
Act No. 530/2011 Coll.

Act on excise duty on alcoholic beverages

Adopted on: 30. 11. 2011

Valid from: 30. 12. 2011

Effective from: 1. 9. 2012

Effective until: 31. 12. 2012

530

Act of 30 November 2011
on excise duty on alcoholic beverages

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

PART ONE
COMMON PROVISIONS ON ALCOHOLIC BEVERAGES

TITLE ONE
BASIC PROVISIONS

§1

Subject-matter of the Act

This Act governs the application of excise duty on alcoholic beverages (hereinafter referred to as “excise duty”, “duty” or “tax”) within a tax territory.

§ 2

Definitions

(1) For the purposes of this Act

- a) ‘alcoholic beverages’ means spirit, wine, intermediate product and beer;
- b) ‘tax territory’ means the territory of the Slovak Republic;
- c) ‘territory of the European Union’ means the territory of the Member States pursuant to a separate regulation¹⁾ except for the territory of the Heligoland Island and the territory of Büsingen in the Federal Republic of Germany, the territory of Livigno, Campione d’Italia and the Italian inland waters of the Lugano lake in the Republic of Italy, the territory of Ceuta, Melilla and the Canary Islands in the Kingdom of Spain, overseas territories of the Republic of France, the territory of Åland Islands and the territory of the Channel Islands and except for the territories specified in a separate regulation;²⁾
- d) ‘Member State’ means the territory of a European Union Member State except for the territories specified under c) above;
- e) ‘third-country territory’ means any territory outside the territory of the European Union;
- f) ‘tax warehouse’ means a place where alcoholic beverages are produced, processed, stored, receive or dispatched based on an authorisation to operate a tax warehouse under a duty suspension arrangement;
- g) ‘warehouse keeper’ means a person who, as part of its commercial activities, produces, processes, stores, receives or dispatches alcoholic beverages on the basis of an authorisation to operate a tax warehouse under a duty suspension arrangement;
- h) ‘duty suspension arrangement’ means a tax procedure under which the tax duty becomes chargeable upon the release of alcoholic beverages for free circulation; the suspension does not apply to alcoholic beverages that has been placed under a customs suspensive arrangement³⁾ as well as to the temporary warehousing of alcoholic beverages or their entry into a free zone or free warehouse;
- i) ‘authorised consignee’ means a person that is not a warehouse keeper and is authorised, in the course of its commercial activities, to receive, repeatedly or occasionally, alcoholic beverages from another Member State under a duty suspension arrangement; alcoholic beverages under a duty suspension arrangement shall neither be stored nor dispatched by the authorised consignee;
- j) ‘registered consignor’ means a person that is not a warehouse keeper and is authorised, in the course of its commercial activities, to dispatch alcoholic beverages under a duty suspension arrangement upon their release for free circulation;⁴⁾ alcoholic beverages under a duty suspension arrangement shall neither be received nor stored by the registered consignor;
- k) ‘release of alcoholic beverages for free circulation’ means
 1. any removal of alcoholic beverages from a duty suspension arrangement;
 2. any production of alcoholic beverages outside a duty suspension arrangement;
 3. any importation of alcoholic beverages not followed by a duty suspension arrangement;

4. any disposal of alcoholic beverages outside a duty suspension arrangement for which excise duty was not demonstrably charged and the origin or the manner of acquisition of which cannot be proved in accordance with this Act by the person that disposes or disposed of such alcoholic beverages, irrespective of whether that person disposes or disposed of such alcoholic beverages as if its own;

l) 'Combined Nomenclature' means a goods nomenclature pursuant to legally binding acts of the European Union;

m) 'commercial activities'⁵⁾ means an activity carried out in the tax territory and the same or similar activity carried out in another Member State in accordance with its national legislation;

n) 'affiliated persons' means persons where one of them directly or indirectly holds at least a 25% share in registered capital or voting rights in another person; where a single person holds such shares in several other persons, all such persons are considered affiliated;

o) 'controlling/controlled persons' means

1. a natural person and legal person where the natural person or its related person⁶⁾ has a direct or indirect controlling influence on the management or supervision of the legal person; or

2. legal persons where their management or supervision is under a direct or indirect controlling influence of the same person or its related person⁶⁾;

p) 'controlling influence' means a right of a natural person to independently decide in the capacity of a management or supervisory body of a legal person or to prevent, through an omission to act, a management or supervisory body of a legal person from making a decision.

(2) For the purposes of this Act, any transactions made with the Principality of Monaco shall be deemed transactions made with the Republic of France, transactions made with Jungholz and Mittelberg (Kleines Walsertal) shall be deemed transactions made with the Federal Republic of Germany, transactions made with the Isle of Man shall be deemed transactions made with the United Kingdom of Great Britain and Northern Ireland, transactions made with the Republic of San Marino shall be deemed transactions made with the Republic of Italy, and transactions made with the United Kingdom of Great Britain and Northern Ireland Sovereign Base Areas of Akrotiri and Dhekelia shall be deemed transactions made with the Republic of Cyprus.

§3

Tax administration

Tax administration is provided by a customs office competent pursuant to a separate regulation.⁷⁾ For a natural person without permanent residence in the territory of the Slovak Republic⁸⁾ who cannot prove, in accordance with this Act, the origin or the manner of acquisition of alcoholic beverages found to be, or have been, held by that person, irrespective of whether that person disposes, or has disposed, of such alcoholic beverages as if its own, the competent customs office is the customs office which has ascertained this fact. With respect to an organisational unit⁹⁾ or an establishment of the person, the Financial Directorate of the Slovak Republic (hereinafter referred to as the "Financial Directorate") may also determine the competent customs office in a manner other than pursuant to a separate regulation⁷⁾, where it is more efficient for the purposes of tax administration.

§4

Subject-matter of tax

(1) The subject-matter of tax are alcoholic beverages produced in the tax territory, supplied to the tax territory from another Member State, or imported to the tax territory from a third-country territory.

(2) For the purposes of this Act, 'alcoholic beverages which are spirit' means products falling within combined nomenclature codes

a) 2207 and 2208, with an actual alcoholic strength by volume exceeding 1.2% vol.;

b) 2204, 2205 and 2206, with an actual alcoholic strength by volume exceeding 22% vol.;

c) other than those under Chapter 22, with an actual alcoholic strength by volume exceeding 1.2% vol.

(3) For the purpose of this Act, 'alcoholic beverages which are wine' means still wine, sparkling wine, still fermented beverage and sparkling fermented beverage, as follows

a) 'still wine' means products falling within combined nomenclature codes 2204 and 2205, with exemptions pursuant to b), c) and d), with an actual alcoholic strength by volume exceeding

1. 12% vol. but not exceeding 15% vol., provided that the alcohol contained in the finished product was entirely produced by fermentation;

2. 15% vol. but not exceeding 18% vol., produced without any enrichment, in particular by adding sugar or concentrated must, provided that the alcohol contained in the finished product was entirely produced by fermentation;

b) 'sparkling wine' means products contained in bottles with 'mushroom stoppers' held in place by ties or fastenings, or products having an excess pressure due to carbon dioxide in solution of three bar or more, falling within combined nomenclature codes 2204 10, 2204 21 06, 2204 21 07, 2204 21 08, 2204 21 09, 2204 29 10 and 2205, with an actual alcoholic strength by volume exceeding 1.2% vol. but not exceeding 15% vol., provided that the alcohol contained in the finished product was entirely produced by fermentation;

c) 'still fermented beverage' means products falling within combined nomenclature codes 2204 and 2205 not specified in a), b) and d), products falling within combined nomenclature code 2206 with the exception pursuant to d), with an actual alcoholic strength by volume exceeding

1. 1.2% vol. but not exceeding 10% vol.;

2. 10% vol. but not exceeding 15% vol., and provided that the alcohol contained in the finished product was entirely produced by fermentation;

d) 'sparkling fermented beverage' means products contained in bottles with 'mushroom stoppers' held in place by ties or fastenings, or products having an excess pressure due to carbon dioxide in solution of three bar or more, falling within combined nomenclature codes

1. 2204 10, 2204 21 06, 2204 21 07, 2204 21 08, 2204 21 09, 2204 29 10 and 2205 not specified in b), as well as within codes 2206 00 31 and 2206 00 39, with an actual alcoholic strength by volume exceeding 1.2% vol. but not exceeding 13% vol.;

2. 2206 00 31 and 2206 00 39 with an actual alcoholic strength by volume exceeding 13% vol. but not exceeding 15% vol. provided that the alcohol contained in the finished product was entirely produced by fermentation.

(4) For the purposes of this Act, 'alcoholic beverages which are an intermediate product' means products falling within combined nomenclature code 2204, 2205 and 2206 with an actual alcoholic strength by volume exceeding 1.2% vol. but not exceeding 22% vol., which is not specified in paragraph 3.

(5) For the purposes of this Act, a mixture of beer falling within combined nomenclature code 2203 with a non-alcoholic drink, if the mixture is a product falling within combined nomenclature code 2206, shall not be considered wine or an intermediate product.

(6) For the purposes of this Act, 'alcoholic beverages which are beer' means products falling within combined nomenclature code

a) 2203 with an alcoholic strength by volume exceeding 0.5% vol., produced by fermentation of wort;

b) 2206 with an alcoholic strength by volume exceeding 0.5% vol. which is a mixture of beer pursuant to a) with a non-alcoholic drink.

(7) Beer strength is expressed in degrees of actual alcoholic strength by volume¹⁰(% vol.) of finished product.

(8) If any change occurs in the combined nomenclature code which has no effect on the subject-matter of tax and/or tax rate, the tax rate pursuant to §6 shall apply; the conversion key between the original and a new combined nomenclature code will be specified in a measure to be issued by the Ministry of Finance of the Slovak Republic (hereinafter referred to as the "Ministry") and promulgated in the Collection of Laws of the Slovak Republic by the publication of its complete wording.

§5

Tax base, tax calculation

(1) Tax base for excise duty on alcoholic beverages which are

a) spirit is the quantity of spirit expressed in hectolitres of 100% alcohol (hereinafter referred to as "hl a.") at the temperature of 20 °C, the quantity of spirit may also be expressed in litres of 100% alcohol (hereinafter referred to as "l a.") at the temperature of 20 °C; for the purposes of this Act, alcohol means a mixture of ethyl alcohol with other alcohols and volatile substances; the alcoholic strength by volume shall be determined and calculated in a manner pursuant to a separate regulation;¹¹)

b) wine is the quantity of wine expressed in hectolitres (hereinafter referred to as "hl");

c) an intermediate product is the quantity of intermediate product expressed in hl;

d) beer is the quantity of beer expressed in hl.

(2) The excise duty on alcoholic beverages which are

a) spirit is calculated as the product of the tax base and the appropriate tax rate pursuant to §6(2);

b) wine is calculated as the product of the tax base and the appropriate tax rate pursuant to §6(4);

c) an intermediate product is calculated as the product of the tax base and the appropriate tax rate pursuant to §6(5);

d) beer is calculated as the product of the tax base, degrees of actual alcoholic strength by volume¹⁰) of beer and the appropriate tax rate pursuant to §6(6).

(3) The tax base for excise duty on alcoholic beverages which are

a) spirit, expressed in hl a., is rounded to four decimal places;

b) wine, expressed in hl, is rounded to two decimal places;

c) an intermediate product, expressed in hl, is rounded to two decimal places;

d) beer, expressed in hl, is rounded to three decimal places, degrees of actual alcoholic strength by volume¹⁰) of beer are given at 0.5% intervals, while the observed actual alcoholic strength¹¹) is rounded mathematically to one decimal place.

(4) If, in the tax territory, for the production of

- a) an intermediate product spirit is used for which excise duty has demonstrably been charged, the tax payer shall calculate the duty that becomes chargeable as the difference between the excise duty attributed to the produced quantity of the intermediate product and the excise duty on spirit attributed to the spirit used;
- b) an intermediate product wine is used for which excise duty has demonstrably been charged, the tax payer shall calculate the tax upon chargeability of excise duty as the difference between the excise duty attributed to the produced quantity of the intermediate product and the excise duty attributed to the wine used;
- c) spirit beer is used for which excise duty has demonstrably been charged, the tax payer shall calculate the tax upon chargeability of excise duty as the difference between the excise duty attributed to the produced quantity of spirit and the excise duty attributed to the beer used;
- d) spirit wine is used for which excise duty has demonstrably been charged, the tax payer shall calculate the tax upon chargeability of excise duty as the difference between the excise duty attributed to the produced quantity of the intermediate product and the excise duty attributed to the wine used;
- e) spirit an intermediate product is used for which excise duty has demonstrably been charged, the tax payer shall calculate the tax upon chargeability of excise duty as the difference between the excise duty attributed to the produced quantity of spirit and the excise duty attributed to the intermediate product used.

(5) A warehouse keeper that has produced an intermediate product from spirit or wine for which excise duty was charged and has supplied that intermediate product outside the tax territory or for purposes exempt from excise duty pursuant to §31 and 32 or §40(1), §60(1) and § 65 shall apply for reimbursement of excise duty on spirit or wine pursuant to §13. A warehouse keeper that has produced spirit from beer, wine or an intermediate product for which excise duty was charged and has supplied that spirit outside the tax territory or for purposes exempt from excise duty pursuant to §31 and 32 or §40(1), §60(1) and § 65 shall apply for reimbursement of excise duty on spirit pursuant to §13.

§6 Tax rate

(1) Tax rate for alcoholic beverages is fixed in the amount of EUR 1,080.

(2) The tax rate per hl a. of alcoholic beverages which are spirit is fixed as follows:

- a) basic rate equals to 100% of the tax rate specified in paragraph 1;
- b) reduced rate equals to 50% of the tax rate specified in paragraph 1.

(3) The reduced tax rate applies to alcoholic beverages which are spirit produced in a distillery for home fruit growers in the amount not exceeding 43 l a. of the spirit produced per grower and grower's household¹²⁾ in the tax territory (hereinafter referred to as "household") in a single production period¹³⁾ under the conditions stipulated by this Act.

(4) The tax rate per hl of alcoholic beverages which are wine is fixed as follows:

- a) for still wine, as the product of 0% of the tax rate specified in paragraph 1 and the coefficient of 0.125;
- b) for sparkling wine, as the product of 59% of the tax rate specified in paragraph 1 and the coefficient of 0.125;
- c) for sparkling wine with an alcoholic strength by volume not exceeding 8.5% vol., as the product of 59% of the tax rate specified in paragraph 1 and the coefficient of 0.085;
- d) for still fermented beverage, as the product of 100% of the tax rate specified in paragraph 1 and the coefficient of 0.125;
- e) for sparkling fermented beverage, as the product of 100% of the tax rate specified in paragraph 1 and the coefficient of 0.125.

(5) The tax rate per hl of alcoholic beverages which are an intermediate product is calculated as the product of 60% of the tax rate specified in paragraph 1 and the coefficient of 0.13.

(6) The tax rate per hl/degree of actual alcoholic strength by volume¹⁰⁾ of alcoholic beverages which are beer is fixed as follows:

- a) basic rate is calculated as the product of 7.907% of the tax rate specified in paragraph 1 and the coefficient of 0.042;
- b) reduced rate for beer produced in a small independent brewery is calculated as the product of 5.847% of the tax rate specified in paragraph 1 and the coefficient of 0.042.

(7) The basic rate shall always apply to beer produced under licence.

(8) The reduced rate pursuant to paragraph 6(b) shall also apply to beer supplied to the tax territory from another Member State provided that a confirmation by a tax administrator of that Member State demonstrates that the beer was produced in a small independent brewery in accordance with the national legislation of that Member State.

(9) The tax rate for alcoholic beverages calculated pursuant to paragraphs 2, 4 and 5 is rounded down to two decimal places for figures ending in less than 0.005, and up to two decimal places for figures ending in 0.005 and above. The tax rate for alcoholic beverages calculated pursuant to paragraph 6 is rounded down to three decimal places for figures ending in less than 0.0005, and up to three decimal places for figures ending in 0.0005 and above.

(10) Any change in the tax rate for alcoholic beverages shall apply to each alcoholic beverage, in the same amount of percentage.

(11) The amount of tax rate calculated pursuant to paragraph 2 through 6 is published by the Ministry on its website or in its official journal.

§7

Exemption from excise duty

(1) Alcoholic beverages are exempt from excise duty if intended for use pursuant to §40, §60 or §65.

(2) Exemption from excise duty also applies to alcoholic beverages:

a) taken as a sample for the purposes of tax supervision or another official inspection, official test or official inquiry¹⁴), in a technologically justified amount;

b) used in a tax warehouse for own laboratory tests or analyses in a technologically justified amount acknowledged by the customs office;

c) under a duty suspension arrangement, in the amount attributable to alcoholic beverages which are

1. beer and wine, in the event of discovering a missing quantity attributed to technological losses, manipulation losses, movement losses and natural depletion, provided that these quantities are technically justified and acknowledged by a customs office or tax administrator of another Member State;

2. spirit, namely the losses of spirit in production, processing, receipt, release, transportation (movement) and natural depletion of spirit if such losses have been acknowledged by a customs office or tax administrator of another Member State; the losses acknowledged by the customs office shall not exceed the standard quantity of losses of spirit laid down by a separate regulation;¹⁵)

d) under a duty suspension arrangement

1. if the alcoholic beverage was irreversibly destroyed due to an accident, emergency situation, technological failure or a force majeure events and if these losses have been acknowledged by a customs office or tax administrator of another Member State based on an official finding and confirmation;

2. if the alcoholic beverage was demonstrably degraded and destroyed (disposed of) by a competent authority or upon its initiative¹⁶) under the supervision of the customs office in a manner pursuant to separate regulations;¹⁷)

e) if the alcoholic beverage was destroyed by the customs office or under its supervision, including where the alcoholic beverage became the property of the state under separate regulations¹⁸) or under this Act; this is without prejudice to §10;

f) moved to the tax territory from another Member State under a duty suspension arrangement by persons referred to in §32(2) or moved to the tax territory from another Member State under a duty suspension arrangement by the armed forces of other countries that are State parties to the North Atlantic Treaty and by their civilian staff, for the use in connection with activities under an international treaty ratified and promulgated in a manner set by law (hereinafter referred to as “international treaty”);¹⁹) the movement of alcoholic beverages under a duty suspension arrangement shall be performed in accordance with §18(12);

g) imported to the tax territory from a third-country territory by persons referred to in §32(2) or imported to the tax territory from a third-country territory by the armed forces of other countries that are State parties to the North Atlantic Treaty and by their civilian staff for the use in connection with activities under an international treaty;¹⁹)

h) sent by a natural person from a third-country territory to a natural person in the tax territory in the form of occasional small consignments of non-commercial nature, intended for personal or family consumption of the person concerned in the tax territory

1. in the maximum quantity of 1 litre of spirit with an alcoholic strength by volume exceeding 22% vol. or in the maximum quantity of 1 litre of spirit with an alcoholic strength by volume of 22% vol. and less; or

2. in the maximum quantity of 1 litre of sparkling wine or 1 litre of a sparkling fermented beverage and 1 litre of an intermediate product with an alcoholic strength by volume of 22% vol. and less, or in the maximum quantity of 2 litres of still wine or 2 litres of a still fermented beverage, and

3. beer worth not more than EUR 45.

§8

Exemptions from excise duty on the importation of alcoholic beverages in personal luggage of travellers coming from the third-country territory

(1) For the purposes of this provision

- a) 'personal luggage' means luggage which travellers coming from the third-country territory can present to the customs office upon their arrival or later, provided that the luggage has been registered as carry-on luggage by the company responsible for transportation at the beginning of the travel;
- b) 'non-commercial importation' means importation of alcoholic beverages in traveller's personal luggage if
 1. the alcoholic beverage is intended for personal or family consumption of the traveller, or as a gift;
 2. the nature and quantity of the alcoholic beverage does not imply it is being imported for commercial purposes;
 3. the importation is occasional.

(2) The exemption from excise duty applies to the non-commercial importation of alcoholic beverages in personal luggage of travellers coming from the third-country territory in the maximum quantity of

- a) 1 litre of spirit with an alcoholic strength by volume exceeding 22% vol. or in the maximum quantity of 2 litres of spirit with an alcoholic strength by volume of 22% vol. and less;
- b) 2 litres of sparkling wine or 2 litres of sparkling fermented beverages or 2 litres of intermediate products; the fixed quantity of 2 litres represents 100% of the total permitted quantity of sparkling wine, sparkling fermented beverages and intermediate products.

(3) Each quantity fixed in paragraph 2 represents 100% of the total permitted quantity for each alcoholic beverage. For each traveller, the exemption from excise duty may apply to any combination of imported quantities pursuant to paragraph 2 provided that the total sum of individual quantities does not exceed 100% of the total permitted quantity.

(4) The exemption from excise duty applies to the non-commercial importation of alcoholic beverages in personal luggage of travellers coming from the third-country territory in the maximum quantity of 16 litres of beer and in the maximum quantity of 4 litres of still wine or 4 litres of still fermented beverages.

(5) Exemptions referred to in paragraphs 2 through 4 shall not apply to travellers under 17 years of age.

§9

User enterprise

(1) For the purposes of this Act, the user enterprise means a person authorised to use alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65. Any person seeking to become a user enterprise in the tax territory must submit a written application to the customs office for registration in the register of user enterprises. The user enterprise is only entitled to receive alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65 based on an order for removal of alcoholic beverages exempt from excise duty (hereinafter referred to as "removal order") for which it shall apply to the customs office in writing. The removal of alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65 without the removal order is prohibited.

(2) An application for registration in the register of user enterprises or for the issuance of a removal order shall contain

- a) business name and registered office of a legal person, or, in the case of a natural person, name, surname and permanent address or place of business if different from the permanent address (hereinafter referred to as "identification data") of the person seeking to become a user enterprise in the tax territory and to receive alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65, and addresses of its establishments if different from the applicant's registered office or permanent address;
- b) brand name of the alcoholic beverage exempt from excise duty and the corresponding Combined Nomenclature code;
- c) the purpose of use of the alcoholic beverage exempt from excise duty, anticipated quantity of its annual consumption in the appropriate unit of measure;
- d) identification data of the supplier of the alcoholic beverage exempt from excise duty.

(3) Annexes to the application pursuant to paragraph 2 comprise

- a) a document proving authorisation to conduct business not older than 30 days, or its certified copy, if the applicant is a legal person without registered office in the tax territory or a natural person without permanent residence in the tax territory;
- b) in the case of importation of alcoholic beverages, a verified copy of an import licence if required by a separate regulation;²⁰⁾ in the case of importation of alcoholic beverages for medical and pharmaceutical purposes, a written permission by the Ministry of Health of the Slovak Republic;

- c) technical documentation of the place of use and the place of storage of alcoholic beverages exempt from excise duty, description of the place of use and the place of storage of alcoholic beverages, and description of the method of securing them against unauthorised use;
- d) technical documentation of the facility in which alcoholic beverages should be used;
- e) technological description of the use of alcoholic beverages exempt from excise duty; standard amounts of consumption of alcoholic beverages for individual purposes of their use according to approved recipes or other documents specifying the consumption of alcoholic beverages exempt from excise duty where such alcoholic beverages are to be used as a feedstock or auxiliary material in a technological process; a list of products to be produced from alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65;
- f) a declaration on the creation of conditions enabling the presence of a tax administrator in the user enterprise pursuant to paragraph 17 and in the user enterprise that uses alcoholic beverages which are spirit for the purposes exempt from excise duty pursuant to §40(1)(a);
- g) applicant's declaration of honour that it meets the conditions specified in paragraph 4(d) and (e);
- h) a list of persons affiliated with and controlling/controlled by the applicant.

(4) The applicant pursuant to paragraph 1 must satisfy the following conditions:

- a) it keeps accounting records pursuant to a separate regulation;²¹⁾
- b) it has lodged a tax guarantee in the amount of excise duty attributed to the quantity of alcoholic beverages which are undenatured spirit which the applicant uses or expects to use for purposes exempt from excise duty during a single calendar month;
- c) it has no arrears against a customs office or a tax office;
- d) there are no arrears against a customs office or a tax office on behalf of a person controlling/controlled by or affiliated with the applicant or a person that had been controlling/controlled by or affiliated with the applicant during a period of ten years preceding the submission of the application pursuant to paragraph 2, and no person that was wound up and that would have been considered a person controlling/controlled by or affiliated with the applicant had, during a period of ten years preceding the date of the submission of the application pursuant to paragraph 2, any tax arrears that had not been settled before the winding up of that person; this also applies to any tax arrears assigned to third persons pursuant to a separate regulation;²²⁾
- e) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- f) has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or a natural person who is a member of the applicant's managing or supervisory bodies;
- g) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, or no composition permitted, no compulsory composition confirmed, or restructuring permitted;
- h) alcoholic beverages must be stored in certified tanks²⁴⁾ equipped with designated meters pursuant to separate regulations²⁵⁾ to determine the stock of alcoholic beverages, if the applicant has a storage facility.

(5) If the applicant pursuant to paragraph 1 seeks to use wine, an intermediate product or beer exempt from excise duty, the applicant is not required to attach to the application pursuant to paragraph 2 the documents referred to in paragraph 3(b) and (f), a list of products, and satisfy the conditions pursuant to paragraph 2(b) and (h). The application pursuant to paragraph 2 must be attached with the standard amounts of consumption of wine, intermediate product or beer exempt from excise duty if such wine, intermediate product or beer is to be used as a feedstock or auxiliary material in a technological process.

(6) Prior to registering the applicant in the register of user enterprises, the customs office shall examine the facts and data specified in the application and its annexes, verify the standard amounts of consumption of alcoholic beverages in the technological process if that alcoholic beverage is to be used as a feedstock or auxiliary material, and the meeting of the conditions pursuant to paragraph 4. If the facts and data are true and the applicant pursuant to paragraph 1 meets the conditions specified in paragraph 4, the customs office shall register the applicant in the register of user enterprises and issue a removal order within 60 days of the date of the submission of that application.

(7) The customs office shall issue to the applicant a removal order for each supplier listed in paragraph 2(d), in which it shall indicate the data pursuant to paragraph 2, determine the period of removal order validity and, if the validity period is limited, also the permitted quantity of alcoholic beverages exempt from excise duty to be removed. Each removal order is issued in three copies; one to be retained by the customs office and two to be handed over to the user enterprise which shall retain one and submit the other to the supplier indicated in the removal order.

