

533 ACT
of 27 October 2005

Amending and supplementing Act No. 106/2004 Coll., on excise duty on tobacco products, as amended, and amending and supplementing Act No. 105/2004 Coll., on excise duty on spirit and on amendment of Act No. 467/2002 Coll., on production and distribution of spirit into the market as amended by Act No. 211/2003 Coll., as amended

The National Council of the Slovak Republic has adopted the following Act:

Section I

Act No. 106/2004 Coll., on excise duty on tobacco products, as amended by Act No. 556/2004 Coll. and Act No. 631/2004 Coll., is amended and supplemented as follows:

1. In section 2 part 1 is added to with letter m), reading as follows:

"m)decisively the right of a natural person to decide independently as a management authority or control authority of a legal person or to prevent the management body or control body of a legal person to decide by inactivity."

2. In section 4 par. 3 letter c) point one the words "or suitable" are put after the word "determined".

3. In section 4 par. 3 letter c) point two reads as follows:

"2. Tobacco residue irrespective of the purpose of use, adjusted for retail sale, which is not a cigarette according to letter a) and a cigar or small cigar according to letter b),".

4. In section 4 par. 6 subparagraph b) shall read as follows:

"b) which is not referred to in part 3 letter c), if it is offered for

1. use or is used as a tobacco product for smoking, or

2. a purpose other than smoking and is suitable for smoking and modified for retail sale."

5. In section 4, part 7 reads as follows:

"(7) A product not containing tobacco and meeting other conditions according to part 3 letter a) or letter c) is not considered as a tobacco product if it is determined for purposes according to a specific regulation,2a) and a document confirming that fact shall be issued by the Ministry of Health of the Slovak Republic or by an institution authorized by the Ministry."

The marginal note to reference 2a reads as follows:

"2a) Act No. 140/1998 Coll., on medicines and medical aids, on amendment of Act No. 455/1991 Coll., on business in trade (Trade Act), as amended, and on amendment and supplement of Act of the National Council of the Slovak Republic No. 220/1996 Coll., on advertising, as amended."

6. In section 6 par. 2, the words " SK 0.91/piece" are replaced by the words "SK 1.10/piece" and the words "20 % of the price of cigarettes" are replaced by the words "23 % of the price of cigarettes".

7.In section 6 par. 3, the words "SK 1.40/piece" are replaced by the words "SK 1.70/piece".

8.In section 6, part 4 reads as follows:

"(4) The minimum rate of duty on cigarettes is applied if the amount of duty corresponding to one cigarette, calculated according to the rate of duty determined in part 2 in the manner referred to in section 5 par. 7, does not reach the minimum rate of duty as determined in part 3, or if the amount of duty on cigarettes cannot be determined according to section 5 par. 7."

9.In section 7 par. 1, letter b) the words "in a tax warehouse (section 16 par. 2)" are replaced by the words "under duty suspension".

10. In section 7 par. 1, letter f) reads as follows:

"f) sent by a natural person from the territory of third countries to a natural person in the tax territory in small shipments of a non-commercial nature⁴⁾ or imported occasionally from the territory of third countries in hand baggage by a traveller solely for personal consumption to

a maximum amount of 200 cigarettes, or 100 small cigars, or 50 cigars, or 250g tobacco."

The marginal note to reference 4 reads as follows:

"⁴) Art. 29 to 31 and/or 45 to 49 of Government Order (EEC) No. 918/83 of 28 March 1983, establishing the system of Community for exemption from customs duty (U. v. EC L 105, 23.04.1983), as amended."

11. In section 7 part 2 reads as follows:

"(2) Denatured tobacco products are also exempt if they are to be used for industrial purposes or in gardening. Denatured tobacco products are considered to be tobacco products mixed with a denaturant, which is a substance or mixture of substances, and which, after mixing with tobacco products, change the properties of tobacco products in such a manner that they are not suitable for smoking and human use. Permitted denaturants, their determined quantity for denaturing of tobacco products, requirements for denaturing and the determined purpose of use of denatured tobacco products shall be stipulated by a general binding legal regulation issued by the Ministry of Finance of the Slovak Republic (hereinafter "the Ministry") after agreement with the customs head office."

