

**106**  
**A C T**  
of 3 February 2004

**on the Excise Duty on Tobacco Products**

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

**Article 1**  
**Subject of act**

This act regulates the taxing of tobacco products 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 tobacco products on the basis of an authorization for the operation of a tax warehouse under tax suspension are 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 tobacco products 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 tobacco products 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 repeatedly or occasionally on the basis of a permit receiving tobacco products from another Member State under tax suspension, and which must neither hold nor dispatch tobacco products under tax suspension,
- i) releasing tobacco products into tax free circulation shall mean
  - 1. any departure of tobacco products from tax suspension,
  - 2. any production of tobacco products outside tax suspension,
  - 3. any importation of tobacco products not followed by tax suspension,
- j) commercial activities shall mean activities performed in the tax territory in accordance with a special regulation<sup>1)</sup> and the same or similar activity performed in other Member States under the regulations of Member States,
- k) 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,
- l) personnel-linked persons shall mean
  - 1. a natural person or legal person, if this natural person or a person close to it<sup>2)</sup> has directly or indirectly decisive influence on the management or on the control of this legal person, or

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<sup>1)</sup> Article 2 of the Commercial Code.

<sup>2)</sup> Article 116 and 117 of the Civil Code.

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.<sup>2)</sup>

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

### **Article 3**

#### **Tax administration**

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

### **Article 4**

#### **Subject of tax**

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

(2) For the purposes of this act, a tobacco product shall mean a cigarette, cigar, cigarillo and tobacco.

(3) For the purpose of this act

a) cigarette shall mean a tobacco roll

1. which is capable of being smoked as it is and which is not a cigar or cigarillo within the meaning of letter b),
2. which, by simple non-industrial handling, is inserted into cigarette-paper tubes,
3. which, by simple non-industrial handling, is wrapped in cigarette paper,

b) cigar or cigarillo shall mean a tobacco roll if it can be smoked as it is, covered in a binder or in a binder and a wrapper

1. made entirely of natural tobacco,
2. with an outer wrapper of natural tobacco,
3. containing deveined tobacco with a wrapper of the normal colour of a cigar and a binder, both of reconstituted tobacco, where the wrapper covers the product in full including where appropriate the filter but not, in the case of tipped cigars, the tip, where the unit weight, not including filter or mouthpiece, is not less than 1,2 g and where the wrapper is fitted in spiral form with an acute angle of at least 30° to the longitudinal axis of the cigar,
4. containing deveined tobacco with a wrapper of the normal colour of a cigar, of reconstituted tobacco, covering the product in full, including where appropriate the filter but not, in the case of tipped cigars, the tip, where the unit weight, not including filter or mouthpiece, is not less than 2,3 g and the circumference over one third of the length is not less than 34 mm,

c) tobacco shall mean

1. smoking tobacco which has been cut or broken into pieces in other manner, twisted or pressed into blocks and is capable of being smoked without further industrial processing,

2. tobacco refuse put up for retail sale which is not a cigarette under letter a) and cigar or cigarillo under letter b) and which can be smoked,
  3. tobacco as defined in points 1 and 2 finely cut, for the rolling of cigarettes, in which more than 25 % by weight of the tobacco particles have a cut width of less than 1 mm.
- (4) For the purposes of this act, cigarette shall also mean a product consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria set out in Paragraph 3 letter a) with the exception under Paragraph 7.
- (5) For the purposes of this act, a cigar or cigarillo shall also mean a product a wrapper of natural tobacco or reconstituted tobacco or with wrapper and binder from reconstituted tobacco, consisting in part of substances other than tobacco but otherwise conforming to the criteria set out in Paragraph 3 letter b).
- (6) For the purposes of this act, tobacco shall also mean a product a) consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria set out in Paragraph 3 letter c) with the exception under Paragraph 7, b) not stated in Paragraph 3 letter c) if offered for use or used as a tobacco product for smoking.
- (7) Products containing no tobacco and which meets the remaining conditions under Paragraph 3 letters a) and c) and used exclusively for medical purposes (medical cigarettes) shall for the purposes of this act not be treated as manufactured tobacco.

## **Article 5**

### **Tax base, tax calculation**

- (1) The tax base for tobacco products is the amount of tobacco products expressed in pieces or kilograms with the exception of cigarettes.
- (2) A consumer package of cigarettes shall mean the smallest package of cigarettes aimed at final consumption.
- (3) Cigarette price shall mean the price for a consumer package for the final consumer.
- (4) The tax base for cigarettes is the amount of pieces of cigarettes in a consumer package of cigarettes and the cigarette price stated on the tax stamp.
- (5) For the purposes of tax calculation, one piece of cigarettes is a tobacco roll of a length of up to 90 mm inclusive; each commenced 90 mm of the length of the tobacco roll is for the purposes of tax calculation considered as another piece of cigarette. The filter and the mouthpiece are not included in the length of the tobacco roll.
- (6) The tax on tobacco products with the exception of cigarettes shall be calculated as the product of the tax base and the tax rate.
- (7) The tax on cigarettes shall be calculated as the total of a specific part of tax and the percentage part of the combined tax rate. The specific part of tax shall be calculated as the product of the number of pieces of cigarettes in a consumer package of cigarettes and the specific part of the combined tax rate.

## **Article 6**

### **Tax rate**

- (1) The tax rate on tobacco products with the exception of cigarettes is stated in the following manner:

description of goods	tax rate
cigars, cigarillos	SKK 1,40/piece
tobacco	SKK 1 350,00/kg.
- (2) The tax rate on cigarettes with the exception under Paragraph 3 is stated in the following manner:

description of goods	combined tax rate
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specific part  
cigarettes SKK 0,91/piece

percentage part  
20 % from the cigarette price.

(3) The minimum tax rate on cigarettes is SKK 1,40/piece.

(4) The minimum tax rate on cigarettes shall be used if the amount of the combined tax rate calculated under the tax rate stated in Paragraph 2 in the manner under Article 5 Paragraph 7 does not reach the minimum tax rate stated in Paragraph 3.

### **Article 7** **Tax exemption**

(1) Exempt from tax are those tobacco products when

- a) taken as sample for the purposes of tax supervision or other official control, official test or official determination, in a technologically justified amount,
- b) used in a tax warehouse (Article 16 Paragraph 2) for own laboratory tests or analyses in a technologically justified amount accepted by the customs office,
- c) destroyed by the customs office or under its supervision, even if the state has become the owner of the tobacco products under a special regulation,<sup>3)</sup>
- d) under tax suspension, if they were irrecoverably destroyed or devalued as the result of an accident, incident, technological defect or by force majeure and if these losses are on the basis of official finding and verification accepted by the customs office or by the tax administrator of another Member State,
- e) under tax suspension in the case of the establishing of a missing amount for natural decrements during production, storage and transport related to its physical and chemical characteristics, if these amounts are technologically justified and accepted by the customs office or tax administrator of another Member State,
- f) dispatched by a natural person from the territory of third countries to a natural person in the tax territory in small consignments of non-commercial nature or located in the personal luggage of a traveller from the territory of a third country as goods of non-commercial nature at the most in the amount stated by a special regulation,<sup>4)</sup>
- g) transported to the tax territory from other Member States by persons stated in Article 15 Paragraph 2 or transported to the tax territory from other Member States by the armed forces any State party to the North Atlantic Treaty and by their civil employees for use in activities under an international treaty which was ratified and announced in the way stated by act (hereinafter „international treaty“);<sup>5)</sup> the transport of tobacco products by the armed forces of Member States must be performed with an accompanying document and must be certified by an exemption certificate from excise duty drawn up according to the sample and manner stated in the Commission provisions,<sup>6)</sup>
- h) imported to the tax territory from the territory of third countries by persons stated in Article 15 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.<sup>5)</sup>

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<sup>3)</sup> For example Articles 386, 435 and 436 of Act No. 238/2001 Coll. Customs Act, Article 14a of the Act of the Slovak National Council No. 511/1992 Coll. on the Administration of Taxes and Fees and on Changes in the System of Financial Bodies as amended, Civil Code, Criminal Act.

<sup>4)</sup> Sections 29 through 31 and Sections 45, 46 through 49 of the Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (O. J. E. C., L 105, 23/04/1983, p. 1 – 37) as amended.

<sup>5)</sup> For example the notification of the Ministry of Foreign Affairs of the Slovak Republic No. 324/1997 Coll. on the conclusion of a 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.

<sup>6)</sup> Commission Regulation (EC) No. 31/96 of 10 January 1996 on the excise duty exemption certificate (O. J. E. C., L 008, 11/1/1996, p. 11 – 15).

(2) Also exempt from tax are denatured tobacco products if they are to be used for industrial purposes or horticultural purposes.

## **Article 8**

### **User enterprise**

(1) For the purposes of this act, user enterprise shall mean a legal person or natural person entitled to use tobacco products exempt from tax under Article 7 Paragraph 2. The legal person or natural person which wishes to use such tobacco products must ask the customs office in written form to issue a certificate for the receipt of tobacco products exempt from tax under Article 7 Paragraph 2 (hereinafter „exemption certificate“).

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

- a) the trade name and registered office or the name and surname and permanent residence (hereinafter „identification data“) of the applicant and the address of the location of its operational units, 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 tobacco products exempt from tax under Article 7 Paragraph 2,
- d) the purpose of use of tobacco products exempt from tax under Article 7 Paragraph 2 and the estimated amount of annual consumption in the appropriate unit of measure,
- e) the identification data of the supplier of tobacco products exempt from tax under Article 7 Paragraph 2.

(3) Attachments to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation and description of the place of use and of the place of storage of tobacco products exempt from tax under Article 7 Paragraph 2 and description of the manner of securing them against illegal use,
- c) affirmation of the applicant that it meets the conditions stated in Article 19 Paragraph 4 letters c) through f).

(4) Before issuing the exemption certificate, the customs office shall verify with the applicant the facts and data stated in the application and in its attachments. If the facts and data stated in the application and in its attachments are true, the customs office shall issue the exemption certificate to the applicant.

(5) The customs office shall issue to the applicant an exemption certificate for each supplier stated in Paragraph 2 letter e), in which it will state the data under Paragraph 2 with the exception of the tax identification number if it contains the birth identification number of the applicant, state the validity period of the exemption certificate and in the case of a limited validity period also the permitted amount of receipt of tobacco products exempt from tax under Article 7 Paragraph 2. Each exemption certificate shall be issued in three copies, the customs office keeping one and submitting the other two to the user enterprise, which shall keep one and submit the other to its supplier stated in the exemption certificate.

(6) The user enterprise is obliged to submit to the supplier the exemption certificate no later than at the first receipt of tobacco products exempt from tax under Article 7 Paragraph 2.

(7) The user enterprise is obliged to inform the customs office of each change in the data under Paragraph 2 and Paragraph 3 letters b) and c) no later than 15 days after the day of its origination with the exception of the data under Paragraph 2 letter d), when it is obliged to inform of a change in the data in advance. It is obliged to inform the customs office of a change in the data under Paragraph 3 letter a) no later than 15 days after the day of the submission of the proposal for the change in the data to the competent authority. The customs office shall supplement the original exemption certificate or issue a new exemption certificate if the data under Paragraph 2 have changed. In the case of a change in the purpose of use

[Paragraph 2 letter d)], the user enterprise can use tobacco products exempt from tax under Article 7 Paragraph 2 for the purposes it announced only after the customs office has supplemented the original exemption certificate or issued a new exemption certificate.