(8) The user enterprise is required to hand the removal order to the alcoholic beverage supplier not later than upon the first removal of alcoholic beverages for the purposes exempt from excise duty in the tax territory, or to the customs office if the user enterprise proceeds as an authorised consignee in the movement of alcoholic beverages under a duty suspension arrangement from another Member State for the purposes exempt from excise duty.

(9) The user enterprise which also seeks to use alcoholic beverages for which excise duty has been charged is required to notify this fact to the customs office in advance in writing; the user enterprise is required to keep separate records on the removal and use of the alcoholic beverage for which excise duty has been charged. The user enterprise is required to ensure that the alcoholic beverage exempt from excise duty is stored individually, in spatially separated premises.

(10) The user enterprise shall notify any change of data pursuant to paragraph 2 and paragraph 3(b) through (e) to the customs office within 15 days of the occurrence of that change, except for the data pursuant to paragraph 2(c), the change of which it shall notify in advance. It shall notify the change of data pursuant to paragraph 3(a) to the customs office within 15 days of the date of the submission of a data change proposal to the competent authority. The customs office shall amend the original removal order or issue a new one to the user enterprise if the change concerns data pursuant to paragraph 2. In the event of a change in the purpose of use pursuant to paragraph 2(c), the user enterprise may use the alcoholic beverage exempt from excise duty for the purposes it has notified only after the customs office amends the original removal order or issues a new removal order to the user enterprise.

(11) Immediately after receipt, the user enterprise is required to place the alcoholic beverages exempt from excise duty in the place of storage indicated in the annex to the application pursuant to paragraph 2, and use it solely for the purposes indicated in the removal order.

(12) Provided that the data pursuant to paragraph 3 did not change, the user enterprise shall indicate the following in a repeated application for removal order:

- a) its identification data;
- b) identification data of the supplier of the alcoholic beverage exempt from excise duty;
- c) brand name of the alcoholic beverage exempt from excise duty and the corresponding Combined Nomenclature code and the place of its storage;
- d) the purpose of use of the alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65, and the anticipated quantity of its annual consumption in the appropriate unit of measure.

(13) The customs office shall revoke the removal order if

- a) the alcoholic beverage exempt from excise duty was repeatedly used for purposes other than those indicated in the removal order and any fine imposed or notices served by the customs office have not led to rectification;
- b) the user enterprise no longer meets any of the conditions specified in paragraph 4(c) through (f), paragraph 18, or has entered liquidation;
- c) the removal order was not used to purchase the alcoholic beverage exempt from excise duty within a period of 12 consecutive calendar months following the date of its issuance;
- d) registration was performed and an authorisation issued to operate a tax warehouse;
- e) the user enterprise applied for deletion from the Commercial Register or another similar register or applied for cancellation of trade licence or announced termination of its commercial activities or was dissolved, unless it was established or founded for commercial purposes;
- f) the user enterprise is a natural person who died or in respect of whom a court decision declaring the natural person dead became final;
- g) the user enterprise applies for the revocation of the removal order.

(14) If a removal order of the user enterprise was revoked under paragraph 13(a), (b), (d) through (g), the customs office shall deregister the user enterprise from the register of user enterprises. The customs office shall also deregister the user enterprise from the register of user enterprises if the user enterprise does not apply for removal order within 12 consecutive calendar months from the date of revocation of the removal order pursuant to paragraph 13(c), or if the deregistration is requested by the user enterprise. The provisions of §15(11) and (12) shall apply equally to the deregistration of the user enterprise from the register of user enterprises. Within three business days of deregistration of the user enterprise from the register of user enterprises or of the date of revocation of the removal order, the customs office shall notify these facts to the supplier of the alcoholic beverage exempt from excise duty indicated in the removal order.

(15) When receiving alcoholic beverages for the purposes exempt from excise duty from another Member State or from the third-country territory via the territory of the European Union, the user enterprise shall accordingly proceed pursuant to §19.

(16) If the user enterprise is discontinuing its activities and keeps stock of the alcoholic beverage exempt from excise duty which it can no longer use for the purposes indicated in the removal order, the user enterprise may, with consent from the customs office, to supply the alcoholic beverage exempt from excise duty to a person who holds a removal order for such alcoholic beverage, or to a tax warehouse; in that case, §17 shall accordingly apply to the movement of that alcoholic beverage, while §70(1)(d) through (f) shall not apply. The same procedure shall also be applied by a bankruptcy trustee of the user enterprise or a distrainer or another person when, upon the enforcement of a decision, they release the alcoholic beverage exempt from excise duty for free circulation. If the stock of the alcoholic beverage exempt from excise duty cannot be supplied to a person referred to in the first sentence, the customs office shall

request the tax payer to file a tax return, and specify the deadline for the payment of excise duty. If the tax payer requested that the alcoholic beverage which is spirit be destroyed pursuant to §55(2) and such spirit was destroyed within the deadline for the submission of tax return, the quantity of spirit destroyed pursuant to §55(2) shall be indicated in the tax return as the spirit exempt from excise duty; if the spirit was destroyed pursuant to §55(2) after the deadline for the submission of tax return, the procedure under §13 shall apply.

(17) The customs office is required to ensure the presence of its employee in the user enterprise pursuant to paragraph 18 and in the user enterprise which uses spirit for purposes exempt from excise duty pursuant to §40(1)(a). That user enterprise is required to suffer the presence of a customs office employee and to provide that employee with the necessary assistance and ensure appropriate conditions for the performance of tax supervision.

(18) If the user enterprise uses the alcoholic beverage which is spirit exempt from excise duty pursuant to §40(1) as a feedstock, ingredient or auxiliary material in the production, and recovers spirit from spirit wastes and spirit solutions generated during that production, the user enterprise is required to measure such recovered spirit by means of a volumetric meter for spirit pursuant to §45(1)(a) in a manner laid down in a generally binding regulation to be issued by the Ministry pursuant to §72(4); this is without prejudice to §47(5)(a). If the volumetric meter for spirit cannot be used to determine the quantity of recovered spirit due to a low flow rate of the spirit, or if the use of the volumetric meter for spirit is impossible due to technological reasons, the user enterprise is required to determine the quantity of recovered spirit by means of designated meters pursuant to separate regulations²⁵) by metering the volume of spirit or weight of spirit in a manner laid down in a generally binding regulation to be issued by the Ministry pursuant to §72(4); the spirit obtained or purchased must be stored in certified tanks²⁴) equipped with designated meters pursuant to separate regulations²⁵) to determine the stock of spirit, or in tanks in which the quantity of spirit can be measured by weight by means of designated meters pursuant to separate regulations.²⁵)

(19) The provisions of §44 and 45 apply to a spirit recovery facility, its securing and arrangement, and to measuring and determining the quantity of recovered spirit and to determining the stock of spirit.

(20) The spirit obtained in a manner pursuant to paragraph 18 shall only be used by the user enterprise for the purposes exempt from excise duty in accordance with a removal order issued.

§10 Tax chargeability

(1) Unless otherwise provided under §22, 26, 28 through 31, 49, 63, 64 or §66, excise duty becomes chargeable upon the release of the alcoholic beverage for free circulation on the day

- a) of releasing the alcoholic beverage to a person that is not authorised to receive alcoholic beverages under a duty suspension arrangement;
- b) of own consumption of the alcoholic beverage in the tax warehouse;
- c) of receipt of the alcoholic beverage by an authorised consignee, transported to the tax territory under a duty suspension arrangement;
- d) of discovering misappropriation of the alcoholic beverage under a duty suspension arrangement or of the alcoholic beverage exempt from excise duty;
- e) of discovering missing alcoholic beverage
 1. under a duty suspension arrangement, with the exception of the alcoholic beverage specified in §7(2)(c) and (d),
 2. exempt from excise duty, with the exception of the quantity of alcoholic beverage attributed to production losses, manipulation losses, movement losses and natural depletion, provided that such losses have been acknowledged by the customs office under condition that such acknowledged losses of the alcoholic beverage which is spirit shall not exceed the standard amounts of losses of spirit laid down by a separate regulation,¹⁵) as well as the quantity of the alcoholic beverage irreversibly destroyed due to an accident, emergency situation, technological failure or force majeure, if these losses have been acknowledged by the customs office based on an official finding and confirmation;
- f) of removal of the alcoholic beverage from a duty suspension arrangement in a manner other than as set out under (a) through (e);
- g) of production of the alcoholic beverage outside a duty suspension arrangement, with the exception of the working of non-Community goods under the inward processing suspension procedure or processing under customs control and with the exception of the spirit obtained by the user enterprise through recovery pursuant to §9(18), if the spirit thus obtained will be used by the user enterprise for purposes exempt from excise duty in accordance with a removal order issued;
- h) of receipt of a customs declaration for the release of the alcoholic beverage for free circulation,⁴) if such release is not followed by a duty suspension arrangement;
- i) of incurrence of a customs debt other than by accepting a customs declaration;
- j) of receipt of the alcoholic beverage by persons referred to in § 32(2) or by the armed forces of other countries that are State parties to the North Atlantic Treaty and by their civilian staff, for the use in connection with activities under an international treaty,¹⁹) if such receipt is not followed by exemption from excise duty pursuant to §7(2)(f).

(2) Excise duty also becomes chargeable on the date of

a) discovery of the alcoholic beverage to be, or have been, held by a person who cannot prove the origin or the manner of acquisition of that alcoholic beverage in accordance with this Act, irrespective of whether that person disposes, or has disposed, of that alcoholic beverage as if its own;

b) supply or on the date of use of the alcoholic beverage exempt from excise duty for other than the specified purpose.

(3) The date of discovery the facts pursuant to paragraph 1(d) and (e) and paragraph 2(a) is considered the date when the customs office has learned of these facts.

§11

Person liable to pay tax

(1) Unless otherwise provided under §22, 26, 28 through 31, 49, 63, 64 or §66, the person liable to pay tax (hereinafter referred to as “tax payer”) means a person

a) who released the alcoholic beverage to a person that is not authorised to receive alcoholic beverages under a duty suspension arrangement;

b) who is a keeper of the warehouse in which the alcoholic beverage was used for own consumption;

c) who is an authorised consignee and received the alcoholic beverage transported to the tax territory under a duty suspension arrangement;

d) who held the alcoholic beverage under a duty suspension arrangement or exempt from excise duty and that alcoholic beverage has been misappropriated from that person; if a tax guarantee was lodged for that alcoholic beverage, the tax payer is the person who lodged that tax guarantee;

e) who holds the alcoholic beverage and that person has been found to miss alcoholic beverage

1. under a duty suspension arrangement, with the exception of the quantity of alcoholic beverage specified in §7(2)(c) and (d),

2. exempt from excise duty, with the exception of the quantity of alcoholic beverage attributed to production losses, manipulation losses, movement losses and natural depletion, provided that such amount have been technically justified and acknowledged by the customs office under condition that such acknowledged losses of the alcoholic beverage which is spirit shall not exceed the standard amounts of losses of spirit laid down by a separate regulation,¹⁵⁾ as well as the quantity of the alcoholic beverage irreversibly destroyed due to an accident, emergency situation, technological failure or a force majeure event, if these losses have been acknowledged by the customs office based on an official finding and confirmation; if a tax guarantee was lodged for the alcoholic beverage exempt from excise duty, the tax payer is the person who lodged that tax guarantee;

f) who removed the alcoholic beverage from a duty suspension arrangement in a manner other than as set out under (a) through (e);

g) who produced the alcoholic beverage outside a duty suspension arrangement, with the exception of the spirit obtained by the user enterprise through recovery pursuant to §9(18), if the spirit thus obtained will be used by the user enterprise for purposes exempt from excise duty in accordance with a removal order issued;

h) on whose account a customs declaration was upon importation submitted for the release of the alcoholic beverage for free circulation,⁴⁾ if such release is not followed by a duty suspension arrangement;

i) who incurred a customs debt otherwise than by accepting a customs declaration;

j) who is referred to in § 32(2) or the armed forces of other countries that are State parties to the North Atlantic Treaty and their civilian staff, who received the alcoholic beverage for the use in connection with activities under an international treaty,¹⁹⁾ if such receipt is not followed by exemption from excise duty pursuant to §7(2)(f).

(2) When the duty becomes chargeable pursuant to §10(2), the tax payer is a person who

a) cannot prove, in accordance with this Act, the origin or the manner of acquisition of the alcoholic beverage found to be, or to have been, held by that person, irrespective of whether that person disposes or has disposed of that alcoholic beverage as if its own;

b) supplied for use, or used, the alcoholic beverage exempt from excise duty for other than the specified purpose.

§12

Tax period, tax return, tax maturity

(1) Unless otherwise provided under paragraph 3 and 4, §9, 15, 19, 22, 26, 28 through 31, 49, 63, 64 or §66, the tax period is a calendar month.

(2) If the tax payer is a warehouse keeper, transit warehouse keeper, keeper of a warehouse for foreign officials, or an authorised consignee repeatedly receiving, as part of its commercial activities, alcoholic beverages under a duty suspension arrangement from another Member State, that person is required to submit, not later than on the 25th day of the calendar month following the calendar month in which the excise duty became chargeable, to the customs office a tax return in the form as set out by a generally binding regulation issued pursuant to a separate regulation²⁶⁾ and pay the duty within the same deadline.

The tax return must also be submitted for a tax period in which no excise duty became chargeable.

(3) A tax payer not referred to in paragraph 2 shall submit a tax return to the customs office not later than within three business days following the day on which the duty became chargeable and pay the duty within the same deadline, unless otherwise provided under paragraph 2, 4 and 7, §9, 15, 19, 22, 26, 28 through 31, 49, 63, 64 or §66.

(4) Where the excise duty becomes chargeable as set out in §10(1)(h) and (i), maturity dates of a customs debt pursuant to customs regulations shall apply to the tax maturity.

(5) In the tax return, the tax payer is obliged to include the required data and to calculate the excise duty attributed to the quantity of the alcoholic beverage for which the excise duty became chargeable or in respect of which tax reimbursement is claimed.

(6) The tax payer is obliged to calculate the amount of excise duty by itself; where the excise duty becomes chargeable as set out in §10(1)(h) and (i), the calculation is done by the customs office. The excise duty is rounded down to whole cents for figures ending in less than EUR 0.005, and it is rounded up to whole cents for figures ending in EUR 0.005 and above.

(7) The requirement to submit a tax return does not apply to a tax payer that has been charged with excise duty on still wine only.

§13

Tax reimbursement

(1) Excise duty on the alcoholic beverage for which excise duty was demonstrably charged in the tax territory may be reimbursed to

a) the warehouse keeper if it received that alcoholic beverage or has the alcoholic beverage taxed pursuant to this Act, with the exception of the alcoholic beverage which is spirit in a consumer package (hereinafter referred to as the “consumer package”);

b) to the user enterprise if it received that alcoholic beverage for purposes exempt from excise duty, or has the alcoholic beverage taxed pursuant to this Act, and the use of that alcoholic beverage is specified in a removal order;

c) to the warehouse keeper if it received the consumer package marked with a tax stamp with which it alone had marked that consumer package and which contains spirit demonstrably degraded and unfit for direct human consumption, and if it attaches an official record²⁷⁾ proving destruction of such tax stamps to the tax return under §12(2) or to an additional tax return.

d) to the authorised consignee or importer of the alcoholic beverage which is spirit, if it received the alcoholic beverage which is spirit demonstrably degraded and unfit for direct human consumption and that spirit was destroyed under the supervision of the customs office; an official record²⁷⁾ proving destruction of that spirit and an official record²⁷⁾ proving destruction of tax stamps if the consumer package was marked with a tax stamp shall be attached to the tax return or additional tax return;

e) to the person who wound up its activities pursuant to §9(16) and §15(11)(a), if it had paid the excise duty and if the alcoholic beverage which is spirit was destroyed pursuant to §55(2).

(2) Excise duty on the alcoholic beverage for which excise duty was demonstrably charged in the tax territory may be reimbursed to a person that, as part of its commercial activities,

a) supplied that alcoholic beverage to a person in the territory of another Member State for commercial purposes and attached the following to the tax return or additional tax return

1. copy 3 of the simplified accompanying document confirmed by the consignee (purchaser) of the alcoholic beverage;

2. confirmation by the tax administrator of another Member State of the payment of the duty in that Member State;

3. an official record²⁷⁾ proving destruction of tax stamps if the consumer package was marked with a tax stamp, provided that the tax administrator is authorised under the national legislation of that Member State to prepare that official record²⁷⁾, or a document proving that the consumer package was marked for tax purposes under the national legislation of that Member State;

b) supplied that alcoholic beverage to the territory of another Member State in the form of distance selling and submitted a confirmation by the tax administrator of the consignee’s Member State of the payment of the duty in that Member State;

c) exported that alcoholic beverage to the third-country territory and documented such export by a single customs document confirming that the alcoholic beverage has left the territory of the European Union; upon request by the customs office, it is also necessary to prove the export of the alcoholic beverage by another document, in particular a document confirming the movement of the alcoholic beverage to the third-country territory or a document of payment.

(3) Excise duty may be reimbursed to the warehouse keeper that used

a) the spirit or wine for which the excise duty was demonstrably charged for the production of an intermediate product and that intermediate product was supplied outside the tax territory or for purposes exempt from excise duty pursuant to §60(1);

b) the beer, wine or intermediate product for which the excise duty was demonstrably charged for the production of spirit and that spirit was supplied outside the tax territory or for purposes exempt from excise duty pursuant to §40(1).

(4) Excise duty may also be reimbursed to the tax payer if it has already paid the excise duty, and if the excise duty was calculated

a) by the tax payer to the detriment of the consignee (purchaser) of the alcoholic beverage to whom it issued a credit note; it may only apply for the reimbursement after the credit note has been paid to the consignee (purchaser) of the alcoholic beverage;

b) by the tax payer to its own detriment;

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

(5) Tax reimbursement shall be claimed in the tax period in which the person became entitled to tax reimbursement, if it holds a document pursuant to paragraph 1, 2 or 7 by the lapse of the period for the submission of the tax return. If a person entitled to tax reimbursement does not hold a document pursuant to paragraph 1, 2 or 7 by the lapse of the period for the submission of the tax return in respect of the tax period in which the entitlement to tax reimbursement arose, it shall claim the entitlement to tax reimbursement in the tax period for which it attaches such document to the tax return in which it claims tax reimbursement, however, no later than within four years of the end of the calendar month in which the entitlement to tax reimbursement arose.

(6) If all the conditions for tax reimbursement are met, the customs office shall reimburse tax within 30 days of the date of the submission of the tax return or additional tax return. If the customs office initiates a tax audit in the course of this period to determine the eligibility for tax reimbursement and the tax determined by the tax audit does not differ from that indicated in the tax return or additional tax return, it shall reimburse the tax within 15 days of conclusion of the tax audit. If the customs office discovers that the tax determined by the tax inspection differs from the tax indicated in the tax return or additional tax return, it shall proceed pursuant to a separate regulation²⁸) and shall reimburse the tax within 15 days of the date when the decision became final, in the amount of tax indicated in the final decision.

(7) For the purposes of this Act, the alcoholic beverage for which excise duty has demonstrably been charged is alcoholic beverage in respect of which the duty charged is proved by a document confirming its acquisition at a price including excise duty and a document confirming the payment of the duty included in the price of the alcoholic beverage, for example, by a statement from an account in a bank, in a foreign bank with registered office in another Member State or in a branch of a foreign bank (hereinafter referred to as "bank"), petty cash voucher, cash register document or document confirming the payment of the excise duty to the customs office.

§14

Duty suspension, tax warehouse

(1) A duty suspension arrangement shall apply to the alcoholic beverage

a) held in a tax warehouse;

b) moved under the conditions specified in §17 and 18;

c) secured²⁹) by the customs office, or which has become the property of the state under a separate regulation¹⁸), with the exception of the alcoholic beverage for which excise duty has demonstrably been charged.

(2) The tax warehouse shall only be an alcoholic beverage producing enterprise or alcoholic beverage warehouse located in the tax territory. The tax warehouse is also an alcoholic beverage producing enterprise or alcoholic beverage warehouse located in the territory of another Member State whose operation is permitted under the national legislation of that Member State.

(3) The tax warehouse may also be a part of alcoholic beverage producing enterprise or a part of alcoholic beverage warehouse, apart from a separate spirit warehouse³⁰), which is not the Administration of State Material Reserves.³¹)

(4) The alcoholic beverage shall only be held in the tax warehouse under a duty suspension arrangement.

(5) A distillery for home fruit growers is not a tax warehouse.

§15

Authorisation to operate a tax warehouse

(1) Any person seeking to operate a tax warehouse must apply to the customs office in writing for registration and the issuance of an authorisation to operate a tax warehouse. The application must contain

- a) identification data of the applicant and addresses of its business establishments if different from the registered office or permanent residence of the applicant;
- b) brand name and the corresponding Combined Nomenclature code of the alcoholic beverage produced, processed, received, dispatched and stored;
- c) the expected annual volume of alcoholic beverage production, storage and sale, in the appropriate unit of measure, in the case of an alcoholic beverage producing enterprise; or the expected annual volume of alcoholic beverage storage, processing and sale, in the appropriate unit of measure, in the case of an alcoholic beverage warehouse.

(2) Annexes to the application pursuant to paragraph 1 comprise

- a) a document proving authorisation to conduct business not older than 30 days, or its certified copy, if the applicant is a legal person without registered office in the tax territory or a natural person without permanent residence in the tax territory;
- b) an authorisation to produce and process spirit in a distillery and to place it on the market pursuant to a separate regulation,³²⁾ if it will produce or process spirit in the tax warehouse; the foregoing does not apply to an application to operate a spirit warehouse under §46(2) and (3);
- c) technical documentation and drawing of production equipment in the alcoholic beverage producing enterprise, brief description of activities and description of production and storage facilities with an attached layout, method of securing these premises against unauthorised breaking and entering and of protection of the alcoholic beverage against unauthorised use;
- d) a technological description of the production procedure, including a list of the feedstock processed, the products to be produced, by-products and waste;
- e) financial statements for the previous accounting period if the applicant was required to draw up the financial statements; if the applicant is required to have the financial statements audited by an auditor, also the financial statements audited by the auditor pursuant to separate regulations,³³⁾ as well as the method of keeping accounts;
- f) a confirmation by the Social Insurance Agency and a health insurance company of meeting the requirements under paragraph 4(e);
- g) a list of Member States to which the applicant expects to supply (dispatch) the alcoholic beverage under a duty suspension arrangement; this list may be provided to the Member States of destination upon request.
- h) applicant's declaration of honour that it meets the requirements under paragraph 4(d) and (e);
- i) a list of persons affiliated with and controlling/controlled by the applicant.

(3) Upon request by the customs office, the applicant shall specify the data included in the application pursuant to paragraph 1 and its annexes in more detail.

(4) The applicant must satisfy the following conditions:

- a) it keeps accounting records pursuant to a separate regulation;²¹⁾
- b) it has lodged a tax guarantee pursuant to § 16;
- c) it has no arrears against the customs office or tax office;
- d) there are no arrears against a customs office or a tax office on behalf of a person controlling/controlled by or affiliated with the applicant or a person that had been controlling/controlled by or affiliated with the applicant during a period of ten years preceding the submission of the application, and no person that was wound up and that would have been considered a person controlling/controlled by or affiliated with the applicant had, during a period of ten years preceding the date of the submission of the application, any tax arrears that had not been settled before the winding up of that person; this also applies to any tax arrears assigned to third persons pursuant to separate regulations;²²⁾
- e) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- f) it will create appropriate conditions for the performance of tax supervision in the enterprise producing alcoholic beverages which are spirit;
- g) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or a natural person who is a member of the applicant's managing or supervisory bodies;
- h) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, no composition permitted, no compulsory composition confirmed, or restructuring permitted.

(5) If the applicant for registration and authorisation is a person seeking to produce, process, receive, dispatch and store alcoholic beverage which is spirit under a duty suspension arrangement, it is also required to attach, in addition to annexes under paragraph 2(a), (b), (d) through (i), the following:

- a) technical documentation and a drawing of production equipment in the alcoholic beverage producing enterprise in which the spirit will be produced, including the indication of places to which seals have been attached by the customs office; a description of the production and storage premises and of the spirit processing and storage facility in the spirit warehouse with an attached layout and indication of locations of room seals; a brief description of activities and description of the tax warehouse, the method of securing the spirit against unauthorised use; technical documentation and description of a spirit control meter pursuant to §45(1) to measure the quantity of the spirit produced and devices to determine the stock of spirit and its temperature, as well as a document proving the certification of these devices or a declaration of conformity for these devices; a declaration on having created the conditions for the presence of a tax

administrator; the foregoing does not apply to the application to operate a spirit warehouse under §46(2)(a) if the applicant receives, stores or dispatches spirit in a consumer package, and to the application to operate a spirit warehouse under §46(3);

b) a description of activities and a description of the warehouse and the method of securing the alcoholic beverage which is spirit against unauthorised manipulation with the spirit or against unauthorised use of the spirit; a description of the storage premises in a spirit warehouse under §46(2)(a) if the applicant receives, stores or dispatches spirit in a consumer package, and of the spirit storage facility in the spirit warehouse under §46(3).

(6) Prior to the registration and issuance of an authorisation to operate a tax warehouse, the customs office shall verify the facts and data pursuant to paragraph 1 through 3 and 5, and compare the factual conditions of the production equipment with the technical documentation and drawing of that production equipment as attached to the application. If the facts and data are true and the applicant meets the conditions pursuant to paragraph 4 and §42 through 46 or §61 or §62 and 67 or §68, the customs office shall register the applicant and issue an authorisation to operate a tax warehouse to it within 60 days of the date of the submission of that application. In the authorisation to operate a tax warehouse, the customs office shall also indicate the type of the alcoholic beverage produced, processed, received, dispatched or stored, which will be produced, processed, received, dispatched or stored in the tax warehouse.

(7) The warehouse keeper is required to notify the customs office of any change in the facts or data pursuant to paragraph 1, paragraph 2(b) through (d) and (f), paragraph 4(e) through (g) and paragraph 5 within 15 days of their occurrence. The warehouse keeper is required to notify the customs office of any change in the data pursuant to paragraph 2(a) within 15 days of the date of the submission of a proposal to change the data to a competent authority. The customs office shall verify the data presented in the notification with the warehouse keeper and, taking into account the extent and gravity of the changes, shall supplement the original authorisation to operate a tax warehouse or issue a new authorisation to operate a tax warehouse. When issuing a new authorisation to operate a tax warehouse for the same warehouse keeper, the keeper's original registration number remains valid.