12. In section 8, part 1 reads as follows:

"(1) For the purposes of this Act, a user company is a legal person or a natural person authorized to use tobacco products exempt from duty according to section 7 par. 2. A legal person or a natural person intending to be a user company in the tax territory must apply to the customs office in writing for recording in the registration of user companies. A legal person or a natural person being a user company is authorized to purchase tobacco products exempt from duty according to section 7 par. 2 only on the basis of a voucher for purchase of tobacco products exempt from duty according to section 7 par. 2 (hereinafter "purchase voucher") for whose issue they shall apply to the customs office in writing. Tobacco products exempt from duty according to section 7 par. 2 must not be released without a purchase voucher."

13. In section 8 par. 2, the introductory sentence reads as follows:

"The application for recording in the registration of user companies or for the issue of a purchase voucher must contain".

14. In section 8 par. 4 first sentence, the words "recording in the registration of user companies and before" are put after the word "before" and in the second sentence the words "shall record the applicant in the registration of user companies and" are put after the word "office".

15. In section 8 par. 10 letter a) the following words are added at the end: "and neither imposition of a penalty nor *appeals* of the customs office led to correction".

16. In section 8 part 11 reads as follows:

"(11) The customs office shall delete a user company from the registration of user companies if a purchase voucher was withdrawn from the user company according to part 10 letters a), b), or d) to h). The customs office shall also delete a user company from the registration of user companies if a user company does not apply for the issue of a purchase voucher from the day that the purchase voucher was withdrawn according to part 10 letter c) within 12 following calendar months. For deletion of a user company from the registration of user companies or withdrawal of a purchase voucher according to part 10, section 19 par. 10 letter a) and par. 11 shall be applied equally. Within three working days from the day that a user company was deleted from the registration of user companies or the day that a purchase voucher was withdrawn, the customs office shall notify the supplier of exempt tobacco products given in the purchase voucher of these facts."

17. Section 8 is added with part 14, reading as follows:

"(14) Unless otherwise stipulated by the Act, it is prohibited

- a) to use denatured tobacco products without an issued purchase voucher for the purchase of tobacco products exempt from duty according to section 7 par. 2,
- b) to use denatured tobacco products for any purpose other than for the purpose defined in section 7 par. 2,
- c) to sell denatured tobacco products in places where other tobacco products determined for smoking are sold for end consumption."

18. In section 9 par. 6 letter a) point nine the words "was not" are replaced by the words "is not".

19. In section 9 par. 8 second sentence, the following words are added at the end: "with the exception of the information about the date of execution of the tax stamp".

20. In section 9 par. 9, the second sentence reads as follows: "In the application for allocation of a registration purchase number, an operator of a tax warehouse, authorized receiver and tax authorized representative shall give their identification data."

21. In section 9 par. 17 the words "directly by a purchaser of tax stamps or via the shipper" are put after the words "with the exception of handing in tax stamps".

22. In section 9 par. 19, the first and second sentences read as follows: "A purchaser of tax stamps shall hand in damaged tax stamps or tax stamps that cannot be used due to another reason to the customs office, except for tax stamps irretrievably damaged in technological equipment for sticking tax stamps on consumer packing of cigarettes. The customs office shall damage the tax stamps at the expense of the purchaser of tax stamps and shall make an official record on their damaging in two copies."

23. In section 9, part 20 reads as follows:

"(20) If damaged tax stamps or tax stamps that cannot be used due to another reason are located in the territory of a third country, the purchaser of tax stamps must deliver such tax stamps to the tax territory. For damaging tax stamps, the procedure referred to in part 19 shall be applied. If tax stamps are damaged in the territory of a third country as a consequence of an accident, disaster, or force majeure, the purchaser of tax stamps must evidence these facts with a confirmation from a competent authority of the state in whose territory these facts occurred; if tax stamps are damaged in another member country by a competent authority of that state, or if tax stamps are damaged in another member country as a consequence of an accident, disaster or force majeure, the purchaser of tax stamps must evidence these facts with a confirmation from a competent authority of the state in whose territory these facts occurred."

24. In section 9, parts 23 and 24 read as follows:

"(23) Billing of the purchase and use of taken over tax stamps with the customs office executes

- a) an operator of a tax warehouse and authorized receiver receiving tobacco products from another member country under duty suspension repeatedly, for a calendar month, according to the state as of the last day of a calendar month, namely by the date for filing a tax return,
- b) an importer of cigarettes, authorized receiver receiving tobacco products from another member country under duty suspension occasionally and a tax authorized representative within 30 working days from the day that the tax obligation arose.