(8) The user enterprise is obliged to hold tobacco products exempt from tax under Article 7 Paragraph 2 without undue delay after their receipt in the place of storage it stated in the attachment of the application under Paragraph 3 and use them only for the purposes stated in the exemption certificate.

(9) In a repeated application for the issuing of a 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 tobacco products exempt from tax under Article 7 Paragraph 2,
- c) the trade name of tobacco products exempt from tax under Article 7 Paragraph 2,
- d) the purpose of the use of tobacco products exempt from tax under Article 7 Paragraph 2 and the estimated amount of annual consumption in the appropriate unit of measure.

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

- a) tobacco products exempt from tax under Article 7 Paragraph 2 were repeatedly used for other purposes than those stated in the exemption certificate,
- b) the user enterprise has ceased to meet the conditions stated in Article 19 Paragraph 4 letters. c) through e),
- c) the exemption certificate was not used for a purchase of tobacco products exempt from tax under Article 7 Paragraph 2 within 12 consequent calendar months since its date of issue,
- d) the user enterprise has applied for deletion from the Commercial Register or a similar register, or applied for a cancellation of the trade licence, or announced termination of enterprise, or was closed down, unless it was established or founded for enterprise purposes,
- e) the user enterprise is a natural person and this has died or the decision of a court of act on pronouncing this natural person dead has come into effect,
- f) a decision of the court of act on announcing bankruptcy, on rejection of the proposal to announce bankruptcy because of a lack of property or on the cancellation of bankruptcy because of a lack of property has come into effect or a compulsory composition or permitted composition has been confirmed,
- g) the user enterprise enters liquidation,
- h) the user enterprise applies for a withdrawal of the exemption certificate.

(11) Article 19 Paragraph 10 letter a) and Paragraph 11 apply equally to the withdrawal of the exemption certificate under Paragraph 10. The customs office shall announce the withdrawal of the exemption certificate no later than three working days after the day of the withdrawal of the exemption certificate to the supplier of tobacco products exempt from tax under Article 7 Paragraph 2 stated in the exemption certificate.

(12) During the transport of tobacco products exempt from tax under Article 7 Paragraph 2 it must be stated in the transport documents that these are tobacco products exempt from tax under Article 7 Paragraph 2 for which a exemption certificate was issued.

(13) If the user enterprise terminates its activity and has inventories of tobacco products exempt from tax under Article 7 Paragraph 2 which cannot be used for the purposes stated in the exemption certificate any more, with the approval of the customs office such tobacco products can be supplied to a legal person or natural person which has an exemption certificate for the receipt of such tobacco products; in this case Article 41 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 tobacco products exempt from tax under Article 7 Paragraph 2.

## **Article 9**

### **Indicating the consumer package of cigarettes with a tax stamp**

(1) For the purposes of this act, tax stamp shall mean a Slovak tax stamp on which is stated the cigarette price and which meets the remaining features in accordance with this act and the regulation issued under Paragraph 32. For the purposes of this act the tax stamp has the character of a fee stamp.

(2) A consumer package of cigarettes can only be released into tax free circulation if indicated with a tax stamp. The indicating of consumer packages of cigarettes with tax stamps can only be performed in an enterprise which produces cigarettes.

(3) The producer, registered trader, authorized tax representative and cigarette importer stated in Paragraph 10 are obliged to state the cigarette price on the tax stamp. The consumer package of cigarettes can be sold for final consumption only at the price which is stated on the tax stamp on the consumer package of cigarettes.

(4) For the indicating of a consumer package of cigarettes can only be used a tax stamp whose data correspond with the appropriate cigarette price, amount of cigarettes pieces in this package, length of one cigarette, registration receipt number for the receipt of tax stamps (hereinafter „registration receipt number“) and other data of identification of the purchaser of tax stamps. The tax stamp shall be stuck on the consumer package of cigarettes on the part aimed at opening so that the cigarettes cannot be taken out without visible damage to the tax stamp or consumer package of cigarettes and so that that part of the tax stamp where the registration receipt number and cigarette price are stated be left undamaged. The tax stamp can also contain other graphic features and data if they do not interfere with the identification of the features and data stated in this act and in a generally binding regulation issued under Paragraph 32. The tax stamp cannot be easily removed without being visibly damaged or without visible damage to the consumer package of cigarettes. If for the consumer package of cigarettes is also used a transparent cover, the tax stamp shall be stuck underneath this cover.

(5) Unless this act states otherwise (Paragraph 30), a consumer package of cigarettes indicated with a damaged tax stamp, counterfeit copy of tax stamp or tax stamp which is not in accordance with this act and the regulation issued under Paragraph 32, and a consumer package of cigarettes whose Indicating is not in accordance with this act and a regulation issued under Paragraph 32 are for the purposes of this act considered as unindicated.

(6) Tax stamps can be made by a legal person or natural person which has an authorization for their printing issued by the Customs Directorate (hereinafter „printing house“) with the exception stated in Article 44 Paragraph 20. The authorization for the printing of tax stamps can be issued to a legal person or natural person which

- a) has registered office or permanent residence in the tax territory and meets the following conditions:
1. has technological facilities for the printing of documents secured against counterfeiting, modification and other misuse,
  2. has a running regime system of production, storage, manipulation and record keeping of materials and products,
  3. has secured the protection of its production premises and warehouses with installed mechanical and electronic protection systems,
  4. uses special techniques, technologies and security materials to secure the production and application of protection features of documents against counterfeiting, modification and other misuse,
  5. keeps records of inventories of fee stamp paper for the production of tax stamps and record keeping of produced tax stamps,
  6. neither the customs office nor the tax authority has towards this legal person or natural person receivables after pay date,
  7. is not personnel-linked or property-linked with the purchaser of tax stamps,

8. has no unpaid amounts in compulsory insurance levies under special regulations,<sup>7)</sup>
  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 regulation,<sup>8)</sup> or
- b) has registered office or permanent residence in the territory of the union, if it has an authorization for the printing of stamps issued by the appropriate body of the Member State in whose territory is its registered office or permanent residence.

(7) A legal person or natural person which wants to obtain the authorization to print tax stamps shall ask the Customs Directorate in written form to issue an authorization to print tax stamps. The application must contain the identification data of the applicant, the tax identification number of the applicant or similar identification data of the applicant for tax purposes in another Member State. The applicant is obliged to prove the fulfillment of the conditions

- a) under Paragraph 6 letter a) if it has registered office or permanent residence in the tax territory,
- b) under Paragraph 6 letter b) if it has registered office or permanent residence in the territory of the union.

(8) Before the distribution of tax stamps, the printing house is obliged to submit to the Customs Directorate a sample copy of the tax stamp (specimen) made in accordance with the regulation issued under Paragraph 32. The printing house must also submit the sample copy of the tax stamp (specimen) before each change in the features and data in the tax stamp.

(9) An authorized warehouse keeper, registered trader and authorized tax representative which wants to release the consumer package of cigarettes into tax free circulation in the tax territory is obliged to ask in written form the Customs Directorate to assign it a registration receipt number. To the application for the assignment of a registration receipt number it is obliged to attach the authorization for the operation of a tax warehouse or authorization to receive tobacco products from another state under tax suspension (Article 19 and 23) or certificate of registration under Article 24 if it is an authorized tax representative.

(10) A legal person or natural person not stated in Paragraph 9 which wants its commercial activities to include the import of consumer packages of cigarettes from the territory of third countries and release them into tax free circulation in the tax territory (hereinafter „cigarette importer“) is obliged to ask in written form to be included in the list of cigarette importers with the customs office. The application for inclusion in this list must contain

- a) identification data of the applicant,
- b) tax identification number of the applicant,
- c) trade name of the consumer package of cigarettes and estimated annual amount of imported cigarettes.

(11) The cigarette importer is obliged after inclusion on the list of cigarette importers with the customs office to ask in written form the Customs Directorate to assign it a registration receipt number. The application for the assignment of the registration receipt number must contain

- a) the identification data of the applicant,
- b) confirmation of the customs office on the inclusion of the applicant in the list of cigarette importers.

(12) The authorized warehouse keeper, registered trader, authorized tax representative and cigarette importer (hereinafter „tax stamp purchaser“) after the assignment of the registration receipt number

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<sup>7)</sup> 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.

<sup>8)</sup> Act No. 431/2002 Coll. on Accounting as amended by Act No. 562/2003 Coll.



- a) shall conclude with the printing house a written contract on the making of tax stamps, whose copy it shall submit to the customs office; it shall inform the customs office without undue delay of changes in the contract,
- b) shall ask the customs office to issue a certificate for the receipt of tax stamps (hereinafter „certificate“); the application for the issuing of the certificate must contain
  1. identification number of the applicant,
  2. registration receipt number of the applicant,
  3. amount of pieces of tax stamps according to cigarette price, amount of pieces of cigarettes in a consumer package of cigarettes and length of one cigarette,
- c) shall submit to the customs office no later than together with the submission of the application for the issuing of the first certificate the list of cigarettes released into tax free circulation in which it shall state the cigarette price with the date of entry into tax free circulation at this price, trade name of cigarettes, number of pieces of cigarettes in a consumer package of cigarettes, length of one cigarette, country of origin of cigarettes and identification data of the producer of cigarettes, if it is not a producer of cigarettes in the tax territory; a change of the data in the list or complementation of the data in the list must be announced by the tax stamp purchaser to the customs office no later than on the day of releasing cigarettes into tax free circulation.

(13) The cigarette importer and the authorized tax representative are obliged before the issuing of the certificate to deposit a tax guarantee in the manner under Article 20 Paragraph 4 letter a) in the amount of the tax for the amount of cigarettes it wants to release into tax free circulation. Article 20 shall be applied appropriately to the tax guarantee.

(14) The customs office shall issue to the authorized warehouse keeper and registered trader after complying with the conditions under Paragraph 12 and to the cigarette importer and authorized tax representative after complying with the conditions under Paragraph 12 and 13 a certificate which comprises three parts indicated with the letters A, B and C, keeping part C. The tax stamp purchaser shall submit part A to the printing house and keep part B. On parts A and B the printing house confirms the real amount of received tax stamps.

(15) A tax stamp purchaser can purchase tax stamps from a printing house only on the basis of a certificate issued by the customs office.

(16) The printing house shall submit the tax stamps to the tax stamp purchaser only after the submission of the certificate. The amount of tax stamps whose complaints were accepted by the printing house shall be submitted by the printing house to the customs office of the registered office of the printing house; if the printing house is situated in the territory of another Member State, the printing house shall submit the tax stamps of complaints to Customs Office Bratislava. The customs office shall destroy such tax stamps and compile an official record of their destruction in two copies. It shall submit one of the copies to the printing house.

(17) The tax stamps can only be used by the tax stamp purchaser who can not sell or in another way submit them to another legal person or natural person with the exception of the submission of the tax stamps to the cigarette producer in the tax territory or foreign cigarette producer for sticking onto consumer packages of cigarettes which are to be released into tax free circulation in the tax territory.

(18) If the tax stamp consumer does not receive a part or the whole amount of the ordered tax stamps by 30 days after the agreed date of receipt of stamps, the printing house shall submit these tax stamps to the customs office of the registered office of the printing house; if the printing house is situated in the territory of another Member State, the printing house shall submit the non-received tax stamps to Customs Office Bratislava. The customs office shall destroy such tax stamps and compile an official report of their destruction in two copies. It shall submit one copy to the printing house.

(19) The tax stamp purchaser shall submit damaged or otherwise unusable tax stamps to the customs office. The customs office shall destroy such tax stamps and compile an official record of their destruction in two copies. It shall submit one copy to the tax stamp purchaser.