(8) The authorisation to operate a tax warehouse expires

a) on the date of application by the warehouse keeper for deletion from the Commercial Register or another similar register, or on the date of application for cancellation of a trade licence, or on the date of notification of termination of commercial activities;

b) on the day of decease of the warehouse keeper or on the day of entry into force of the court ruling declaring the warehouse keeper to be deceased, if the warehouse keeper is a natural person;

c) on the date of entry into force of a court decision on bankruptcy or on the dismissal of a petition for bankruptcy due to insufficient assets or the discontinuation of bankruptcy proceedings due to insufficient assets, or on the day when compulsory composition was confirmed or composition permitted;

d) on the tenth day following the lapse of the time period

1. of tax maturity, if the tax due was not paid and if the customs office fully or partially relieved the warehouse keeper of the obligation to lodge a tax guarantee pursuant to §16(12);

2. for complementing the tax guarantee pursuant to §16(7)(b) and (c), if the tax guarantee was not complemented within the deadline pursuant to §16;

3. stipulated by the customs office pursuant to §16(18) for lodging or complementing the tax guarantee pursuant to §16(17), if the tax guarantee was not lodged or complemented within the deadline stipulated by the customs office;

e) on the date of revocation by the customs office of the authorisation to operate a tax warehouse;

f) on the date of deletion from the Commercial Register or any similar register, or on the date of trade licence cancellation in accordance with the requirements stipulated under separate regulations³⁴⁾ if the person failed to submit an application pursuant to (a) above.

(9) The customs office shall revoke the authorisation to operate a tax warehouse if

a) the warehouse keeper has entered liquidation;

b) the warehouse keeper no longer meets any of the conditions under paragraph 4(a) through (f);

c) in the tax warehouse where the alcoholic beverage which is spirit is produced, processed or stored, the arrangement of production equipment, storage facilities, spirit control meters pursuant to §45(1) and their securing has demonstrably been tampered with;

d) the warehouse keeper stores or holds alcoholic beverages whose origin or manner of acquisition in accordance with this Act it cannot prove;

e) the warehouse keeper has released a consumer package for free circulation in contradiction with the provision of §51;

f) the warehouse keeper violates obligations under this Act not specified under (c) through (e) above, violates the applicable legislation on the production and placement of spirit on the market, and the fine imposed and notices served by the customs office have not led to rectification;

g) the warehouse keeper applies for revocation of the authorisation to operate a tax warehouse;

h) the warehouse keeper's authorisation to produce and process spirit in a distillery has expired or been revoked under a separate regulation.³²⁾

(10) The customs office may revoke the authorisation to operate a tax warehouse if the warehouse keeper does not produce, process, store, receive or dispatch alcoholic beverage over a period exceeding 12 consecutive calendar months, taking into account the gravity of the reasons.

(11) Upon expiry of the authorisation to operate a tax warehouse

- a) the warehouse keeper or an heir under paragraph 8(b) or an estate trustee appointed by the court shall take stock of the alcoholic beverage as of the date of expiry of the authorisation to operate a tax warehouse in the presence of the customs office, and submit a tax return within a deadline stipulated by the customs office and pay the excise duty within the same deadline;
- b) the customs office shall use the lodged tax guarantee to pay the excise duty and reimburse without delay any balance of the tax guarantee to the person whose authorisation to operate a tax warehouse expired;
- c) the customs office shall request the payment of the excise duty from a relevant bank, if the tax guarantee is in the form of a bank guarantee;³⁵⁾
- d) the customs office shall cancel the registration number.

(12) The warehouse keeper whose authorisation to operate a tax warehouse was revoked pursuant to paragraph 9(c) through (f) may be granted a new authorisation to operate a tax warehouse by the customs office not sooner than after five years have lapsed since the entry into force of the decision to revoke the authorisation to operate a tax warehouse; in the case of an affiliated or controlling/controlled person, an authorisation to operate a tax warehouse may be granted to that person not sooner than after five years have lapsed since the entry into force of the decision issued to the warehouse keeper on the revocation of its authorisation to operate a tax warehouse. Where the authorisation was revoked pursuant to paragraph 10, the customs office may grant a new authorisation to operate a tax warehouse not sooner than after one year has lapsed since the entry into force of the decision to revoke the authorisation to operate a tax warehouse.

(13) If the warehouse keeper has received demonstrably taxed alcoholic beverage which is spirit in a consumer package marked with a tax stamp which it released for free circulation and the excise duty paid on that spirit cannot be reimbursed pursuant to §13(1)(c), it shall keep separate records on the receipt and removal of that alcoholic beverage and make sure that it is stored in the premises spatially separated from the place of storage of the spirit in a consumer package placed under a duty suspension arrangement.

§16 Tax guarantee

(1) For the purposes of this Act, the lodging of a tax guarantee means

- a) a cash deposit made to the account of the customs office; the customs office is not required to pay interest to the applicant;
- b) a bank guarantee³⁵⁾ provided by a bank to the customs office; the customs office shall not accept the bank guarantee if the deed of guarantee contains any reservations of the bank.

(2) Prior to the issuance of the authorisation to operate a tax warehouse, the person seeking to operate a tax warehouse is required to lodge a tax guarantee in the amount of excise duty attributed to an average monthly quantity of the alcoholic beverage it expects to release for free circulation over the period of 12 consecutive calendar months; the amount of the tax guarantee shall also include the excise duty attributed to the quantity of the alcoholic beverage it expects to release for free circulation for purposes exempt from excise duty pursuant to §40(1), §60(1) or §65.

(3) The warehouse keeper is required to have a tax guarantee lodged in the amount of excise duty attributed to an average monthly quantity of the alcoholic beverage it released for free circulation over the period of 12 consecutive calendar months; the amount of the tax guarantee shall also include the excise duty attributed to the quantity of the alcoholic beverage it released for free circulation for purposes exempt from excise duty pursuant to §40(1), §60(1) or §65.

(4) The tax guarantee requirement does not apply to special-purpose spirit owned by the state.³¹⁾

(5) The person pursuant to paragraph 2 and the warehouse keeper pursuant to paragraph 3 are required to lodge a tax guarantee in respect of all tax warehouses they seek to operate; this is without prejudice to the provisions of §17 and 18.

(6) If the customs office does not grant the authorisation to operate a tax warehouse, the tax guarantee lodged shall be returned to the person pursuant to paragraph 2 without delay.

(7) The warehouse keeper is required to monitor the amount of the tax guarantee lodged and to adjust the tax guarantee

- a) prior to commencing the movement of the alcoholic beverage under a duty suspension arrangement if the amount of the tax guarantee lodged under paragraph 3 does not correspond to the amount of excise duty attributed to the quantity

of the alcoholic beverage to be moved under a duty suspension arrangement, including the quantity of the alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65, with the exception of the tax guarantee for the movement of the alcoholic beverage under a duty suspension arrangement which is lodged by a registered consignor, shipper or consignee;

b) if excise duty attributed to the quantity of the alcoholic beverage released for free circulation in the previous month, including the quantity of the alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65, exceeds, by more than 20 %, the excise duty attributed to the quantity of the alcoholic beverage for which the tax guarantee was lodged; the warehouse keeper is required to increase the tax guarantee by the amount of excise duty exceeding the tax guarantee lodged within ten business days of the occurrence of this fact; the foregoing does not apply if the customs office has relieved the warehouse keeper of the obligation to lodge a tax guarantee;

c) within ten business days of the date of the notification under paragraph 8, by the amount which the customs office used for the payment of the excise duty.

(8) If the excise duty is not paid within the due date as stipulated by this Act, the customs office shall use the tax guarantee to pay the excise duty and notify the warehouse keeper to that effect.

(9) The warehouse keeper may request the customs office or, subject to written consent from the customs office, the bank that provided the bank guarantee³⁵, to reduce the amount of the tax guarantee lodged. The request to reduce the tax guarantee lodged may be submitted by the warehouse keeper to the customs office if the tax guarantee exceeds by more than 20 % the sum of the excise duty attributed to an average monthly quantity of the alcoholic beverage released for free circulation, including the quantity of the alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65, and the excise duty attributed to an average monthly quantity of the alcoholic beverage held in stock by the warehouse keeper as of the last day of each calendar month over the period of previous 12 successive calendar months, and the amount of the tax guarantee lodged has been in excess for at least three consecutive calendar months prior to the request to reduce the tax guarantee and also remains to be in excess at the time of the submission of the request to reduce the tax guarantee lodged.

(10) The customs office shall decide on the request pursuant to paragraph 9 within 15 business days of its submission and may return the relevant difference, taking into account the quantity of the alcoholic beverage on stock, within five business days of the date of entry into force of the decision to reduce the tax guarantee lodged.

(11) The warehouse keeper which is an alcoholic beverage producing enterprise may request the customs office to relieve it from the obligation to lodge the tax guarantee (hereinafter referred to as “relief of tax guarantee”)

a) in the full amount, if the applicant has a reliable tax history of at least 24 consecutive calendar months prior to filing the request for relief of tax guarantee;

b) partially, in the amount of 50%, if the applicant has a reliable tax history of at least 12 consecutive calendar months prior to filing the request for relief of tax guarantee.

(12) The customs office shall assess the request pursuant to paragraph 11 and, if the warehouse keeper pursuant to paragraph 11 has a reliable tax history, the customs office shall decide upon full or partial relief of tax guarantee within 60 days of the date of the submission of the request and shall determine the validity of such decision, which may be maximum two years from the date of entry into force of the decision on the relief of tax guarantee; this is without prejudice to the provisions of § 17 and 18. If the customs office decides not to provide relief of tax guarantee, the warehouse keeper pursuant to paragraph 11 may file a new request for relief of tax guarantee at the earliest after the lapse of one year from the date of entry into force of that decision.

(13) The warehouse keeper pursuant to paragraph 11 which the customs office relieved of tax guarantee on the basis of the request pursuant to paragraph 11 and which seeks to be relieved of tax guarantee for the next period shall request the customs office for relief of tax guarantee not later than 60 days prior to the expiry of the decision on the relief of tax guarantee.

(14) For the purposes of this Act, the warehouse keeper pursuant to paragraph 11 is considered to have a reliable tax history if,

a) on its balance sheet from ordinary financial statements, it reports a positive difference between assets and liabilities²¹) at least in the amount of twice the average monthly chargeable excise duty for the period of 12 months for which the ordinary financial statements have been prepared,²¹) during

1. two consecutive accounting periods preceding the filing of the request for full relief of tax guarantee;

2. one accounting period preceding the filing of the request for partial relief of tax guarantee;

b) complies with the conditions under §15(4); and

c) did not commit an administrative delict pursuant to §70(1)(g), (h), (o), (p), (r) and (w), over

1. at least 24 consecutive calendar months preceding the filing of the request for full relief of tax guarantee; 2. at least 12 consecutive calendar months preceding the filing of the request for partial relief of tax guarantee.

(15) Annexes to the request pursuant to paragraph 11 comprise

- a) financial statements for the immediately preceding
 1. two accounting periods prior to filing the request for full relief of tax guarantee;
 2. one accounting period prior to filing the request for partial relief of tax guarantee;
- b) a confirmation demonstrating the compliance with the requirement under paragraph 14(b)
 1. for at least 24 consecutive calendar months preceding the filing of the request for full relief of tax guarantee;
 2. for at least 12 consecutive calendar months preceding the filing of the request for partial relief of tax guarantee.

(16) Upon request by the customs office, the warehouse keeper pursuant to paragraph 11 shall specify the data included in the request pursuant to paragraph 11 and its annexes in more detail.

(17) The customs office shall invite the warehouse keeper pursuant to paragraph 11 fully or partially relieved of the tax guarantee pursuant to paragraph 12 to lodge or complement the tax guarantee within the stipulated deadline that may not be less than 15 days and more than 30 days, if it has discovered that:

- a) the warehouse keeper pursuant to paragraph 11 has arrears
 1. towards the customs office or tax office of over five days;
 2. on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- b) other circumstances arose, based on which it can reasonably be assumed that the warehouse keeper pursuant to paragraph 11 will not comply with its obligation to pay the excise duty in accordance with this Act duly and on time.

(18) If the customs office stipulated a deadline for lodging or complementing the tax guarantee, the warehouse keeper shall lodge or complement the tax guarantee within that deadline and in the amount stipulated by the customs office.

TITLE TWO MOVEMENT OF ALCOHOLIC BEVERAGE

§17

Movement of alcoholic beverage under a duty suspension arrangement and exempt from excise duty within the tax territory

(1) The alcoholic beverage under a duty suspension arrangement may only be moved within the tax territory

- a) from the tax warehouse to another tax warehouse or to a place of direct delivery; for the purposes of this Act, the place of direct delivery is a place to which the alcoholic beverage moved under a duty suspension arrangement is delivered, if it is moved directly to a person designated by the consignee (purchaser) who is a warehouse keeper or an authorised consignee pursuant to §19(1) repeatedly receiving the alcoholic beverage under a duty suspension arrangement from another Member State, and that person is not authorised to receive alcoholic beverage under a duty suspension arrangement;
- b) from the place of importation (§23) to a tax warehouse or to a place of direct delivery;
- c) from the tax warehouse to the place of exit (§24);
- d) from the place of importation (§23), if the alcoholic beverage is dispatched by registered consignor, to the place of exit (§24);
- e) to the tax warehouse, in the case of a movement of the alcoholic beverage which is spirit which has become the property of the state under a separate regulation.³¹⁾

(2) The alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65 may only be moved within the tax territory

- a) from the tax warehouse to the user enterprise;
- b) from the place of importation (§23) to a place of storage of the alcoholic beverage in the user enterprise, if imported by the user enterprise;
- c) from the user enterprise to another user enterprise, if user enterprise terminates its activity in accordance with §9(16);
- d) between establishments of the same person that is a user enterprise.

(3) In justified cases, provided that the enforceability and collection of tax is not put at risk, the customs office may permit, upon the request of a legal or natural person that seeks to move the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40 (1), §60(1) or §65 within the tax territory, a different mode of movement of the alcoholic beverage than as specified in paragraph 1 and 2.

(4) The alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 shall only be moved within the tax territory under cover of an electronic administrative accompanying document prepared by means of a computerised system³⁶⁾ in a manner laid down in a separate regulation³⁷⁾ (hereinafter referred to as “electronic document”), unless otherwise provided under §21. A draft electronic document, as well as any changes made by means of the computerised system³⁶⁾ must be affixed with a qualified electronic signature³⁸⁾, unless otherwise agreed between the consignor (supplier) or consignee (purchaser) and the customs office.

(5) Prior to any movement of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory, the consignor (supplier) shall prepare a draft electronic document and send it to the customs office of the consignor (supplier). The customs office of the consignor (supplier) shall electronically verify the data in the draft electronic document and, if correct, assign an administrative reference code (hereinafter referred to as “reference code”) to the draft electronic document and, at the same time, send the electronic document with the assigned reference code to the consignor (supplier), consignee (purchaser) and the customs office of the consignee (purchaser). If the data specified in the draft electronic document are incorrect, the customs office of the consignor (supplier) shall immediately notify the sender of the draft electronic document to that effect. The movement of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory may only start after the reference code has been assigned. The alcoholic beverage moving under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 in the tax territory must be accompanied by a paper document containing the reference code.

(6) The consignor (supplier) may cancel the electronic document if the movement of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 in the tax territory has not started; the movement of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory starts once the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 has been removed from a tax warehouse of the consignor (supplier) or a user enterprise of the consignor (supplier), or has been released for free circulation.⁴⁾

(7) During the movement of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory, the consignor (supplier) that lodged a tax guarantee may change the place of receipt of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 or change the consignee (purchaser) via the computerised system³⁶⁾ in a manner laid down in a separate regulation.³⁷⁾

(8) The consignee (purchaser) of the alcoholic beverage moving under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory is required to submit to the customs office of the consignee (purchaser), not later than within five business days of the end of the movement of such alcoholic beverage, an electronic report of receipt prepared by means of the computerised system³⁶⁾ in a manner laid down in a separate regulation³⁷⁾ (hereinafter referred to as “report of receipt”). A qualified electronic signature³⁸⁾ must be affixed to the report of receipt, unless otherwise agreed between the consignor (supplier) or consignee (purchaser) and the customs office. The movement of the alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory is deemed to have ended on the date of receipt of the alcoholic beverage by the consignee (purchaser) or of its receipt in the place of direct delivery. The customs office of the consignee (purchaser) shall electronically verify the data in the report of receipt and, if correct, confirm to the consignee (purchaser) that the report of receipt has been registered. After its registration, the customs office of the consignee (purchaser) shall immediately send the report of receipt to the consignor (supplier) and the customs office of the consignor (supplier). If the data specified in the report of receipt are incorrect, the customs office of the consignee (purchaser) shall immediately notify the sender of the report of receipt to that effect.

(9) The alcoholic beverage moved under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory must be placed in the warehouse of the consignee (purchaser) immediately upon receipt, with the exception of the alcoholic beverage moved to the place of direct delivery.

(10) If the customs office of the consignor (supplier) and the customs office of the consignee (purchaser) is the same, the customs office shall send an electronic document with assigned reference code to the consignee (purchaser) and the registered report of receipt to the consignor (supplier).

(11) A tax guarantee must always be lodged for the alcoholic beverage to be moved under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 within the tax territory. The tax guarantee shall be lodged at least in the amount of excise duty attributed to the quantity of the alcoholic beverage moved, unless otherwise provided under paragraph 13 and §18(11). The tax guarantee for the alcoholic beverage to be moved under a duty suspension arrangement is not required if the tax guarantee pursuant to §16(3) has been lodged in such an amount so as to cover the tax guarantee for the alcoholic beverage to be moved under a duty suspension arrangement. The tax guarantee for the alcoholic beverage which is spirit to be moved as exempt from excise duty pursuant to §40(1) and which is not denatured is not required if the tax guarantee pursuant to §9(4)(b) has been lodged in such an amount so as to cover the tax guarantee for spirit to be moved as exempt from excise duty pursuant to §40(1). The customs office of the consignor (supplier) shall reimburse the lodged tax guarantee to the person that lodged the tax guarantee immediately after the registration of the report of receipt, unless otherwise agreed by the customs office of the consignor (supplier) and the person that lodged the tax guarantee.

(12) In the case of the movement of the alcoholic beverage within the tax territory

a) under a duty suspension arrangement, the tax guarantee shall be lodged

1. by the warehouse keeper which is

- 1a. a consignor (supplier) in the tax territory;
- 1b. a consignee (importer) in the case of importation to the tax territory;
- 1c. a consignor (exporter) in the case of export from the tax territory;
- 1d. a consignee of the alcoholic beverage which has become the property of the state under separate regulations;¹⁸⁾
- 1e. a consignee (purchaser) in the tax territory, if the alcoholic beverage moving under a duty suspension arrangement pursuant to paragraph 1(a) is in its ownership; or
- 1f. a consignee (purchaser) in the tax territory in lieu of the consignor (supplier) in the tax territory, if they so agreed and the customs office approved of their agreement;
- 2. by the registered consignor; or
- 3. by the shipper or consignee (purchaser) in the tax territory in lieu of the consignor (supplier), if they so agreed and the customs office of the consignor (supplier) approved of their agreement;
- b) exempt from excise duty pursuant to §40(1), §60(1) or §65, the tax guarantee shall be lodged by the user enterprise which is
 - 1. a purchaser in the tax territory; or
 - 2. a consignee (importer) in the case of importation to the tax territory.

(13) Upon written request by the warehouse keeper or user enterprise, the customs office shall permit a reduction of the tax guarantee lodged for the moving alcoholic beverage which is spirit if the amount of excise duty attributed to the quantity of the spirit moving under a duty suspension arrangement or exempt from excise duty pursuant to §40(1) is at least €3,320,000, provided that enforceability or collection of excise duty is not put at risk and that the applicant has a reliable tax history of at least 24 consecutive calendar months prior to filing the request to reduce the tax guarantee lodged for the moving spirit; the reduced tax guarantee is calculated as the sum of the amount of €3,320,000 and the amount in excess of €3,320,000, reduced by 50%; the reduced tax guarantee shall not exceed €7,470,000. No permission to reduce the tax guarantee lodged for moving spirit is required, if a permission to reduce the tax guarantee lodged has been issued pursuant to §18(11). If the sum of the tax guarantee for spirit to be moved under a duty suspension arrangement or exempt from excise duty pursuant to §40(1) within the tax territory and tax guarantee for spirit to be moved under a duty suspension arrangement within the territory of the European Union is at least €3,320,000, the reduced tax guarantee for the spirit thus moved is calculated as the sum of the amount of €3,320,000 and the amount in excess of €3,320,000, reduced by 50%; the reduced tax guarantee shall not exceed €7,470,000. No tax guarantee is required under this paragraph, if the tax guarantee under §18(11) has been lodged in the amount of €7,470,000. If the warehouse keeper or user enterprise fails to meet any of the conditions referred to in §15(4)(a), (c) through (g), the permission to reduce the tax guarantee expires.

§18

Movement of alcoholic beverage under a duty suspension arrangement within the territory of the European Union

- (1) The alcoholic beverage under a duty suspension arrangement may only be moved within the territory of the European Union
- a) from a tax warehouse in the tax territory or from the place of importation (§23), if the alcoholic beverage is dispatched by a registered consignor in the tax territory to a tax warehouse or to an authorised consignee in another Member State or to a Slovak agent pursuant to §32(15), or to Slovak armed forces and their civilian staff for the use in connection with activities under an international treaty¹⁹⁾ to the territory of countries that are State parties to the North Atlantic Treaty;
 - b) from a tax warehouse in the tax territory or from the place of importation (§23), if the alcoholic beverage is dispatched by a registered consignor in the tax territory to a tax warehouse in the tax territory, via the territory of another Member State;
 - c) from a tax warehouse in another Member State or from a registered consignor in another Member State to a tax warehouse or to an authorised consignee in the tax territory;
 - d) from a tax warehouse in another Member State or from a registered consignor in another Member State to a tax warehouse or to an authorised consignee in another Member State, via the tax territory;
 - e) in cases referred to under (a) and (c) above, via the third-country territory.
- (2) The alcoholic beverage under a duty suspension arrangement may only be moved within the territory of the European Union under cover of an electronic document, unless otherwise provided under §21. A draft electronic document, as well as any changes made by means of the computerised system³⁶⁾ must be affixed with a qualified electronic signature³⁸⁾, unless otherwise agreed between the consignor (supplier) or consignee (purchaser) and the customs office.
- (3) Prior to any movement of the alcoholic beverage under a duty suspension arrangement from the tax territory to the territory of the European Union, the consignor (supplier) shall prepare a draft electronic document and send it to the customs office of the consignor (supplier). The customs office of the consignor (supplier) shall electronically verify the data in the draft electronic document and, if correct, assign a reference code to the draft electronic document and, at the same time, send the electronic document with the assigned reference code to the consignor (supplier) and the tax administrator of the Member State of the consignee (purchaser). If the data specified in the draft electronic document

are incorrect, the customs office of the consignor (supplier) shall immediately notify the sender of the draft electronic document to that effect. If the alcoholic beverage is moving under a duty suspension arrangement pursuant to paragraph 1(b) and the data specified in the electronic document are correct, the customs office of the consignor (supplier) shall send the electronic document to the consignee (purchaser) of the alcoholic beverage and to the customs office of the consignee (purchaser). The movement of the alcoholic beverage under a duty suspension arrangement within the territory of the European Union may only start after the reference code has been assigned. The alcoholic beverage moving under a duty suspension arrangement within the territory of the European Union must be accompanied by a paper document containing the reference code.

(4) If the alcoholic beverage is moving under a duty suspension arrangement within the territory of the European Union pursuant to paragraph 1(c), the customs office of the consignee (purchaser) is required to send the electronic document, delivered by the tax administrator of the Member State of the consignor (supplier), to the consignee (purchaser).

(5) The consignor (supplier) may cancel the electronic document if the movement of the alcoholic beverage under a duty suspension arrangement within the territory of the European Union has not started; the movement of the alcoholic beverage under a duty suspension arrangement within the territory of the European Union starts once the alcoholic beverage has been removed from the consignor's (supplier's) warehouse or has been released for free circulation.⁴⁾

(6) During the movement of the alcoholic beverage under a duty suspension arrangement within the territory of the European Union, the warehouse keeper which has lodged a tax guarantee or a registered consignor in the tax territory which has lodged a tax guarantee may change the place of receipt of the alcoholic beverage under a duty suspension arrangement or change the consignee (purchaser), except for the consignee (purchaser) who is a Slovak agent pursuant to §32(15) or the armed forces of the Slovak Republic and their civilian staff, via the computerised system³⁶⁾ in a manner laid down in a separate regulation.³⁷⁾

(7) If the alcoholic beverage is moving under a duty suspension arrangement within the territory of the European Union pursuant to paragraph 1(c), the consignee (purchaser) of the alcoholic beverage moving under a duty suspension arrangement is required to submit a report of receipt to the customs office of the consignee (purchaser), not later than within five business days of the end of the movement of the alcoholic beverage under a duty suspension arrangement. A qualified electronic signature³⁸⁾ must be affixed to the report of receipt, unless otherwise agreed between the consignor (supplier) or consignee (purchaser) and the customs office. The movement of the alcoholic beverage under a duty suspension arrangement within the territory of the European Union is deemed to have ended on the date of receipt of the alcoholic beverage by the consignee (purchaser) or of its receipt in the place of direct delivery. The customs office of the consignee (purchaser) shall electronically verify the data in the report of receipt and, if correct, confirm to the consignee (purchaser) that the report of receipt has been registered. After its registration, the customs office of the consignee (purchaser) shall immediately send the report of receipt to the tax administrator of the consignor's (supplier's) Member State. If the data specified in the report of receipt are incorrect, the customs office of the consignee (purchaser) shall immediately notify the sender of the report of receipt to that effect.

(8) If the alcoholic beverage is moving under a duty suspension arrangement within the territory of the European Union pursuant to paragraph 1(a), the customs office of the consignor (supplier) is required to send the report of receipt, delivered by the tax administrator of the Member State of the consignee (purchaser), to the consignor (supplier) in the tax territory.

