

A C T

of 26 October 2004,

by which Act No. 104/2004 Coll., on the excise duty on wine is amended and supplemented in the wording of Act No. 556/2004 Coll.

The National Council of the Slovak Republic have decided on the following Act:

Art. I

Act No. 104/2004 Coll., on the excise duty on wine, as amended by Act No. 556/2004 Coll., has been amended and supplemented as follows:

1. In Section 7, Par. 2, letter g) the words "Section 13, Par. 2" are substituted with the words "Section 31a, Par. 2".

2. In Section 7, Par. 2, letter h) the words "Section 13, Par. 2" are substituted with the words "Section 31a, Par. 2".

3. Section 13 is omitted, including marginal notes to references 11 and 12.

4. In Section 17, Par. 2, letter e), the words "Point one" are put behind the words "of Section 4, letter c)".

5. Section 17, Part 2 is added with letter g), reading as follows:

"g) The applicant's statutory declaration that the conditions pursuant to Section 4, letter c), Point two will be met."

6. In Section 18, Par. 7 the word "company" in the introductory sentence is substituted with the words "operator of a company".

7. Section 19, Part 2 is added with letters c) and d), reading as follows:

"c) From one user company to another user company in the event of termination of the activity as per Section 8, Par. 13,

d) Between plants of the same legal person or natural person that is a user company."

8. Section 19, Part 7 reads as follows:

"(7) The Customs Office will refund the paid security for tax as per Part 3 at request provided that the takeover of wine is confirmed by the Customs Office of the receiver (purchaser)".

9. In Section 20, Par. 6, last sentence, the words "termination of transport" are substituted with the words "takeover of wine".

10. In Section 23, Par. 4, the words "confirming termination of transport" are substituted with the words "confirmed by the receiver (purchaser) and the tax administrator of the receiver (purchaser)".

11. Sections 31a and 31b are put behind Section 31, reading including the heading as follows:

"Specific regulation for the sale of wine exempt from tax to persons of other countries, enjoying privileges and immunities pursuant to international contracts

Section 31a

(1) The wine exempt from tax is wine sold in a tax store for the sale of wine exempt from tax to persons of other countries enjoying privileges and immunities pursuant to an international contract, namely solely to persons of other countries enjoying privileges and immunities pursuant to an international contract^{26a}) (hereinafter "foreign representative").

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

- a) A diplomatic mission and consular office based in the territory of the Slovak Republic, with the exception of a consular office managed by an honorary consul,
- b) An international organization and its regional office (hereinafter "the international organization") based in the territory of the Slovak Republic, established pursuant to an international contract,^{26a)}
- c) A diplomatic representative of a mission 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 officer 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 an honorary consular officer,
- e) A member of the administrative personnel and technical personnel of a 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 an employee of a consular office managed by an honorary consul,
- g) An officer of an international organization who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic and is permanently assigned to execute official functions in the Slovak Republic.

(3) A legal person or a natural person wishing to sell wine exempt from tax to foreign representatives must ask the Customs Office for registration and for the issue of a permission to run a tax store for the sale of wine exempt from tax to foreign representatives (hereinafter "tax store for foreign representatives". The provision of Section 16, Par. 3 will not be applied in this case. As for the application for registration and the issue of a permission to run a tax store for foreign representatives and the permission, Section 17 will be applied adequately; the Customs Office issuing a permission to run a tax store for foreign representatives will notify the Customs Office in Bratislava of that fact without undue delay. If a legal person or a natural person have asked for the issue of a permission to run a tax store for foreign representatives pursuant to a specific regulation,²⁶⁾ a single permission may be issued for all commodities that are subject to excise duties pursuant to a specific regulation²⁶⁾, with the exception of mineral oils.

(4) Before the issue of a permission to run a tax store for foreign representatives the legal or natural persons pursuant to Part 3 are obliged to pay a security for tax, amounting to the tax corresponding to the assumed average monthly quantity of sold wine. If the legal or natural persons have already applied for the issue of a permission to run a tax store for foreign representatives pursuant to a specific regulation,²⁶⁾ they are obliged to pay a security for tax, amounting to the tax corresponding to the average monthly quantity of sold commodities as given in the permission to run a tax store for foreign representatives. As for payment of the security for tax, Section 18 will be adequately applied.

(5) In the permission to run a tax store for foreign representatives the Customs Office may specify production-technical conditions of a tax store.