(20) If tax stamps damaged or otherwise unusable are in the territory of a third country, the tax stamp purchaser is obliged to import such tax stamps to the tax territory. The destruction of the tax stamps shall be governed by the procedure under Paragraph 19. In the case of the destruction of tax stamps in the territory of a third country as a result of accident, incident, technological defect or by force majeure the tax stamp purchaser is obliged to demonstrate these facts with a confirmation of the appropriate body of the state in whose territory these facts took place; in the case of the destruction of tax stamps in another Member State by the appropriate body of this state or in the case of the destruction of tax stamps in another Member State as the result of an accident, incident, technological defect or by force majeure the tax stamp purchaser is obliged to demonstrate these facts with the confirmation of the appropriate body of the state in whose territory these facts took place.

(21) The cigarette importer is obliged to have the amount of tax stamps exported to the territory of a third country confirmed by the customs office of exit, namely the number of pieces of tax stamps divided according to the number of consumer packages of cigarettes, cigarette price, number of pieces of cigarettes in a consumer package of cigarettes and length of one cigarette.

(22) In the case of import of cigarettes, the cigarette importer shall state in the customs declaration the number of pieces of consumer packages of cigarettes according to cigarette price, number of pieces of cigarettes in consumer package of cigarettes and the length of one cigarette, which it shall submit for inspection to the customs office during the accounting of tax stamps together with a confirmation under Article 21.

(23) The tax stamp purchaser shall account the use of the received tax stamps with the customs office once a month, before the deadline for the submission of the tax return (Article 13) with the exception of a cigarette importer which is obliged to account the tax stamps used for declared imported amount of cigarettes no later than 30 working days after the day of the origination of tax liability.

(24) During the accounting the tax stamp purchaser shall submit part B and state

- a) the number of tax stamps entered in the technological (production) device serving for sticking them onto consumer packages of cigarettes and the number of consumer packages of cigarettes on which undamaged tax stamps were actually stuck,
- b) the number of tax stamps damaged during sticking and packaging cigarettes into a consumer package of cigarettes in the technological device,
- c) the number of unused tax stamps,
- d) the number of destroyed tax stamps and shall submit an official record of the destruction of tax stamps under Articles 19 and 20 or confirmation of the appropriate body of the state in whose territory the destruction of tax stamps took place outside the tax territory as the result of an accident, incident, technological defect or by force majeure,
- e) the number of tax stamps stuck onto consumer packages of cigarettes released into tax free circulation,
- f) the number of tax stamps stuck onto consumer packages of cigarettes not released into tax free circulation,
- g) the difference between the received tax stamps and the tax stamps stated in letters b) through f) and its justification.

(25) During accounting, the cigarette importer shall apart from the data under article 24 also submit the confirmation of the customs office of the exit of the transfer of tax stamps abroad under Article 21.

(26) The tax stamp purchaser is obliged to announce to the Customs Directorate via the customs office the amount of consumer packages of cigarettes released into tax free circulation in the tax territory according to the cigarette price, number of pieces in the consumer package and length of one cigarette for the first

six calendar months of the year no later than 31 July of the appropriate year and for the last six calendar months of the year no later than on 31 January of the following year.

(27) The tax stamp purchaser shall apply for the cancellation of the registration receipt number if the reasons on the basis of which it was issued have ceased to exist.

(28) The Customs Directorate shall cancel the registration receipt number if

- a) the tax stamp purchaser does not receive part or the whole amount of the ordered tax stamps before 30 days after the date of receipt agreed with the printing house, the non-receipt of tax stamps being caused by the tax stamp purchaser,
- b) the cigarette importer does not perform import before six months after the assignment of the registration receipt number or before the day of the performing of the last import of cigarettes,
- c) the authorized warehouse keeper and the registered trader have ceased to meet the conditions stated in Article 12,
- d) the cigarette importer and the authorized tax consignee have ceased to meet conditions stated in Articles 12 and 13.

(29) The Customs Directorate shall cancel the registration receipt number under Articles 27 and 28 only after the final accounting of the receipt and use of the tax stamps by the tax stamp purchaser; it shall announce the cancellation of the registration receipt number immediately to the printing house.

(30) The obligation to indicate the consumer package of cigarettes with a tax stamp does not apply to a consumer package of cigarettes

- a) dispatched by a natural person from the territory of third countries to a natural person in the tax territory in small doses of non-commercial character or situated in the personal luggage of a traveller from the territory of a third country as goods of non-commercial character up to the amount stated in the special regulation,<sup>4)</sup>
- b) transported to the tax territory from the Member States by persons stated in Article 15 Paragraph 2 or transported to the tax territory from other Member States by the armed forces of other states which are parties to the North Atlantic Treaty and their civil employees for use in connection with activities under an international treaty,
- c) imported to the tax territory from the territory of third countries by persons stated in Article 15 Paragraph 2 or imported to the tax territory from the territory of third countries by the armed forces of other states which are parties to the North Atlantic Treaty and their civil employees for use in connection with activities under an international treaty,<sup>5)</sup>
- d) exported to the territory of third countries,
- e) supplied to other Member States,
- f) aimed at sale at the price without tax in the transit area of international airports to natural persons in the case of their immediate leaving the tax territory into third countries.

(31) The Customs Directorate shall withdraw the authorization to print tax stamps to a printing house which does not meet the conditions under which this authorization was issued to it, or which does not meet the obligations stated in this act.

(32) Details of the production of tax stamps and on the graphic features and data of the tax stamp shall be stated in a regulation issued by the Ministry of Finance of the Slovak Republic (hereinafter the „ministry“).

## **Article 10** **Prohibition of sale**

(1) In the tax territory is prohibited the sale of cigarettes

- a) not indicated on the consumer package of cigarettes with a tax stamp, unless this act states otherwise,

- b) conditioned by the sale of another tobacco product or other goods at a price which differs from the one stated on the tax stamp,
- c) from an open consumer package of cigarettes or outside this package piece by piece,
- d) at a price which differs from the one stated on the tax stamp.

(2) Each legal person and natural person which sells cigarettes for final consumption is obliged to visibly place in the place of their sale the inscription „Piece-by-piece sale of cigarettes is prohibited“ with the height of the font of at least 30 mm.

(3) If a legal person or natural person breaches the prohibition of sale under Article 1 letter d) and sells the consumer package of cigarettes at a price higher than the price stated on the tax stamp, the obligation to admit and pay tax arises to it which is calculated as the product of the difference between the price at which the consumer package of cigarettes was sold and the prices stated in the tax stamp and the rate of the percentage part of the combined tax rate under Article 6 Paragraph 2.

(4) If the owner of tobacco products has become the state under a special regulation<sup>3)</sup> the customs office is obliged to destroy such tobacco products; a special regulation shall be appropriately applied to the destruction of tobacco products.<sup>9)</sup>

## **Article 11** **Origination of tax liability**

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

- a) submitting tobacco products to a legal person or natural person which is not entitled to receive tobacco products under tax suspension, or on the day of exempting tobacco products from tax suspension in another manner than that stated in letters b) through e),
- b) own consumption of tobacco products in the tax warehouse,
- c) receiving tobacco products transported to the tax territory under tax suspension by the registered trader or authorized tax representative,
- d) establishing the stealing of tobacco products under tax suspension or of tobacco products exempt from tax,
- e) establishing missing tobacco products under tax suspension with the exception of tobacco products stated in Article 7 Paragraph 1 letters d) and e),
- f) producing tobacco products 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 tobacco products into the customs regime free circulation, if such releasing is not followed by tax suspension,
- h) the incurrence 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 tobacco products whose origin and manner of acquisition in accordance with this act cannot be proved by the legal person or natural person,
- b) delivery or day of use of tobacco products exempt from tax for a purpose other than the stated purpose,
- c) sale of the consumer package of cigarettes at a price higher than the price stated on the tax stamp.

(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.

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<sup>9)</sup> For example Article 14a Paragraph 11 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

## **Article 12**

### **Tax debtor**

- (1) Unless this act states otherwise, tax debtor is a legal person or natural person
- a) which submitted tobacco products to a legal person or natural person which is not entitled to receive tobacco products under tax suspension, or exempt tobacco products from tax suspension in another manner than those stated in letters b) through e),
  - b) which is the authorized keeper of a tax warehouse in which own consumption of tobacco products took place,
  - c) which is an entitled consignee or authorized tax representative and has accepted tobacco products transported into the tax territory under tax suspension,
  - d) which has kept tobacco products under tax suspension or exempt from tax and these were stolen from it; if for such tobacco products was placed a tax guarantee the tax debtor is the legal person or natural person which deposited this tax guarantee,
  - e) which keeps tobacco products and the tobacco products under tax suspension have been established missing, with the exception of tobacco products stated in Article 7 Paragraph 1 letters d) and e),
  - f) which produced tobacco products outside tax suspension,
  - g) to whose account was submitted a customs declaration on releasing tobacco products 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 11 Paragraph 2 is a legal person or natural person which
- a) cannot prove the origin and manner of acquisition of the tobacco products it holds,
  - b) submitted for use or used tobacco products exempt from tax for a purpose other than the stated purpose.
  - c) sold a consumer package of cigarettes at a price higher than the price stated on the tax stamp.

## **Article 13**

### **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 tobacco products 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 42 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 following 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 11 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 tobacco products which were 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 tobacco products from the tobacco products stated in letter a) which were released under tax suspension, exempt from tax, and the amount of tobacco products from which tax is reimbursed,
  - c) the difference between the amount of tobacco products under letter a) and the amount of tobacco products under letter b),
  - d) the resulting tax related to the amount of tobacco products under letter c).

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

(7) The tax debtor is obliged to calculate the tax itself; if tax liability originates under Article 11 Paragraph 1 letters g) and h), the tax shall be calculated by the customs office. The resulting tax is rounded up to whole Slovak crowns.

(8) If the tax debtor establishes that the submitted tax return is incorrect or incomplete and that its correction results in an increase of the tax, it is obliged to submit to the customs office an additional tax return without undue delay after establishing the incorrectness or incompleteness of the tax return, stating the period to which the additional tax return is related, and pay the tax no later than ten working days after the day of the submission of the additional tax return. The additional tax return must be indicated as „Additional“. The additional tax return shall only contain the differences from the originally submitted tax return.

(9) The additional tax return under Paragraph 8 shall not be taken into account if the customs office has already begun the tax control leading towards the investigation of facts decisive for the correct stating of tax or for reimbursing tax for the period to which the additional tax return would be related.

(10) If the submitted tax return is incorrect or incomplete and its correction results in a decrease of the tax,  
a) the authorized warehouse keeper can perform correction by an additional tax return, however no later than three years after the end of the tax period to which the correction is related,  
b) the tax debtor not stated in letter a) shall apply tax reimbursement in the tax reimbursement application and proceed according to Article 14.

#### **Article 14** **Tax reimbursement**

(1) The tax from provably taxed tobacco products in the tax territory can be reimbursed to  
a) the authorized warehouse keeper if it received such tobacco products or has tobacco products taxed under this act; in the case of a consumer package of cigarettes to which applies the obligation of indicating with tax stamps the authorized warehouse keeper shall submit together with the tax reimbursement application an official record on the destruction of tax stamps,  
b) the user enterprise if it received such tobacco products for purposes exempt from tax under Article 7 Paragraph 2.

