicant is obliged to deposit a tax guarantee in the amount of tax for the amount of spirit which it assumes to receive during one calendar month.

(23) Before performing registration, the customs office shall verify with the applicant stated in Paragraph 21 the facts and data stated in the application and in annexes, and if these facts and data are true and the applicant meet conditions stated in Paragraph 4 and in Paragraph 22 appropriately, the customs office

shall assign it a registration number, issue a certificate of registration and an authorization to receive spirit from another Member State under tax suspension.

(24) A legal person or natural person stated in Paragraph 21 to which the customs office issued an authorization to receive spirit from another Member State under tax suspension with validity from 1 May 2004 and which has spirit inventories is obliged to perform with the presence of the tax authority and the customs office the stock-taking of spirit inventories during 29 and 30 April 2004 under a special regulation⁴⁸⁾ according to the state as of 30 April 2004 divided according to the CN code, separately for inventories of spirit which it has in accordance with current regulations at a price with tax and at a price without tax. The provision of Paragraph 8 applies appropriately to draw up of minutes from the stock-taking of spirit inventories.

(25) A registered trader from spirit inventories acquired without tax 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.

(26) If a legal person or natural person under Paragraph 24 cannot not prove in the established state of spirit inventories an acquisition of the spirit according to the current regulations, the tax administrator shall impose a penalty to it in the amount of tax under current regulations from spirit established in this way and it shall secure the spirit.

(27) A legal person or natural person which wants to be from 1 May 2004 an authorized tax representative is obliged to ask the Customs Directorate in written form for the registration, while the application must be submitted to the Customs Directorate before 31 March 2004. The Customs Directorate shall appoint a customs office competent for performance of the registration. The application for the registration of the authorized tax representative shall be enclosed with a power of attorney granted in written form with officially certified signature and declaration of the authorized tax representative with officially certified signature that it agrees with representation of the consignor (supplier) of spirit. Paragraphs 21 through 23 apply appropriately to the submission of such application, to the registration of the authorized tax representative and to depositing of a tax guarantee.

(28) A legal person or natural person which wants to be from 1 May 2004 an authorized keeper of the fruit grower's distillery under this act (Article 19) must ask at the relevant customs office in written form for the registration, while the application must be submitted to the customs office before 31 March 2004. Paragraph 1 applies appropriately to the content of the application. Annexes to the application are

- a) an authorization for the production of spirit in the fruit grower's distillery issued under a special regulation,²⁷⁾
- b) 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,
- c) technological documentation and sketch of production equipment in the fruit grower's distillery with marking of places to which the customs office attached seals, technological documentation of the control spirit measure for measuring the amount of the spirit produced, temperature of the spirit and a document on official verification of such equipment,
- d) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter b) and c) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter d).

(29) The applicant stated in Paragraph 28 must meet the conditions under Paragraph 4 letter b) to f).

(30) Before performing the registration, the customs office shall verify with the applicant stated in Paragraph 28 the facts and data stated in the application and in annexes, and if these facts and data are true and the applicant meet conditions stated in Paragraph 29, the customs office shall assign it a registration number and issue a certificate of registration.

(31) If the authorized keeper of the fruit grower's distillery according to the current regulations does not complete the production period before 30 April 2004, it shall perform with the presence of the customs office and the tax authority during 29 and 30 April 2004 a settlement of spirit for the production period from 1 July 2003 by 30 April 2004.

(32) A legal person or natural person which is according to the current regulations authorised to work out control strips pursuant is authorised to work out tax stamps under this act no later than before 31 July 2004. Such legal person or natural person is obliged before the distribution of tax stamps to submit at the Customs Directorate a specimen printout (specimen) worked out under a generally binding legal regulation issued under Article 10 Paragraph 38. A legal person or natural person is obliged to submit the specimen printout of tax stamp (specimen) also before each change in elements and data of the tax stamp.

(33) A legal person or natural person not stated in Paragraph 1, 21 and 27 which wants to import a consumer packaging from the territory of third countries after 1 May 2004 must ask at the customs office in written form for the filing in the register of importers of consumer packaging no later than before 31 March 2004. The application for filing in the register must include the identification data of the applicant, its tax identification number, the authorization for import, if it is required by a special regulation, 19) the trade name of imported spirit, country of origin of the spirit and the estimated annual volume of the imported spirit in hl a.