(24) A purchaser of tax stamps shall submit part B of the voucher confirmed by a printing works and shall specify

- a) the initial state of tax stamps,
- b) the number of tax stamps received from the printing works,
- c) the number of tax stamps input in technological equipment used for their sticking on consumer packing,
- d) the number of units of consumer packing on which undamaged tax stamps were actually stuck,
- e) the number of tax stamps damaged when sticking them on consumer packing in technological equipment,
- f) the number of damaged tax stamps and he shall submit the official record on damaging of tax stamps according to parts 19 and 20 or confirmation of a competent authority of the state in whose territory tax stamps were damaged outside the tax territory as a consequence of an accident, disaster, technology failure, or force majeure,
- g) the number of tax stamps stuck on consumer packing put into tax free circulation,
- h) the number of tax stamps stuck on consumer packing but not put into tax free circulation,
- i) the final state of tax stamps."

25. In section 9 par. 28 letter c) the word "a" is replaced by a comma and the words "a tax authorized representative" are put after the words "authorized receiver".

26. In section 9 par. 28 letter d) the words "a tax authorized representative" are omitted.

27. In section 9, part 30 reads as follows:

"(30) The obligation to mark consumer packing of cigarettes with a tax stamp does not apply

to consumer packing of cigarettes

- a) taken over as a sample for the purposes of tax supervision or another official control, official test or official examination in a technologically reasoned quantity,
- b) used under duty suspension for own qualitative tests or analyses in a technologically reasoned quantity, recognized by the customs office,
- c) sent by a natural person from the territory of third countries to a natural person in the tax territory in small shipments of a non-commercial nature or imported occasionally from the territory of third countries in personal baggage by a traveller for personal consumption in the maximum quantity of 200 cigarettes, or 100 small cigars, or 50 cigars, or 250 g of tobacco,⁴⁾
- d) delivered to the tax territory from member countries by persons referred to in section 15 par. 2, or delivered to the tax territory from other member countries by armed forces of other countries that are parties of the North Atlantic Treaty Organization and their civil employees, for use in conjunction with activities according to an international contract,
- e) imported to the tax territory from the territory of third countries by persons referred to in section 15 par. 2, or imported to the tax territory from the territory of third countries by armed forces of other countries that are parties of the North Atlantic Treaty Organization and their civil employees, for use in conjunction with activities according to an international contract,⁵⁾
- f) exported to the territory of third countries,
- g) delivered to other member countries,
- h) determined for sale in the transit area of international airports and on boards of aeroplanes as exempt tobacco products, solely to natural persons leaving the union territory, or determined for sale for the price including tax in the transit area of international airports and on boards of aeroplanes, solely to natural persons whose direct destination airport is in another member country,
- i) delivered on board aeroplanes exempt from duty and determined solely for travellers' consumption during the flight,
- j) determined for sale as tobacco products exempt from duty, namely to persons of other countries that enjoy privileges and immunity according to an international contract,^{8a)}
- k) transported to the tax area for private purposes (section 31),
- l) delivered to the tax territory within mail-order service (section 32)."

28. In section 9 par. 32, the words "Ministry of Finance of the Slovak Republic (hereinafter "the Ministry")" are replaced by the word "Ministry".

29. In section 10 par. 1 letter d) reads as follows: "d) for a higher price than the price quoted on the tax stamp,".

30. In section 10, part 1 is added to with letter e), reading as follows:

"e) for end consumption at a price lower than the price quoted on the tax stamp; a legal person or a natural person executing sale for end consumption must not give any discount from the price of cigarettes, nor any other price advantage whose purpose is the sale of consumer packing of cigarettes."

31. In section 10, part 4 is omitted.

32. In section 11 par. 1 letter a) the words "or a day that tobacco products are released from duty suspension in another manner but as given in letters b) to e)" are omitted.

33. In section 11 par. 1 new letter f) is put after letter e), reading as follows:

"f) release of tobacco products from duty suspension in another manner but as given in letters a) to e)",. Existing letters f) to h) are designated as letters g) to i).

34. In section 11 par. 2, letter a) reads as follows:

"a) establishment of tobacco products that are located or were located with a legal person or a natural person if the legal person or the natural person cannot evidence the origin or manner of acquisition of tobacco products under this Act, namely irrespective of the fact of whether the person handles or handled the tobacco products as its own products,".

35. In section 12 par. 1, letter a) the words "or released tobacco products from duty suspension in another manner but as given in letters b) to e)" are omitted.

36. In section 12 par. 1, a new letter f) is put after letter e), reading as follows:

"f) that released tobacco products from duty suspension in another manner but as given in

letters a) to e),". Existing letters f) to h) are designated as letters g) to i).