(2) The tax from tobacco products provably taxed in the tax territory with the exception of cigarettes can be reimbursed to a legal person or natural person if its commercial activities with such tobacco products included

a) supplying them to the territory of another Member State to a legal person or natural person for commercial purposes and attached to the tax return application (Article 29 Paragraph 9)  
1. copy 3 of the simplified accompanying document certified by the consignee (purchaser) of the tobacco products,  
2. certification by the tax administrator of another Member State on the settlement of the tax in this Member State,  
b) supplying them 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 tax in this Member State,  
c) exporting them to the territory of a third country and proved the export with a standard customs document confirming that the tobacco products have left the territory of the union; upon request of the customs office the export of tobacco products must also be proved by another document, especially by a document on the transport of tobacco products to the territory of a third country or a document of payment.

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

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

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

- a) by the tax debtor to the detriment of the consignee (purchaser) of tobacco products 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 tobacco products,
- b) by the tax debtor to its own detriment,
- c) by the customs office to the detriment of the tax debtor.

(6) The tax reimbursement shall be claimed

- a) by the authorized warehouse keeper in the tax return (Article 13 Paragraph 2) or in the additional tax return [Article 13 Paragraph 10 letter a)], if it claims tax reimbursement after the end of the tax period for which it has already submitted the tax return,
- b) by a legal person or natural person not stated in letter a) in the tax reimbursement application made according to the sample stated in a regulation issued under Article 42 Paragraph 3.

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

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

- a) a decrease in the claimed tax reimbursement, it is obliged to submit a tax return; in the tax return it shall state the tax in the amount of the difference between the already claimed tax reimbursement and the amount of the tax that should be reimbursed and shall pay this tax before the deadline under Article 13, 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 this fact; the additional tax reimbursement application can be submitted no later than three years after the end of the tax period to which the correction is related, tax cannot be reimbursed on the basis of a tax reimbursement application submitted after this deadline.

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

**Article 15**  
**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 treaty<sup>10)</sup> (hereinafter „foreign representative“), from provably taxed tobacco products (Article 14 Paragraph 4) in the tax territory.

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

- a) a diplomatic mission and consular office with registered office in the territory of the Slovak Republic with the exception of consular office led by a honorary consul,
- b) an international organization and its regional office (hereinafter „international organization“) with registered office in the territory of the Slovak Republic which is established under an international treaty<sup>10)</sup>,
- c) a diplomatic mission representative who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic,
- d) a consular official who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic with the exception of honorary consular official,
- e) a member of the administrative personnel and technological personnel of the mission who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic,
- f) a consular employee who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic, with the exception of employee of consular office led by a honorary consul,
- g) an official of an international organization who is not a citizen of the Slovak Republic, does not have permanent residence in the territory of the Slovak Republic and is permanently assigned to performing official functions in the Slovak Republic.

(3) Tax shall be reimbursed to the foreign representatives of those states which reimburse tax or offer similar advantages to the citizens of the Slovak Republic who enjoy privileges and immunities under an international treaty<sup>10)</sup> (hereinafter „Slovak representative“), in the scope under Paragraph 5 through 9.

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

(5) The foreign representative stated in Paragraph 2 letter a) shall be reimbursed tax paid in the price of tobacco products up to the amount of SKK 300 000 per calendar year.

(6) The foreign representative stated in Paragraph 2 letter b) shall be reimbursed tax paid in the price of tobacco products up to the amount of SKK 50 000 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 tobacco products 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,

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<sup>10)</sup> For example the decree of the Minister of Foreign Affairs No. 157/1964 Coll. on the Vienna Convention on Diplomatic Affairs, 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.



- c) member of diplomatic personnel SKK 8 000,
- d) member of administrative and technological personnel SKK 5 000.

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

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

(9) The foreign representative stated in Paragraph 2 letter g) shall be reimbursed tax paid in the price of tobacco products used for personal consumption up to the amount of SKK 5 000 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 tobacco products in the tax territory and a document proving the payment of the tax in the price of tobacco products (Article 14 Paragraph 4). The original of the document can be replaced by its copy certified by the head of the mission, head of the consular office or appointed representative. The document must contain

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

(12) The foreign representative can claim tax reimbursement of the total price including the tax on one document of purchase of tobacco products are 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 established that the claimed tax reimbursement should have been lower, procedures under Article 14 Paragraph 8 letter a) are applied; the provisions of a special regulation<sup>11)</sup> 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 tobacco products, otherwise the possibility of tax reimbursement expires.

## **Article 16**

### **Tax suspension, tax warehouse**

(1) Tax suspension applies to tobacco products

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<sup>11)</sup> Article 35b of the Act of the Slovak National Council No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

- a) held in a tax warehouse,
- b) transported under conditions under Article 21 and 22, or
- c) that have become state property under a special regulation.<sup>3)</sup>

(2) A tax warehouse can only be an enterprise for the production of tobacco products (Article 17 Paragraph 1) or a tobacco products warehouse (Article 18 Paragraph 1) located in the tax territory. Tax warehouse is also an enterprise for the production of tobacco products or tobacco products 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 tobacco products or a part of a tobacco products warehouse.

(4) A tax warehouse cannot be a warehouse of tobacco products which buys consumer packages of tobacco products with the objective of selling them for final consumption in the tax territory.

(5) A tax warehouse can only hold tobacco products under tax suspension.

### **Article 17**

#### **Enterprise for the production of tobacco products**

(1) For the purposes of this act, an enterprise for the production of tobacco products are a specially delimited place situated in the tax territory, equipped with the appropriate technological facilities for the production of tobacco products, where commercial activities include production, processing, holding, receiving or dispatching tobacco products.

(2) A legal person or natural person whose commercial activities include the production of tobacco products and which wants to operate an enterprise for the production of tobacco products under tax suspension must have an authorization for the operation of a tax warehouse.

(3) The production of tobacco products is not the manual making of cigarettes for own consumption.

### **Article 18**

#### **Tobacco products warehouse**

(1) For the purposes of this act, a tobacco products warehouse is a specially delimited place situated in the tax territory where commercial activities include receiving, holding, dispatching or processing tobacco products.

(2) A legal person or natural person which wants to operate a warehouse of tobacco products under tax suspension must have an authorization for the operation of a tax warehouse.

(3) A tobacco products warehouse where tobacco products under tax suspension should be received, held and dispatched must comply with the following conditions:

- a) has been distributing tobacco products without interruption for at least two years,
- b) has an annual turnover of at least 500 000 000 pieces of cigarettes or 100 tons of tobacco or 1 000 000 pieces of cigars and cigarillos.

### **Article 19**

#### **Authorization for the operation of a tax warehouse**

(1) A legal person or natural person which wants to operate a tax warehouse must ask in written form the customs office for registration and issuing of an authorization for the operation of a tax warehouse. The application must contain

- a) identification data of the applicant and the address of the location of its 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 and exact delimitation of the produced, processed, received, held and dispatched tobacco product (Article 4 Paragraph 2),
- e) the estimated annual volume of the production of tobacco products in the appropriate unit of measure, in the case of an enterprise for the production of tobacco products, or the estimated annual volume of the holding and sale of tobacco products in the appropriate unit of measure, in the case of a tobacco products warehouse.

(2) Annexes to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation, brief description of activity and description of production and storage facilities with attached sketch, manner of securing tobacco products against unauthorized entering of these spaces and manner of securing tobacco products against unauthorized use,
- c) technological description of the production procedures, list of processed raw materials which form part of the tobacco products and the list of products to be produced,
- d) closing summary accounts for the previous tax period, if the applicant was obliged to compile closing summary accounts and if the applicant is subject to the obligation to have its closing summary accounts verified by an auditor, closing summary accounts verified by an auditor under a special regulation,<sup>12)</sup> as well as the form of account keeping,
- e) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter c) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter d),
- f) list of Member States to which the applicant expects to supply (dispatch) tobacco products 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,<sup>8)</sup>
- b) deposits a tax guarantee under Article 20,
- c) neither the customs office nor the tax authority
  1. have receivables after pay date towards it,
  2. have receivables after pay date towards a person personnel-linked or property-linked to it, nor did they have in the period of ten years before the day of the submission of the application towards a person which has been extinguished and which would be considered personnel-linked or property-linked to the applicant tax receivables which would not have been settled before this person was extinguished; this also applies to tax receivables which were transferred to a third person under special regulations,<sup>13)</sup>
- d) has no unpaid amounts in compulsory insurance levies under special regulations,<sup>7)</sup>
- 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.

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<sup>12)</sup> Article 19 of Act No. 431/2002 Coll. as amended by Act No. 562/2003 Coll. Article 39 of the Commercial Code.

<sup>13)</sup> Article 459a of Act No. 238/2001 Coll. as amended by Act No. 464/2003 Coll. Article 65b of the Act of the Slovak National Council No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

(5) The customs office shall verify with the applicant the facts and data under Paragraph 1 through 4, and if the facts and data stated in the application and in annexes are correct and the applicant meets conditions under Article 16 and 18, the customs office shall assign it a registration number, issue a certificate of registration and authorization for the operation of a tax warehouse no later than 60 days after the day of the submission of the application for registering and issuing of the authorization for the operation of a tax warehouse. If the applicant does not prove the correctness of all the data and compliance with all the conditions, the customs office shall assign it registration number, issue a certificate of registration and authorization for the operation of a tax warehouse no later than 15 days after the proving of the correctness of all the data and compliance with the last of the conditions.

(6) The authorized warehouse keeper is obliged to announce every change of the facts and data under Paragraph 1 letters a) through c), Paragraph 2 letters b) and c), and Paragraph 4 letters d) through f) to the customs office no later than 15 days after the day of their origination. It must announce each change of the data under Paragraph 2 letter a) to the customs office no later than 15 days after the day of the submission of the proposal for change of data to the appropriate body. The customs office shall verify with the authorized warehouse keeper the data stated in the notification and, taking into account the scope and seriousness of those changes, shall complement the original authorization for the operation of a tax warehouse or issue a new authorization for the operation of a tax warehouse. In the case of the issuing of a new authorization for the operation of a tax warehouse for the same authorized warehouse keeper, the original registration number under Paragraph 5 remains valid.

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

- a) on the day of the submission of an application for the deletion from the Commercial Register or a similar register, or on the day of the submission of an application for the cancellation of the trade licence, or on the day of the submission of a notification on the termination of enterprise
- b) on the day of the death of the authorized warehouse keeper or on the day of the entry into effects of a decision of a court of act to pronounce the authorized warehouse keeper dead, if the authorized warehouse keeper is a natural person,
- c) on the day of the entry into effect of a decision of a court of act on the notification of bankruptcy, on rejection of a proposal to announce bankruptcy because of a lack of property or on a cancellation of bankruptcy because of a lack of property, or if a compulsory composition or permitted composition was confirmed,
- d) on the tenth day after the deadline for
  1. complementing the tax guarantee under Article 20 Paragraph 5 letter. a) second point, if the tax guarantee was not complemented,
  2. depositing or complementing the tax guarantee under Article 20 Paragraph 8 aimed at customs offices under Article 20 Paragraph 9, if the guarantee was not deposited or complemented
- e) on the day of the withdrawal of the authorization for the operation of a tax store by the customs office.