(6) The transport of wine to legal or natural persons whom the Customs Office issued a permission to run a tax store for foreign representatives (hereinafter "operator of a tax store for foreign representatives") is executed under suspended tax with an accompanying document: As for the procedure for the transport of wine with suspended tax, Sections 19 and 20 will be adequately applied.

(7) A foreign representative wishing to purchase wine exempt from tax in a tax store for foreign representatives is obliged to ask the Ministry of Foreign Affairs of the Slovak Republic to issue a certificate on the position of the foreign representative pursuant to Part 2 and on meeting the reciprocity condition pursuant to Part 14. If the data as given in the certificate of the Ministry of Foreign Affairs of the Slovak Republic change, the Ministry of Foreign Affairs of the Slovak Republic will notify the Customs Office in Bratislava of those facts without undue delay. A sample of the certificate of the Ministry of Foreign Affairs of the Slovak Republic on the position of a foreign representative and on meeting the reciprocity condition is given in Annex No. 2.

(8) Wine exempt from tax may be sold in a tax store for foreign representatives solely to foreign representatives, namely solely based on a permission to purchase wine exempt from tax in a tax store for foreign representatives. The foreign representative must ask the Customs Office in Bratislava in writing to issue a permission to purchase wine exempt from tax in a tax store for foreign representatives. The applicant will attach a certificate pursuant to Part 7 to the application for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives.

(9) The Customs Office will issue a permission to purchase wine exempt from tax in a tax store for foreign representatives within 15 days from filing the application for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives, including the applicant's identification data, his position pursuant to Part 2 and the annual limit for the purchase of wine exempt from tax in a tax store for foreign representatives, namely to the extent pursuant to Parts 12 and 13. The permission to purchase wine exempt from tax in a tax store for foreign representatives is attached with a write-off sheet, issued for individual calendar years. If legal or natural persons have already asked for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives pursuant to a specific regulation, ²⁶⁾, a single permission may be issued for all commodities that are subject to excise duties pursuant to a specific regulation, ²⁶⁾, attached with write-off sheets for individual subjects of the excise duty pursuant to a specific regulation. ²⁶⁾ If the facts and data pursuant to Part 7 change, the Customs Office in Bratislava, taking into account the extent and seriousness of changes, will modify the original permission to purchase of wine exempt from tax in a tax store for foreign representatives or will issue a new permission to purchase of wine exempt from tax in a tax store for foreign representatives. If the authorization to purchase wine exempt from tax in a tax store for foreign representatives expires, the foreign representative is obliged to return the permission to purchase wine exempt from tax in a tax store for foreign representatives, including the write-off sheet, to the Customs Office in Bratislava within 15 days from the day that the authorization expired.

(10) The Customs Office in Bratislava will issue a permission to purchase wine exempt from tax in a tax store for foreign representatives, including the write-off sheet, in two copies: a copy for the Customs Office in Bratislava and a copy for the foreign representative. The Customs Office in Bratislava will specify the annual limit for the purchase of wine exempt from tax in a tax store for foreign representatives, namely to the extent pursuant to Parts 12 and 13, or its proportional part corresponding to the length of the period remaining to the end of the calendar year in the event that the person from a foreign country acquires the position of a foreign representative during a calendar year. When calculating the proportional part of the annual limit, the number of remaining calendar months to the end of the respective calendar year, including the started calendar months, is taken into account. The unused limit or its part cannot be transferred to the following calendar year. The foreign representative will submit the write-off sheet for the respective calendar year to the Customs Office in Bratislava by 31st January of the following calendar year. The Customs Office in Bratislava will issue a write-off sheet once a year for the following year at the request of the foreign representative.

(11) When purchasing wine in a tax store for foreign representatives, the foreign representative is obliged to submit a permission to purchase wine exempt from tax in a tax store for foreign representatives and a write-off sheet. The operator of a tax store for foreign representatives records the quantity of purchased wine in the write-off sheet in litres and keeps a copy of the permission to purchase wine exempt from tax in a tax store for foreign representatives and a copy of the write-off sheet.

(12) The foreign representative as per Part 2, letters a) and b) may purchase a maximum of 2,000 litres of wine per calendar year. The limit does not include still wine.

(13) The foreign representative as per Part 2, letters c) to g) may purchase a maximum of 500 litres of wine per calendar year for his personal consumption. The limit does not include still wine.

(14) The permission to purchase wine exempt from tax in a tax store for foreign representatives will be issued by the Customs Office in Bratislava to the extent pursuant to Parts 12 and 13 only to foreign representatives of those countries that provide similar advantages or tax refund to the citizens of the Slovak Republic and provided that they enjoy privileges and immunities pursuant to an international contract ^{26a)} (hereinafter "Slovak representative"). The reciprocity does not relate to international organizations and their officers.