(34) A legal person or natural person which wants to release the consumer packaging in tax free circulation in the tax territory after 1 May 2004 is obliged to ask at the Customs Directorate in written form for the issuing of a registration purchase number

- a) simultaneously with the application for the issuing of an authorization for the operation of a tax warehouse, in the case of a legal person or natural person under Paragraph 1, or
- b) simultaneously with the application for the registration and the issuing of an authorization to receive spirit from another Member State under tax suspension, in the case of a legal person or natural person under Paragraph 21, or
- c) simultaneously with the application for the registration of an authorized tax representative, in the case of a legal person or natural person under Paragraph 27, or
- d) after the filing in the register of importers of consumer packaging at the customs office, in the case of a legal person or natural person under Paragraph 33.

(35) A legal person or natural person stated in Paragraph 33 in the application for the assignment of a registration purchase number shall state its identification data and confirmation of the customs office on the filing in the register of importers of consumer packaging.

(36) A legal person or natural person stated in Paragraph 34 after assignment of the registration purchase number shall conclude with a legal person or natural person stated in Paragraph 32 a written agreement on work out of tax stamps which copy it shall submit by 15 days to the customs office and it shall ask the customs office for the issuing of an exemption certificate for receipt of tax stamps. A legal person or natural person stated in Paragraph 34 letter c) and d) is obliged before the issuing of the exemption certificate for receipt of tax stamps to deposit a tax guarantee via depositing of funds into account of the customs office in the amount of tax for the amount of spirit which it wants to release in tax free circulation.

(37) The application for the issuing of the exemption certificate for receive of tax stamps under Paragraph 36 must contain the identification data of the applicant, registration purchase number of the applicant and number of ordered pieces of tax stamps according to the amount and volume concentration of the spirit in the consumer packaging. At the same time, it shall send to the customs office no later than together with the submission of the application for the issuing of the first exemption certificate for tax stamps a list of spirit released in tax free circulation where it shall state the trade name of the consumer packaging, the amount of spirit and volume concentration of spirit in the consumer packaging, country of origin of spirit and the identification data of a foreign supplier of spirit, where tax stamps shall be pasted, if it is not producer of spirit in the tax territory; if tax stamps are to be pasted in the customs warehouse, the identification data of a foreign producer of spirit, the identification data of a legal person or natural person responsible for the spirit held in the customs warehouse and the address of the customs warehouse shall be stated.

(38) A legal person or natural person to which as of 1 May 2004 no authorization for the operation of a tax warehouse or no authorization to receive spirit from another Member State under tax suspension, or no exemption certificate was issued is obliged to perform as of 30 April 2004 a stocktaking of spirit inventories under a special regulation⁴⁸⁾ and in a separate tax return submitted to the tax administrator before 25 May 2004 to admit a tax from the spirit acquired at a price without tax according to the tax rate valid from 1 May 2004 and to pay tax before the same deadline, is as of 30 April 2004

- a) it was a payer of excise duty on spirit or was not payer of the excise duty on spirit, but it has been using the spirit exempt from tax, or
- b) it has spirit inventories which it has according to current regulations at a price with tax or at a price without tax or from which it has claimed tax reimbursement.

(39) A legal person or natural person under Paragraph 38 is obliged to draw up minutes which must have elements of minutes under a special regulation,⁴⁰⁾ in three copies signed by authorised employees of the tax authority and of the customs office and by person authorised to act in the name of tax subject.⁴⁵⁾ The tax authority shall take necessary measures pursuant to Article 3 of Decree of the Ministry of Finance of the Slovak Republic No. 117/1993 Coll. on Control of the Production and Circulation of Spirit as amended as of 30 April 2004 and it shall minimally secure the production equipment from cooler of spirit to control spirit measure, including.

(40) If a legal person or natural person under Paragraph 39 does not prove in the state of inventories of spirit an acquisition of spirit according to current regulations, such spirit is considered a spirit acquired illegally and the tax administration shall impose it a penalty in the amount of a tax according to current regulations from spirit established in this way and it shall secure the spirit.

(41) To a legal person or natural person stated in Paragraph 38 which submitted the application for the issuing of an authorization for the operation of a tax warehouse or an authorization to receive spirit from another Member State under tax suspension, or an exemption certificate for receive of spirit exempt from tax, but the proceedings on this application were not finished as of 1 May 2004, the customs office shall state a day as of which it shall perform a new stocktaking of spirit inventories before the issuing of the relevant authorization or exemption certificate; such application shall be assessed as it has been submitted after 30 April 2004.

(42) To a legal person or natural person stated in Paragraph 20, 25 and 38 which has as of 30 April 2004 spirit inventories at a price without tax and it 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.