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

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

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

- (10) In the case of a cancellation of the authorization for the operation of a tax warehouse
- a) the authorized warehouse keeper during the presence of the customs office performs a stock-taking of tobacco products 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 reimbursement and pays the tax,
  - b) the customs office shall use the deposited tax guarantee under Article 20 for the payment of the tax and tax-related receivables and shall return the contingent remainder without undue delay to the legal person or natural person to which the authorization for the operation of a tax warehouse terminated,
  - c) the customs office shall demand a payment of the tax and of the tax-related receivables from a bank, if the securing of the tax is a bank guaranty,<sup>14)</sup>
  - 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) can have a new authorization for the operation of a tax warehouse issued no sooner than five years after the entry into force of the decision on the withdrawal of the authorization for the operation of a tax warehouse; in the case of a person personnel-linked or property-linked with it, it can be issued an authorization for the operation of a tax warehouse no sooner than five years after the entry into force of the decision issued to the authorized warehouse keeper on the withdrawal of the authorization for the operation of a tax warehouse. In the case of a withdrawal of the authorization for the operation of a tax warehouse under Paragraph 9 a new authorization for the operation of a tax warehouse can be issued no sooner than one year after the entry into force of the decision on the withdrawal of the authorization for the operation of a tax warehouse.

## **Article 20**

### **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 one-month amount of tobacco products 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 tobacco products which it released into tax free circulation for purposes exempt 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 tobacco products which it enters into tax free circulation in a common year.
- (2) The applicant is obliged to deposit the tax guarantee for all tax warehouses it wants to operate; this does not affect the provisions of Article 21 and 22.
- (3) If the customs office does not issue an authorization for the operation of a tax warehouse, it shall without undue delay return to the applicant the deposited tax guarantee.
- (4) The deposition of the tax guarantee shall mean
- a) the deposit of financial means in the account of the customs office, with which no obligation of the customs office to pay interest to the applicant arises,
  - b) bank guaranty<sup>14)</sup> drafted for the benefit of the customs office; the customs office shall not accept the bank guaranty if the guaranty certificate contains objections of the bank.
- (5) The authorized warehouse keeper
- a) is obliged to modify the deposited tax guarantee, if conditions which served as the basis for its establishment have changed, namely

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<sup>14)</sup> Article 2 Paragraph 2 letter f) of Act No. 483/2001 Coll. on Banks and on Amending Certain Acts.

1. to increase the deposited tax guarantee, if the tax for the amount of tobacco products released into tax free circulation for the preceding calendar month is 20% higher than the deposited tax guarantee and at the same time the tax for the amount of tobacco products released into tax free circulation for each of the preceding two calendar months is 20 % higher than one half of the deposited tax guarantee, no later than on the 25<sup>th</sup> day of the calendar month following the month in which tax exceeded the deposited tax guarantee,
  2. to complement the guarantee to include the sum which the customs office used to pay the tax and tax-related receivables, no later than 15 days after the day of the notification under Paragraph 6,
- b) can ask the customs office in written form or with the written approval of the customs office can ask the bank for a decrease in the deposited tax guarantee, if the deposited tax guarantee is more than 20% higher than the tax for the amount of tobacco products released into tax free circulation for preceding two calendar months if this state lasts for at least four consecutive calendar months; the customs office shall return the appropriate difference no later than 15 days after the submission of this application.
- (6) If the tax is not paid before the maturity date stated in this act, the customs office shall use the tax guarantee to pay the tax and tax-related receivables and inform the tax debtor of this fact.
- (7) If the enforceability or collection of tax is not jeopardized, the customs office on the basis of an application for waiving the deposition of tax guarantee shall waive the obligation to deposit a tax guarantee
- a) completely, if the applicant has been tax-reliable during a period of at least 24 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse; under the same conditions the application for waiving the deposition of tax guarantee can also be submitted by the authorized keeper of a tax warehouse which is an enterprise for tobacco products production or a tobacco products warehouse,
  - b) partially in the amount of 50 %, if the applicant has been tax-reliable during a period of at least 12 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse; under the same conditions the application for waiving the deposition of tax guarantee can also be submitted by the authorized keeper of a tax warehouse which is an enterprise for tobacco products production or a tobacco products warehouse.
- (8) The customs office shall ask in written form the authorized warehouse keeper to whom it partially or completely waived the deposition of tax guarantee under Paragraph 7 to deposit the tax guarantee or complement it in the stated period of time, which must not be shorter than 15 days nor longer than 30 days, if it established that
- a) the authorized warehouse keeper is during a period of more than five days late with the fulfillment of its financial obligations under this act or other tax regulations or customs regulations,
  - b) the authorized warehouse keeper is during a period of more than 20 days late with the fulfillment of its financial obligations not stated in letter a),
  - c) other circumstances arose on the basis of which it is possibly to reasonably expect that the authorized warehouse keeper will not meet properly and in time its obligation to pay the tax under this act.
- (9) If the customs office stated a deadline for depositing or complementing the tax guarantee, the authorized warehouse keeper is obliged to deposit or complement the tax guarantee before this deadline.
- (10) For the purposes of this act, a tax-reliable person is
- a) a legal person or natural person, if it meets the conditions under Article 19 Paragraph 4 letters a), c) through f),
  - b) the authorized keeper of a tax warehouse which is an enterprise for tobacco products production if it meets the conditions under Article 19 Paragraph 4.

**Article 21**  
**Procedures for movement of tobacco products**  
**under tax suspension in the tax territory**

- (1) Tobacco products under tax suspension can only be transported in the tax territory
- a) from one tax warehouse to another tax warehouse,
  - b) during import or export performed by the authorized warehouse keeper,
- (2) Tobacco products exempt from tax under Article 7 Paragraph 2 can only be transported in the tax territory from a tax warehouse into a user enterprise.
- (3) For tobacco products which are to be transported under tax suspension must always be deposited a tax guarantee. The tax guarantee shall be deposited at the least in the amount of the tax for the amount of the transported tobacco products. The deposition of the tax guarantee for tobacco products which are to be transported under tax suspension is not required if the tax guarantee under Article 20 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for tobacco products which are to be transported under tax suspension.
- (4) For the transport of tobacco products under tax suspension the tax guarantee shall be deposited by
- a) the authorized warehouse keeper which is
    1. the consignor (supplier) in the tax territory,
    2. consignee (importer) in the import to the tax territory,
    3. consignor (exporter) in the export from the tax territory, or
    4. purchaser in the tax territory, if tobacco products transported under tax suspension [Paragraph 1 letter a)] are in its ownership,
  - b) transporter instead of the consignor, if they have agreed so and the customs office approves of it.
- (5) Tobacco products under tax suspension can only be transported with an accompanying document under Article 25 Paragraph 1. The consignor (supplier) of tobacco products shall keep copy 1 of the accompanying document. Copies 2 through 4 of the accompanying document shall accompany the transported tobacco products. The consignee (purchaser) shall keep copy 2, confirm the receipt of tobacco products 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 tobacco products. The customs office of the consignee (purchaser) shall keep copy 4. If during the transport of tobacco products 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 25 Paragraph 4 applies equally. The transport of tobacco products is considered finished when the consignor (supplier) receives copy 3 of the accompanying document certified by the customs office.
- (6) Tobacco products which were transported under tax suspension must be without undue delay after its delivery placed in the warehouse of the consignee (purchaser).
- (7) The deposited tax guarantee under Paragraph 3 can be returned upon request if the finishing of the transport of tobacco products is certified by the customs office of the consignee (purchaser).

**Article 22**  
**Procedures for movement of tobacco products under tax suspension**  
**to the territory of the union**

- (1) Tobacco products under tax suspension can be transported
- a) from a tax warehouse in the territory to a tax warehouse or registered trader, or authorized tax representative in another Member State,

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

(2) If tobacco products are 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 25 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 tobacco products. The transport of tobacco products 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 tobacco products, and
- b) the tax administrator of another Member State of the consignee (purchaser).

(4) During the transport of tobacco products from a tax warehouse in the tax territory to a tax warehouse or registered trader, or authorized tax consignee in another Member State the consignor (supplier) is obliged to on the day of the beginning of the transport dispatch a copy of copy 1 of the accompanying document electronically or by fax to Customs Office Poprad; it is also obliged to dispatch this copy to the customs office in written form no later than five working days after the day of the beginning of the transport.

(5) If during the transport of tobacco products 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 tobacco products under tax suspension are transported from another Member State to the tax territory, these tobacco products 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 tobacco products 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 tobacco products. The customs office of the consignee (purchaser) shall keep copy 4. The provision of Article 25 Paragraph 4 applies equally here.

(7) For tobacco products which are to be transported under Paragraph 1 letters a) and b) under tax suspension must always be deposited a tax guarantee. The tax guarantee shall be deposited by the consignor (supplier) in the amount of the tax for the amount of the transported tobacco products. The deposition of the tax guarantee for tobacco products which are to be transported under tax suspension is not required if the tax guarantee under Article 20 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for the tobacco products which are to be transported under tax suspension. A tax guarantee deposited in another Member State is valid in the tax territory. Upon request, the customs office shall permit the deposition of the tax guarantee by the transporter or consignee (purchaser) instead of the consignor (supplier), if the consignor (supplier) and the transporter or consignee (purchaser) agreed so. The customs office shall return the deposited tax guarantee if the finishing of the transport is certified by the tax administrator of another Member State.

(8) Tobacco products under tax suspension can only be transported with an accompanying document.

(9) Tobacco products which were transported under tax suspension must be without undue delay after their delivery stored in the warehouse of the consignee (purchaser).



(10) The transport of tobacco products 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 tobacco products under tax suspension occasionally must be certified by a document proving the tax has been paid in another Member State.

### **Article 23** **Registered trader**

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

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

(2) Annexes to the application are:

- a) a copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or another document proving authorization for enterprise no older than 30 days or its verified copy.
- b) declaration of the applicant that it meets the conditions stated in Article 19 Paragraph 4.

(3) Before registration, the customs office shall verify with the applicant the facts and data stated in the application and in the annexes and if these facts and data are correct and the applicant meets the conditions stated in Article 19 Paragraph 4, the customs office shall assign it a registration number, issue a confirmation of registration and authorization to receive tobacco products from another Member State under tax suspension no later than 60 days after the submission of this application. If the applicant in this period of time does not prove the correctness of all the data and compliance with all the conditions, the customs office shall assign it a registration number, issue a certificate of registration and authorization to receive tobacco products from another Member State under tax suspension no later than 15 days after the day of the proving of the correctness of the data and complying with the last of the conditions.

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

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

(6) Article 20 applies equally to the tax guarantee under Paragraph 4 and 5.

(7) The registered trader is obliged to notify the customs office of every change of the data under Paragraph 1 and Paragraph 2 letter b) no later than 15 days after the day of its origination. It is obliged to notify the the customs office of a change of the data under Paragraph 2 letter a) no later than 15 days after the day of the submission of the proposal for a change of data to the competent authority. Article 19 Paragraph 7 through 10 applies appropriately to the termination of the authorization to receive tobacco products from another Member State.

#### **Article 24** **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 tobacco products 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 a power of attorney 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 23 applies appropriately to the submission of this application, registration of the authorized tax representative and deposition of the tax guarantee.

#### **Article 25** **Accompanying document**

(1) Tobacco products under tax suspension can only be transported with an accompanying document drawn up according to the sample and manner stated in a regulation of the union.<sup>15)</sup> 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 tobacco products are to be transported through the territories of the states of the European Free Trade Association<sup>16)</sup> 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.

(3) If tobacco products are 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 carnet<sup>17)</sup> or an A.T.A carnet.<sup>18)</sup>

(4) If the consignor (supplier) demands for the purposes of the refund of the tax guarantee a faster certification of the receipt of tobacco products, the consignee (purchaser) shall dispatch by fax or

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<sup>15)</sup> Commission Regulation (EEC) No. 2719/92 of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty (O. J. E. C., L 276, 19/09/1992, p. 1) as amended.

<sup>16)</sup> Agreement of Free Trade between the Czech and Slovak Federative Republic and the European Association of Free Trade (notification No. 235/2003 Coll.).