(15) If another country does not provide similar advantages or tax refund to Slovak representatives pursuant to Part 14, foreign representatives of that country will not be granted the tax exemption.

(16) An operator of a tax store who was issued a permission to run a tax store pursuant to Section 17, wishing to sell wine exempt from tax to foreign representatives, must ask the Customs Office in writing that his permission be completed with a permission to run a tax store for foreign representatives. The applicant's application for completion of the permission to run a tax store with a permission to run a tax store for foreign representatives will include the data pursuant to Section 17, Par. 1. The operator of a tax store is obliged to pay a security for tax, amounting to the tax corresponding to the assumed average monthly quantity of sold wine in a tax store for foreign representatives before completion of the permission to run a tax store with a permission to run a tax store for foreign representatives. The payment of the security for tax for wine sold in a tax store for

foreign representatives is not required if the security for tax pursuant to Section 18, Par. 1 is paid in such an amount which also covers the security for tax for wine that is to be sold in a tax store for foreign representatives.

(17) The Customs Office will check the facts and data pursuant to Part 16 and Section 31b, Par. 1 about the applicant and complete the permission to run a tax store with a permission to run a tax store for foreign representatives within 30 days from the day that the application was filed: The Customs Office that completed the permission to run a tax store with a permission to run a tax store for foreign representatives will notify the Customs Office in Bratislava of that fact. If the applicant does not prove fulfilment of all conditions within this term, the Customs Office will invite him to remove the said discrepancies and will complete the permission to run a tax store with a permission to run a tax store for foreign representatives within 15 days from the day that the discrepancies were removed.

(18) The operator a tax store for foreign representatives may supply wine exempt from tax to a Slovak representative pursuant to Part 14 with an accompanying document and certificate of exemption from the excise duty, ¹⁰⁾, issued by the host country. No security for tax is requested for such transport of wine.

Section 31b

(1) The operator of a tax store for foreign representatives may sell wine exempt from tax solely to foreign representatives whom the Customs Office in Bratislava issued a permission to purchase wine exempt from tax in a tax store for foreign representative. The operator of a tax store for foreign representatives is obliged to keep files on copies of permissions to purchase wine exempt from tax in a tax store for foreign representatives and copies of write-off sheets and ensure

- a) The storage and sale of wine exempt from tax to foreign representatives solely in a tax store for foreign representatives,
- b) Keeping files, predominantly on
 1. The quantity of received wine in litres, divided into still wine, sparkling wine and semi-finished products,
 2. The quantity of sold wine in litres, divided pursuant to foreign representatives, and quantity of sold wine in litres from the beginning of the calendar year, divided into still wine, sparkling wine and semi-finished products,
 3. The level of stock of wine in litres, divided into still wine, sparkling wine and semi-finished products.

(2) By the 15th day of a calendar month the operator of a tax store for foreign representatives is obliged to notify the Customs Office in Bratislava, pursuant to foreign representatives, of

- a) The quantity of wine in litres sold in the previous calendar month, except for still wine, and
- b) The total quantity of wine in litres sold from the beginning of the calendar year to the end of the previous calendar month, except for still wine.

(3) As for keeping files pursuant to Part 1, letter b), Section 33, Par. 4 is applied equally and Section 33, Par. 2 and 3 is adequately applied.

(4) As for expiration of the permission to run a tax store for foreign representatives, Section 17, Par. 7 to 11 is adequately applied."

The marginal note to reference 26a reads as follows:

^{26a)} For example Decree of the Ministry of Foreign Affairs No. 157/1964, Coll., on the Vienna agreement on diplomatic relations, Decree of the Ministry of Foreign Affairs No. 32/1969, Coll., on the Vienna agreement on consular relations, Decree of the Ministry of Foreign Affairs No. 40/1987, Coll., on the Vienna agreement on specific missions, Decree of the Ministry of Foreign Affairs No. 21/1968, Coll., on the Agreement on privileges and immunities of international and specialized organizations."

12. Section 33, Part 3 reads as follows:

"(3) The issue of wine exempt from tax must be attached with

- a) The purchaser's coupon to purchase, if wine is issued as exempt from tax pursuant to Section 7, Par. 1,
- b) A copy of the permission to purchase wine exempt from tax in a tax store for foreign representatives and a copy of a write-off sheet, if wine is issued as exempt from tax pursuant to Section 31a.