(9) The alcoholic beverage moved under a duty suspension arrangement within the territory of the European Union must be placed in the warehouse of the consignee (purchaser) immediately upon receipt, with the exception of the alcoholic beverage moved to the place of direct delivery.

(10) The tax guarantee must always be lodged for the alcoholic beverage to be moved under a duty suspension arrangement within the territory of the European Union, save for the movement of the alcoholic beverage to a Slovak agent pursuant to §32(15) or to the armed forces of the Slovak Republic and their civilian staff for the use in connection with activities under an international treaty¹⁹⁾ to the territory of countries that are State parties to the North Atlantic Treaty. The tax guarantee shall be lodged by the consignor (supplier) in the amount of excise duty attributed to the quantity of the alcoholic beverage moved, unless otherwise provided under paragraph 11 and §17(13). The tax guarantee for the alcoholic beverage to be moved under a duty suspension arrangement is not required if the tax guarantee pursuant to §16(3) has been provided in such an amount so as to cover the tax guarantee for the alcoholic beverage to be moved under a duty suspension arrangement. The tax guarantee lodged in another Member State is valid throughout the tax territory. Upon the consignor's (supplier's) request, the customs office may permit that the tax guarantee be lodged by the consignee (purchaser) in lieu of the consignor (supplier), if the consignor (supplier) and the consignee (purchaser) have so agreed. The customs office of the consignor (supplier) shall reimburse the lodged tax guarantee to the person that lodged the tax guarantee immediately after the registration of the report of receipt sent by the tax administrator of the Member State of the consignee (purchaser), unless otherwise agreed by the customs office of the consignor (supplier) and the person that lodged the tax guarantee.

(11) Upon written request by the consignor (supplier), the customs office shall permit a reduction of the tax guarantee lodged for the moving alcoholic beverage which is spirit if the amount of excise duty attributed to the quantity of the spirit moving under a duty suspension arrangement is at least €3,320,000, provided that enforceability or collection of excise duty is not put at risk and that the applicant has a reliable tax history of at least 24 consecutive calendar months prior to filing the request to reduce the tax guarantee lodged for the moving spirit; the reduced tax guarantee is calculated as the sum of the amount of €3,320,000 and the amount in excess of €3,320,000, reduced by 50%; the reduced tax guarantee shall not exceed €7,470,000. No permission to reduce the tax guarantee lodged for moving spirit is required, if a permission to reduce the tax guarantee lodged has been issued pursuant to §17(13). If the sum of the tax guarantee for spirit to be moved under a duty suspension arrangement within the territory of the European Union and tax guarantee for spirit to be moved under a duty suspension arrangement or exempt from excise duty within the tax territory is at least €3,320,000, the reduced tax guarantee for the spirit thus moved is calculated as the sum of the amount of €3,320,000 and the amount in excess of €3,320,000, reduced by 50%; the reduced tax guarantee shall not exceed €7,470,000. No tax guarantee is required under this paragraph, if the tax guarantee under §17(13) has been lodged in the amount of €7,470,000. If the consignor (supplier) fails to meet any of the conditions referred to in §15(4)(a), (c) through (g), the permission to reduce the tax guarantee expires.

(12) The alcoholic beverage under a duty suspension arrangement shall be moved from the territory of the European Union to persons listed in §32(2) or from the tax territory to persons listed in §32(15) under cover of an electronic document accompanied by an excise duty exemption certificate issued in the form and as specified in a separate regulation³⁹⁾ (hereinafter referred to as “exemption certificate”). The alcoholic beverage moved under a duty suspension arrangement from the territory of the European Union to the armed forces of other Member States that are State parties to the North Atlantic Treaty and their civilian staff for use in connection with activities under an international treaty,¹⁹⁾ or from the tax territory to the armed forces of the Slovak Republic and their civilian staff for use in connection with activities under an international treaty¹⁹⁾ to the territory of countries that are State parties to the North Atlantic Treaty, shall be accompanied by an exemption certificate. After the end of the movement of the alcoholic beverage under a duty suspension arrangement, persons listed in §32(2) shall immediately notify the Bratislava Customs Office of the receipt of that alcoholic beverage; the Bratislava Customs Office shall prepare a report of receipt in a manner laid down in a separate regulation³⁷⁾ and send it to the tax administrator of the Member State of the consignor (supplier).

§19 Authorised consignee

(1) The authorised consignee in the tax territory is a person that has an authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement. The authorised consignee is also a person in the territory of another Member State authorised under the national legislation of that Member State to receive alcoholic beverage from another Member State under a duty suspension arrangement. Any person seeking to become an authorised consignee in the tax territory and to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement must submit a written application to the customs office for registration and issuance of an authorisation to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement. Any person that seeks to receive alcoholic beverage from another Member State under a duty suspension arrangement on an occasional basis must apply to the customs office in writing for an authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement for each occasional consignment of alcoholic beverage.

(2) The application for registration and issuance of an authorisation to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement or the application for issuance of an authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement must contain

- a) identification data of the applicant and the address of its establishments, if different from the registered office or permanent residence of the applicant;
- b) brand name of the alcoholic beverage and the corresponding Combined Nomenclature code;
- c) indication of the anticipated annual volume of the alcoholic beverage to be received under a duty suspension arrangement in the appropriate unit of measure, if the applicant is a person seeking to repeatedly receive the alcoholic beverage from another Member State under a duty suspension arrangement;
- d) indication of the quantity of the alcoholic beverage in the appropriate unit of measure and the expected time of receipt of the entire quantity of the alcoholic beverage to be received in the given case by the applicant who is a person seeking to occasionally receive alcoholic beverage under a duty suspension arrangement from another Member State.

(3) Annexes to the application pursuant to paragraph 2 comprise

- a) a document proving authorisation to conduct business not older than 30 days, or its certified copy, if the applicant is a legal person without registered office in the tax territory or a natural person without permanent residence in the tax territory;

- b) technical documentation and description of storage premises and the manner of securing the alcoholic beverage against unauthorised use, if the applicant is a person seeking to receive the alcoholic beverage which is spirit from another Member State under a duty suspension arrangement;
- c) a description of storage facilities pursuant to §42(1), if the applicant is a person seeking to receive the alcoholic beverage which is spirit from another Member State under a duty suspension arrangement
- d) technical documentation on devices to determine the stock of the alcoholic beverage which is spirit and its temperature, a document proving the certification of these devices or a declaration of conformity for these devices if the applicant has a spirit storage facility, provided that the applicant is a person seeking to receive the alcoholic beverage which is spirit from another Member State under a duty suspension arrangement.

(4) The applicant must satisfy the following conditions:

- a) it keeps accounting records pursuant to a separate regulation;²¹⁾
- b) it has lodged the tax guarantee;
- c) it has no arrears against the customs office or tax office;
- d) there are no arrears against a customs office or a tax office on behalf of a person controlling/controlled by or affiliated with the applicant or a person that had been controlling/controlled by or affiliated with the applicant during a period of ten years preceding the submission of the application, and no person that was wound up and that would have been considered a person controlling/controlled by or affiliated with the applicant had, during a period of ten years preceding the date of the submission of the application, any tax arrears that had not been settled before the winding up of that person; this also applies to any tax arrears assigned to third persons pursuant to separate regulations;²²⁾
- e) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- f) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or a natural person who is a member of the applicant's managing or supervisory bodies;
- g) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, no composition permitted, no compulsory composition confirmed, or restructuring permitted.

(5) Upon request by the customs office, the applicant shall specify the data included in the application and its annexes in more detail.

(6) Prior to the issuance of an authorisation to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement, the person seeking to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement is required to lodge a tax guarantee as set out in §16(1) in the amount of excise duty attributed to the quantity of the alcoholic beverage which is

- a) wine, intermediate product or beer which it expects to receive during a single calendar month;
- b) spirit which it expects to receive during two consecutive calendar months.

(7) Prior to the registration and issuance of an authorisation to repeatedly receive the alcoholic beverage from another Member State under a duty suspension arrangement, the customs office shall verify the facts and data pursuant to paragraph 2 and 3. If the facts and data are true and the applicant meets the conditions pursuant to paragraph 4 through 6, the customs office shall register the applicant and issue an authorisation to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement within 60 days of the date of filing the application.

(8) Prior to the issuance of an authorisation to occasionally receive alcoholic beverage from another Member State under a duty suspension arrangement, the person seeking to occasionally receive alcoholic beverage from another Member State under a duty suspension arrangement is required to lodge a tax guarantee as set out in §16(1) in the amount of excise duty attributed to the quantity of the alcoholic beverage to be received in the given case. The customs office shall issue a confirmation of the tax guarantee lodged.

(9) Prior to the issuance of an authorisation to occasionally receive the alcoholic beverage from another Member State under a duty suspension arrangement, the customs office shall verify the facts and data pursuant to paragraph 2 and 3. If the facts and data are true and the applicant meets the conditions pursuant to paragraph 4 and 8, the customs office shall issue an authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement not later than on the next business day following the date on which the applicant lodged the tax guarantee, and shall set the deadline for the receipt of the entire quantity of the alcoholic beverage, which may not exceed 60 calendar days of the issuance of the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement. Upon agreement with the customs office, the excise duty may be paid using the tax guarantee lodged; the provision of §70(1)(w) shall not apply.

(10) If the authorised consignee repeatedly receiving alcoholic beverage from another Member State under a duty suspension arrangement seeks to receive spirit and the excise duty attributed to that quantity of spirit exceeds the lodged tax guarantee by more than 10%, it is required, not later than on the date of receipt of that alcoholic beverage, to

- a) to notify the customs office of this fact in writing or electronically;
- b) to increase the tax guarantee lodged by the amount which exceeds the tax guarantee lodged.

(11) The authorised consignee repeatedly receiving alcoholic beverage from another Member State under a duty suspension arrangement is required to complement the lodged tax guarantee by the amount that the customs office has used to pay the excise duty, within five days of the date of notification pursuant to paragraph 13.

(12) The authorised consignee repeatedly receiving alcoholic beverage from another Member state under a duty suspension arrangement may in writing request the customs office, or subject to written consent from the customs office the bank that issued the tax guarantee, to reduce the tax guarantee lodged if that tax guarantee exceeds by more than 20% the excise duty attributed to the quantity of the alcoholic beverage released for free circulation in the previous two calendar months where the consignee receives the alcoholic beverage which is spirit, or in the previous calendar month where the consignee receives the alcoholic beverage which is wine, intermediate product or beer, provided that this situation has continued for at least six successive calendar months and still continues at the time of filing the request to reduce the tax guarantee and provided that the applicant has a reliable tax history pursuant to §16(14)(a) and (c) and has complied with the requirements under paragraph 4 for at least 24 consecutive calendar months prior to the filing of the request to reduce the tax guarantee lodged; in the case of the alcoholic beverage which is spirit, the customs office may return the relevant difference, taking into account the quantity of the spirit on stock and the stock of unaffixed tax stamps as at the date of request, if the authorised consignee is a recipient of tax stamps, within 15 days of the submission of that tax.

(13) If the authorised consignee repeatedly receiving alcoholic beverage from another Member State under a duty suspension arrangement does not pay the excise duty within the due date stipulated by this Act, the customs office shall use the tax guarantee to pay the excise duty and notify the tax payer to that effect in writing.

(14) The authorised consignee is required to notify the customs office of any change in the data pursuant to paragraph 2 and paragraph 4(a), (c) through (g) within 15 days of its occurrence. The customs office shall verify the data indicated in the notification with the authorised consignee and, taking into account the extent and gravity of the changes, amend the original registration certificate and authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement or issue a new registration certificate and authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement. In the event of issuance of a new registration certificate and authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement to the same authorised consignee, the original registration number remains valid.

(15) The authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement expires

- a) on the date of decease of the authorised consignee or date of entry into force of the court ruling declaring the authorised consignee to be deceased if the authorised consignee is a natural person;
- b) on the date of entry into force of a court decision on bankruptcy or on the dismissal of a petition for bankruptcy due to insufficient assets or the discontinuation of bankruptcy proceedings due to insufficient assets, or on the date when compulsory composition was confirmed or composition permitted;
- c) on the tenth day following the lapse of the time period for increasing the lodged tax guarantee pursuant to paragraph 10(b), if the tax guarantee was not complemented;
- d) on the tenth day following the lapse of the time period for complementing the lodged tax guarantee pursuant to paragraph 11 if the tax guarantee was not complemented;
- e) on the day when the customs office revokes the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement;
- f) on the date of deletion from the Commercial Register or any similar register, or on the date of trade licence cancellation in accordance with the requirements stipulated under separate regulations³⁴), if the person failed to submit an application pursuant to (h);
- g) on the day when the authorised consignee occasionally receiving alcoholic beverage from another Member State under a duty suspension arrangement receives the entire quantity of the alcoholic beverage indicated in its authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement;
- h) on the date of application for deletion from the Commercial Register or another similar register, or on the date of application for cancellation of a trade licence, or on the date of notification of termination of commercial activities;
- i) upon expiry of the period pursuant to paragraph 9.

(16) The customs office shall revoke the authorisation to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement if

- a) the authorised consignee has entered liquidation;
- b) the authorised consignee no longer meets any of the conditions under paragraph 4 and 6;
- c) the authorised consignee violates obligations under this Act and the fine imposed and notices or warnings served by the customs office have not led to rectification;

- d) the authorised consignee applies for the revocation of the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement;
- e) registration was performed and authorisation issued for the operation of a tax warehouse.

(17) The customs office may revoke the authorisation to repeatedly receive alcoholic beverage from another Member State under a duty suspension arrangement if the authorised consignee has not received the alcoholic beverage over a period exceeding 12 consecutive calendar months, taking into account the gravity of the reasons.

(18) Upon the expiry of the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement

- a) the authorised consignee, in the event pursuant to paragraph 15(a) an heir or an estate trustee appointed by the court, shall file a tax return within a deadline stipulated by the customs office and pay the excise duty within the same deadline, if the tax return was not filed and the excise duty paid as of the date of expiration of the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement;
- b) the customs office shall use the lodged tax guarantee to pay the excise duty and reimburse without delay any balance of the tax guarantee to the person whose authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement expired, in the event pursuant to paragraph 15(a) to the heir or an estate trustee appointed by the court;
- c) the customs office shall request the payment of excise duty from a relevant bank, if the tax guarantee is in the form of a bank guarantee;³⁵⁾
- d) the customs office shall cancel the registration number.

(19) The person whose authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement was revoked pursuant to paragraph 16(c) may be granted a new authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement by the customs office not sooner than after five years have lapsed since the entry into force of the decision to revoke the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement; in the case of an affiliated or controlling/controlled person, an authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement may be granted to that person not sooner than after five years have lapsed since the entry into force of the decision issued to the authorised consignee on the revocation of its authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement. If the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement was revoked pursuant to paragraph 17, a new authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement may be granted not sooner than after one year has lapsed since the entry into force of the decision on the revocation of the authorisation to receive alcoholic beverage from another Member State under a duty suspension arrangement.

§20 Registered consignor

(1) The registered consignor in the tax territory is a person authorised to dispatch alcoholic beverage under a duty suspension arrangement upon its release for free circulation.⁴⁾ The registered consignor is also a person in the territory of another Member State authorised under the national legislation of that Member State to dispatch alcoholic beverage upon its release for free circulation⁴⁾ under a duty suspension arrangement. Any person seeking to become a registered consignor in the tax territory must apply to the customs office in writing for registration and for the issuance of an authorisation to dispatch alcoholic beverage under a duty suspension arrangement.

(2) The application for registration and authorisation to dispatch alcoholic beverage under a duty suspension arrangement must contain

- a) identification data of the applicant;
- b) brand name of the alcoholic beverage and the corresponding Combined Nomenclature code;
- c) indication of the anticipated annual volume of the alcoholic beverage dispatched under a duty suspension arrangement, in the appropriate unit of measure;
- d) a list of Member States to which the applicant will dispatch alcoholic beverage under a duty suspension arrangement.

(3) The application shall be annexed with a document proving authorisation to conduct business not older than 30 days, or its certified copy, if the applicant is a legal person without registered office in the tax territory or a natural person without permanent residence in the tax territory.

(4) The applicant must satisfy the following conditions:

- a) it keeps accounting records pursuant to a separate regulation;²¹⁾
- b) it has lodged a tax guarantee pursuant to §19(6);
- c) it has no arrears against the customs office or tax office;

- d) there are no arrears against a customs office or a tax office on behalf of a person controlling/controlled by or affiliated with the applicant or a person that had been controlling/controlled by or affiliated with the applicant during a period of ten years preceding the submission of the application, and no person that was wound up and that would have been considered a person controlling/controlled by or affiliated with the applicant had, during a period of ten years preceding the date of the submission of the application, any tax arrears that had not been settled before the winding up of such that person; this also applies to any tax arrears assigned to third persons pursuant to separate regulations;²²⁾
- e) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- f) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or a natural person who is a member of the applicant's managing or supervisory bodies;
- g) it is not subject to liquidation and no bankruptcy proceedings have been declared against the applicant, no composition permitted, no compulsory composition confirmed or restructuring permitted.

(5) Upon request by the customs office, the applicant shall specify the data included in the application and its annex in more detail.

(6) §19 shall apply accordingly to registration, issuance of the authorisation to dispatch alcoholic beverage under a duty suspension arrangement, tax guarantee, change in data, and revocation and expiry of the authorisation to dispatch alcoholic beverage under a duty suspension arrangement.

§21

Movement of alcoholic beverage under a duty suspension arrangement and exempt from excise duty when the computerised system is unavailable

(1) For the purposes of this Act, the computerised system³⁶⁾ is deemed to be unavailable if the computerised system³⁶⁾ is unavailable on the part of the tax administrator, rendering the preparation, sending and receipt of an electronic document or a report of receipt impossible.

(2) If the computerised system³⁶⁾ is unavailable, the consignor (supplier) is required

a) to notify the customs office of the consignor (supplier) in writing, by phone, fax or by electronic means of the start of the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65; where the notification is made by phone, fax or by electronic means, no written confirmation of notification is required;

b) to prepare an accompanying administrative document in paper form (hereinafter referred to as the "accompanying document") that contains the same data as the electronic document referred to in §17 (4) or §18(2).

(3) If the computerised system³⁶⁾ is unavailable, the consignor (supplier) may only start to move alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 with consent from the customs office of the consignor (supplier). The consent to start moving alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 shall be communicated by the customs office of the consignor (supplier) by fax or by electronic means; no written confirmation of the consent is required.

(4) The alcoholic beverage moved under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 must be accompanied by an accompanying document prepared by the consignor (supplier). The consignor (supplier) shall retain one copy of the accompanying document and another copy of the accompanying document shall be sent, prior to the start of the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65, in writing, by fax or by electronic means to the customs office of the consignor (supplier); if the copy of the accompanying document is sent by fax or by electronic means, no delivery of its paper copy is required.

(5) If the computerised system³⁶⁾ is unavailable during the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65, the consignor (supplier) that lodged the tax guarantee may change the place of receipt of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65, or change the consignee (purchaser), except for the consignee (purchaser) who is a Slovak agent pursuant to §32(15) or the armed forces of the Slovak Republic and their civilian staff, only if the consignor has provided the customs office of the consignor (supplier) with the information pursuant to a separate regulation³⁷⁾ and the customs office consented to that change. The consignor (supplier) shall send the required information in writing, by fax or by electronic means to the customs office of the consignor (supplier); if the notification is made by fax or by electronic means, no delivery of its paper copy is required. After the receipt of the consent provided by the customs office of the consignor (supplier), the consignor (supplier) is required to indicate, on the reverse side of an accompanying document accompanying the moving alcoholic beverage, the new place of receipt of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65, or the new consignee (purchaser).

(6) If the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 ended with an accompanying document or if the computerised system³⁶⁾ is unavailable at the time of receipt of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65, the consignee (purchaser) is required to prepare a report of receipt in paper form (hereinafter referred to as “paper report of receipt”) which must contain the same data as the report of receipt pursuant to §17(8) or §18(7). The paper report of receipt serves as the confirmation of the end of the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 when the computerised system is unavailable.³⁶⁾ The consignee (purchaser) is required to submit the paper report of receipt to the customs office of the consignee (purchaser) which sends a copy of the paper report of receipt to the customs office of the consignor (supplier) or the tax administrator in the Member State of the consignor (supplier). The customs office of the consignor (supplier) is required to send the copy of the paper report of receipt to the consignor (supplier).

(7) Once the computerised system³⁶⁾ becomes available, the consignor (supplier) and consignee (purchaser) are required without delay to proceed in accordance with §17 or §18; they are required to proceed in the same manner if the movement of that alcoholic beverage ended with the computerised system being unavailable.³⁶⁾

(8) If the consignee (purchaser) did not prepare a report of receipt or a paper report of receipt on any other grounds than the unavailability of the computerised system,³⁶⁾ the consignee (purchaser) is required to submit to the customs office of the consignee (purchaser) another evidence of the end of the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 which must contain the same data elements as the report of receipt under §17(8) or §18(7). If the customs office of the consignee (purchaser) accepts that another evidence of the end of the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65, it shall notify this fact to the customs office of the consignor (supplier) or to the tax administrator of the Member State of the consignor (supplier), and end the movement of alcoholic beverage under a duty suspension arrangement or exempt from excise duty pursuant to §40(1), §60(1) or §65 by means of the computerised system.³⁶⁾

(9) The unavailability of the computerised system³⁶⁾ is without prejudice to the obligation to lodge the tax guarantee under this Act.

§22

Irregularities in the movement of alcoholic beverage under a duty suspension arrangement

(1) For the purposes of this Act, an irregularity in the movement of alcoholic beverage under a duty suspension arrangement means such circumstances due to which a movement, or a part of a movement of alcoholic beverage under a duty suspension arrangement, has not ended in accordance with this Act.

(2) For the purposes of this Act, the following situations are not considered an irregularity in the movement of alcoholic beverage under a duty suspension arrangement:

a) if the alcoholic beverage moving under a duty suspension arrangement was irreversibly destroyed due to an accident, emergency situation, unforeseeable circumstances or a force majeure event and if these losses have been acknowledged by the customs office or tax administrator of another Member State based on an official finding and confirmation; or

b) if such losses occurred during the movement of alcoholic beverage under a duty suspension arrangement that can be attributed to natural depletion of alcoholic beverage related to its physical and chemical properties and if these losses have been acknowledged by the customs office or tax administrator of another Member State.

(3) If an irregularity occurs during the movement of alcoholic beverage under a duty suspension arrangement in the tax territory, excise duty shall become chargeable in the tax territory on the day of occurrence of that irregularity.

(4) If, during the movement of alcoholic beverage under a duty suspension arrangement from another Member State to the tax territory, an irregularity has been detected in the tax territory and it is not possible to determine where the irregularity occurred, excise duty shall become chargeable in the tax territory on the day when it was detected.

(5) If excise duty becomes chargeable during the movement of alcoholic beverage under a duty suspension arrangement pursuant to paragraph 3 or paragraph 4 and the tax debtor is a warehouse keeper, registered consignor or person that lodged a tax guarantee in another Member State, the customs office shall notify the tax administrator of the Member State in which the tax guarantee was lodged of the obligation to report and pay excise duty in the tax territory.

(6) If the alcoholic beverage moving under a duty suspension arrangement from the tax territory to the territory of another Member State has not reached its destination and no irregularity has been detected during the movement of the alcoholic beverage under a duty suspension arrangement, excise duty shall become chargeable in the tax territory on the date of dispatch of the alcoholic beverage under a duty suspension arrangement. If the consignor (supplier) of the

alcoholic beverage fails to submit to the customs office, within four months of the date of dispatch of the alcoholic beverage, evidence of the end of its movement, the consignor shall file a tax return and pay excise duty as laid down in paragraph 8; for the purposes of this Act, evidence proving the end of the movement is a report of receipt or paper report of receipt, or an electronic report of export prepared by means of the computerised system³⁶⁾ in a manner laid down in a separate regulation³⁷⁾ (hereinafter referred to as “report of export”), or a report of export in paper form (hereinafter referred to as “paper report of export”), or another evidence proving the end of the movement of the alcoholic beverage under a duty suspension arrangement, or evidence that the irregularity did not occur in the tax territory.

(7) If the person that lodged a tax guarantee in the tax territory was demonstrably not notified of the fact that the alcoholic beverage had not reached its destination, that person may prove to the customs office of the consignor (supplier), within 30 days of the receipt of a notification by the customs office that this fact was detected, the end of the movement of alcoholic beverage under a duty suspension arrangement or the occurrence of an irregularity in another Member State.

(8) When an irregularity has been detected, the tax payer that is a warehouse keeper shall proceed in compliance with §12(2) and calculate the excise duty using the rates applicable on the day when excise duty has become chargeable. The tax payer, with the exception of a warehouse keeper, is required, within five business days of the date when an irregularity was detected, to file a tax return, calculate excise duty using the rates applicable on the date when excise duty becomes chargeable and, within the same deadline, pay excise duty to

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

(9) If, before the lapse of three years from the start of the movement of the alcoholic beverage under a duty suspension arrangement, it is determined that the irregularity during the movement of the alcoholic beverage under a duty suspension arrangement has occurred

- a) in another Member State and the duty was paid in that Member State, the customs office shall reimburse the paid excise duty to the tax payer that paid the excise duty, within 30 days of the date of the submission of a document evidencing the payment of the duty in that another Member State;
- b) in the tax territory during the movement of alcoholic beverage from a tax warehouse in the tax territory to another tax warehouse in the tax territory, and the irregularity made excise duty chargeable and the duty was paid, the customs office shall reimburse the paid excise duty to the tax payer, within 30 days of the date of the submission of a document evidencing the removal of that irregularity.

(10) No tax reimbursement can be claimed from the tax office after three years have lapsed since the start of the movement of alcoholic beverage under a duty suspensions arrangement.

(11) §12 shall apply accordingly to the tax return.

§23

Importation of alcoholic beverage moving under a duty suspension arrangement

(1) For the purposes of this Act, importation of alcoholic beverage means its release for free circulation⁴⁾ in the place of importation. The place of importation is a place where the alcoholic beverage is located at the time of its release for free circulation.⁴⁾ Customs regulations shall apply to excise duty and its administration in the case of importation of alcoholic beverage, unless otherwise provided under §23 through 25.