<sup>17)</sup> Notification of the Minister of Foreign Affairs No. 144/1982 Coll. on the Customs Convention on International Transport of Goods on the basis of TIR carnets (TIR convention) as amended by the Amendment Proposals of the TIR convention (notification No. 132/1999 Coll.).

<sup>18)</sup> Notification of the Minister of Foreign Affairs No. 89/1963 Coll. on the Customs Convention on E. C. S. Carnets for Commercial Samples and on the Customs Convention on A. T. A. carnets for the Import Customs Recording of Goods.

electronically a copy of copy 3 of the accompanying document certifying that the transport has been finished; this does not affect the obligation to return copy 3 of the accompanying document.

## **Article 26**

### **Irregularities or offences with the transport of tobacco products under tax suspension**

(1) If an irregularity or offence arises during the transport of tobacco products under tax suspension in the tax territory, tax obligation originates 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 tobacco products were not transported to the legal person or natural person authorized to receive tobacco products under tax suspension,
- b) the transport of tobacco products has not finished,
- c) a loss or stealing of tobacco products took place,
- d) the tobacco products have 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 tobacco products does not receive a certified copy 3 of the accompanying document on the delivery of tobacco products to the place of delivery or if an irregularity or offence took place and the place of the origination of the irregularity or offence cannot be established.

(3) If the consignor of tobacco products does not receive in 60 days after the day of the dispatching of tobacco products 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 included a confirmation of a smaller or greater amount of tobacco products, it is obliged to inform the customs office of this in written form without undue delay.

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

(5) A tax debtor is the consignor of tobacco products or a legal person or natural person which deposited the tax guarantee for tobacco products transported under tax suspension. Immediately after establishing an irregularity or offence, the tax debtor is obliged to submit a tax return, calculate the tax under the tax rates valid on the day of the dispatching of tobacco products 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 established before the passing of three years since the day of the making of the accompanying document that the irregularity or offence in the transport of tobacco products under tax suspension took place

- 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 tobacco products 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 27**

### **Import of tobacco products from the territory of third countries**

(1) Import of tobacco products shall mean a transport of tobacco products from the territory of a third country to the tax territory. If during the import tobacco products are 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 tobacco products are considered as tobacco products under tax suspension. Customs regulations apply to the tax and to tax administration during the import of tobacco products, unless this act or a special regulation<sup>19)</sup> states otherwise.

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

(3) Tobacco products which are after release into the customs regime free circulation entered into tax regime tax suspension must be without undue delay placed in a tax warehouse. The authorized warehouse keeper is obliged to demonstrate to the customs office which releases tobacco products into the customs regime free circulation the authorization to operate a tax warehouse and the confirmation of the customs office on the amount of the deposited tax guarantee for the transported amount of tobacco products. The deposition of the tax guarantee is not required if the tax guarantee under Article 20 Paragraph 1 also covers the tax guarantee for tobacco products which are to be transported under tax suspension.

## **Article 28**

### **Export of tobacco products under tax suspension**

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

(2) During the export of tobacco products to the territory of a third country shall be applied the process applied in the transport of tobacco products 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 tobacco products under tax suspension is finished if the dispatching tobacco products warehouse receives copy 3 of the accompanying document in which the customs office of exit confirmed that the tobacco products have left the territory of the union. If the standard customs document is used as the accompanying document, the transport of tobacco products under tax suspension is finished if the dispatching tax warehouse receives copy 5 of this document in which the customs office of exit confirmed that the tobacco products have left the territory of the union. Article 22 Paragraph 7 and 8 shall be used for the transport of tobacco products under tax suspension.

## **Article 29**

### **Transport of tobacco products outside tax suspension for commercial purposes**

(1) If tobacco products released into tax free circulation in another Member State are transported to the tax territory for commercial purposes, tax obligation originates in the tax territory on the day of the receipt of the tobacco products in the tax territory. The tax debtor is a legal person or natural person which is the tobacco products purchaser.

(2) Before the receipt of tobacco products, the purchaser is obliged

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<sup>19)</sup> Act of the Slovak National Council No. 511/1992 Coll. as amended

- a) to announce to the customs office in written form its identification data, amount, trade name and exact definition of the tobacco product it wants to receive, the identification data of the supplier,
- b) to deposit the tax guarantee in the amount of tax for the amount of received tobacco products; Article 20 applies appropriately to the tax guarantee.
- (3) With the origination of tax obligation, the tax debtor is obliged to submit without undue delay a tax return to the customs office and pay the tax no later than on the 25th day of the calendar month following the month in which its tax obligation originated. Article 13 is applied appropriately to the tax return and tax maturity.
- (4) If tobacco products are transported to the tax territory or received in the tax territory repeatedly, upon request of the purchaser the customs office can authorize the supplies carried out in one tax period to be included in one tax return.
- (5) After agreement with the customs office, for the payment of tax can be used a deposited tax guarantee; this does not affect the obligation to set off the contingent differences from the use of the tax guarantee.
- (6) The provisions of the Paragraph 1 through 5 shall also be used if the tobacco products purchaser is a legal person which is not established or founded for enterprise purposes.
- (7) If tobacco products are 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 tobacco products to the tax territory is the first to hold or use the tobacco products. The tax debtor is obliged without undue delay after the origination of the tax obligation to submit the tax return and pay the tax calculated under tax rates valid on the day of the dispatching of tobacco products, to
- a) the customs office, if the tax debtor has registered office or permanent residence in the tax territory,
- b) Customs Office Bratislava, if the tax debtor does not have registered office or permanent residence in the tax territory.
- (8) If tobacco products released into tax free circulation in the tax territory are to be transported to another Member State for commercial purposes, the consignor (supplier) must make a simplified accompanying document and proceed under Article 30. The supply of tobacco products for commercial purposes is also a supply of tobacco products to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.
- (9) Before carrying out the supply, the consignor (supplier) is obliged to submit to the customs office a written notification in which it shall state its identification data, trade name, exact definition of tobacco product and amount of tobacco products it wants to supply in the appropriate unit of measure, and the identification data of the purchaser as well as submit to the customs office a tax reimbursement application.

### **Article 30**

#### **Simplified accompanying document**

- (1) A legal person or natural person whose commercial activities include the supply of tobacco products released into tax free circulation in the tax territory to another Member State for commercial purposes, is obliged to draw up a simplified accompanying document according to the sample and manner stated in a regulation of the union.<sup>20)</sup> The simplified accompanying document comprises of three copies. The consignor (supplier) keeps copy 1, copies 2 and 3 accompany the transported tobacco products. If the consignor (supplier) demands a certification of the receipt of tobacco products by the purchaser for the purposes of tax reimbursement, it shall state this demand in the appropriate copy of the simplified

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<sup>20)</sup> Commission Regulation (EEC) No. 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (O. J. E. C., L 369, 18/12/1992, p. 17).

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 tobacco products released into tax free circulation in another Member State are 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 tobacco products 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 date 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 tobacco products released into tax free circulation from one place in the tax territory to another place in the tax territory, if the transport of tobacco products is performed through the territory of one or more Member States.

### **Article 31**

#### **Transport of tobacco products outside tax suspension to the tax territory for private purposes**

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

(2) If tobacco products under Paragraph 1 are used for other than private purposes, tax obligation in the tax territory arises on the day of such use of the tobacco products. The tax debtor is the natural person who transported tobacco products to the tax territory, which is obliged to submit a tax return and pay the tax without undue delay; Article 13 applies appropriately to tax return.

(3) When establishing whether tobacco products are aimed at private purposes under Paragraph 1 or at commercial purposes under Article 29, the following is taken into account

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

### **Article 32**

#### **Distant selling**

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

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

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

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

a) submits its identification data in written form,

b) submits in written form the identification data of the purchaser, trade name and exact definition of the tobacco product and the amount of tobacco products in the appropriate unit of measure which is to be dispatched (supplied),

c) deposits a tax guarantee in the amount of tax for the amount of tobacco products which is to be dispatched (supplied).

(4) The tax debtor stated in Paragraph 2 is obliged with the origination of tax obligation without undue delay to submit a tax return to the customs office of the purchaser and pay the tax no later than on the 25th day of the calendar month following the month in which tax obligation originated; Article 13 applies appropriately to the tax return and tax maturity.

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

(6) Upon request of the consignor (supplier) the customs office can authorize the obligations related to the customs office to be fulfilled by an authorized representative for distant selling. An authorized representative for distant selling can only be a legal person or natural person with registered office or permanent residence in the tax territory which must not be the same as the purchaser and which is tax reliable (Article 20 Paragraph 10).

(7) The application for the authorization of representation by an authorized representative for distant selling is submitted to the customs office of the authorized representative for distant selling. The application must contain the identification data of the consignor (supplier), the identification data of the authorized representative for distant selling, the trade name and exact definition of the tobacco product and the amount of tobacco products in the appropriate unit of measure. The annex to the application are the documents confirming the authenticity of the data stated in the application for authorized representation with an officially verified signature and a declaration of the authorized representative for distant selling with an officially verified signature that it agrees with representing the consignor (supplier).

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

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

(10) If a legal person or natural person with registered office in the tax territory wants to dispatch tobacco products released in the tax territory into tax free circulation to another Member State, it is obliged to inform the customs office of this fact in written form. In the notification it shall state the name, surname and address of the purchaser, the trade name and exact definition of the tobacco product and the amount of tobacco products it wants to dispatch in the appropriate unit measure and the day on which the tobacco products are to be dispatched. If tax reimbursement is to be performed, the tax reimbursement application is documented with a confirmation of tax settlement in the Member State of destination.

### **Article 33** **Special regulation of tax suspension** **and exemption from tax**

(1) Exempt from tax are tobacco products sold in the transit area of international airports and aboard airplanes exclusively to natural persons which shall immediately leave the territory of the union. Tobacco

products 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 buyer, trade name of tobacco products or other goods subject to excise duty under a special regulation<sup>21)</sup> and the price of the goods.

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

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

(4) A legal person or natural person which performs the sale of tobacco products under Paragraph 1 or which performs tobacco products supply under Paragraph 2 must have tobacco products supplied under tax suspension; Article 21 and 22 apply appropriately to procedures with the transport of tobacco products.

(5) A legal person or natural person which wants to perform in the transit area of international airports and aboard airplanes the sale of tobacco products exempt from tax or supply tobacco products aboard airplanes is obliged to apply for an authorization for the operation of a tax warehouse in the transit area of international airports and aboard airplanes (hereinafter „transit tax warehouse“); the provision of Article 18 Paragraph 3 shall not be used in this case.

(6) Article 19 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 tobacco products or the average month amount of tobacco products 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,<sup>21)</sup> one authorization for all goods subject to excise duty under a special regulation can be issued.<sup>21)</sup>

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

(8) If tobacco products inventories are not sold or if the guarantee period for tobacco products consumption is about to expire, the transit authorized warehouse keeper can release tobacco products into tax free circulation in the tax period on the basis of a written approval of the customs office. Tax obligation arises to the transit authorized warehouse keeper on the day of releasing tobacco products into tax free circulation in the tax territory; Article 13 Paragraph 1, 2, 5, 7 through 10 are used for tax return and tax maturity.

### **Record keeping Article 34**

(1) The authorized keeper of a tax warehouse which is an enterprise for tobacco products production (Article 17 Paragraph 1) is obliged to keep records documenting

- a) produced tobacco products,
- b) received tobacco products,
- c) used tobacco products for own consumption,

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<sup>21)</sup> Act No. 104/2004 Coll. on the Excise Duty on Wine.