(43) The consumer packaging marked with a control strip according to current regulations may be released in tax free circulation no later than before 31 July 2004.

(44) The consumer packaging marked with control strip according to current regulations may be sold no later than before 1 May 2005. After this day the consumer packaging marked with control strip according to current regulations is considered as unmarked.

(45) A legal person or natural person to which a registration purchase number was assigned according to current regulations shall settle with the Customs Directorate the receipt and use of control strips according to state as of 31 August 2004. Provisions of current regulations apply to the settlement. Not used control strips shall be destroyed by the purchaser of tax stamps under supervision of the Tax Directorate or of a tax authority authorised by the it no later than days after the day of actual settlement. The Tax Directorate or the tax authority authorised by the it shall draw up an official record on destroying of control strips.

(46) If spirit 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 spirit shall be as of 1 May 2004 considered spirit under tax suspension. If such spirit is not transported to the tax warehouse, tax obligation in the tax territory originates on the day of releasing spirit into tax free circulation.

(47) For the documenting of the transport of spirit exempt from tax to the territory of another Member State by a Slovak representative (Article 16 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

(48) 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 spirit before 1 May 2004 can use an accompanying document according to the sample stated in Annex No. 4.

(49) A legal person or natural person which under this act is entitled from 1 May 2004 to transport spirit released into tax free circulation in the tax territory to another Member State for commercial purposes before 1 May 2004 can use a simplified accompanying document according to the sample stated in Annex No. 5. Also completely denatured spirit is considered as spirit released in tax free circulation in the tax territory.

(50) Documents under Paragraph 48 and 49 can be used for the transport of spirit after 1 May 2004, if documents under legal regulations of the union are not used.⁵⁰⁾

(51) Provisions of a special regulation⁴⁰⁾ apply to the proceedings of the customs office under Paragraph 1 through 50 unless this act stated otherwise. The customs office shall decide on the application under Paragraph 6, 12, 16, 23, 27 and 30 no later than 30 days after the day of submission of the application of a legal person or natural person stated in Paragraph 1, 10, 13, 21, 27 and 28. If the applicant stated in Paragraph 1, 10, 13, 21, 27 and 28 does not prove fulfilment of all conditions before this deadline the customs office shall invite the applicant stated in these paragraphs to remove shortcomings and it shall

⁵⁰⁾ 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 (Official Journal of the European Communities L 276, 19/9/1992, p. 1 – 10) as amended.

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 (Official Journal of the European Communities L 369, 18/12/1992, p. 17 – 24).

decide on the application under Paragraph 6, 12, 16, 23, 27 and 30 in a deadline no later than 15 days after the day of the removal of shortcomings.

Article 52

The following is cancelled:

1. Act of the National Council of the Slovak Republic No. 229/1995 Coll. on the Excise Duty on Spirit as amended by the Act of the National Council of the Slovak Republic No. 304/1995 Coll., Act of the National Council of the Slovak Republic No. 386/1996 Coll., Act No. 59/1999 Coll., Act No. 341/1999 Coll., Act No. 252/2000 Coll. and Act No. 392/2002 Coll.,
2. Decree of the Ministry of Finance of the Slovak Republic No. 123/1997 Coll. on Marking of Consumer Packaging of Spirit with Control Strip as amended by Decree of the Ministry of Finance of the Slovak Republic No. 184/1998 Coll.,
3. Decree of the Ministry of Finance of the Slovak Republic No.117/1993 Coll. on Control of the Production and Circulation of Spirit.
4. Decree of the Ministry of Agriculture of the Slovak Republic No. of 4 November 2003 No. 2914/2003-100 on Denaturation Agents, their Lowest Allowable Volume, Requirements on the Preparation of Denatured Alcohol, Requirements on Denatured Alcohol and on the Use of Denatured Alcohol (notification No. 478/2003 Coll.).

Section II

Act No. 467/2002 Coll. on the Production and Distribution of Spirit into the Market as amended by Act No. 211/2003 Coll. shall be changed and amended as follows:

1. In Article 2, Paragraph 5 shall read:

“(5) For the purposes of this act, the producer shall mean

- a) a legal person or natural person which produces and processes spirit in distilleries under Paragraph 3 letter a) to o),
- b) a legal person or natural person which produces and processes spirit in distillery under Paragraph 3 letter p).”.

2. Word “authorized keeper” in the relevant grammatical form shall be replaced in the tax wording of the act with word “producer” in the relevant grammatical form with the exception of Article 8 Paragraph 5 and 6.