(2) Upon its release for free circulation⁴⁾, alcohol beverage may be placed under a duty suspension arrangement; the same procedure shall apply as in the case of the movement of alcoholic beverage under a duty suspension arrangement.

(3) The alcoholic beverage which, upon its release for free circulation⁴⁾, has been placed by the importer that is a warehouse keeper or registered consignor (hereinafter referred to as “importer”) under a duty suspension arrangement, must without delay be placed in a tax warehouse in the tax territory or dispatched by the importer to a warehouse keeper or authorised consignee in the territory of another Member State. The importer is required to present to the customs office which releases the alcoholic beverage for free circulation⁴⁾ the authorisation to operate a tax warehouse or authorisation to dispatch alcoholic beverage under a duty suspension arrangement, and the confirmation of the customs office of the amount of a tax guarantee lodged, attributed to the quantity of moving alcoholic beverage. No tax guarantee is required to be lodged if the tax guarantee pursuant to §16(3) covers the tax guarantee for the alcoholic beverage to be moved under a duty suspension arrangement.

(4) In the case of importation of alcoholic beverage for purposes exempt from excise duty pursuant to §40(1), §60(1) or §65 the user enterprise is required to present to the customs office which releases the alcoholic beverage for free circulation⁴⁾ a removal order and confirmation of the customs office of the amount of the tax guarantee lodged,

attributed to the quantity of moving alcoholic beverage. Upon its receipt, the alcoholic beverage must without delay be placed in the warehouse of the user enterprise.

§24

Exportation of alcoholic beverage moving under a duty suspension arrangement

(1) For the purposes of this Act, export of alcoholic beverage means its placement under the export procedure⁴⁰⁾ and its movement to the place of exit. For the purposes of this Act, the place of exit means a place in which the movement of alcoholic beverage under a duty suspension arrangement ended and the alcoholic beverage left the territory of the European Union. The alcoholic beverage placed under the export procedure⁴⁰⁾ may only be moved under a duty suspension arrangement to the place of exit by the exporter that is a warehouse keeper or registered consignor (hereinafter referred to as “exporter”).

(2) The alcoholic beverage under a duty suspension arrangement may only be exported under cover of an electronic document, unless otherwise provided under §25. The exporter shall prepare a draft electronic document and send it to the customs office of export⁴¹⁾ in the tax territory. The draft electronic document, as well as any changes made by means of the computerised system³⁶⁾ must be affixed with a qualified electronic signature³⁸⁾, unless otherwise agreed between the exporter and the customs office of export⁴¹⁾. The customs office of export⁴¹⁾ in the tax territory shall electronically verify the data in the draft electronic document and, if correct, assign a reference code to the draft electronic document and, at the same time, send the electronic document containing the assigned reference code to the exporter and the customs office of exit⁴²⁾ in the tax territory. If the data specified in the draft electronic document are incorrect, the customs office of export⁴¹⁾ in the tax territory shall immediately notify the sender of the draft electronic document to that effect. Exportation of alcoholic beverage under a duty suspension arrangement may only start after the reference code has been assigned. Exportation of alcoholic beverage under a duty suspension arrangement must be accompanied by a paper document containing the reference code.

(3) The exporter may cancel the electronic document if the accepted customs declaration under which alcoholic beverage was proposed to be placed under the export procedure⁴⁰⁾ was cancelled pursuant to a separate regulation.⁴³⁾

(4) During the exportation of alcoholic beverage under a duty suspension arrangement, the exporter that lodged a tax guarantee may change the place of exit of the alcoholic beverage by means of the computerised system³⁶⁾ in a manner laid down in a separate regulation.³⁷⁾

(5) The customs office of exit⁴²⁾ in the tax territory shall prepare, by means of the computerised system³⁶⁾, an electronic confirmation that the alcoholic beverage left the territory of the European Union (hereinafter referred to as “confirmation of exit”) and send it to the customs office of export⁴¹⁾ in the tax territory. The customs office of export⁴¹⁾ in the tax territory shall electronically verify the data in the confirmation of exit and prepare a report of export to be sent to the exporter; the report of export confirms that the exportation of alcoholic beverage under a duty suspension arrangement ended and the alcoholic beverage left the territory of the European Union.

(6) If the customs office of export⁴¹⁾ in the tax territory is also the customs office of exit⁴²⁾ in the tax territory, the customs office shall prepare a report of export and send it to the exporter; no confirmation of exit is required.

(7) If the place of export is located in another Member State and the place of exit is in the tax territory, the customs office of exit⁴²⁾ in the tax territory shall prepare a confirmation of exit and send it to the tax administrator of the Member State of export by electronic means.

(8) If the place of export is located in the tax territory and the place of exit is in another Member State, the customs office of export⁴¹⁾ in the tax territory shall send an electronic document to the customs office of exit⁴²⁾ in that another Member State. After the receipt of the confirmation of exit prepared by the customs office of exit⁴²⁾ in another Member State, the customs office of export⁴¹⁾ in the tax territory shall electronically verify the data specified in the confirmation of exit, prepare a report of export and send it to the exporter.

(9) The provision of §18(10) and (11) shall apply accordingly to the lodging of a tax guarantee for the exportation of alcoholic beverage under a duty suspension arrangement. The tax guarantee lodged shall be reimbursed by the customs office of export⁴¹⁾ to the person that lodged the tax guarantee immediately after registration of the report of export, unless otherwise agreed by the customs office of export⁴¹⁾ and the person that lodged the tax guarantee.

§25

Exportation of alcoholic beverage moving under a duty suspension arrangement when the computerised system is unavailable

(1) If the computerised system³⁶⁾ is unavailable as described in §21, the exporter is required

- a) to notify the customs office of export⁴¹⁾ in writing, by phone, fax or by electronic means of the start of the exportation of alcoholic beverage under a duty suspension arrangement; where the notification is made by phone, fax or by electronic means, no written confirmation of notification is required;
- b) to prepare an accompanying document pursuant to §21.

(2) The exporter may only start moving alcoholic beverage under a duty suspension arrangement for export purposes pursuant to paragraph 1 with the consent from the customs office of export.⁴¹⁾ The consent to start moving alcoholic beverage under a duty suspension arrangement for export purposes shall be communicated by the customs office of export⁴¹⁾ by fax or by electronic means; no written confirmation of the consent is required.

(3) Alcoholic beverage moving under a duty suspension arrangement for export purposes must be accompanied by an accompanying document prepared by the exporter. The exporter shall retain one copy of the accompanying document and another copy of the accompanying document shall be sent, prior to the start of the movement, in writing, by fax or by electronic means to the customs office of export;⁴¹⁾ if the copy of the accompanying document is sent by fax or by electronic means, no delivery of its paper copy is required.

(4) If the computerised system³⁶⁾ is unavailable during the movement of alcoholic beverage under a duty suspension arrangement for export purposes as described in §21, the exporter that lodged a tax guarantee may only change the place of exit, if it had provided the customs office of export⁴⁰⁾ with the information pursuant to a separate regulation⁴⁰⁾ and the customs office consented to that change. The exporter shall send the required information in writing, by fax or by electronic means to the customs office of export;⁴¹⁾ if the notification is made by fax or by electronic means, no delivery of its paper copy is required. After the receipt of the consent provided by the customs office of export⁴¹⁾, the exporter is required to indicate the new place of exit on the reverse side of an accompanying document to the moving alcoholic beverage.

(5) If the movement of alcoholic beverage under a duty suspension arrangement for export purposes ended with an accompanying document in the tax territory, or if the computerised system³⁶⁾ is unavailable at the time when the alcoholic beverage left the territory of the European Union in the tax territory, the customs office of exit⁴²⁾ in the tax territory is required to prepare a confirmation of exit in paper form (hereinafter referred to as “paper confirmation of exit”) which must contain the same data as the confirmation of exit referred to in §24(5). The customs office of exit⁴²⁾ in the tax territory shall send the paper confirmation of exit to the customs office of export⁴¹⁾ in the tax territory or to the tax administrator of the Member State of the exporter, unless the alcoholic beverage was placed under the export procedure⁴⁰⁾ in the tax territory. The paper confirmation of exit represents a document evidencing that the alcoholic beverage left the territory of the European Union. On the basis of the paper confirmation of exit, the customs office of export⁴¹⁾ in the tax territory shall prepare a written report of export to be sent to the exporter.

(6) Once the computerised system³⁶⁾ becomes available, the exporter, the customs office of export⁴⁰⁾ and the customs office of exit⁴²⁾ are required to immediately proceed in compliance with §24(2); they are required to proceed in the same manner if the movement of alcoholic beverage under a duty suspension arrangement for export purposes ended while the computerised system was unavailable.³⁶⁾

(7) If the customs office of export⁴¹⁾ did not prepare the report of export pursuant to §24(5) on any other grounds than the unavailability of the computerised system,³⁶⁾ the exporter is required to submit to the customs office of export⁴¹⁾ another evidence of the end of the movement of alcoholic beverage under a duty suspension arrangement for export purposes, which must contain the same data as those specified in the report of export under §24(5). If the customs office of export⁴¹⁾ in the tax territory accepts that another evidence of the end of the movement of alcoholic beverage under a duty suspension arrangement for export purposes, it shall notify this fact to the exporter and end the movement of alcoholic beverage under a duty suspension arrangement for export purposes by means of the computerised system.³⁶⁾

§26

Movement of alcoholic beverage outside a duty suspension arrangement for commercial purposes

(1) If the alcoholic beverage released for free circulation in another Member State is moved to the tax territory for commercial purposes, excise duty becomes chargeable in the tax territory on the date of receipt of the alcoholic beverage in the tax territory; for the purposes of this Act, alcoholic beverage intended for commercial purposes means its delivery for any other purposes than private purposes referred to in §28(1). The tax payer is the person who is a consignee (purchaser) of that alcoholic beverage.

(2) Prior to the receipt of the alcoholic beverage pursuant to paragraph 1, the consignee (purchaser) is required a) to submit to the customs office, in writing, its identification data, quantity, brand name and the corresponding Combined Nomenclature code of the alcoholic beverage it intends to receive, and identification data of the supplier of that alcoholic beverage;

- b) to lodge a tax guarantee in the amount of the excise duty attributed to the quantity of the alcoholic beverage to be received; §16 shall apply accordingly to the tax guarantee;
- c) to be registered pursuant to §52(2) and proceed in compliance with §53, if seeking to receive spirit in a consumer package;
- d) to provide the address of its establishment, if different from the registered office or permanent residence of the applicant, where it will store and mark the consumer package with a tax stamp.

(3) When the excise duty become chargeable, the tax payer is required to submit a tax return to the customs office not later than within three business days following the day on which the excise duty became chargeable and pay the duty within the same deadline, with the exception of taxable entities that submit tax returns pursuant to §12(2). §12 shall apply accordingly to the tax return.

(4) Upon agreement with the customs office, the excise duty may be paid using the tax guarantee lodged; §70(1)(w) shall not apply; this is without prejudice to the obligation to pay any difference incurred from the use of the tax guarantee.

(5) If, during the movement of alcoholic beverage for commercial purposes pursuant to paragraph 1, the alcoholic beverage was irreversibly destroyed due to an accident, emergency situation or a force majeure event, or if losses occurred on the alcoholic beverage during its movement that can be attributed to natural depletion of alcoholic beverage related to its physical and chemical properties, and these losses or irreversible destruction of the alcoholic beverage have been acknowledged by the customs office or tax administrator of another Member State based on an official finding and confirmation, the portion of excise duty attributed to the quantity of the alcoholic beverage acknowledged as lost or irreversibly destroyed shall not be charged. The customs office shall reimburse to the consignee (purchaser) of alcoholic beverage, upon request, a portion of the tax guarantee lodged pursuant to paragraph 2 attributed to the quantity of the alcoholic beverage acknowledged by the customs office or the tax administrator of another Member State as lost or irreversibly destroyed.

(6) If no excise duty becomes chargeable pursuant to paragraph 1, excise duty shall become chargeable on the day when the alcoholic beverage was moved to the tax territory, or on the day of its use in the tax territory, if the day of its movement to the tax territory is unknown. The tax payer is a person that was the first to hold or use the alcoholic beverage upon its movement to the tax territory. The tax payer is required, within five business days following the day on which the excise duty becomes chargeable, to file a tax return and pay the excise duty, using the rates applicable on the date of the movement or use of the alcoholic beverage, to

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

(7) If the alcoholic beverage released for free circulation in the tax territory is to be moved to another Member State for commercial purposes, the consignor (supplier) must prepare a simplified accompanying document and proceed in compliance with §27.

(8) Prior to making the delivery, the consignor (supplier) of alcoholic beverage is required to submit a written notification to the customs office, containing its identification data, the quantity, brand name and the corresponding Combined Nomenclature code of the alcoholic beverage intended for delivery, and the identification data of the consignee (purchaser) of that alcoholic beverage; §13 shall apply accordingly to tax reimbursement.

(9) If the alcoholic beverage released for free circulation in the tax territory is moved to the tax territory through another Member State, the consignor (supplier) of alcoholic beverage must provide the customs office with the information referred to in paragraph 2, prepare a simplified accompanying document, and proceed in compliance with §27.

(10) Alcoholic beverage released for free circulation in the tax territory that is moved into another Member State for commercial purposes or alcoholic beverage released for free circulation in another Member State that is moved to the tax territory for commercial purposes shall be deemed alcoholic beverages delivered for commercial purposes upon the day of its receipt by the consignee (purchaser) of alcoholic beverage, if it is moved under cover of a simplified accompanying document.

(11) Alcoholic beverage released for free circulation in the tax territory or in the territory of another Member State, supplied on board of aircrafts or ships travelling to the tax territory or to the territory of another Member State, which is not offered for sale in the tax territory, shall not be considered, for the purposes of this Act, alcoholic beverages intended for commercial purposes in the tax territory.

(12) Generally denatured spirit produced in the tax territory or moved to the tax territory from the territory of another Member State is also considered alcoholic beverages which are spirit, released for free circulation. Upon the

movement of the generally denatured spirit to another Member State for commercial purposes the consignor (supplier) must prepare a simplified accompanying document and proceed in compliance with §27. No tax guarantee is required for the movement of generally denatured spirit.

(13) If the purchaser of alcoholic beverage that is an authorised consignee seeks to move the alcoholic beverage released for consumption in the tax territory for the purposes of complaint procedure to the supplier of that alcoholic beverage that is a warehouse keeper in another Member State, the alcoholic beverage may only be moved under cover of a simplified accompanying document. The authorised consignee is required to indicate the precise number of tax stamps and their identification numbers in the simplified accompanying document, if the alcoholic beverage which is spirit subject to a complaint procedure was included in the consumer package and moved, for the purposes of complaint procedure, to the territory of another Member State marked with a tax stamp. The authorised consignee shall apply for duty reimbursement in compliance with §13; no confirmation by the tax administrator of another Member State of the payment of the duty in that Member State is required.

§27

Simplified accompanying document

(1) A person that supplies, as part of its commercial activities, alcoholic beverage released for free circulation in the tax territory to another Member State for commercial purposes is required to prepare a simplified accompanying document in the form and manner specified in a separate regulation.⁴⁴⁾ The simplified accompanying document shall be drawn up in three copies. Copy 1 shall be retained by the consignor (supplier), copy 2 and 3 shall accompany the moving alcoholic beverage. If the consignor (supplier) requests a confirmation of the receipt of the alcoholic beverage by the purchaser for tax reimbursement purposes, it shall state this requirement in the respective part of the simplified accompanying document and simultaneously request a confirmation from the tax administrator in another Member State that the duty was paid by the purchaser.

(2) If the alcoholic beverage released for free circulation in another Member State is moving to the tax territory for commercial purposes, it must be moved along with copy 2 and 3 of the simplified accompanying document. The purchaser shall retain copy 2. The purchaser shall confirm the receipt of the alcoholic beverage in the respective part of copy 3 of the simplified accompanying document, which shall then be immediately sent to the consignor (supplier). If the consignor (supplier) so requires, the consignee (purchaser) shall also send to the consignor (supplier) a confirmation of the payment of the duty which must contain the address of the customs office, the date and manner of the payment of the duty either by lodging a tax guarantee or direct payment of the duty.

(3) Any other document shall also be deemed to be a simplified accompanying document if it contains the same data elements as the simplified accompanying document; such a document must be designated as the “Simplified accompanying document (excise goods) for fiscal control purposes”.

(4) The simplified accompanying document shall be used for the movement of alcoholic beverage

- a) released for free circulation moving from one place in the tax territory to another place in the tax territory if the alcoholic beverage is moving through the territory of one or several Member States;
- b) which is generally denatured spirit supplied for commercial purposes in the tax territory;
- c) which is wine, if moved by a small wine producer to the territory of another Member State and the national legislation of that Member State requires that the wine produced by a small wine producer be moved under cover of a simplified accompanying document.

§28

Movement of alcoholic beverage outside a duty suspension arrangement into the tax territory for private purposes

(1) If a natural person has acquired, for its own consumption (hereinafter referred to as “private purposes”), alcoholic beverages released for free circulation in another Member State and that person alone moves them to the tax territory, no excise duty is charged on the alcoholic beverage so acquired in the tax territory.

(2) If the alcoholic beverage referred to in paragraph 1 is used for other than private purposes, excise duty becomes chargeable in the tax territory on the date of such use of that alcoholic beverage. The tax payer is a natural person who moved the alcoholic beverage to the tax territory and is required to file a tax return not later than three business days following the day on which the duty became chargeable and pay the duty within the same deadline; §12 shall apply accordingly to the tax return.

(3) In the assessment of whether the alcoholic beverage is intended for private purposes pursuant to paragraph 1 or for commercial purposes pursuant to §26, the following shall be taken into consideration

- a) the reason for acquiring or holding the alcoholic beverage and the scope of activities of the natural person, if this person is an entrepreneur;
- b) the place where the alcoholic beverage is located or the manner in which the alcoholic beverage was moved;

- c) documents on the acquisition of the alcoholic beverage;
- d) the brand name and quantity of the alcoholic beverage; the quantity of the alcoholic beverage thus moving is, in the case of
 - 1. spirit, at least 10 litres and more;
 - 2. beer, at least 110 litres;
 - 3. wine, at least 90 litres (including not more than 60 litres of sparkling wine or a sparkling fermented beverage);
 - 4. intermediate product, at least 20 litres.

§29
Distance selling

(1) For the purposes of this Act, distance selling means the delivery of alcoholic beverage by a person that, as part of its commercial activities, supplies alcoholic beverage released for free circulation in another Member State where it has its registered office or permanent residence and place of business, either on its own or through another person, to the tax territory for private purposes to a purchaser that is not

- a) a warehouse keeper pursuant to this Act;
- b) an authorised consignee pursuant to this Act.

(2) Excise duty becomes chargeable in the tax territory upon delivery of the alcoholic beverage to the tax territory; the delivery means the date of receipt of that alcoholic beverage by the purchaser. The consignor (supplier) shall be the tax payer.

(3) Distance selling may only be performed if, prior to the delivery, the consignor (supplier) provides the following to the competent customs office of the purchaser referred to in paragraph 1:

- a) its identification data, in writing;
- b) identification data of the purchaser, brand name, Combined Nomenclature code of the alcoholic beverage and the quantity of the alcoholic beverage, in the appropriate unit of measure, to be dispatched (supplied), in writing;
- c) a tax guarantee in the amount of the excise duty attributed to the quantity of the alcoholic beverage to be dispatched (supplied).

(4) When the excise duty becomes chargeable, the tax payer referred to in paragraph 2 is required to calculate the duty using the rates applicable on the date of receipt of the alcoholic beverage, file a tax return to the customs office competent for the purchaser not later than three business days following the day on which the excise duty became chargeable and pay the duty within the same deadline. §12 shall apply accordingly to the tax return. If distance selling is performed repeatedly, the customs office may, upon request of the consignor (supplier) or authorised representative for distance selling, consent to including deliveries made in a single tax period in a single tax return; in that case, the tax payer shall file the tax return and pay the duty on the 25th day following the end of the tax period.

(5) Upon agreement with the customs office, the excise duty pursuant to paragraph 4 may be paid using the tax guarantee lodged; §70(1)(w) shall not apply; this is without prejudice to the obligation to pay any difference incurred from the use of the tax guarantee.

(6) Upon request of the consignor (supplier), the customs office may allow an authorised representative for distance selling to perform the obligations in relation to the customs office. Only a person with registered office or permanent residence in the tax territory who shall not be identical with the purchaser and who meets the requirements under §15(4)(a), (c), (e), (g) and (h) may be an authorised representative for distance selling.

(7) The application for authorisation to be represented by an authorised representative for distance selling shall be submitted to the customs office competent for the authorised representative for distance selling. The application must contain the identification data of the consignor (supplier), the identification data of the authorised representative for distance selling, the brand name and the quantity of the alcoholic beverage supplied. The application shall be accompanied by documents confirming the authenticity of the data presented in the application and a power of attorney with an officially authenticated signature and a declaration of the authorised representative for distance selling with an officially authenticated signature stating that it agrees to represent the consignor (supplier).

(8) Upon request of the consignor (supplier) or its authorised representative for distance selling, the customs office shall provide a confirmation of the payment of excise duty to the consignor (supplier) for tax reimbursement purposes. §13 shall apply accordingly to tax reimbursement.

(9) The customs office shall revoke the authorisation to be represented by an authorised representative if

- a) the authorised representative has not provided deliveries of the alcoholic beverage for a period exceeding 12 consecutive calendar months;
- b) the authorised representative violates obligations under this Act;

c) or if so requested by the supplier from another Member State on whose behalf the authorised representative for distance selling provides deliveries of the alcoholic beverage.

(10) If a person with its registered office in the tax territory seeks to dispatch alcoholic beverage released for free circulation in the tax territory to another Member State, it is required to notify the customs office of this fact in writing. The notification shall contain the brand name and quantity of the alcoholic beverage to be dispatched, the name and address of the purchaser, and the day on which that alcoholic beverage is to be dispatched. If tax reimbursement is claimed, the application for tax reimbursement shall be accompanied by a confirmation of payment of the excise duty in a Member State of destination.

(11) If, during the delivery of alcoholic beverage pursuant to paragraph 1, the alcoholic beverage was irreversibly destroyed due to an accident, emergency situation or a force majeure event, or if losses occurred on the alcoholic beverage during its movement that can be attributed to natural depletion of alcoholic beverage related to its physical and chemical properties, and these losses or irreversible destruction of the alcoholic beverage have been acknowledged by the customs office or tax administrator of another Member State based on an official finding and confirmation, the portion of excise duty attributed to the quantity of the alcoholic beverage acknowledged as lost or irreversibly destroyed shall not be charged. The customs office shall reimburse to the consignor (supplier) of alcoholic beverage, upon request, a portion of the tax guarantee lodged pursuant to paragraph 3 attributed to the quantity of the alcoholic beverage acknowledged by the customs office or the tax administrator of another Member State as lost or irreversibly destroyed.

§30

Irregularities in the movement of alcoholic beverage outside a duty suspension arrangement for commercial purposes or in distance selling

(1) For the purposes of this Act, an irregularity in the movement of alcoholic beverage under §26 or §29 means such circumstances due to which a movement, or a part of a movement of alcoholic beverage released for free circulation, has not ended in accordance with this Act.

(2) For the purposes of this Act, the following situations are not considered an irregularity in the movement of alcoholic beverage released for free circulation:

- a) if alcoholic beverage released for free circulation was irreversibly destroyed during the movement due to an accident, emergency situation or a force majeure event and if these losses have been acknowledged by the customs office or tax administrator of another Member State based on an official finding and confirmation; or
- b) if such losses occurred during the movement of alcoholic beverage released for free circulation that can be attributed to natural depletion of alcoholic beverage related to its physical and chemical properties and if these losses have been acknowledged by the customs office or tax administrator of another Member State.

(3) If an irregularity occurs in the tax territory during the movement of the alcoholic beverage released for free circulation in another Member State, excise duty shall become chargeable in the tax territory on the day of occurrence of that irregularity.

(4) If an irregularity is detected during the movement of the alcoholic beverage released for free circulation in another Member State and it is not possible to determine where the irregularity occurred, excise duty shall become chargeable in the tax territory on the day when the irregularity was detected in the tax territory.

(5) If, before the lapse of three years from the occurrence of an irregularity pursuant to paragraph 4, it is determined that the irregularity during the movement of the alcoholic beverage released for free circulation in another Member State has occurred in that another Member State and excise duty was paid in that Member State, the customs office shall reimburse the excise duty paid in the tax territory to the tax payer, within 30 days of the submission of a document evidencing the payment of the duty in that another Member State. No tax reimbursement can be claimed from the customs office after three years have lapsed from the day of occurrence of the irregularity pursuant to paragraph 4.

(6) The tax payer is a consignee (purchaser) of alcoholic beverage that lodged the tax guarantee pursuant to §26(2)(b), or a consignor (supplier) of alcoholic beverage that lodged the tax guarantee pursuant to §29(3)(c).

(7) If, during the movement of alcoholic beverage released for free circulation, no irregularity has been detected in the tax territory, the customs office shall reimburse the tax guarantee to the consignee (purchaser) of alcoholic beverage or to the consignor (supplier) of alcoholic beverage that lodged the tax guarantee in the tax territory and proved that the irregularity had not occurred in the tax territory.

(8) If, during the movement of the alcoholic beverage released for free circulation in the tax territory, an irregularity occurs in another Member State, or the irregularity is detected to have occurred in another Member State, and excise duty was paid in that Member State, the customs office shall reimburse the excise duty paid on the alcoholic beverage

for which the excise duty was demonstrably charged in the tax territory, to the person that paid the excise duty within 30 days of the submission of a document evidencing the payment of the excise duty in that another Member State.

(9) If excise duty became chargeable pursuant to paragraph 3 or 4, the tax payer is required, within five business days of the day when the excise duty became chargeable, to file a tax return, calculate the excise duty using the rates applicable on the day when the excise duty became chargeable, and pay the excise duty within the same deadline to

a) the customs office, if the tax payer has its registered office or permanent residence in the tax territory;
b) the Bratislava Customs Office, if the tax payer does not have its registered office or permanent residence in the tax territory

(10) §12 shall apply accordingly to the tax return.