Act No. 105/2004 Coll. on the Excise Duty on Spirits and on Amending Act No. 467/2002 Coll. on the Production and Entering Spirits in the Market as amended by Act No. 211/2003 Coll.

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



- d) released tobacco products,
- e) raw materials and materials which are part of the tobacco products used during their production,
- f) state of the inventories of tobacco products and other materials used during tobacco products production.

(2) In the records stated in Paragraph 1 must be according to the definition of the tax subject under Article stated

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

(3) The issuing of tobacco products exempt from tax under Article 7 Paragraph 2 must be documented with a exemption certificate of the purchaser.

(4) Entries in the records (Paragraph 1) must be performed daily, no later than on the following working day after the origination of the event.

#### **Article 35**

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

- a) received tobacco products,
- b) tobacco products used for own consumption,
- c) released tobacco products,
- d) state of tobacco products inventories.

(2) Article 34 Paragraph 3 and 4 apply equally and Article 34 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

#### **Article 36**

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

- a) received tobacco products exempt from tax under Article 7 Paragraph 2,
- b) used tobacco products exempt from tax under Article 7 Paragraph 2 according to the purpose of use,
- c) state of the inventories of tobacco products exempt from tax under Article 7 Paragraph 2.

(2) Entries in the records must be performed on the occasion of a change in the state of inventories, at the least once a month. Article 34 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

#### **Article 37**

(1) The registered trader is obliged to keep records documenting

- a) received tobacco products divided in tobacco products received
  - 1. outside tax suspension,
  - 2. under tax suspension from other Member States,
- b) released tobacco products,
- c) state of tobacco products inventories.

(2) Article 34 Paragraph 4 applies equally and Article 34 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

### **Article 38**

- (1) The authorized tax representative is obliged to keep records documenting
  - a) received tobacco products under tax suspension,
  - b) released tobacco products,
  - c) purchasers.
- (2) The consignor (supplier) which performs distant selling is obliged to keep records documenting tobacco products dispatched to another Member State.
- (3) The authorized representative for distant selling is obliged to keep records documenting
  - a) received tobacco products,
  - b) released tobacco products.
- (4) Article 34 Paragraph 4 applies equally and Article 34 Paragraph 2 applies appropriately to record keeping under Paragraph 1 through 3.

### **Article 39**

#### **Tax supervision and tax control**

- (1) The customs office performs tax supervision, which is the performance of supervision of holding and moving tobacco products, as well as tax control.<sup>22)</sup>
- (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 controlled tobacco products.
- (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 tobacco products-related commercial activities, as well as enter areas which are known or can be expected to contain or possibly contain tobacco products,
  - b) establish the state of inventories of tobacco products and goods which are aimed at tobacco products production or can be used during tobacco products production, and order the performance of the appropriate stock-taking,
  - c) control transport packagings and other packagings, for example container, box, case which contain or could contain tobacco products,
  - d) stop vehicles, establish the amount of tobacco products transported in them, control transport documents and indicate the control in these documents,
  - e) take samples free of charge in the cases under letters a) through d) in technologically justified amounts,
  - f) demand the submission of documents and data related to the activities of the controlled subject, submission of documents proving the declarations of the controlled subject and all documents stated in this act,
  - g) establish natural tobacco products decrements with production, holding and transport related to its physical and chemical characteristics and on the basis of long-term monitoring of at least 12 consecutive months state with the approval of the Customs Directorate the maximum acceptable level of tobacco products losses in tax warehouses and user enterprises which use tobacco products exempt from tax for purposes under Article 7 Paragraph 2.
- (4) During the performance of tax supervision and tax control the legal person or natural person is obliged to undergo the performance of the rights of the customs office under Paragraph 3.

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<sup>22)</sup> Article 15 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

(5) In tax warehouses and user 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.<sup>23)</sup> The provision of a special regulation does not apply to the beginning of a tax control.<sup>24)</sup>

(6) According to the character of the facts established during tax supervision the customs office shall compile a minute book or an official record or perform tax control.

(7) If the customs office establishes that the controlled subject when taxing tobacco products or claiming tax reimbursement acts in the detriment of the purchaser or in its own detriment, it shall inform the controlled subject of this fact.

(8) Tax supervision can also be performed by the Customs Directorate. In such, the provision of Paragraph 2 through 4, 6 and 7 apply appropriately to the Customs Directorate.

#### **Article 40** **Record keeping by the customs office** **and the Customs Directorate**

(1) The customs office is obliged to operate an electronic database containing a register of authorized warehouse keepers, registered traders, authorized tax representatives, tax warehouses, as well as records of authorized representatives for distant selling, user enterprises and cigarette importers.

(2) The electronic database under Paragraph 1 contains especially

- a) the identification data of the authorized warehouse keeper and the registered office of tax warehouse if they are not the same as the registered office or permanent residence of the authorized warehouse keeper, the registration number of the tax warehouse, the date of the assignment and the date of the cancellation of the registration number,
- b) the identification data of the registered trader, its registration number, the date of the assignment and the date of the cancellation of the registration number,
- c) the identification data of the authorized tax representative, its registration number, the date of the assignment and the date of the cancellation of the registration number,
- d) the identification data of the user enterprise, the number of its exemption certificate, the date of the assignment and the date of the cancellation of the exemption certificate,
- e) the identification data of the authorized representative for distant selling,
- f) the identification data of the cigarette importer and its registration receipt number,
- g) the trade name of the received and held tobacco products.

(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 regulations<sup>25)</sup> are not affected by this.

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

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<sup>23)</sup> Article 45 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

<sup>24)</sup> Article 15 Paragraph 2 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

<sup>25)</sup> 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.

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

(6) The Customs Directorate keeps records of the data under Article 9 Paragraph 26, on the basis of which it shall announce to the ministry the best selling category of cigarettes for the first six calendar months of the year no later than on 15 August of the given year and for the last six calendar months no later than on 15 February of the next year for the purposes of establishing the tax burdening of cigarettes with the excise duty. The best selling price category of cigarettes is the category of cigarettes from which the biggest amount of consumer packages of cigarettes with the same price, number of pieces of cigarettes in the consumer package and length of one cigarette were released into tax free circulation in the tax territory.

#### **Article 41 Penalties**

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

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

(3) A legal person or natural person which holds tobacco products 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 tobacco products it holds, plus SKK 5 000, however at least SKK 10 000.

(4) If a cigarette importer does not comply with the obligation under Article 9 Paragraph 21 or 23, the customs office shall impose on it a penalty up to the amount of SKK 100 000, however at least SKK 10 000.

(5) If the customs office establishes the sale or holding of cigarettes not indicated on the consumer package of cigarettes with a tax stamp, it shall impose on the selling person a penalty in the amount of the tax for the established amount of tobacco products increased by SKK 5 000, however at least SKK 10 000; the tax base of cigarettes not indicated with a tax stamp and not supplied under the same trade name to the tax territory is the number of pieces of cigarettes in the consumer package of cigarettes and the price of sold cigarettes in the tax territory with the same number of pieces in the consumer package of cigarettes with the same length of cigarette.

(6) The customs office shall secure the tobacco products under Article 3 and cigarettes under Article 5.3) Tobacco products secured in such way shall be confiscated by the state and the customs office is obliged to destroy them. The provision of a special regulation shall be applied appropriately during their destruction.9) The customs office shall proceed in the same way in the case of establishing the transport and holding of unindicated cigarettes.

(7) If the customs office establishes piece-by-piece sale of cigarettes, it shall impose on the selling person a penalty of SKK 10 000. If the customs office establishes that in the place of the sale of cigarettes is not situated an inscription under Article 10 Paragraph 2, it shall impose on the legal person or natural person a penalty of SKK 1 000.

(8) To a legal person or natural person which breaches the provision of  
a) Article 10 Paragraph 1 letter d), the customs office shall impose

1. a penalty in the amount of the difference of the tax established by the customs office, however at least SKK 5 000, and in the case of repeated breach at least SKK 10 000, if it sells the consumer package of cigarettes at a price higher than the price stated on the tax stamp,
  2. a penalty of SKK 5 000 and in the case of repeated breach at least SKK 10 000 if it sells a consumer package of cigarettes at a price lower than the price stated on the tax stamp,
- b) Article 10 Paragraph 1 letter. b), the customs office shall impose a penalty of SKK 5 000 and in the case of repeated breach SKK 10 000,
- c) Article 9 Paragraph 17 or 25, the customs office shall impose a penalty up to the amount of SKK 100 000, however at least SKK 10 000.

### **Common, transitory and final provisions**

#### **Article 42**

- (1) This act approximates the legal acts of the European Community and the European Union stated in Annex No. 1.
- (2) For tax administration shall be used a special regulation<sup>19)</sup> unless this act states otherwise.
- (3) The samples of tax return, additional tax return, tax reimbursement application and additional tax reimbursement application shall be stated in a regulation issued by the ministry.

#### **Article 43**

- (1) Under current regulations are assessed all obligations and rights stated in them which originated before 30 April 2004 and up to their expiry all periods of time which started to run before 1 May 2004 as well as periods consequent to them, the administration of the excise duty on tobacco and tobacco products being performed by the current administrators of this tax under the current regulations.
- (2) Unless this act states otherwise, the tax under this act applies to tobacco products which were released into tax free circulation in the tax territory or imported to the tax territory or exported from the tax territory after 1 May 2004.

#### **Article 44**

- (1) A legal person or natural person which from 1 May 2004 wants to operate a tax warehouse under this act with the exception of Paragraph 12 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 its 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 exact definition of the tobacco product produced, processed, received, held and dispatched (Article 4 Paragraph 2),
  - e) the estimated annual volume of the production of tobacco products in the appropriate unit of measure, in the case of an enterprise for the production of tobacco products, or the estimated annual volume of the holding and sale of tobacco products in the appropriate unit of measure, in the case of a tobacco products warehouse.
- (2) Annexes to the application are:
- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its

verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,

- b) technological documentation, brief description of activity and description of production and storage facilities with attached sketch, manner of securing tobacco products against unauthorized entering of these premises and the manner of securing tobacco products against unauthorized use,
- c) technological description of the production procedures, list of processed raw materials which are part of the tobacco product and a list of products to be produced,
- d) closing summary accounts for the previous tax period, if the applicant was obliged to compile closing summary accounts and if the applicant is subject to the obligation to have its closing summary accounts verified by an auditor, closing summary accounts verified by an auditor under a special regulation,<sup>12)</sup> as well as the form of account keeping,
- e) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter b) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter c),
- f) list of Member States to which the applicant expects to supply (dispatch) tobacco products under tax suspension; this list can upon request be submitted to these Member States.

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

(4) The applicant must also meet these conditions:

- a) keeps accounts under a special regulation,<sup>18)</sup>
- b) neither the customs office nor the tax authority
  - 1. have receivables after pay date towards it,
  - 2. have receivables after pay date towards a person personnel-linked or property-linked to it, nor did they have in the period of ten years before the day of the submission of the application towards a person which has been extinguished and which would be considered personnel-linked or property-linked to the applicant tax receivables which would not have been settled before this person was extinguished; this also applies to tax receivables which were transferred to a third person under special regulations,<sup>17)</sup>
- c) has no unpaid amounts in compulsory insurance levies under special regulations,<sup>7)</sup>
- d) has not been lawfully sentenced for an intentional criminal act; this also applies to the responsible representative and natural persons which are members of managing or control bodies of the applicant,
- e) is not in liquidation, nor is subject to a lawfully announced bankruptcy, permitted composition or confirmed compulsory composition.