3. In Article 3 Paragraph 1 at the end of the sentence, the following sentences shall be inserted: “The authorization does not authorise for the operation of a distillery. The distillery can be operated on the basis of an authorization for the operation of a tax warehouse issued according to a special regulation.2a)”.

Footnote to reference 2a shall read:

“2a) Article 23 of Act No. 105/2004 Coll. on the Excise Duty on Spirit and on amendment of Act No. 467/2002 Coll. on the Production and Distribution of Spirit into the market as amended by Act No. 211/2003 Coll.”.

4. In Article 3 Paragraph 3 letter b), semicolon and words “this does not apply in the case of a distillery under Article 2 Paragraph 3 letter c) and m)” shall be excluded.

5. In Article 3 Paragraph 3, letter o) shall be excluded. Present letter p) shall be marked as letter o).

6. In Article 3 Paragraph 6 letter c), semicolon and words “this does not apply in the case of a distillery under Article 2 Paragraph 3 letter c) and m)” shall be excluded.

7. In Article 4 Paragraph 1, words “to the Tax Directorate and to Ministry of Finance of the Slovak Republic” shall be replaced with words “to the Customs Directorate of the Slovak Republic (hereinafter “Customs Directorate”)

8. In Article 6 Paragraph 3, words “Tax Directorate” shall be replaced with words “Customs Directorate”.

9. In Article 7 Paragraph 1 letter l), word “tax” shall be replaced with word “customs”.

10. In Article 8 Paragraph 1, at the end of the sentence, the following sentences shall be inserted: “The authorization does not authorise for the operation of a fruit grower’s distillery. Fruit grower’s distillery can be operated on the basis of a registration under special regulation.21a)”.

Footnote to reference 21a shall read:

“21a) Article 19 of Act No. 105/2004 Coll.”.

11. In Article 8 Paragraph 5, words “Authorized keeper of a distillery” shall be replaced with words “Producer in the distillery.”

12. In Article 8 Paragraph 6, words “Authorized keeper of a distillery” shall be replaced with words “Producer in the distillery.”

13. In Article 9, Paragraph 7 shall read:

“(7) Standards of spirit losses in distilleries and in other processors of spirit for single types of losses arising according to the activities stated in Article 2 Paragraph 2 letter c) through g) and the claiming of such losses of spirit for the purposes of exemption from the excise duty on spirit shall be determined by a generally binding legal regulation issued by the ministry after agreement with the Ministry of Finance of the Slovak Republic.”

14. Article 10, 11 and 12 shall be excluded.

15. In Article 13, Paragraph 6 shall be inserted and it shall read:

“(6) If the customs office detects breaching of obligations under this act during the tax supervision and tax control performed under a special regulation27a), it shall notify about this fact the ministry no later than three days after the day of its detection.”.

Footnote to reference 27a shall read:

“27a) Article 45 of Act No. 105/2004 Coll.”.

16. After Article 15, Article 15a shall be inserted and it shall read:

“Article 15a

(1) Authorizations for composition of the denaturation agent or for mixing of denaturation agents intended for the preparation of the completely denatured alcohol under the current regulation shall expire on 1 May 2004.

(2) Authorizations for the use of other denaturation agent for the preparation of especially denatured alcohol and of especially denatured water-free alcohol as determined by generally binding legal

regulation, as well as authorizations of its lowest allowable amount and the alcohol denatured in this way issued under the current regulation shall expire on 31 May 2004.”.

Section III

This act enters into effect on 1 March 2004 apart from the Section I Article 1 through 50, Article 52 and Section II, which enter into effect on 1 May 2004.

Rudolf Schuster man. sign.
Pavol Hrušovský man. sign.
Mikuláš Dzurinda man. sign.

Annex No. 1 to Act No. 105/2004 Coll.

Hereby the following directives are adopted:

1. Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products as amended (Official Journal of the European Communities L 076, 23/03/1992, p. 1 – 13).
2. Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages as amended (Official Journal of the European Communities L 316, 31/10/1992, p. 21 – 27).
3. Council Directive 92/84/EEC of 31 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages (Official Journal of the European Communities L 316, 31/10/1992, p. 29 – 31).
4. Council Directive 69/169/EEC of 28 May 1969 on the harmonisation of provisions laid down by act, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel as amended (Official Journal of the European Communities L 133, 04/06/1969, p. 6 – 8).

Translations of directives are in Central Translation Unit of section of Institute for Approximation of Act Office of the Government of the Slovak Republic.