37. In section 12 par. 2, letter a) reads as follows:

"a) cannot evidence under the Act the origin or manner of purchase of tobacco products established with the person that are located or were located with the person, namely irrespective of the fact of whether the person handles or handled the tobacco products as its own,".

38. In section 13 par. 2 first sentence, a comma and the words "an operator of a transit tax warehouse, an operator of a tax warehouse for foreign representative" are put after the words "an operator of a tax warehouse".

39. In section 13 par. 4, the words "letters g) and h)" are replaced by the words "letter h) and i)".

40. In section 13 par. 7, the words "letter g) and h)" are replaced by the words "letter h) and i)".

41. In section 14 par. 1, letter a) the words "and that is returned due to its damage or its depreciation" are put after the word "stamps".

42. In section 14 par. 2 the introductory sentence, the words "with the exception of cigarettes" are omitted.

43. In section 19, part 2 is added with letter h), reading as follows:

"h) a list of persons interconnected with the applicant by property and persons interconnected with the applicant by personnel."

44. In section 19 par. 4 letter c) point two the words "or did not dissolve" are put after the word "dissolved".

45. In section 19 par. 4 letter f) the words "was not" are replaced by the words "is not".

46. In section 19 par. 10, letter a) reads as follows:

"a) an operator of a tax warehouse, in the case according to part 7 letter b) an heir or an administrator appointed by the court, shall execute stocktaking of tobacco products in the presence of the tax office as of the day that the permission to run a tax warehouse expires and shall file a tax return by the date determined by the customs office and shall pay duty within the same period,".

47. In section 20, part 1 reads as follows:

"(1) A legal person or a natural person intending to run a tax warehouse must pay a guarantee for excise duty before the issue of permission to run a tax warehouse, amounting to the duty corresponding to the average monthly quantity of tobacco products put by the person in tax free circulation in the previous calendar year, where the amount of the guarantee for excise duty shall include the duty corresponding to the quantity of tobacco products put into tax free circulation for purposes exempt from the duty. If the guarantee for excise duty cannot be determined in such a manner, the applicant shall pay a guarantee for excise duty to the amount of excise duty corresponding to the expected average monthly quantity of tobacco products that he shall put into tax free circulation in the current year."

48. In section 20, part 5 reads as follows:

- "(5) An operator of a tax warehouse a) must modify the paid guarantee for excise duty if the conditions taken into account at its determination changed, namely 1. increase the paid guarantee for excise duty if the duty corresponding to the quantity of tobacco products put into tax free circulation for the previous calendar month exceeds the paid guarantee for excise duty by 20 %, namely by the 25th day of the calendar month following the month in which duty exceeding the paid guarantee for excise duty should have been paid,
2. add the paid guarantee for excise duty with the sum used by the customs office for payment of excise duty and related claims, namely within 15 days from the day of notification referred to in part 6,
- b) may ask the customs office in writing or with written approval of the customs office the bank that issued the bank guarantee to reduce the paid guarantee for excise duty if the paid guarantee exceeds the duty corresponding to the quantity of tobacco products put into tax free circulation for the previous calendar month by more than 20 % and provided that such a state has continued for a minimum of the two following calendar months; the customs office shall reimburse the arisen difference within 15 days from the day that the application was filed."

49. In section 20 par. 8, letter b) is omitted. The existing letter c) is designated as letter b).

50. In section 21, a new part 3 is put after part 2, reading as follows:

"(3) In reasoned cases, based on a written application of a legal person or a natural person intending to transport tobacco products under duty suspension and tobacco products exempt according to section 7 par. 2 in the tax territory, the customs office may permit a mode of transport of such tobacco products other than the mode referred to in parts 1 and 2."

Existing parts 3 to 7 are designated as parts 4 to 8.