(5) Before the issuing of an authorization for the operation of a tax warehouse, the applicant is obliged to deposit a tax guarantee (Article 20). If the enforceability or collection of tax are not jeopardized, it can ask the customs office in written form to waive the deposition of a tax guarantee

- a) completely, if the applicant meets the conditions stated in Paragraph 4 during at least 24 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse,
- b) partially in the amount of 50 %, if the applicant meets the conditions stated in Paragraph 4 during at least 12 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse.

(6) The customs office shall verify with the applicant the facts and data under Paragraph 1 through 5, and if the facts and data stated in the application and in annexes are correct and the applicant meets conditions for the issuing of an authorization for the operation of a tax warehouse (Article 16 and 18), the customs office shall assign it a registration number, issue a certificate of registration and an 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 under a special regulation<sup>26)</sup> stock-taking of tobacco products inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 6 of the Act of the National Council of the Slovak Republic No. 312/1993 Coll. on Excise Duty on Tobacco and Tobacco Products as amended as of 30 April 2004, separately from the inventories of tobacco products which it has in accordance with current regulations

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

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

(9) A legal person or natural person which wants to be from 1 May 2004 a registered trader under this act (Article 23 Paragraph 1) must ask the customs office in written form for registration and the issuing of an authorization to receive tobacco products from another Member State under tax suspension and submit the application for the registration and issuing of this authorization to the customs office no later than on 31 March 2004. Paragraph 1 applies appropriately to the content of the application. The annexes to the application are a copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy and a declaration of the applicant that it meets the conditions stated in Paragraph 4.

(10) The applicant stated in Paragraph 9 before the issuing of an authorization to receive tobacco products from another Member State under tax suspension repeatedly is obliged to deposit a tax guarantee (Article 20).

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

(12) A legal person or natural person stated in Paragraph 9 to which the customs office issued an authorization to receive tobacco products from another Member State under tax suspension with validity from 1 May 2004 and which has tobacco products inventories is obliged to perform under a special regulation<sup>26)</sup> the stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 6 of the Act of the National Council of the Slovak Republic No. 312/1993 Coll. on Excise Duty on Tobacco and Tobacco Products as amended as of 30 April 2004, separately for inventories of tobacco products which it has in accordance with current regulations

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

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

(14) A legal person or natural person which wants to be from 1 May 2004 an authorized tax representative

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<sup>26)</sup> Article 29 of Act No. 431/2002 Coll.

(Article 24 Paragraph 1) must ask the Customs Directorate in written form for registration, having to submit the application to the Customs Directorate before 31 March 2004. The Customs Directorate shall name the customs office which will 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). Articles 9 and 11 apply appropriately to the submission of this application and registration of the authorized tax representative.

(15) A legal person or natural person not stated in Articles 1, 9 and 14 which wants after 1 May 2004 to import consumer packages of cigarettes from the territory of third countries must ask the customs office to be included in the list of cigarette importers no later than on 31 March 2004. The application for inclusion in this list must contain the identification data of the applicant, tax identification number, trade name of the consumer package of cigarettes and estimated annual amount of imported cigarettes.

(16) A legal person or natural person which wants after 1 May 2004 to enter consumer packages of cigarettes into tax free circulation in the tax territory is obliged to ask for the issuing of a registration receipt number

- a) together with the application for registration and issuing of the authorization for the operation of a tax warehouse, in the case of a legal person or natural person under Article 1, or
- b) together with the application for registration and issuing of the authorization to receive tobacco products from another Member State under tax suspension, in the case of a legal person or natural person under Article 9, or
- c) together with the application for the registration of an authorized tax representative, in the case of a legal person or natural person under Article 14, or
- d) after the inclusion in the list of cigarette importers, in the case of a legal person or natural person under Article 15.

(17) A legal person or natural person stated in Article 15 shall state in the application for the assignment of a registration receipt number its identification data of the applicant and submit a confirmation of the customs office on its inclusion in the list of cigarette importers.

(18) A legal person or natural person stated in Article 16 after the assignment of the registration receipt number shall conclude with the legal person or natural person stated in Article 20 a written contract on the production of tax stamps, whose copy it shall submit no later than after 15 days to the customs office, and ask the customs office for the issuing of a certificate for the receipt of tax stamps. The authorized tax representative under Article 14 and the legal person or natural person under Article 15 before the issuing of a certificate for the receipt of tax stamps is obliged to deposit a tax guarantee by depositing financial means to the account of the customs office [Article 20 Paragraph 4 letter a)].

(19) The application for the issuing of an exemption certificate must contain the identification data of the application, the registration receipt number of the applicant, the number of pieces of tax stamps according to cigarette price, the number of pieces of cigarettes in the consumer package of cigarettes and the length of one cigarette. The applicant shall also dispatch to the customs office no later than with the submission of the application for the issuing of the first certificate for the receipt of tax stamps a list of cigarettes released into tax free circulation, in which it shall the cigarette price with the date of its releasing into the tax free circulation at this price, the trade name of cigarettes, the number of pieces of cigarettes in a consumer package of cigarettes, the length of one cigarette, the country of origin of the cigarettes and the identification data of the cigarette producer, unless it is a cigarette producer in the tax territory.

(20) A legal person or natural person entitled to produce tax stamps under current regulations can produce tax stamps under this act until 31 July 2004. This legal person or natural person is obliged before the distribution of tax stamps to submit to the Customs Directorate a sample copy (specimen) produced in accordance with the regulation issued under Article 9 Paragraph 32. The legal person or natural person is



obliged to submit the sample copy of the tax stamp (specimen) also before each change in the features and data of the tax stamp.

(21) If the consumer package of cigarettes is to be released into tax free circulation after 1 May 2004, it must be indicated with a tax stamp under this act (Article 9) with the exception stated in Article 24.

(22) It is prohibited to take out of holding the consumer package of cigarettes indicated with a tax stamp under current regulations after 30 April 2004.

(23) A consumer package of cigarettes indicated with a tax stamp under current regulations can be sold until 30 September 2004. After this date a consumer package of cigarettes indicated in this way will be considered unindicated.

(24) From 1 May 2004 to 31 July 2004 it is possible to release into tax free circulation a consumer package of cigarettes indicated with a tax stamp under current regulations if in the free field of the tax stamp is stated the cigarette price. Such tax stamps can be made by a legal or natural person authorized to produce tax stamps under current regulations, however no later than on 31 July 2004.

(25) A consumer package of cigarettes indicated with a tax stamp under Article 24 shall be considered as indicated under this act until 31 December 2004. After this date the consumer package of cigarettes indicated in this manner shall be considered as unindicated.

(26) A legal person or natural person which was a tax stamp purchaser under current regulations shall account the use of the tax stamps under the state as of 31 July 2004 under current regulations with the Customs Directorate of the Slovak Republic (hereinafter „Customs Directorate“) before 25 August 2004. The provisions of Article 9 of this act shall be used appropriately for accounting these tax stamps. The unused tax stamps without a stated price shall be destroyed by the tax stamp purchaser under surveillance of the Customs Directorate or a customs office assigned by it before five days after the date of the actual accounting. The Customs Directorate or the customs office assigned by it shall compile an official record on the destruction of these tax stamps.

(27) A legal person or natural person to whom as of 1 May 2004 no authorization for the operation of a tax warehouse or authorization to receive tobacco products from another Member State under tax suspension were issued and has inventories of tobacco products is obliged to perform in accordance with a special regulation<sup>26)</sup> a stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided under Article 6 of the Act of the National Council of the Slovak Republic No. 312/1993 Coll. on the Excise Tax on Tobacco and Tobacco Products as amended as of 30 April 2004, separately from inventories of tobacco products which it has in accordance with current regulations

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

(28) A legal person or natural person stated in Article 27 from inventories under Article 27 letter b) is obliged to submit to the Customs Office a separate tax return before 25 May 2004 and admit tax under the tax rate valid from 1 May 2004 and pay the tax before the same deadline.

(29) To a legal person or natural person stated in Article 27 which submitted an application for the issuing of an authorization for the operation of a tax warehouse or authorization to receive tobacco products from another Member State under tax suspension, but the proceedings on this application were not finished as of 1 May 2004, the customs office shall state a date as of which it should perform new stock-taking before the issuing of the appropriate authorization; such application shall be assessed as if it was submitted after 30 April 2004.

(30) To a legal person or natural person stated in Article 27 which as of 30 April 2004 has inventories of tobacco products at a price without tax and did not submit to the customs office a separate tax return before 25 May 2004, the customs office shall state the tax and impose a penalty in the amount of the stated tax.

(31) If tobacco products were transported to the tax territory from a state which is a Member State on 1 May 2004 and as of 30 April 2004 is situated in the customs regime with the exception of the customs regime transit and these were not finished, such tobacco products are considered as tobacco products under tax suspension. If such tobacco products are not transported to the tax warehouse, tax obligations arise in the tax territory on the day of releasing tobacco products into tax free circulation.

(32) If tobacco products released into tax free circulation in another Member State are to be transported to the tax territory for enterprise purposes under Article 29 and the transport of such tobacco products will be finished after the entry into effect of this act, the provisions of this act shall be applied appropriately.

(33) For the documenting of the transport of tobacco products exempt from tax to the territory of another Member State by a Slovak representative (Article 15 Paragraph 3) and the armed forces of the Slovak Republic for use within activities under an international treaty can be used the certificate on exemption from consumer tax drawn up according to the sample stated in Annex No. 3.

(34) A legal person or natural person to whom was issued an authorization for the operation of tax warehouse with validity after 1 May 2004 and wants to transport tobacco products under tax suspension can use an accompanying document drawn up according to the sample stated in Annex No. 4, unless it used the document under the regulation of the union.<sup>15)</sup>

(35) A legal person or natural person which is under this act entitled from 1 May 2004 to transport tobacco products released into tax free circulation in the tax territory into another Member State for enterprise purposes (Article 29) can use a simplified accompanying document drawn up according to the sample stated in Annex No. 5, unless it uses the document under the regulation of the union.<sup>20)</sup>

(36) The provisions of a special regulation apply to the proceedings of the customs office under Articles 1 through 35,<sup>19)</sup> unless this act states otherwise. The customs office shall decide on the application under Articles 6, 11 and 14 no later than 30 days after the day of the submission of the application of a legal person or natural person stated in Articles 1, 9 and 14. If the applicant stated in Articles 1, 9 and 14 does not demonstrate before this deadline the complying of all the conditions, the customs office shall ask the applicant stated in Articles 1, 9 and 14 to remove the defects and decide on the application under Articles 6, 11 and 14 no later than 15 days after the day of the removal of the defects.

#### **Article 45**

Cancelled are:

1. Act of the National Council of the Slovak Republic No. 312/1993 Coll. on the Excise Duty on Tobacco and Tobacco Products as amended by the Act of the National Council of the Slovak Republic No. 182/1994 Coll., 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. 367/1997 Coll., Act No. 333/1998 Coll., Act No. 334/1998 Coll., Act No. 152/1999 Coll., Act No. 339/1999 Coll., Act No. 253/2000 Coll., Act No. 582/2001 Coll., Act No. 449/2002 Coll., Act No. 641/2002 Coll. and Act No. 243/2003 Coll.,
2. decree of the Ministry of Finance of the Slovak Republic No. 313/1993 Coll. on the Indicating of Some Tobacco Products with a Tax stamp as amended by the Act of the National Council of the Slovak Republic No. 304/1995 Coll. and decree No. 124/1997 Coll.

#### **Article 46**

This act enters into effect on 1 March 2004 apart from the provisions of Article 1 through 9 Paragraph 1 through 31, Article 10 through 43 and Article 45, which enter into effect on 1 May 2004.

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