§31

Special provisions on duty suspension and duty exemption

(1) Alcoholic beverages sold in the transit area of international airports and on board of aircraft exclusively to natural persons who will immediately depart the territory of the European Union or depart the territory of the European Union with a stopover in another Member State, if during the stopover passengers are prevented from leaving the transit area, shall be exempted from excise duty.

(2) Alcoholic beverages exempt from excise duty may only be sold to the persons referred to in paragraph 1 subject to verification that their immediate destination airport is in a third country. Any person selling such alcoholic beverages is required to ensure that the document of sale includes the name and surname of the natural person, the flight number, the buyer's destination airport, brand name and price of the alcoholic beverage.

(3) Alcoholic beverages supplied on board of aircraft and intended exclusively for consumption by passengers during the flight are also exempt from excise duty.

(4) Natural persons whose immediate destination airport is in another Member State may be sold alcoholic beverages only for the price including excise duty. Any person selling such alcoholic beverages is required to ensure that the document of sale includes the name and surname of the natural person, the flight number, the buyer's destination airport, brand name and price of the alcoholic beverage.

(5) Any person seeking to sell alcoholic beverages exempt from excise duty in the transit area of international airports and on board of aircraft, or to supply aircraft with alcoholic beverages, is required to apply to the customs office, in writing, for an authorisation to operate a tax warehouse in the transit area of international airports and on board of aircraft (hereinafter referred to as "transit tax warehouse"). §15 shall apply accordingly to the application for an authorisation to operate a transit tax warehouse and to the authorisation to operate a transit tax warehouse.

(6) Prior to issuing the authorisation to operate a transit tax warehouse, the person referred to in paragraph 5 is required to lodge a tax guarantee amounting to the excise duty attributed to the average monthly quantity of alcoholic beverages sold or alcoholic beverages supplied on board of aircraft. §16 shall apply accordingly to the lodging of the tax guarantee.

(7) The customs office may specify the requirements for the operation of a transit tax warehouse in the authorisation to operate that transit tax warehouse.

(8) Alcoholic beverages are moved to the person to whom the customs office issued an authorisation to operate a transit tax warehouse (hereinafter referred to as the "transit tax warehouse keeper") under a duty suspension arrangement; §§ 17 and 18 apply accordingly to the movement of alcoholic beverage under a duty suspension arrangement.

(9) The transit tax warehouse keeper is required to keep records of

- a) alcoholic beverages received;
- b) alcoholic beverages sold, disaggregated by alcoholic beverage sold
 1. exempt from excise duty;
 2. including excise duty;
- c) stock of alcoholic beverages.

(10) §34(2) and (3) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 9.

(11) §15(8) through (11) shall apply accordingly to the expiry of the authorisation to operate a transit tax warehouse.

(12) If the alcoholic beverage on stock, which is wine or beer, is not sold, or if the *use by* period for such beer or wine is about to expiry, the transit tax warehouse keeper may only release such beer or wine for free circulation in the tax territory subject to written consent from the customs office.

The excise duty shall become chargeable on the transit tax warehouse keeper on the day of release of wine or beer for free circulation within the tax territory; §12 shall apply to the tax return and excise duty maturity.

Special provisions on the sale of alcoholic beverage exempt from excise duty to persons from other states who enjoy privileges and immunities under international treaties

§32

(1) Alcoholic beverages sold in a tax warehouse designed for the sale of alcoholic beverages exempt from excise duty to persons from other states who enjoy privileges and immunities under an international treaty, i.e., alcoholic beverages sold exclusively to persons from other states who enjoy privileges and immunities under an international treaty⁴⁵ (hereinafter referred to as “foreign agent”), are exempt from excise duty.

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

a) a diplomatic mission and consular office seated in the territory of the Slovak Republic, with the exception of a consular office headed by an honorary consul (hereinafter referred to as “diplomatic mission, consular office”);

b) an international organisation and its regional office (hereinafter referred to as “international organisation”) seated in the territory of the Slovak Republic, which has been established pursuant to an international treaty;⁴⁵)

c) a diplomatic representative of a mission who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic (hereinafter referred to as “diplomatic representative”);

d) a consular officer who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic, with the exception of an honorary consular officer, (hereinafter referred to as “consular officer”);

e) a member of the administrative staff and technical staff of a mission who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic (hereinafter referred to as “administrative and technical staff member”);

f) a consular staff member 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 a staff member of a consular office headed by an honorary consul, (hereinafter referred to as “consular staff member”);

g) an international organisation official 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 execute official duties in the Slovak Republic (hereinafter referred to as “international organisation official”).

(3) Any person that seeks to sell alcoholic beverages exempt from excise duty to foreign agents must apply in writing to the customs office for registration and authorisation to operate a tax warehouse for the sale of alcoholic beverages exempt from excise duty to foreign agents (hereinafter referred to as “tax warehouse for foreign agents”). §15 shall apply accordingly to the application for registration and authorisation to operate a tax warehouse for foreign agents; the customs office which issued the authorisation to operate a tax warehouse for foreign agents shall notify the Bratislava Customs Office of this fact without delay.

(4) Prior to the issuance of the authorisation to operate a tax warehouse for foreign agents, the person referred to in paragraph 3 is required to lodge a tax guarantee amounting to the excise duty attributed to the average monthly quantity of alcoholic beverages sold. §16 shall apply accordingly to the lodging of the tax guarantee.

(5) The customs office may specify the operational and technical requirements for the operation of a tax warehouse for foreign agents in the authorisation to operate that warehouse.

(6) Alcoholic beverages shall be moved to a person to whom the customs office issued an authorisation to operate a tax warehouse for foreign agents (hereinafter referred to as the “keeper of the tax warehouse for foreign agents”) under a duty suspension arrangement under cover of an electronic document; §17 and 18 shall apply accordingly to the movement of alcoholic beverage under a duty suspension arrangement.

(7) A foreign agent that seeks to purchase alcoholic beverages exempt from excise duty in a tax warehouse for foreign agents is required to apply to the Ministry of Foreign Affairs of the Slovak Republic for confirmation of the status of a foreign agent pursuant to paragraph 2 and of the fulfilment of the condition of reciprocity under paragraph 15. If the data specified in the confirmation by the Ministry of Foreign Affairs of the Slovak Republic changes, the Ministry of Foreign Affairs of the Slovak Republic shall notify the Bratislava Customs Office of this change without delay. The specimen confirmation issued by the Ministry of Foreign Affairs of the Slovak Republic concerning the status of a foreign agent and the fulfilment of the condition of reciprocity is included in Annex 1.

(8) Alcoholic beverages exempt from excise duty may be sold in the tax warehouse for foreign agents solely to foreign agents, and only on the basis of an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents. A foreign agent must apply in writing to the Bratislava Customs Office for an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents. The applicant shall attach the confirmation referred to in paragraph 7 to the application for an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents.

(9) The Bratislava Customs Office shall issue an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents within 15 days from the date of application for an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents; the application shall include identification data of the applicant, his status pursuant to paragraph 2 and the annual limit for the purchase of alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents, falling within the limits specified in paragraphs 12 through 14. A write-off sheet, issued for individual calendar years, shall be attached to the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents. If the facts and data pursuant to paragraph 7 change, the Bratislava Customs Office shall amend, taking into account the scope and gravity of changes, the original authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents or issue a new authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents. If the entitlement of the foreign agent to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents expires, the foreign agent is required to return to the Bratislava Customs Office the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents, including the write-off sheet, not later than within 15 days from the day on which that entitlement expired.

(10) The Bratislava Customs Office shall issue an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents, including the write-off sheet, in two copies; one copy to be retained by the Bratislava Customs Office and the other by the foreign agent. The Bratislava Customs Office shall specify the annual limit for the purchase of alcoholic beverage exempt from excise duty in the tax warehouse for foreign agent on the write-off sheet, within the limits specified in paragraphs 12 through 14, or its proportionate share corresponding to the length of the period remaining up to the end of the calendar year, if the person from other state acquired the status of a foreign agent in the course of the calendar year. The calculation of the proportionate share of the annual limit shall take into consideration the number of calendar months remaining until the end of the calendar year, including the calendar months already started. The unused limit or its part may not be carried over to the following calendar year. The foreign agent shall submit the write-off sheet for the respective calendar year to the Bratislava Customs Office by 31 January of the subsequent calendar year. The Bratislava Customs Office shall issue the write-off sheet once a year for the following calendar year upon request of the foreign agent.

(11) The foreign agent is required to present the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents and the write-off sheet at each purchase of alcoholic beverages in the tax warehouse for foreign agents. The keeper of a tax warehouse for foreign agents shall record the quantity of alcoholic beverages purchased on the write-off sheet and retain a copy of the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents and a copy of the write-off sheet.

(12) The foreign agent referred to in paragraph 2(a) and (b) may purchase, per calendar year, alcoholic beverages which are

- a) spirit falling within Combined Nomenclature code 2208 in the maximum quantity of 400 litres of spirit;
- b) wine in the maximum quantity of 2,000 litres of wine and intermediate product; still wine is not counted towards the limit;
- c) beer in the maximum quantity of 2,000 litres of beer.

(13) The foreign agent referred to in paragraph 2(c) through (f) may purchase alcoholic beverages for personal consumption in the following maximum amounts per calendar year:

- a) head of mission - 150 litres of spirit falling within Combined Nomenclature code 2208, 500 litres of beer and 500 litres of wine and intermediate product; still wine is not counted towards the limit;
- b) head of consular office - 150 litres of spirit falling within Combined Nomenclature code 2208, 500 litres of beer and 500 litres of wine and intermediate product; still wine is not counted towards the limit;
- c) a diplomatic staff member - 70 litres of spirit falling within Combined Nomenclature code 2208, 200 litres of beer and 500 litres of wine and intermediate product; still wine is not counted towards the limit;
- d) an administrative and technical staff member - 40 litres of spirit falling within Combined Nomenclature code 2208, 100 litres of beer and 500 litres of wine and intermediate product; still wine is not counted towards the limit.

(14) Foreign agents referred to in paragraph 2(g) may purchase for their personal consumption not more than 40 litres of spirit falling within Combined Nomenclature code 2208, 200 litres of beer and 500 litres of wine and intermediate product per calendar year. Still wine is not counted towards the limit.

(15) The Bratislava Customs Office shall only issue the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents within the limits specified in paragraph 12 through 14 to foreign agents of those states which provide similar advantages or refund the excise duty to the citizens of the Slovak Republic who enjoy privileges and immunities under an international treaty⁴⁵) (hereinafter referred to as “Slovak agent”). The condition of reciprocity does not apply to international organisations and their officials.

(16) If another state does not provide a similar advantage or does not refund the excise duty to the Slovak agents pursuant to paragraph 15, no excise duty exemption shall be provided to the foreign agents of that state.

(17) The warehouse keeper which was granted the authorisation to operate a tax warehouse pursuant to §15 and which seeks to sell alcoholic beverages exempt from excise duty to foreign agents must apply, in writing, to the customs office for an authorisation to operate a tax warehouse for foreign agents. The applicant shall include data pursuant to §15(1) in the application for an authorization to operate a tax warehouse for foreign agents. Prior to the issuance of the authorisation to operate a tax warehouse for foreign agents, the warehouse keeper is required to lodge a tax guarantee in the amount of the excise duty attributed to the expected average monthly quantity of alcoholic beverages sold in the tax warehouse for foreign agents. No tax guarantee is required to be lodged for alcoholic beverages sold in the tax warehouse for foreign agents if the tax guarantee under §16(3) has been lodged in the amount which also covers the tax guarantee for alcoholic beverages to be sold in the tax warehouse for foreign agents.

(18) Prior to issuing the authorisation to operate a tax warehouse for foreign agents, the customs office shall verify the facts and data pursuant to paragraph 17 and §33(1). If the facts and data are true, the customs office shall issue the authorisation to operate a tax warehouse for foreign agents within 30 days of the submission of that application; the customs office which issued the authorisation to operate a tax warehouse for foreign agents shall notify the Bratislava Customs Office to that effect without delay.

(19) The keeper of the tax warehouse for foreign agents may supply alcoholic beverages under a duty suspension arrangement to the Slovak agents pursuant to paragraph 15 under cover of an electronic document and exemption certificate issued by a host country. No tax guarantee is required for the movement of that alcoholic beverage.

§33

(1) The keeper of the tax warehouse for foreign agents may only sell alcoholic beverages exempt from excise duty to the foreign agents who have been granted an authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents by the Bratislava Customs Office. The keeper of the tax warehouse for foreign agents is required to keep records of copies of authorisations to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents and copies of the write-off sheets, and to ensure

a) that alcoholic beverages exempt from excise duty are stored and sold to foreign agents in the tax warehouse for foreign agents only;

b) the keeping of records which contain, in particular

1. the quantity of alcoholic beverages received, in litres;

2. the quantity of alcoholic beverages sold, in litres, disaggregated by foreign agents, and the quantity of alcoholic beverages sold from the beginning of the calendar year, in litres;

3. the quantity of alcoholic beverages on stock, in litres.

(2) The keeper of the tax warehouse for foreign agents is required to notify the Bratislava Customs Office not later than on the 15th day of the calendar month of the following facts, broken down by foreign agents:

a) the quantity of alcoholic beverages sold in the previous calendar month, in litres; and

b) the total quantity of alcoholic beverages sold from the beginning of the calendar year until the end of the previous calendar month, in litres.

(3) §34(2) and (3) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 1(b).

(4) §15(8) through 11 shall apply accordingly to the expiry of the authorisation to operate a tax warehouse for foreign agents.

TITLE THREE RECORD KEEPING

§34

(1) The warehouse keeper that is an alcoholic beverage producing enterprise is required to keep records of

a) alcoholic beverages produced;

b) alcoholic beverages received;

c) alcoholic beverages used for own consumption;

- d) alcoholic beverages removed;
- e) other substances used in the alcoholic beverage producing enterprise to produce alcoholic beverages;
- f) stock of alcoholic beverages.

(2) The records referred to in paragraph 1 must contain, in accordance with Combined Nomenclature codes, the following:

- a) brand name, quantity and date of production of the alcoholic beverage produced in the alcoholic beverage producing enterprise;
- b) brand name, quantity and date of receipt of the alcoholic beverage and identification data of the supplier; in the case of importation of alcoholic beverage, the records must also contain the date of its release for free circulation⁴), the place where the customs procedure took place and identification data of the declarant;
- c) brand name, quantity, date and purpose of use of alcoholic beverage for own consumption;
- d) brand name, quantity and date of removal of alcoholic beverage and identification data of the consignee; if the alcoholic beverage was taken over by a shipper on whose account the alcoholic beverage was not removed, identification data of the shipper must also be included;
- e) brand name, quantity and date of exportation of alcoholic beverage, the place where the customs procedure took place, and identification data of the declarant.

(3) In the records referred to in paragraph 1, the removal of alcoholic beverage exempt from excise duty must be supported by

- a) purchaser's removal order, if alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65 is removed;
- b) a copy of the authorisation to purchase alcoholic beverage exempt from excise duty in the tax warehouse for foreign agents and a copy of the write-off sheet, if alcoholic beverage exempt from excise duty under §32 is removed.

(4) Entries in the records (paragraph 1) must be made on a daily basis, not later than on the next business day following the occurrence of the event.

(5) In justified cases, the customs office may permit a different method of record keeping than that specified in paragraph 4.

§35

(1) The warehouse keeper that is an alcoholic beverage warehouse is required to keep records of

- a) alcoholic beverages received;
- b) alcoholic beverages used for own consumption;
- c) alcoholic beverages removed;
- d) stock of alcoholic beverages.

(2) §34(2) and (3) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 1.

§36

(1) The user enterprise is required to keep records of

- a) alcoholic beverages received;
- b) alcoholic beverages used, by purpose of use;
- c) stock of alcoholic beverages.

(2) §34(2) and (3) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 1.

§37

(1) Unless required to keep records pursuant to §36, the authorised consignee is required to keep records of

- a) alcoholic beverages received, disaggregated by alcoholic beverages received
 - 1. outside a duty suspension arrangement;
 - 2. under a duty suspension arrangement from another Member State;
- b) alcoholic beverages removed;
- c) stock of alcoholic beverages.

(2) The authorised consignee that receives consumer packages is required to keep separate records of consumer packages, which contain

- a) the number of consumer packages received, disaggregated by consumer packages received
 - 1. outside a duty suspension arrangement, including the consumer packages returned;

2. under a duty suspension arrangement from another Member State;
- b) the number of consumer packages removed;
- c) the number of consumer packages held in stock.

(3) §34(2) and (3) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 1 and 2.

§38

- (1) The registered consignor is required to keep records of
 - a) alcoholic beverages received;
 - b) alcoholic beverages dispatched under a duty suspension arrangement.
- (2) The consignor (supplier) involved in distance selling is required to keep records of alcoholic beverages dispatched to another Member State.
- (3) The authorised representative for distance selling is required to keep records of
 - a) alcoholic beverages received;
 - b) alcoholic beverages removed.
- (4) §34(2) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 1 through 3.

§39

Record-keeping by the customs office and the Financial Directorate

- (1) The customs office is required to maintain an electronic database which contains
 - a) register of warehouse keepers;
 - b) register of warehouse keepers with an authorisation for the denaturation of spirit;
 - c) register of authorised consignees;
 - d) register of tax warehouses;
 - e) register of registered consignors;
 - f) register of transit tax warehouse keepers;
 - g) register of keepers of tax warehouses for foreign agents;
 - h) register of user enterprises;
 - i) list of authorised representatives for distance selling;
 - j) list of importers of consumer packages;
 - k) list of operators of distilleries for home fruit growers;
 - l) list of distilleries for home fruit growers;
 - m) list of production equipment disaggregated by spirit producing enterprises;
 - n) list of issued orders for receipt of tax stamps;
 - o) register of enterprises which use, receive or release flavourings exempt from excise duty;
 - p) list of consignees (purchasers) of alcoholic beverage which is spirit pursuant to §26(1).
- (2) The electronic database pursuant to paragraph 1 shall contain, in particular
 - a) identification data of the warehouse keeper, addresses of its tax warehouses if different from the registered office or permanent residence of the warehouse keeper, tax warehouse registration number, date of assignment and date of cancellation of the registration number;
 - b) identification data of the authorised consignee, its registration number, date of assignment and date of cancellation of the registration number;
 - c) identification data of the registered consignor, its registration number, date of assignment and date of cancellation of the registration number;
 - d) identification data of the user enterprise, its removal order number, date of assignment and date of cancellation of the removal order;
 - e) identification data of the authorised representative for distance selling;
 - f) identification data of the importer of consumer packages;
 - g) identification data of the operator of a distillery for home fruit growers;
 - h) serial number and type of the production equipment in an enterprise producing alcoholic beverage which is spirit;
 - i) identification numbers of tax stamps by tax stamp purchasers, date of their submission;
 - j) brand name and quantity of alcoholic beverage produced, received, processed, stored and supplied by the person pursuant to paragraph 1(a) through (j);
 - k) identification data of the transit tax warehouse keeper;
 - l) identification data of the keeper of the tax warehouse for foreign agents;
 - m) identification data of the person using, receiving or releasing flavourings exempt from excise duty;
 - n) identification data of the consignees (purchaser) of alcoholic beverage which is spirit pursuant to §26(1).

(3) The Financial Directorate or a customs office authorised by it is required, pursuant to a separate regulation⁴⁶⁾, to maintain a central electronic database containing the data specified in paragraph 2.

(4) The Bratislava Customs Office is required to maintain a central electronic database of issued authorisations to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents, which contains, in particular, the following

- a) identification data of foreign agents;
- b) limits pursuant to §32(12) through (14), including remaining portions of such limits;
- c) date of issuance of the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents;
- d) date of revocation of the authorisation to purchase alcoholic beverages exempt from excise duty in the tax warehouse for foreign agents;

PART TWO SPECIAL PROVISIONS ON SPIRIT

§40

Exemption from excise duty

(1) Spirit is exempt from excise duty if intended for use

- a) when denatured by vinegar, for the production of vinegar falling within Combined Nomenclature code 2209, in the maximum quantity of 113 l a. per 1,000 l of vinegar containing 10% of acetic acid; if the content of acetic acid is different, the quantity of spirit in l a. per 1,000 l of vinegar shall be calculated proportionally;
- b) for the production and preparation of medicinal products, medicaments and excipients⁴⁷⁾ by persons holding an authorisation for their production and preparation pursuant to a separate regulation⁴⁷⁾, the production and preparation of food supplements⁴⁸⁾, the production of medicinal preparations by persons holding an authorisation for their production and preparation pursuant to separate regulations⁴⁹⁾ that are produced from macerates and extracts, and for the production of macerates and extracts, unless otherwise provided in this Act; the forgoing does not apply to the production of macerates and extracts intended for the production of spirit drinks⁵⁰⁾ and for the production and preparation of mixed alcoholic beverages;⁵¹⁾
- c) for the production of flavourings intended for use in the production of foodstuffs and beverages with an alcoholic strength by volume not exceeding 1.2% vol.;
- d) for the production of foodstuffs if the alcohol content does not exceed 8.5 l a. per 100 kg of the product in the case of chocolate products and 5 l a. per 100 kg per product in the case of other foodstuffs with the exception of drinks with an alcoholic strength by volume exceeding 1.2 % vol.;
- e) as a specially denatured spirit for the production of goods or for other purpose of use in compliance with this Act and a generally binding regulation to be issued by the Ministry pursuant to §47(2);
- f) for scientific, research and analytical purposes or for medicinal use, if specially denatured spirit cannot demonstrably be used;
- g) in the production process in an amount prescribed by the production consumption standard, if finished product does not contain spirit; if the finished product is vinegar, the quantity of spirit used, expressed in l a. per 1,000 l of vinegar, shall not exceed the limit specified under (a) above.

(2) Excise duty exemption also applies to spirit

- a) specially denatured in compliance with this Act and separate regulation,⁵²⁾ if moving under cover of a simplified accompanying document;
- b) contained in a product
 1. for the production of which the spirit exempt from excise duty pursuant to paragraph 1 or a generally denatured spirit was or could have been used, even if that product was supplied from another Member State or imported from a third country;
 2. produced as a by-product or waste in the production and which is unfit for direct human consumption and for the production of foodstuff and that spirit cannot be separated by generally available methods; such a product may be received, imported, supplied or stored subject to written consent from the Financial Directorate.

§41

Special provisions on use, receipt and release of flavourings containing spirit exempt from excise duty

(1) Any person that seeks to use, receive or release flavourings containing spirit exempt from excise duty pursuant to §40(1)(c) (hereinafter referred to as “flavourings exempt from excise duty”) must apply in writing to the customs office for registration in the register of enterprises which use, receive or release flavourings exempt from excise duty (hereinafter referred to as “enterprise register”). In the application for registration in the enterprise register, the applicant shall indicate data pursuant to §9(2)(a) and (b), brand name of flavourings exempt from excise duty and the corresponding Combined Nomenclature code; the application shall be attached with documents pursuant to §9(3)(a)

and (4)(f), technological description of the use of flavourings exempt from excise duty or other documents determining consumption of such flavourings.

(2) Prior to the registration in the enterprise register, the customs office shall verify the facts and data under paragraph 1. If the facts and data are true, the customs office shall register the applicant in the enterprise register within 15 days of the submission of that application.

(3) The person registered by the customs office in the enterprise register is required to keep records containing the quantities of received, consumed or released flavourings exempt from excise duty. §34(2) shall apply accordingly and §34(4) equally to the record keeping.

(4) The customs office shall deregister the person referred to in paragraph 3 from the enterprise register if

- a) that person violates obligations under paragraph 3 and any notices served and fine imposed by the customs office have not led to rectification;
- b) its trade license expired;
- c) that person requests to be deregistered from the enterprise register.

§42

Special provisions on the operation of tax warehouse for spirit

(1) If spirit is produced, processed or stored in a tax warehouse, the production equipment and spirit processing and storage facility must be arranged so as to allow the customs office to anytime determine the quantity of the spirit produced, processed and stored, the quantity of spirit on stock and its alcoholic strength, and to enable separate storage of individual types of spirit.

(2) Spirit may be received, removed, produced or processed in the tax warehouse, except for a spirit warehouse pursuant to §46(2)(a) which receives, stores or dispatches spirit in consumer package, only in the presence of a customs office employee. The customs office is required to ensure that the presence of the customs office employee does not hinder receipt, removal, production or processing of spirit in the tax warehouse. The warehouse keeper is required to provide the customs office employee with the necessary assistance and ensure appropriate conditions for the performance of tax supervision. The warehouse keeper is required to provide the customs office employee with such conditions that meet the requirements of working environment. If no spirit is received, removed, produced or processed in the tax warehouse, the customs office may be relieved of the requirement to ensure the presence of a customs office employee in the tax warehouse but is required to secure these premises with a seal of the customs office. The sealing of the premises means the locking and securing with a customs office seal of all access points to the premises where spirit is received, removed, produced or processed, in the presence the warehouse keeper; the seals may only be removed and premises unlocked in the presence of the customs office and the warehouse keeper.

(3) Synthetic spirit and sulphite spirit produced in the tax territory, supplied to the tax territory from another Member State or imported to the tax territory from a third-country territory, if intended for industrial processing, may only be released for free circulation if denatured.

§43

Spirit producing enterprise

(1) For the purposes of this Act, the spirit producing enterprise is

- a) a distillery³²⁾ located in the tax territory which, as part of its commercial activities, produces, processes, stores, receives or removes spirit;
- b) an enterprise where spirit is obtained through recovery of spirit wastes or spirit mixtures resulting from the production in which pure or denatured spirit was used as a feedstock, ingredient or auxiliary material, with the exception of a user enterprise pursuant to §9(18);
- c) a yeast facility where spirit is a by-product in yeast production.

(2) The entire quantity of the spirit produced is measured by a spirit control meter pursuant to §45(1) in the spirit producing enterprise; the foregoing does not apply to a yeast facility. Unless otherwise provided in §45(1)(b) of this Act, the entire quantity of the spirit produced is measured by a volumetric meter for spirit in the spirit producing enterprise. In order to ensure control by the tax administrator of the quantity of spirit produced in the spirit producing enterprise which measures the quantity of produced spirit by means of a measuring system for spirit, the measuring system must be equipped with a spirit flow control to stop the flow when the maximum permitted temperature of spirit is exceeded, and with an additional device which is an equalising unit for the measuring system for spirit, or a spirit flow control device for the measuring system for spirit and an etalon gravimetric device equipped with a tank. The production equipment and spirit control meter pursuant to §45(1) must be secured with customs office seals.