51. In section 21, part 6 reads as follows:

"(6) Tobacco products under duty suspension may be transported with the accompanying document (section 25 par. 1) only. The first part of the accompanying document shall be kept by the sender (supplier) of tobacco products and he must send a copy of the first part of the accompanying document by fax or electronically to the appropriate customs office local to the sender (supplier) before commencement of the transport. The second and third parts must accompany the transported tobacco products. The receiver (purchaser) shall keep the second part, shall confirm the takeover of tobacco products in the third and fourth parts and shall submit both parts to the customs office that will confirm them. He shall send the third part confirmed by the customs office to the sender (supplier) by the 15th day of the month following the calendar month in which he received tobacco products. The fourth part shall be kept by the customs office of the receiver (purchaser). If, during the transport of tobacco products under duty suspension, the receiver or place of destination are changed, the supplier must notify the customs office of these changes without undue delay and simultaneously he must indicate the new receiver or new place of destination on the back of the accompanying document; in this case section 25 par. 4 is applied equally. Transport of tobacco products is considered as finished as of the day of receipt of tobacco products by the receiver (purchaser). A document evidencing finishing the transport of tobacco products is the third part of the accompanying document, confirmed by the receiver (purchaser) and by the customs office of the receiver (purchaser)."

52. In section 21 par. 8, the words "part 3" are replaced by the words "part 4".

53. In section 22 par. 1 letter a) the following words are added at the end: "or to a Slovak representative (section 33a par. 15), or armed forces of the Slovak Republic and their civil employees for use in conjunction with activities according to an international contract⁵) in the territory of countries that are parties of the North Atlantic Treaty Organization; transport of tobacco products to a Slovak representative (section 33a par. 15) or armed forces of the Slovak Republic and their civil employees for use in conjunction with activities according to an international contract⁵) in the territory of countries that are parties of the North Atlantic Treaty Organization must be executed with an accompanying document, it must be attached with a certificate of excise duty exemption, executed according to the sample and in the manner defined in a specific regulation⁶)".

54. In section 22 par. 3, the third sentence is replaced by text reading as follows: "Transport of tobacco products is considered as finished as of the day that tobacco products are taken over by the receiver (supplier). A document evidencing finishing of the transport of tobacco products is the third part of the accompanying document, confirmed by the receiver (supplier)."

55. In section 22, part 4 reads as follows:

"(4) During transport of tobacco products from a tax warehouse in the tax territory to a tax warehouse, authorized receiver, tax authorized representative in another member country, Slovak representative (section 33a par. 15) or armed forces of the Slovak Republic and their civil employees for use in conjunction with activities according to an international contract⁵) in the territory of countries that are parties of the North Atlantic Treaty Organization, the sender (supplier) must send a copy of the first part of the accompanying document by fax or electronically to the customs head office and the appropriate customs office local to the sender (supplier) before commencement of the transport."

56. In section 22, part 7 reads as follows:

"(7) For tobacco products that are to be transported according to part 1 letters a) and b) under duty suspension, a guarantee for excise duty must always be paid, except for transport of tobacco products to a Slovak representative (section 33a par. 15), or armed forces of the

Slovak Republic and their civil employees for use in conjunction with activities according to an international contract⁵) in the territory of countries that are parties of the North Atlantic Treaty Organization. The guarantee for excise duty shall be paid by the sender (supplier) to the amount of the duty corresponding to the quantity of transported tobacco products. Payment of the guarantee for excise duty on tobacco products that are to be transported under duty suspension is not required if the guarantee for excise duty according to section 20 par. 1 is paid to an amount covering the guarantee for excise duty on tobacco products that are to be transported under duty suspension as well. A guarantee for excise duty paid in another member country is valid in the tax territory. Upon request, the customs office shall permit that the shipper or receiver (purchaser) pay the guarantee for excise duty instead of the sender (supplier)

if the sender (supplier) and shipper or receiver (purchaser) mutually agreed. The customs office shall reimburse a paid guarantee for excise duty upon request if the receiver (purchaser) confirms the takeover of tobacco products in the third part of the accompanying document; confirmation of a tax administrator of another member country proving that tobacco products were taken over by the receiver (purchaser) is required if the tax administrator must confirm the third part of the accompanying document under legal regulation of the respective member country."

57. In section 23, part 1 reads as follows:

"(1) An authorized receiver in the tax territory is a legal person or natural person holding a permission to receive tobacco products from another member country under duty suspension. An authorized receiver is also a legal person or a natural person in the territory of another member country authorized to receive tobacco products from another member country under duty suspension according to legal regulations of the respective member country. A legal person or a natural person intending to be an authorized receiver in the tax territory and intending to receive tobacco products under duty suspension from another member country repeatedly must apply to the customs office in writing for registration and issue of permission to receive tobacco products under duty suspension from another member country. A legal person or a natural person intending to receive tobacco products under duty suspension from another member country occasionally must apply to the customs office in writing for issuing permission to receive tobacco products under duty suspension from another member country for every occasional receipt of tobacco products. The application must contain the

- a) identification data of the applicant and address of his premises if they differ from the registered office or permanent residency of the applicant,
- b) tax identification number of the applicant,
- c) identification number for value added tax, if allocated to the applicant,
- d) trade name of the tobacco product,
- e) estimated volume of tobacco products received under duty suspension p.a. in the respective unit of measurement, if the applicant is a legal person or a natural person intending to receive tobacco products under duty suspension from another member country repeatedly,
- f) quantity of tobacco products in the respective unit of measurements that are to be received in the particular case by the applicant, being a legal person or a natural person intending to receive tobacco products under duty suspension from another member country occasionally."