13. In Section 38, Par. 5, a comma and the words "operators of tax stores for foreign representatives" are put behind the words "tax authorized representatives".

14. In Section 39, Par. 1, a comma and the words "operators of tax stores for foreign representatives" are put behind the words "records of authorized representatives for mail-order service".

15. Section 39, Part 32 is added with letters g) and h), reading as follows:

- "g) Identification data of the operator of a transit tax store,
- h) Identification data of the operator of a tax store fore foreign representatives."

16. Section 39 is added with Part 6, reading as follows:

"(6) The Customs Office in Bratislava is obliged to keep a central electronic database of issued permissions to purchase wine exempt from tax in a tax store for foreign representatives, predominantly containing

- a) Identification data of foreign representatives,
- b) Limits pursuant to Section 31a, Par. 12 and 13, including the remaining portions of the limits,
- c) The date of issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives and
- d) The date of cancellation of a permission to purchase wine exempt from tax in a tax store for foreign representatives."

17. Section 40 is added with Part 4, reading as follows:

"(4) The Customs Office will impose a fine on any operator of a tax store for foreign representatives if he sold wine exempt from tax above the limit pursuant to Section 31a, Par. 12 and 13 to a foreign representative, or sold wine exempt from tax to a person whom an permission to purchase wine exempt from tax in a tax store for foreign representatives had not been issued, amounting to the tax corresponding to the quantity of wine sold in such a manner, but a minimum of SK 100,000."

18. Section 43b is put behind Section 43a, reading including the heading as follows:

"Section 43b

Transient provisions on regulations effective from 1 January 2005

(1) A foreign representative may ask for a tax refund pursuant to Section 13, Par. 7 and 8 of the Act, in the wording effective as of 31 December 2004, by 25 January 2005, otherwise the possibility of the tax refund will expire. As for the tax refund, the provision of Section 13, Par. 10 of the Act, in the wording effective as of 31 December 2004, will be applied.

(2) A legal person or a natural person wishing to run a tax store for foreign representatives from 1 January 2005, pursuant to the Act in the wording effective from 1 January 2005, is obliged to ask the Customs Office in writing for the registration and issue of a permission to run a tax store for foreign representatives, when the application for registration and the issue of a permission must be filed to the Customs Office by 15 December 2004. As for the application for registration and the issue of a permission to run a tax store fore foreign representatives and the permission, Section 17 will be adequately applied.

(3) The Customs Office will check pursuant to Part 2 the facts and data pursuant to Parts 2 and 12 about the applicant and will issue a permission to run a tax store for foreign representatives to the applicant within ten days from the day that the application was filed: the Customs Office issuing the permission to run a tax store for foreign representatives will notify the Customs Office in Bratislava of that fact without undue delay. If the applicant does not prove fulfilment of all conditions within this period, the Customs Office will invite the applicant to remove the discrepancies and will issue a permission to run a tax store for foreign representatives within five days from the day that the discrepancies were removed.

(4) Legal or natural persons pursuant to Part 2 are obliged to pay a security for tax, amounting to the tax corresponding to the assumed average monthly quantity of sold wine before the issue of the permission to run a tax store for foreign representatives. If legal or natural persons have already asked for the issue of a permission to run a tax store for foreign representatives pursuant to a specific regulation, ²⁶), they are obliged to pay a security for tax, amounting to the tax corresponding to the average monthly quantity of sold products as given in the permission to run a tax store for foreign representatives. As for payment of the security for tax, Section 18 will be applied adequately.

(5) A foreign representative wishing to purchase wine exempt from tax in a tax store for foreign representatives from 1 January 2005, pursuant to the Act in the wording effective from 1 January 2005, is obliged to ask the Ministry of Foreign Affairs of the Slovak Republic to issue a certificate on the position of the foreign representative pursuant to Section 31a, Par. 2 and on meeting the reciprocity condition pursuant to Section 31a, Par. 14 by 10 December 2004. A sample of the certificate of the Ministry of Foreign Affairs of the Slovak Republic on the position of the foreign representative and on meeting the reciprocity condition is given in Annex No. 2.

(6) The foreign representative pursuant to Section 5 must ask the Customs Office in Bratislava in writing for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives, when the application for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives must be filed to the Customs Office in Bratislava by 20 December 2004. The applicant's application for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives will be attached with the certificate pursuant to Section 5.