(3) The spirit producing enterprise pursuant to paragraph 1 must have a separate spirit warehouse³⁰⁾ where the produced, processed or purchased spirit is stored in certified tanks²⁴⁾ equipped with designated meters pursuant to separate regulations²⁵⁾ to determine the stock of spirit. A distillery for home fruit growers does not have to have a separate spirit warehouse.³⁰⁾

(4) Any person that seeks to operate a spirit producing enterprise must have an authorisation to operate a tax warehouse. The foregoing does not apply to a distillery for home fruit growers.

§44

Production equipment in the spirit producing enterprise, its securing and arrangement

(1) Any person that produces spirit may only use such production equipment which ensures that the quantity of the spirit produced can reliably be determined.

(2) Any production equipment in spirit producing enterprises must be secured with customs office seals and all the spirit produced must be registered by a spirit control meter pursuant to §45(1), except for a yeast facility.

(3) Seals for the entire premises in which the production equipment is located must be used wherever technical problems occur with securing the production equipment, for example a synthetic spirit manufacturing plant. The sealing of the entire premises in which the production equipment is located means the locking and securing with a customs office seal of all access points to the premises, in the presence of the warehouse keeper; the seals may only be removed and premises unlocked in the presence of the customs office and the warehouse keeper.

(4) The production equipment in the spirit producing enterprise cannot be used for other purposes during its operation.

(5) Damaging or removing the seals attached by the customs office and tampering with the arrangement of the production equipment is prohibited.

(6) Details on the requirements applicable to production equipment in spirit producing enterprises, on the methods of arranging production equipment and procedures for its securing by the customs office shall be laid down in a generally binding regulation to be issued by the Ministry pursuant to §72(4).

§45

Measuring and determining the quantity of spirit produced and determining the stock of spirit

(1) For the purposes of this Act, the spirit control meter means

- a) a volumetric meter for spirit,⁵³⁾ having a type approval and certified pursuant to a separate regulation;²⁵⁾
- b) a measuring system for spirit designed to measure the volume of a spirit through-flow that meets the requirements pursuant to separate regulations⁵⁴⁾ and can be used in a spirit producing enterprise with the production capacity of 10,000 l/hour a more.

(2) A spirit producing enterprise operator is required

- a) to measure the entire quantity of the spirit produced, by a spirit control meter;
- b) in the case of a spirit control meter failure, to place the spirit produced in certified tank²⁴⁾ secured by the tax administrator;
- c) to measure the temperature of the spirit flowing through the spirit control meter;
- d) when measuring the spirit, to comply with the conditions enabling proper operation of the spirit control meter and reliable determination of the quantity of the spirit produced.

(3) Spirit may only be measured by a spirit control meter that meets the requirements under a separate regulation²⁵⁾ and has been secured with customs office seals. The use of spirit control meters, the manner of securing spirit control meters or certified tanks²⁴⁾ by the customs office in the case of a spirit control meter failure referred to in paragraph 2(b) shall be laid down in a generally binding regulation to be issued by the Ministry pursuant to §72(4).

(4) The customs office shall inspect and adjust spirit control meters and determine and calculate the quantity of the spirit produced in spirit producing enterprises in a manner and deadlines pursuant to a generally binding regulation to be issued by the Ministry pursuant to §72(4).

(5) If a spirit control meter fails to meet the requirements under a separate regulation,²⁵⁾ the customs office shall secure it so as to prevent its further use.

(6) When the testing of a volumetric meter for spirit pursuant to a separate regulation⁵³⁾ shows a deviation exceeding twice the maximum permitted error of volumetric meter for spirit, or if the volumetric meter was not subject to regular

certification pursuant to a separate regulation,⁵³⁾ the customs office shall put that volumetric meter for spirit out of operation..

(7) If the testing of a volumetric meter for spirit pursuant to a separate regulation⁵³⁾ shows a deviation within the range from the maximum permitted error of volumetric meter for spirit to twice the maximum permitted error of volumetric meter for spirit, the quantity of the spirit produced, calculated according to the volume metered by the volumetric meter for spirit, shall be corrected from the day when the deviation was detected until the day when the certification of the volumetric meter for spirit is performed. Deviations not exceeding the maximum permitted error of volumetric meter for spirit, including, are not taken into account.

(8) The quantity of the spirit produced shall be controlled by means of a measuring system for spirit by the tax administrator using the etalon gravimetric device equipped with a tank. If a detected deviation is larger than as specified under a separate regulation,⁵³⁾ the quantity of the produced spirit determined by the measuring system for spirit shall be corrected from the day on which the deviation was detected until the day of its removal.

(9) The Customs Office shall determine the stock of spirit kept in spirit producing enterprises, spirit warehouses, user enterprises and by authorised consignees in a manner and deadlines pursuant to a generally binding regulation to be issued by the Ministry pursuant to §72(4).

§46

Spirit warehouse

(1) For the purposes of this Act, the spirit warehouse is a distillery³²⁾ which is a spirit drinks manufacturing plant,⁵⁵⁾ blending plant,⁵⁶⁾ denaturation plant⁵⁷⁾ and bottling plant,⁵⁸⁾ located in the tax territory, which, as part of its commercial activities, receives, processes, bottles, stores or dispatches spirit produced in a spirit producing enterprise, unless otherwise provided in paragraph 2 and 3.

(2) The spirit warehouse is also any spirit warehouse not specified in paragraph 1 which, as part of its commercial activities,

a) receives, stores or dispatches spirit,

b) uses spirit for the production of flavourings, macerates or extracts intended for the production of spirit drinks⁵⁰⁾ or production of mixed alcoholic beverages⁵¹⁾ with an alcoholic strength by volume exceeding 1.2% vol.

(3) The spirit warehouse is also a spirit warehouse operated by a legal person that has not been established or incorporated by law for commercial purposes but stores the special-purpose spirit owned by the state.³¹⁾

(4) Any person that seeks to operate a spirit warehouse, with the exception of the spirit warehouse under paragraph 2(a), in which spirit is received, stored or dispatched in a consumer package, must have an authorisation to operate a tax warehouse.

Any person that seeks to operate a spirit warehouse under a duty suspension arrangement under paragraph 2(a), in which spirit is received, stored or dispatched in a consumer package, must have an authorisation to operate a tax warehouse. Any person that seeks to denature spirit in the spirit warehouse pursuant to paragraph 1, must have an authorisation for the denaturation of spirit pursuant to §48.

(5) The spirit warehouse pursuant to paragraph 1, paragraph 2(b) and paragraph 3 must meet the following conditions:

a) all rooms in which spirit is located are secured by customs office seals so that no entry into the room or any other intervention necessary to operate the facility in the spirit warehouse outside operation can be made without breaching the seal; the only person authorised to remove the seal prior to the commencement of production activities is the customs office that attached that seal;

b) the spirit warehouse is sufficiently secured against any unauthorised use of spirit;

c) its storage tanks,²⁴⁾ storage facility, blending facility and transportation tanks equipped with a designated meter certified pursuant to a separate regulation²⁵⁾ are certified, enabling to reliably determine the quantity of spirit received and removed, the quantity of spirit processed and the quantity of spirit transported; where the quantity of spirit received and removed, the quantity of spirit processed and the quantity of spirit transported is determined from the weight of the spirit by means of designated meters pursuant to a separate regulation²⁵⁾, the certification of blending facilities and transportation tanks pursuant to a separate regulation²⁴⁾ is not required;

d) it has a separate spirit warehouse;³⁰⁾ this does not apply to the spirit warehouse which is a blending plant⁵⁶⁾ and a spirit warehouse pursuant to paragraph 2(b) and paragraph 3.

(6) The spirit warehouse pursuant to paragraph 2(a) in which spirit under a duty suspension arrangement is to be received, stored or dispatched must meet the following conditions:

a) for the two immediately preceding calendar years, it must have

1. a trade licence to sell spirit to other sole traders;

2. an annual spirit turnover of at least 1,000 hl a.;

3. an average spirit storage period of at least six months per calendar year;

b) it is spatially bounded and sufficiently secured against any unauthorised manipulation or unauthorised use of spirit;
c) its storage tanks²⁴⁾ and transportation tanks equipped with a designated meter certified pursuant to a separate regulation²⁵⁾ are certified if it receives, stores and dispatches spirit not contained in consumer package; if the quantity of spirit received and removed and the quantity of spirit transported are determined from the weight of the spirit by means of certified meters,²⁵⁾ the certification of transportation tanks in compliance with a separate regulation²⁵⁾ is not required.

(7) Details on the requirements applicable to the storage of spirit, spirit storage facility and its arrangement, spirit removal, receipt and transportation facility shall be laid down in a generally binding regulation to be issued by the Ministry pursuant to §72(4).

§47

Denaturation of spirit

(1) For the purposes of this Act, denaturation of the spirit means mixing the spirit with a permitted denaturation agent in a prescribed amount; the denaturation agent cannot be separated from the spirit by generally available methods. The denaturation agent is a substance or a mixture of substance soluble in spirit which, when mixed with the spirit, change the properties of this spirit, rendering it unfit for direct human consumption and production of foodstuffs.

(2) Requirements concerning the denaturation of spirit, manipulation⁵⁹⁾ with denatured spirit⁶⁰⁾, requirements concerning the properties of denatured spirit, permitted denaturation agents for the denaturation of spirit, the minimum quantity of denaturation agents for the denaturation of spirit and the prescribed purpose of use of specially denatured spirit shall be laid down by a generally binding regulation to be issued by the Ministry upon consultations with the Ministry of Agriculture and Rural Development of the Slovak Republic, the Ministry of Health of the Slovak Republic and the Ministry of Economy of the Slovak Republic.

(3) Spirit may only be denatured in the tax territory in the presence of a customs office employee in a tax warehouse whose keeper has been granted an authorisation for the denaturation of spirit pursuant to §48, unless otherwise provided in paragraph 6. A denatured spirit producer shall prepare a written protocol on the denaturation of spirit, containing the brand name and quantity of the spirit used for denaturation, in l. a., the brand name and quantity of the denaturation agent used, and the quantity of denatured spirit produced, in l a. The written denaturation protocol shall be undersigned by the customs office employee present.

(4) Any tax warehouse where spirit is denatured must be equipped with a dosing, mixing or other similar device to ensure denaturation of spirit pursuant to paragraph 1.

(5) Unless otherwise provided in this Act, it is prohibited to use

- a) other than prescribed quantity of permitted denaturation agent, or change the properties of denatured spirit, or blend the denatured spirit with any substance which changes the properties of denatured spirit;
- b) the specially denatured spirit exempt from excise duty pursuant to §40(1)(e) without the removal order granted pursuant to §9;
- c) the specially denatured spirit exempt from excise duty pursuant to §40(1)(e) for any purpose of use other than as will be specified by a generally binding regulation to be issued by the Ministry pursuant to paragraph 2.

(6) If a person has been granted an authorisation pursuant to a separate regulation⁶¹⁾ for processing under customs control and that person works, processes or mixes spirit with substances or a mixture of substances soluble in spirit so that it produces denatured spirit or a product unfit for direct human consumption, paragraphs 1 through 5 shall apply accordingly. The authorisation to operate a tax warehouse and authorisation for the denaturation of spirit pursuant to §48 is not required. That person is required to keep records pursuant to §58.

§48

Authorisation for the denaturation of spirit

(1) Any warehouse keeper that seeks to denature spirit in the tax territory must apply in writing to the customs office for an authorisation for the denaturation of spirit. The application must contain

- a) identification data of the applicant and addresses of its establishments if different from the registered office or permanent residence of the applicant;
- b) brand name and quantity of denaturation agent to be used;
- c) brand name of the denatured spirit and expected quantity of its annual output.

(2) Prior to issuing the authorisation for the denaturation of spirit, the customs office shall verify the facts and data pursuant to paragraph 1. If these facts and data are correct and the facility under §47(4) is suitable for denaturation, the customs office shall grant the warehouse keeper the authorisation for the denaturation of spirit within 30 days of the submission of that application.

(3) The customs office

- a) shall revoke the authorisation for the denaturation of spirit from the warehouse keeper if the device referred to in § 47(4) is not longer suitable for denaturation, or if so requested by the warehouse keeper;
- b) may revoke the authorisation, if the denaturation of spirit is not carried out in compliance with this Act.

§49

Distilleries for home fruit growers

(1) Any person that seeks to operate a distillery for home fruit growers must apply in writing to the customs office for registration and certificate of registration. The application must contain identification data of the applicant and addresses of its business establishments if different from the registered office or permanent residence of the applicant.

(2) Annexes to the application pursuant to paragraph 1 comprise

- a) an authorisation to produce spirit in a distillery for home fruit growers, issued pursuant to a separate regulation;³²⁾
- b) a document proving authorisation to conduct business not older than 30 days, or its certified copy, if the applicant is a person without registered office or without permanent residence in the tax territory;
- c) a drawing of the production equipment in the distillery for home fruit growers, including the indication of places to which seals have been attached by the customs office; a document proving the certification of a volumetric meter for spirit pursuant to §45 (1)(a); and a document proving the certification of a thermometer to measure the temperature of the spirit produced;
- d) a confirmation by the Social Insurance Agency and a health insurance company of meeting the requirements under paragraph 4(e);
- e) applicant's declaration of honour that it meets the requirements under paragraph 4(b) and (c).

(3) The applicant referred to in paragraph 1 must satisfy the following conditions:

- a) it has no arrears against the customs office or tax office;
- b) there are no arrears against a customs office or a tax office on behalf of a person controlling/controlled by or affiliated with the applicant or a person that had been controlling/controlled by or affiliated with the applicant during a period of ten years preceding the submission of the application, and no person that was wound up and that would have been considered a person controlling/controlled by or affiliated with the applicant had, during a period of ten years preceding the date of the submission of the application, any tax arrears that had not been settled before the winding up of that person; this also applies to any tax arrears assigned to third persons pursuant to separate regulations;²²⁾
- c) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- d) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or natural persons who are members of the applicant's managing or supervisory bodies;
- e) is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, or no composition permitted or no compulsory composition confirmed.

(4) Prior to the registration and issuance of the certificate of registration, the customs office shall verify the facts and data pursuant to paragraph 1 and 5 and compare the factual conditions of the production equipment with the drawing of that production equipment as attached to the application. If the facts and data are true and the applicant referred to in paragraph 1 meets the conditions specified in paragraph 3, the customs office shall register the applicant and grant him a certificate of registration within 30 days of the date of the submission of that application.

(5) The spirit produced in a distillery for home fruit growers is subject to a reduced tax rate under the conditions laid down in this Act.

(6) The operator of the distillery for home fruit growers shall notify the customs office of

- a) the commencement, staying and anticipated termination of production of spirit 15 days in advance;
- b) of suspension of production due to unforeseeable reasons immediately.

(7) The fruit grower is required to take over the spirit produced in the distillery for home fruit growers not later than 30 days after its production; if the spirit cannot be taken within the said deadline, the operator of the distillery for home fruit growers is entitled to hand that spirit over to any of the grower's family members of the age of majority who presents the application for the production of distillates.⁶²⁾ If the grower fails to take over the spirit within the said deadline, the operator of the distillery for home fruit growers is required to notify the customs office, not later than three business days of the deadline for taking over the spirit, of the quantity of spirit not taken over by the grower and request the customs office to destroy that spirit.

(8) The operator of the distillery for home fruit growers is required to keep records of growers for whom it has produced spirit, containing

- a) the quantity and type of the ferment received⁶³), in litres, which the grower requested to be processed;
- b) the quantity of spirit, in l a., produced for the grower and date of its production;
- c) the quantity of spirit, in l a., taken over by the grower and date of takeover;
- d) the amount of excise duty paid by the grower to the operator of the distillery for home fruit growers.

(9) Excise duty becomes chargeable on the day of production of spirit in the distillery for home fruit growers, unless otherwise provided under paragraph 12. The tax payer is the operator of the distillery for home fruit growers. The operator of the distillery for home fruit growers may only produce spirit for the grower on the basis of the application for the production of a distillate.⁶²) When calculating the amount of excise duty, the operator of the distillery for home fruit growers is required to apply the relevant tax rate according to the quantity of spirit, in l a., produced for the grower, taking into account the quantity of the spirit produced so far, indicated by the grower in the application for the production of a distillate.⁶²) The operator of the distillery for home fruit growers shall collect the excise duty from the grower upon delivery of the spirit.

(10) The operator of the distillery for home fruit growers is required to file a tax return to the customs office and pay the excise duty not later than on the 25th day of the calendar month following the month in which the duty became chargeable. §12 shall apply accordingly to the tax return. The operator of the distillery for home fruit growers shall indicate in the tax return the quantity of spirit exempt from excise duty, which equals to the quantity of spirit produced in the tax period for which the tax return is filed, which was destroyed pursuant to §55(2) by the date of the submission of the tax return, not later than on the 25th day of the calendar month following the month in which that spirit was destroyed. The list of growers containing the quantity of spirit in l a. produced for individual growers and the quantity of spirit in l a. actually taken over by individual growers, including dates of production of spirit and copies of the application for the production of a distillate⁶²), constitute an annex to the tax return (11) Excise duty on spirit produced in the distillery for home fruit growers may be reimbursed to the operator of the distillery for home fruit growers if it paid the duty for the spirit that had not been taken over by the grower and had been destroyed pursuant to §55(2). The operator of the distillery for home fruit growers may claim the tax reimbursement in a tax return filed for the tax period in which all requirements for duty reimbursement were satisfied; the tax reimbursed on that spirit shall be offset against the excise duty charged. If the reimbursed tax exceeds the excise duty charged, §13 shall apply accordingly to the tax reimbursement.

(12) If the customs office competent for the operator of the distillery for home fruit growers ascertains that the data specified in the application for the production of a distillate⁶²) are untrue and more than 43 l a. were produced for the grower and his household in a single production period¹³), and if reduced tax rate was used to calculate the amount of excise duty, the excise duty shall be paid by the grower. The amount of excise duty is calculated as a difference between the sum of the basic tax rate and reduced tax rate and the quantity of spirit, in l a., produced in excess of the limit of 43 l a.

(13) Spirit produced in the distillery for home fruit growers shall not be re-sold or placed on the market.

(14) The customs office shall revoke the certificate of registration from the operator of the distillery for home fruit growers if

- a) the operator no longer meets any of the conditions referred to in paragraph 3;
- b) the arrangement of the production equipment in the distillery for home fruit growers has demonstrably been tampered with;
- c) the operator stores or holds spirit the origin of which it cannot prove;
- d) the operator requests deregistration of the distillery for home fruit growers;
- e) the operator's authorisation to produce and process spirit in a distillery has expired or been revoked under a separate regulation.³²)

(15) The customs office may revoke the certificate of registration if the operator of the distillery for home fruit growers has not produced spirit over a period exceeding 12 consecutive calendar months, taking into account the gravity of the reasons.

(16) In justified cases, the customs office may upon written request by the operator of the distillery for home fruit growers permit repeated rectification of the spirit produced by him. The deadline for the submission of application, decision on the application and performance of repeated rectification shall not be longer than 10 days from the date of production of the spirit to be rectified. The date of production of the spirit for this purpose is considered the day on which the spirit was again rectified.

§50

Special provisions on keeping records of production equipment

(1) Any person that does not hold an authorisation to produce and process spirit in a distillery and to place it on the market pursuant to a separate regulation³²), or a person whose authorisation to produce and process spirit in a distillery

and to place it on the market pursuant to a separate regulation³²) has expired or been revoked and that person keeps production equipment or its part, with the exception of the person who is a manufacturer of spirit production equipment or the person who repairs spirit production equipment, is required to present to the customs office within 15 days of the occurrence of that fact

- a) its identification data;
- b) address where the production equipment or its part is located;
- c) technical data and a drawing and photo documentation of that production equipment or its part.

(2) The customs office shall verify the facts and data specified in the notification pursuant to paragraph 1 and compare the factual conditions of the production equipment with the data referred to in paragraph 1(c). If the facts and data specified in the notification are true, the custom office shall grant to the person referred to in paragraph 1 a confirmation on the registration of the holding of the production equipment or its part (hereinafter referred to as “confirmation of registration”). The holding of the production equipment or its part by a person who has been granted the confirmation of registration pursuant to the foregoing sentence is not considered unauthorised if all the facts on the basis of which the customs office granted the confirmation of registration are complied with. The customs office may secure the production equipment or its part by a customs office seal.

(3) If the person who was granted the confirmation of registration by the customs office provides the production equipment or its part to another person, the person is required to present to the customs office in writing, within 15 days of its provision,

- a) its identification data;
- b) identification data of the person who was provided the production equipment or its part;
- c) technical data, drawing and photo documentation of the provided production equipment or its part.

(4) If the person who was granted the confirmation of registration by the customs office no longer holds the production equipment or its part and that equipment has not been provided to another person pursuant to paragraph 3, the person is required to notify the customs office of the reasons of such change, within 15 days of its occurrence.

(5) The customs office shall verify the facts and data specified in the notification pursuant to paragraph 3 or paragraph 4. If the facts and data are true, the customs office shall grant to the person referred to in paragraph 3 or paragraph 4 a confirmation of deregistration of the holding of the production equipment or its part.

(6) Any change in the facts and data on the basis of which the customs office granted the confirmation of registration shall be notified to the customs office within 15 days of its occurrence. The customs office shall verify the facts and data specified in the notification and, taking into consideration the scope and gravity of changes, shall supplement the original confirmation of registration or issue a new confirmation of registration.

(7) The Financial Directorate shall keep records of the holding of production equipment or their parts, disaggregated by

- a) identification data of the person who was granted the confirmation of registration by the customs office;
- b) addresses where the production equipment or its part is located;
- c) technical data, photo documentation and drawing of the production equipment or its part.

Marking the consumer package of spirit with a tax stamp

§53

Printing and disposal of tax stamps

(1) Tax stamps shall only be printed by a person with whom the Financial Directorate has concluded a contract on tax stamp printing supervision⁶⁶) (hereinafter referred to as “printing works”). The Financial Directorate shall sign the contract on tax stamp printing supervision with printing works for a period not exceeding three years. In order to conclude the contract on tax stamp printing supervision⁶⁶), the Financial Directorate shall make a public tender pursuant to the Commercial Code.⁶⁷) The Financial Directorate shall publish the contract on tax stamp printing supervision⁶⁶) on its website.

(2) The Financial Directorate may only sign the contract on tax stamp printing supervision⁶⁶) with a person that satisfies the following conditions:

- a) it holds an authorisation to provide printing services;
- b) it has technical equipment in the tax territory for printing documents secured against counterfeiting, modification and other misuse;
- c) it has a running regime system of production, storage, handling and record-keeping of material and products;
- d) it has provided the secure protection of its production premises and warehouses by installing mechanical and electronic protection systems;

- e) it uses special techniques, technologies and security materials to secure the production and application of security features on documents against counterfeiting, modification and other misuse;
- f) has no arrears against the customs office or tax office;
- g) it is not a person controlling/controlled by or affiliated with another person that holds an authorisation to provide printing services;
- h) it is not a person controlling/controlled by or affiliate with a purchaser of tax stamps;
- i) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to a separate regulation;²³⁾
- j) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, no composition permitted, no compulsory composition confirmed, or restructuring permitted.
- k) it keeps accounting records pursuant to a separate regulation;²¹⁾
- l) it will create appropriate conditions for the performance of tax supervision in the printing works,
- m) the value of a three-year contract shall not be higher than as specified in a separate regulation;⁶⁸⁾
- n) it is a holder of an industrial security clearance certificate to have access to and create information marked Confidential;⁶⁹⁾
- o) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or natural persons who are members of managing or supervisory bodies of a legal or natural person.

(3) The conditions referred to in paragraph 2 must continuously be satisfied throughout the entire period for which the contract on tax stamp printing supervision⁶⁶⁾ has been concluded.

(4) The Ministry shall set up a committee to choose printing works. Committee members may only include natural persons who are not related persons to,⁶⁾ members of statutory bodies or partners of, a person that holds an authorisation to provide printing services; a committee member shall not be a person controlling/controlled by or affiliated with a person who holds an authorisation to provide printing services. Committee members also include representatives of business associations whose members release spirit for free circulation (or purchasers of tax stamps).

(5) The committee is independent in evaluating proposals submitted in the public tender and evaluates them by the economically most advantageous bid, taking into account the quality of manufacture of tax stamps, their security features and other criteria set out in public tender conditions.

(6) Details on the composition, decision-making and the procedure applied by the committee to evaluate proposals submitted in the public tender, details on the meeting of criteria under paragraph 2 and 7 to submit proposals in the public tender shall be laid down by a generally binding regulation to be issued by the Ministry.

(7) The contract on tax stamp printing supervision must in particular contain the price of a tax stamp which will take into consideration the number of tax stamps purchased, deadlines for the supply of tax stamps, liability for damage caused by a failure to supply tax stamps, liability of the printing works for defects of tax stamps, and conditions of complaint procedure.

(22) If any damaged or otherwise unusable tax stamps, with the exception of tax stamps irreversibly destroyed in technological equipment used for marking consumer packages with tax stamps, are located outside the tax territory, the tax stamp purchaser is required to transport such tax stamps to the tax territory. If tax stamps are destroyed, the procedure under paragraph 21 shall apply. If tax stamps are destroyed outside the tax territory due to an accident, emergency situation or a force majeure event, the tax stamp purchaser is required to prove these events by a confirmation issued by a competent authority of the state on whose territory these events occurred.

(23) If the tax stamp purchaser accepted tax stamps pursuant to paragraph 14 and did not use these tax stamps to mark a consumer package within the period of ten months of the date of their acceptance, the purchaser is required to request the customs office to destroy them within 30 days after that period has lapsed. The tax stamps shall be destroyed using the procedure under paragraph 21, unless otherwise agreed between the customs office and the tax stamp purchaser. The customs office shall reimburse the lodged tax guarantee pursuant to §52(1)(b).

(24) If the tax stamp purchaser's authorisation granted under this Act expired or was revoked, if the purchaser was deregistered pursuant to §52(7), or its registration expired, the purchaser is required to prove the use of purchased tax stamps and return the unused tax stamps to the customs office within ten days of the occurrence of relevant event. The customs office shall destroy the tax stamps at the expense of the tax stamp purchaser and reimburse the lodged tax guarantee pursuant to §52(1) (b).