58. In section 23 par. 3 first sentence, a comma and the words "intending to receive tobacco products under duty suspension from another member country repeatedly," are put after the word "applicant".

59. In section 23, part 5 reads as follows:

"(5) Before issuing permission to receive tobacco products under duty suspension from another member country, the customs office shall check the facts and data given in the application and annexes with the applicant intending to receive tobacco products under duty suspension from another member country occasionally. If the facts and data are true, the customs office shall issue permission to receive tobacco products under duty suspension from another member country not later than on the following working day after the day that the applicant paid a guarantee for excise duty, amounting to the duty corresponding to the quantity of tobacco products that are to be received in the particular case. The customs office shall issue a document confirming payment of the guarantee for excise duty. After agreement with the customs office, the paid guarantee for excise duty may be used for payment of the duty."

60. In section 23 part 6 reads as follows: "(6) It shall be used adequately for the guarantee for

excise duty."

61. In section 23 par. 7 the last sentence is omitted.

62. Section 23 is added to, with part 8 reading as follows:

"(8) For expiry of the permission to receive tobacco products under duty suspension from another member country, section 19 par. 7 to 10 shall be applied adequately. The customs office shall withdraw permission to receive tobacco products under duty suspension from another member country if registration was executed and permission to operate a tax warehouse was issued."

63. Section 24 is added to, with part 3 reading as follows:

"(3) The customs office shall cancel the registration of a tax authorized representative if

- a) the tax authorized representative did not secure deliveries of tobacco products for a period exceeding the 12 following calendar months,
- b) the tax authorized representative violates his duties under this Act,
- c) the tax authorized representative or operator of a tax warehouse asked for it in another member country in whose currency the tax authorized representative secures deliveries of tobacco products."

64. In section 26 par. 5, the words "sender of tobacco products or" are omitted.

65. In section 27 par. 1, the first sentence shall read as follows:

"Import of tobacco products is considered to be the entering of tobacco products into the tax territory from the territory of a third country or from the union territory in which the union legal regulations on the general system, holding, transport and control of products that are subject to excise duty are not applied."

66. In section 28, part 2 reads as follows:

"(2) If tobacco products are exported to the territory of a third country, the procedure for transport of tobacco products under duty suspension is applied, namely even if they are transported through one or more member countries, and in the accompanying document the departure customs office shall be given instead of the receiver. Transport of tobacco products under duty suspension is considered as finished as of the day that the departure of tobacco products from the union territory is confirmed by the departure customs office in the third part of the accompanying document. If a uniform customs certificate is used as the accompanying document, transport of tobacco products under duty suspension is considered as finished as of the day that the departure of tobacco products from the union territory is confirmed by the departure customs office in the fifth part of the uniform customs certificate. For transport of tobacco products under duty suspension, section 22 par. 7 and 8 shall be applied."

67. In section 29 par. 7, the first sentence is replaced by text reading as follows:

"If tobacco products are delivered to the tax territory or are received in the tax territory other than as referred to in parts 1 and 2, the tax obligation arises on the day that tobacco products are delivered to the tax territory, or as of the day that tobacco products are used in the tax territory if the day that tobacco products are delivered to the tax territory is not known. A tax debtor is a legal person or a natural person that is the first holder of tobacco products transported to the tax territory or that used the tobacco products first."

68. In section 32, a new part 10 is put after part 9, reading as follows:

"(10) The customs office shall withdraw permission to representation by an authorized representative for mail-order trade if

- a) the authorized representative for mail-order trade did not secure deliveries of tobacco products for a period exceeding the 12 following calendar months,
- b) the authorized representative for mail-order trade violates obligations under this Act,
- c) it was requested by an authorized representative for mail-order trade or supplier from another member country on whose behalf the authorized representative for mail-order trade secures deliveries of tobacco products." The existing part 10 is designated as part 11.