(7) The Customs Office in Bratislava will issue a permission to purchase wine exempt from tax in a tax store for foreign representatives within ten days from the day that the application for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives was filed, containing the applicant's identification data, his position pursuant to Section 31a, Par. 2, meeting the condition pursuant to Section 31a, Par. 14 and the annual limit to purchase of wine exempt from tax in a tax store for foreign representatives, namely to the extent pursuant to Section 31a, Par. 12 and 13. The permission to purchase wine exempt from tax in a tax store for foreign representatives is attached with a write-off sheet for 2005. If legal or natural persons have already asked for the issue of a permission to purchase wine exempt from tax in a tax store for foreign representatives pursuant to a specific regulation,²⁶⁾, a single permission may be issued for all commodities that are subject to the excise duty pursuant to a specific regulation,²⁶⁾, attached with write-off sheets pursuant to a specific regulation,²⁶⁾

(8) The Customs Office in Bratislava will issue a permission to purchase wine exempt from tax in a tax store for foreign representatives, including the write-off sheet, in duplicate; a copy for the Customs Office in Bratislava and a copy for the foreign representative. The Customs Office in Bratislava will specify the annual limit to the purchase of wine exempt from tax in a tax store for foreign representatives to the extent pursuant to Section 31a, Par. 12 and 13 in the write-off sheet.

(9) The operator of a tax store who was issued a permission to run a tax store pursuant to Section 17, and wishing to sell wine exempt from tax to foreign representatives from 1 January 2005, must ask the Customs Office in writing that the permission to run a tax store be completed with a permission to run a tax store for foreign representatives pursuant to the Act in the wording effective from 1 January 2005. The applicant's application for the completion of the permission to run a tax store with a permission to run a tax store for foreign representatives will include the data pursuant to Section 17, Par. 1, when the application for the completion of the permission must be filed to the Customs Office by 15 December 2004. The operator of a tax store is obliged to pay a security for tax, amounting to the tax corresponding to the assumed average monthly quantity of sold wine in a tax store for foreign representatives before completion of the permission to run a tax store with a permission to run a tax store for foreign representatives. Payment of the security for tax for wine sold in a tax store for foreign representatives is not required if the security for tax pursuant to Section 18, Par. 1 is paid in an amount covering the security for tax for wine that is to be sold in a tax store for foreign representatives.

(10) The Customs Office will check the facts and data pursuant to Parts 9 and 12 about the applicant and will complete the permission to run a tax store with a permission to run a tax store for foreign representatives within ten days from the day that the application was filed; the Customs Office completing the permission to run a tax store with a permission to run a tax store for foreign representatives will notify the Customs Office in Bratislava of that fact without undue delay. If the applicant does not prove fulfilment of all conditions within this period, the Customs Office will invite the applicant to remove the discrepancies and will issue a permission to run a tax store for foreign representatives within five days from the day that the discrepancies were removed.

(11) The Customs Office may specify operational and technical conditions of running such a store in the permission to run a tax store for foreign representatives.

(12) Legal or natural persons wishing to run a tax store for foreign representatives are obliged to ensure the storage and sale of wine exempt from tax to foreign representatives in a tax store determined solely for sale to foreign representatives."

19. Annex No. 2 reads as follows:

"Annex No. 2 to Act No. 104/2004 Coll., as amended by Act No. 629/2004 Coll.

SAMPLE

Certificate of the Ministry of Foreign Affairs of the Slovak Republic on the position of a foreign representative and meeting the reciprocity condition (hereinafter "Certificate" pursuant to Section 31a, Par. 7 of Act No. 104/2004 Coll., on the excise duty on wine, as amended by Act No. 629/2004 Coll.

Foreign representative (name and surname)	
Sending country	Position of the foreign representative Diplomatic mission, consular office, international organization Manager of the mission, consular office, international organization Diplomatic representative Consular officer Member of administrative and technical personnel Consular employee International organization officer (mark with "X")
Address of the head office (residence)	
Telephone number	Fax number
Description of the foreign representative	Description of the mission manager; stamp

Certificate of the Ministry of Foreign Affairs of the Slovak Republic (hereinafter "MFA SR)

Length of the foreign representative's stay:		
Fulfilment of the reciprocity condition:		
Termination of the stay in the territory of the Slovak Republic:		
Other change of MFA SR:		
Date:	Signature:	Stamp of MFA SR:

Art. II

This Act comes into effect on 1 December 2004, with the exception of Art. I, Points 1, 2, 3, 11, 12, 13, 14, 15, 16, 17, and 19 that come into effect on 1 January 2005.

Ivan Gašparovič, signed
Pavol Hrušovský, signed
Mikuláš Dzurinda, signed