69. In section 39 par. 5, the first sentence shall read as follows:

"In tax warehouses and user companies, the customs office shall execute a tax control a minimum of every calendar quarter of the year; as regards other controlled entities, the tax control shall be executed as necessary, but a minimum of once by the day that the right to levy duty expires.²³⁾".

70. In section 40, part 3 reads as follows:

"(3) The customs head office or the customs office authorized by it must keep a central electronic database, containing data referred to in part 2, and follow a specific regulation.²⁵⁾".

The marginal note to reference 25 reads as follows:

"²⁵⁾ Council Order (EC) No. 2073/2004 of 16 November 2004, on administrative cooperation on excise duties (U. v. ES L 359, 04.12.2004)."

71. In section 40, parts 4 and 5 are omitted. The existing parts 6 and 7 are designated as parts 4 and 5.

72. Section 41, including the title, reads as follows:

"Section 41

Penalties

(1) The customs office shall impose a penalty on a legal person or a natural person that issued tobacco products exempt according to section 7 par. 2 to a purchaser that did not submit a purchase voucher, amounting to 50 % of the duty corresponding to the quantity of tobacco products issued in such a manner, but a minimum of SK 100,000.

(2) A legal person or a natural person that used

- a) tobacco products exempt according to section 7 par. 1 for a purpose other than the determined one, the customs office shall impose a penalty, amounting to 50 % of the duty corresponding to the quantity of tobacco products used in such a manner, but a minimum of SK 100,000, or
- b) tobacco products exempt according to section 7 par. 2 for purposes not specified in the purchase voucher, the customs office shall impose a penalty, amounting to 50 % of the duty corresponding to the quantity of tobacco products used in such a manner, but a minimum of SK 50,000, or
- c) tobacco products exempt according to section 7 par. 2 without the issued purchase voucher, the customs office shall impose a penalty, amounting to 50 % of the duty corresponding to the quantity of tobacco products used in such a manner, but a minimum of SK 100,000.

(3) If in tax free circulation the customs office established sale, offering for sale, storage or transport of consumer packing of cigarettes not marked according to this Act and a specific regulation,²⁵³⁾ the customs office shall impose a penalty on the legal person or the natural person that sold, offered for sale, stored or transported such consumer packing of cigarettes, amounting to 50 % of the duty corresponding to the established quantity of unmarked tobacco products, but a minimum of SK 10,000; on the basis of the duty on cigarettes that are not marked with a tax stamp and that are not supplied with the same trade name to the tax territory, the number of cigarettes in consumer packing of cigarettes and best-sellable price category of cigarettes (section 40 par. 4) are converted to the number of cigarettes in consumer packing of cigarettes.

(4) The customs office shall impose a penalty on a purchaser of tax stamps that violated section 9 par. 17, 21, 23, 24 or 25, up to SK 50,000 but a minimum of SK 10 000.

(5) The customs office shall impose a penalty on a purchaser of tax stamps that cannot evidence any use or misuse of tax stamps, amounting to 50 % of the duty corresponding to the tax obligation for cigarettes in consumer packing for which tax stamps were determined, but a minimum of SK 10 000.

(6) The customs office shall impose a penalty on a legal person or a natural person that violated section 8 par. 14 letter c) or section 10 par. 1 letter b) or letter e), amounting to SK 10,000, and SK 50,000 for repeated violation.

(7) The customs office shall impose a penalty on a legal person or natural person that violated section 10 par. 1 letter d), amounting to the difference of duty established by the customs office, but a minimum of SK 10,000 and a minimum of SK 50,000 for repeated violation.

(8) If the customs office established any sale of cigarettes by pieces, it shall impose a penalty on the selling person, amounting to 10,000. If the customs office establishes that a sign according to section 10 par. 2 is not located in the place where cigarettes are sold, it shall impose a penalty on the legal person or the natural person, amounting to SK 1,000.

(9) The customs office shall impose a penalty on a legal person or a natural person upon whom a tax obligation arose according to section 11 par. 2 letter a), amounting to 50 % of the

duty corresponding to the quantity of established tobacco products, but a minimum of SK 50,000.

(10) The customs office shall impose a penalty on a legal person or a natural person that violated section 21 par. section 22(4), 7 or section 29 par. 2 letter b), amounting to 20 % of the duty corresponding to the quantity of tobacco products transported in such a manner.

(11) The customs office shall impose a penalty on an operator of a transit tax warehouse that sold exempt tobacco products to a natural person to whom he must sell tobacco products including duty, amounting to 50 % of the duty corresponding to the quantity of tobacco products sold in such a manner, but a minimum of SK 100,000.

(12) The customs office shall impose a penalty on an operator of a tax warehouse for foreign representatives that sold exempt tobacco products to a foreign representative above the limit according to section 33a par. 12 to 14 or sold exempt tobacco products to a person to whom a permission to purchase exempt tobacco products in a tax warehouse for foreign representatives had not been issued, amounting to 50 % of the duty corresponding to the quantity of tobacco products sold in such a manner, but a minimum of SK 100,000.

(13) The customs office *shall secure* consumer packing of cigarettes according to part 3 and tobacco products according to part 9.³⁾ On the day that the decision on securing tobacco products and unmarked consumer packing of cigarettes comes into force, tobacco products and unmarked consumer packing of cigarettes lapse for the benefit of the state, and the customs office must damage them. A specific regulation shall be applied to the damaging of tobacco products and unmarked consumer packing of cigarettes.^{25b)}".

Marginal notes to references 25a and 25b read as follows:

^{25a)} Decree of the Ministry of Finance of the Slovak Republic No. 182/2004 Coll., stipulating details of execution of a tax stamp for marking consumer packing of cigarettes and of its graphic elements and data.

^{25b)} For example section 14a par. 11 of Act of the Slovak National Council No. 511/1992 Coll., as amended."

73. Section 44c is put after section 44b, reading, including the title, as follows:

"Section 44c

Transient provisions on regulations effective from 1 January 2006

(1) A legal person or a natural person that is a user company according to section 8 of the Act in the wording effective from 31 December 2005 is considered as recorded in the registration of user companies according to section 8 of the Act in the wording effective from 1 January 2006. A purchase voucher issued according to the provision of the Act in the wording effective as of 31 December 2005 is considered as a purchase voucher issued according to the provision of the Act in the wording effective from 1 January 2006 to the day that the validity of the purchase voucher expires.

(2) Proceedings on imposing a penalty not finished lawfully as of 31 December 2005 shall be finished according to the provision of the Act in the wording effective from 1 January 2006 and section 41 of the Act in the wording effective from 1 January 2006 applies to penalties."

Art. II

Act No. 105/2004 Coll., on excise duty on spirit and on amendment of Act No. 467/2002 Coll., on the production and distribution of spirit into the market as amended by Act No. 211/2003 Coll., as amended by Act No. 556/2004 Coll., Act No. 632/2004 Coll., Act No. 633/2004 Coll. and Act No. 68/2005 Coll. is amended and supplemented as follows:

1. In section 6 part 1 reads as follows:

"(1) The tax rate is fixed as follows:

- | | |
|---------------------|----------------------|
| a) basic tax rate | SK 28.300 per hl a., |
| b) reduced tax rate | SK 14.150 per hl a." |

2. In section 51 par. 44, the first sentence reads as follows: "Consumer packing marked with a tax stamp according to existing regulations^{49a}) may be sold by 30 June 2006."

The marginal note to reference 49a reads as follows:

"^{49a}) Act No. 229/1995 Coll., on excise duty on spirit, as amended.

Decree of the Ministry of Finance of the Slovak Republic No. 123/1997 Coll., on marking consumer packing of spirits with a tax stamp."

3. In section 51d, the word "2005" is replaced by the word "2006".

3. After section 51d the following text is put: 51e, reading, including the title, as follows:

"Section 51e

Transient provisions on regulations effective from 1 January 2006

A legal person or a natural person holding provably taxed spirits in consumer packing, marked with a tax stamp according to a specific regulation as part of his business^{49a}) in the wording effective as of 30 April 2004 (hereinafter "consumer packing marked with a tax stamp"), must notify the customs office of the number of units of consumer packing marked with a tax stamp, held by him as of 31 December 2005, namely split according to the volume of consumer packing and volume concentration of spirits in consumer packing, by 31 January 2006."

Section III

The chairman of the National Council of the Slovak Republic is authorized to announce the full wording of Act No. 106/2004 Coll. on excise duty on tobacco products, as ensuing from amendment and supplement executed by Act No. 556/2004 Coll., Act No. 631/2004 Coll. and this Act in the Collection of Acts of the Slovak Republic.

Section IV This Act comes into effect on 1 January 2006.

Ivan Gašparovič, signed.

Pavol Hrušovský, signed.

Mikuláš Dzurinda, signed.