(25) The customs office shall keep records of tax stamps issued, disaggregated by tax stamp purchaser, the number of tax stamps issued and identification numbers of the tax stamps received by the tax stamp purchaser.

(26) The Financial Directorate shall publish on its website the identification numbers of the tax stamps which the tax stamp purchaser did not use to mark consumer packages in accordance with this Act, did not hand over to a foreign producer, warehouse keeper in another Member State pursuant to paragraph 21 or consumer package supplier pursuant to §26(1), did not return them to the customs office pursuant to paragraph 21 through 24, tax stamps which were destroyed due to an accident, emergency situation or a force majeure event, or which were misappropriated.

(27) The tax stamp purchaser shall prove the use of tax stamps in accordance with this Act, if the tax stamps

- a) were used by that purchaser to mark consumer packages in accordance with this Act;
- b) were submitted by that purchaser to a Financial Directorate employee in printing works pursuant to paragraph 16;
- c) were returned by that purchaser to the customs office pursuant to paragraph 21 through 24;
- d) irreversibly destroyed in technological equipment used to affix tax stamps to the consumer package.

§54

Sale of consumer package in free circulation

(1) Any person that seeks to sell, as part of its commercial activities, in the tax territory, spirit released for free circulation, referred to in §4(2)(a), in a consumer package, or sell spirit released for free circulation, referred to in §4(2)(a), from a consumer package, must have an authorisation to sell consumer package released for free circulation (hereinafter referred to as “sale authorisation”), unless otherwise provided under paragraph 9. The sale of consumer package, as part of commercial activities, released for free circulation also means offering a consumer package for sale, other distribution of a consumer package or other distribution from a consumer package.

(2) The requirement under paragraph 1 does not apply to a person registered by the customs office pursuant to §15, 19, 31 and 3 and registered by the customs office pursuant to §52(2), and to a person granted by the customs office an authorisation to distribute consumer package released for free circulation to other business operators⁷⁰ (hereinafter referred to as “distribution authorisation”).

(3) Any person that seeks to be a holder of the sale authorisation must apply in writing to the customs office for the sale authorisation. The application for sale authorisation must contain identification data of the applicant and the address of its establishment if different from the registered office or permanent residence of the applicant.

(4) Annexes to the application for sale authorisation comprise

- a) a list of consumer package suppliers, including their identification data;
- b) an extract from the register of criminal records of the applicant or its authorised representative where the applicant is a natural person; where the applicant is a legal person, an extract from the register of criminal records of the authorised representative and natural persons who are members of managing or supervisory bodies; the extract from the register of criminal records shall not date back more than 30 days.

(5) The applicant who seeks to become a holder of the sale authorisation must satisfy the following conditions:

- a) it has a trade licence to operate a business⁷⁰;
- b) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or natural persons who are members of the applicant’s managing or supervisory bodies;
- c) over a period of ten years, its sale authorisation was not revoked, except for the revocation under paragraph 21(a)(4); the foregoing also apply to a person who is controlling/controlled by or affiliated with the applicant or to a person who was controlling/controlled by or affiliated with the applicant over the period of five years prior to the submission of application for sale authorisation;
- d) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, no composition permitted, no compulsory composition confirmed, or restructuring permitted.

(6) Prior to issuing the sale authorisation, the customs office shall verify the facts and data pursuant to paragraph 3 and 4. If the facts are true and the applicant has satisfied the conditions under paragraph 5, the customs office shall assign a sale authorisation number to the applicant and grant the sale authorisation within 30 days of the submission of that application.

(7) The person that was granted by the customs office the sale authorisation (hereinafter referred to as “authorisation holder”) is required

- a) to submit, upon request by the customs office, documents proving the manner of acquisition of the consumer package,
- b) to keep records, per calendar month, of consumer packages according to documents on the purchase and sale of consumer package and an EAN bar code, in the structure as specified in paragraph 15(a), (d), (e) and (f);
- c) to store in the establishment consumer packages intended only for sale as part of commercial activities;
- d) to notify the customs office of any change in the facts and data pursuant to paragraph 3 and paragraph 4(a) and paragraph 5 within 15 days of its occurrence.

(8) The authorisation holder is required to purchase spirit referred to in §4(2)(a) in a consumer package, or otherwise receive that spirit for re-sale as part of its commercial activities, only from a person who was granted a distribution authorisation by the customs office.

(9) Any person that seeks to become a holder of the distribution authorisation must apply in writing to the customs office for the distribution authorisation. The application for distribution authorisation must contain data pursuant to paragraph 3.

(10) Annexes to the application for distribution authorisation comprise

a) an extract from the register of criminal records of the applicant where the applicant is a natural person, and an extract from the register of criminal records of an authorised representatives and natural persons who are members of managing and supervisory bodies where the applicant is a legal person; the extract from the register of criminal records shall not date back more than 30 days;

b) a list of consumer package suppliers and purchasers, including their sale authorisation numbers or distribution authorisation numbers, except for purchasers who are final consumers.

(11) The applicant who seeks to become a holder of the distribution authorisation must satisfy the following conditions:

a) it has a trade licence to operate a business⁷⁰⁾ and purchases and sells consumer packages as part of its commercial activities;

b) storage area of all of its storage premises exceeds 200 m²,

c) its annual turnover on the sale of consumer packages is least €100,000; or if its annual turnover on the sale of consumer packages is lower, its minimum paid up registered capital must be €100,000;

d) the number of its employees exceeds ten;

e) it keeps accounting records pursuant to a separate regulation;²¹⁾

f) it has no arrears against the customs office;

g) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to a separate regulation;²³⁾

h) it has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or natural persons who are members of the applicant's managing or supervisory bodies;

i) over a period of ten years, its distribution authorisation was not revoked, except for the revocation under paragraph 21(b)(4); the foregoing also apply to a person who is controlling/controlled by or affiliated with the applicant or to a person who was controlling/controlled by or affiliated with the applicant over the period of five years prior to the submission of application for distribution authorisation;

j) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, no composition permitted, no compulsory composition confirmed, or restructuring permitted.

(12) Prior to issuing the distribution authorisation, the customs office shall verify the facts and data pursuant to paragraph 9 and 10. If the facts are true and the applicant has satisfied the conditions under paragraph 11, the customs office shall assign a distribution authorisation number to the applicant and grant the distribution authorisation within 30 days of the submission of that application.

(13) The requirement under paragraph 9 and the meeting of conditions under paragraph 11 do not apply to a person registered by the customs office pursuant to §5 and 19 or registered by the customs office pursuant to §52(5). The distribution authorisation shall be granted and the distribution authorisation number assigned by the customs office to the person referred to in the foregoing sentence as at the date of issuance of an authorisation to operate a tax warehouse in which consumer packages are produced, stored, received or dispatched, as at the date of issuance of an authorisation to receive spirit from another Member State under a duty suspension arrangement, as at the date of registration in the register of consumer package importers, or as at the date of registration in the register of consignees (purchasers) of spirit pursuant to §26(1). If the authorised consignee authorised to occasionally receive spirit under a duty suspension arrangement, consignee (purchaser) of spirit pursuant to §26(1) or consumer package importer which was granted the distribution authorisation by the customs office pursuant to the foregoing sentence, does not satisfy the conditions under paragraph 11, it shall only sell, on the basis of such distribution authorisation, consumer packages which it received in this connection under a duty suspension arrangement or imported from the third-country territory or transported under §26(1) for commercial purposes.

(14) The person that was granted the distribution authorisation by the customs office (hereinafter referred to as "persons authorised for distribution") is required

a) to notify the customs office of any change in the facts and data pursuant to paragraph 3 and paragraph 10(b) and paragraph 11 within 15 days of its occurrence;

b) to only purchase consumer packages from other persons authorised for distribution;

- c) to submit, upon request by the customs office, documents proving the manner of acquisition of the consumer package;
- d) to store in the establishment a consumer package intended only for sale as part of its commercial activities;
- e) to keep records pursuant to paragraph 15.

(15) The person authorised for distribution is required to keep records, per establishment and calendar month, of consumer packages according to documents on the purchase and sale of consumer package and an EAN bar code, which contain

- a) the number of consumer packages received, in pcs, identification data of the consumer package supplier and its distribution authorisation number;
- b) the number of consumer packages removed, in pcs, identification data of the person authorised for distribution and its distribution authorisation number;
- c) the number of consumer packages removed, in pcs, identification data of the sale authorisation holder and its sale authorisation number;
- d) the number of consumer packages, in pcs, provided to a final consumer, including consumer packages provided to consumer package purchaser having registered office outside the tax territory;
- e) the stock of consumer packages, in pcs, as at the last day of a calendar month;
- f) a deficit or surplus in the number of consumer packages received and removed and reasons of its occurrence.

(16) The person authorised for distribution is required to differentiate in its accounting books the sale of a consumer package to another person authorised for distribution for the purposes of re-sale from the sale of a consumer package to the authorisation holder, and from the sale of a consumer package to a final consumer. If the person authorised for distribution sells a consumer package to another person authorised for distribution for the purposes of re-sale or to the authorisation holder, that person is required to specify the following on the document of sale:

- a) identification data of the supplier and the number of its distribution authorisation;
- b) identification data of the purchaser and the number of its distribution authorisation where the purchaser is a person authorised for distribution;
- c) identification data of the purchaser and the number of its sale authorisation where the purchaser is a holder of the sale authorisation;
- d) EAN bar code for each consumer package; if the consumer package has more than one EAN bar code assigned, the EAN bar code to be used in the sale of the consumer package shall be given.

(17) The person authorised for distribution is required to report to the customs office the data pursuant to paragraph 15 per calendar month by electronic means, not later than on the 25th day of the calendar month following the month for which the data are reported, on the form to be published by the Ministry on its website. A qualified electronic signature³⁸) is not required. The person authorised for distribution that is a warehouse keeper, authorised consignee, consignee (purchaser) of spirit pursuant to §26(1) or consumer package importer is required to electronically notify the customs office of the brand name of the consumer package, volume of the consumer package, alcoholic strength by volume of the spirit in the consumer package and an EAN bar code for each new type of consumer package that person intends to release for free circulation, not later than on the day when the consumer package is released for free circulation or before the consumer packages is sold or otherwise removed. Where a single assortment of the consumer package has more than one EAN bar code assigned, the person authorised for distribution shall report all EAN bar codes that were assigned. If the consumer package is part of a bulk package marked with a single EAN bar code, the person authorised for distribution shall report to the customs office the EAN bar code of that bulk package. For the purposes of this Act, the bulk package means a package that contains a separate consumer package or a consumer package together with other goods and is intended for sale to final consumers. If, for the purpose of sale of the consumer package, the bulk package has been opened, the person authorised for distribution is required to notify this fact to the customs office and, at the same time, keep records of EAN bar codes of each consumer package which was part of that bulk package.

(18) The EAN bar code on the consumer package contains in particular information about the country of origin, information about the consumer package manufacturer, brand name of the consumer package, volume of the consumer package and an alcoholic strength by volume of the spirit in the consumer package. If no EAN bar code has been assigned to the consumer package, or if the EAN bar code does not contain the data as required pursuant to the foregoing sentence, the data referred to in paragraph 7(b) and paragraphs 15 through 17 shall be provided by the country of origin, brand name of the consumer package, volume of the consumer package and an alcoholic strength by volume of the spirit in the consumer package.

(19) The authorisation holder or person authorised for distribution is required to keep records pursuant to paragraph 7 or paragraph 15 per calendar month so as to enable the customs office performing the tax supervision to verify the stock of consumer packages as at the date of tax supervision. The authorisation holder or person authorised for distribution is required to have available in the establishment the documents on the purchase and sale of consumer packages, or their copies, corresponding to the actual stock of consumer packages held in the establishment. The authorisation holder or person authorised for distribution is required to retain such records for five years.

(20) The sale authorisation or distribution authorisation shall expire upon the day

- a) of decease of a natural person or date of entry into force of the court ruling declaring the natural person to be deceased, unless heirs or an estate trustee appoint by the court continue the business under the trade licence;
- b) of expiration of the trade licence;⁷¹⁾
- c) of entry into force of a court decision on bankruptcy;
- d) of entry into force of a decision to revoke the sale authorisation or to revoke the distribution authorisation.

(21) The customs office shall revoke

- a) the sale authorisation, if the authorisation holder
 1. no longer meets any of the conditions referred to in paragraph 5;
 2. fails to prove, in accordance with this Act, the origin or the manner of acquisition of the consumer package found to be, or to have been, held by that holder;
 3. violates obligations under paragraph 7, 8 and 19 and any notices served and fine imposed by the customs office have not led to rectification;
 4. applies for the revocation of the sale authorisation;
- b) the distribution authorisation, if the person authorised for distribution
 1. no longer meets any of the conditions referred to in paragraph 11;
 2. fails to prove, in accordance with this Act, the origin or the manner of acquisition of the consumer package found to be, or to have been, held by that person;
 3. violates obligations under paragraph 13 though 17 and any notices served and fine imposed by the customs office have not led to rectification;
 4. applies for the revocation of the distribution authorisation.

(22) The person whose sale authorisation or distribution authorisation expired may only sell the consumer package with written consent from the customs office; provisions of §70(1)(t) and (u) shall not apply. The legal or natural person whose sale authorisation or distribution authorisation was revoked by the customs office is required to report to the customs office, within a prescribed deadline, the data pursuant to paragraph 7(b) or paragraph 15, according to the situation as at the date of revocation of sale authorisation or distribution authorisation.

(23) The provisions of paragraph 1 through 22 do not apply to the person that, as part of its commercial activities, only purchases and sells spirit released for free circulation in a consumer package, exempt from excise duty pursuant to §40.

(24) The Financial Directorate shall maintain an electronic database including the records of sale authorisations and distribution authorisations granted, which contains the following:

- a) identification data of the authorisation holder, address of its establishment if different from the registered office or permanent residence of the authorisation holder, sale authorisation number;
- b) date of issuance of the sale authorisation and date of revocation of the sale authorisation;
- c) identification data of the person authorised for distribution, address of its establishment if different from the registered office or permanent address of that person authorised for distribution, distribution authorisation number;
- d) date of issuance of the distribution authorisation and date of revocation of the distribution authorisation.

(25) The Financial Directorate shall make the electronic database referred to in paragraph 25 available on its website.

§55

Destruction of spirit

(1) The customs office shall destroy spirit which it has secured¹⁸⁾ and which becomes property of the state on the date on which the decision to forfeit such spirit enters into force¹⁸⁾. A special regulation shall apply to the procedure of spirit destruction accordingly.⁷²⁾

(2) Spirit demonstrably degraded and unfit for further processing or spirit which was not accepted by a grower and the operator of a distillery for home fruit growers requested its destruction pursuant to §49(7), or spirit held by a person that terminated its activities pursuant to §9(16) or §15(11) and the stock of spirit could not be supplied to a differed person, shall be destroyed, at the expense of the person holding such spirit, by

- a) a competent authority or upon its initiative¹⁶⁾ under the supervision of the customs office;
- b) the customs office or under its supervision at the request of such person.

(3) Fusel oil⁷³⁾ which cannot be used for further processing as a feedstock in the denaturation of spirit, may be destroyed at the request of the operator of a spirit producing enterprise under the supervision of the customs office at the expense of the warehouse keeper holding the fusel oil; the destruction of fusel oil pursuant to this Act shall also mean its destruction by burning in the spirit producing enterprise by the warehouse keeper holding such fusel oil.

§56

(1) A person that operates a spirit producing enterprise, spirit warehouse, user enterprise, or is an authorised consignee, operator of a transit tax warehouse, warehouse keeper for foreign agents, authorised representative for distance selling or a consignor (supplier) that performed distance selling, is required, pursuant to §31(9), §33(1), §34 through 38, to keep records and retain them for a period of ten years, as well as to submit the closures of such records to the customs office for verification within the time limit set by the customs office.

(2) The records of spirit are kept separately for spirit that is

- a) not in a consumer package;
- b) in a consumer package;
- c) sulphite;
- d) synthetic.

(3) The records of spirit are closed by a person pursuant to paragraph 1 as of 30 September of the respective calendar year, with the exception of a person that operates a distillery for home fruit growers, in which case the records are closed within 15 days following the completion of production period.¹³⁾

(4) A person pursuant to paragraph 1 is also required to keep, based on a decision by the customs office, other records necessary for correct determination of the excise duty.

§57

(1) A warehouse keeper that is a spirit producing enterprise, is obliged to keep records of

- a) feedstock for the production of spirit;
- b) spirit produced or processed;
- c) spirit received;
- d) spirit used for own consumption;
- e) spirit removed;
- f) spirit degraded and destroyed (disposed of);
- g) other substances used in the production of spirit;
- h) stock of spirit and other substances used in the production of spirit;
- i) consumer packages broken down into consumer packages stored under a duty suspension arrangement and consumer packages stored outside a duty suspension arrangement (§15(13)).

(2) The records pursuant to paragraph 1 must contain, in accordance with the Combined Nomenclature code, the following:

- a) brand name, quantity, the concentration of spirit by volume and the date of production of spirit;
- b) brand name, quantity, the concentration of spirit by volume, date of receipt of spirit and identification data of the supplier; in the case of spirit importation, also the date of release for free circulation⁴⁾, the place where the customs procedure took place and the identification data of the declarant;
- c) brand name, quantity, the concentration of spirit by volume and the purpose of use of spirit for own consumption;
- d) brand name, quantity, the concentration of spirit by volume, the date of spirit removal and identification data of the supplier; if taken over by a shipper on whose account spirit was not removed, identification data of the shipper must also be included;
- e) brand name, quantity, the concentration of spirit by volume, the date of spirit destruction and the reasons for such destruction, data concerning the destruction of spirit;
- f) brand name, quantity and the concentration of spirit by volume, the date of exportation of spirit, the place of customs procedure and the identification data of the declarant.

(3) The removal of spirit exempt from excise duty must be documented by

- a) the purchaser's removal order, if spirit exempt from excise duty pursuant of §40(1) is removed;
- b) a copy of the authorisation to purchase spirit exempt from excise duty in the tax warehouse for foreign agents and a copy of the write-off sheet, if spirit exempt from excise duty under §32 is removed.

(4) Entries in the records must be made on a daily basis and not later than on the next business day following the occurrence of the event.

(5) In justified cases, the customs office may permit a different method of keeping the records than that specified in paragraph 4.

§58

- (1) A warehouse keeper that is a spirit warehouse, is obliged to keep records of
- a) spirit received;
 - b) spirit processed;
 - c) spirit under work-in-progress;
 - d) spirit used for own consumption;
 - e) spirit removed;
 - f) spirit degraded and destroyed (disposed of);
 - g) other substances used in the processing of spirit;
 - h) stock of spirit and stock of other substances used in the processing of spirit;
 - i) goods produced from spirit by such warehouse keeper;
 - j) consumer packages broken down into consumer packages stored under a duty suspension arrangement and consumer packages stored outside a duty suspension arrangement (§15(13)).

(2) A warehouse keeper possessing an authorisation for the denaturation of spirit is required to keep, in addition to the records under paragraph 1, the records of

- a) the denaturation agent, indicating its brand name;
- b) produced denatured spirit in 1 a.

(3) §34(2) shall apply accordingly and §34(3) and (4) equally to the record keeping pursuant to paragraphs 1 and 2.

§59

(1) A user enterprise shall keep records of

- a) received spirit, broken down into spirit exempt from excise duty and spirit taxed, if purchasing such spirit;
- b) spirit received from another Member State under a duty suspension arrangement as an authorised consignee;
- c) spirit, by purpose of use;
- d) spirit destroyed and spirit disposed of;
- e) goods produced from spirit by such user enterprise;
- f) goods produced from spirit and sold by such user enterprise;
- g) stock of spirit and stock of goods produced from spirit by such user enterprise;
- h) consumer packages of spirit, if purchasing such spirit;
- i) the total quantity of spirit obtained through regeneration and, of this amount, the quantity of spirit used for the purposes exempt from excise duty in accordance with the removal order.

(2) §34(2) shall apply accordingly and §34(4) equally to the record keeping pursuant to paragraph 1.

PART THREE SPECIAL PROVISIONS ON WINE AND INTERMEDIATE PRODUCT

§60

Exemption from excise duty

(1) The wine and an intermediate product are exempt from excise duty, if intended for

- a) the production of vinegar falling within Combined Nomenclature code 2209;
- b) the production and preparation of medicinal products, medicaments and excipients⁴⁷⁾ by persons possessing authorisation for their production and preparation pursuant to a separate regulation⁴⁷⁾, the production and preparation of food supplements⁴⁸⁾, the production of medicinal preparations by persons possessing authorisation for their production and preparation pursuant to separate regulations⁴⁹⁾ that are produced from macerates and extracts, and for the production of macerates and extracts;
- c) the production of flavourings intended for use in the production of foodstuffs and beverages with alcoholic strength by volume not exceeding 1.2 % vol.
- d) the production of foodstuffs directly or as a part of a semi-finished product, if alcoholic strength does not exceed 5 l a. per 100 kg of finished product;
- e) the manufacturing process for products that are not subject-matter of tax pursuant to this Act;
- f) scientific, research and analytical purposes.

(2) Exemption from excise duty also applies to still fermented beverage and sparkling fermented beverage produced in the tax territory by a small producer of fermented beverage pursuant to §64(1), if the quantity produced does not exceed 1,000 litres per economic year.⁷⁴⁾ The still fermented beverage and sparkling fermented beverage produced in this manner is intended for own consumption by a small producer of fermented beverage and its household, and for consumption by its related persons.⁶⁾

§61

Wine and intermediate product producing enterprise

(1) For the purposes of this Act, a wine and intermediate product producing enterprise is a spatially limited location in the tax territory, where wine and intermediate product is produced, processed, received or dispatched as part of commercial activities.

(2) Wine production means the processing of must into wine or the processing of wine by secondary fermentation or its treatment.⁷⁵⁾ The processing of wine and intermediate product means its bottling into containers in which they are supplied for final consumption.

(3) The processing of wine and intermediate product does not include the handling of wine and intermediate product in closed containers in which they are supplied for final consumption.

(4) A person whose scope of business includes the production of wine and intermediate product and seeks to operate an enterprise for the production of wine and intermediate product under a duty suspension arrangement must have an authorisation to operate a tax warehouse.

§62

Wine and intermediate product warehouse

(1) For the purposes of this Act, a wine and intermediate product warehouse is a spatially limited location in the tax territory, where wine and intermediate product is received, stored, dispatched or processed as part of commercial activities.

(2) A person seeking to operate a warehouse for wine and intermediate product under a duty suspension arrangement must have an authorisation to operate a tax warehouse.

(3) The application for authorisation to operate a wine and intermediate product warehouse under a duty suspension arrangement may be submitted only if the annual turnover of such wine and intermediate product in the warehouse is at least 100 hectolitres and the storage period of wine and intermediate product is not less than 30 days.

§63

Special provision on still wine

(1) A person operating a wine and intermediate product producing enterprise where only still wine is produced, processed, stored, received or dispatched, or a person operating a wine and intermediate product warehouse where only still wine is received, stored, dispatched or processed, is required to apply in writing to the customs office for registration and issuance of an authorisation to operate a tax warehouse pursuant to §15, only if such person intends to supply such wine to other Member States or receive such wine from other Member States under a duty suspension arrangement. The provisions of §16 and §62(3) shall not apply to the submission of an application for the issuance of an authorisation to operate a tax warehouse. §15(10) shall not apply to the revocation of the authorisation to operate a tax warehouse.

(2) A person operating a wine and intermediate product producing enterprise where only still wine is produced, processed, stored, received or dispatched, with average production of still wine amounting to less than 1,000 hectolitres in the economic years⁷⁴⁾, is not required to submit the application pursuant to paragraph 1. Such person is required to notify the competent customs office of each receipt of still wine from another Member State by sending a copy of the accompanying document pursuant to a separate regulation.⁷⁶⁾ The notification must also contain its average annual production of still wine.

(3) If the person referred to in paragraph 1 produces only still wine falling within Combined Nomenclature code 2204 and keeps records pursuant to a separate regulation⁷⁷⁾, such records are deemed records pursuant to this Act. Where necessary for the purposes of tax supervision and tax audit, the customs office may also request record keeping in accordance with §34 and 35.

(4) If still wine is moved from the tax territory to the territory of another Member State under a duty suspension arrangement, the person referred to in paragraph 1 shall proceed in accordance with §18, if the purchaser (consignee) is a warehouse keeper or an authorised consignee. If still wine is moved under a duty suspension arrangement only within the tax territory, §17(12) shall not apply.

(5) Where still wine released for free circulation in another Member State is moved to the tax territory for commercial purposes, it shall be deemed, for the purposes of this Act, released for free circulation also in the tax territory and §26(2) through (6) shall not apply. This shall be without prejudice to the provision of §27(2); in this case, however, the customs office shall only confirm that wine has been taken over by the purchaser (consignee).

(6) Where still wine released for free circulation in the tax territory is supplied by the person to another Member State for commercial purposes as part of its commercial activities, such person shall only proceed in accordance with §26(7).

(7) Where the subject matter of distance selling includes still wine only, §29 shall apply, with the exception of paragraph 3(c) and paragraphs 4, 5 and 9.

§64

Special provision on the exemption from excise duty for a small producer of fermented beverage

(1) For the purposes of this Act, small producer of fermented beverage means a natural person producing still fermented beverage or sparkling fermented beverage in the tax territory in the maximum quantity of 1,000 litres per economic year⁷⁴⁾ for its own consumption and the consumption of its household, or for consumption by its related persons.⁶⁾

(2) The obligation of registration or record-keeping under this Act shall not apply to a small producer of fermented beverage.

(3) Where a small producer of fermented beverage produces more than 1,000 litres of fermented beverage in an economic year,⁷⁴⁾ excise duty pursuant to §10(2)(b) shall become chargeable on the quantity of fermented beverage which was produced in excess of 1000 litres in an economic year.⁷⁴⁾ When the excise duty becomes chargeable, the tax payer is required file a tax return to the customs office not later than three business days following the day on which the excise duty became chargeable and pay the duty within the same deadline. §12 shall apply accordingly to the tax return.

PART FOUR SPECIAL PROVISIONS ON BEER

§ 65

Exemption from excise duty

Exemption from excise duty applies to beer, if intended for

- a) the production of vinegar falling within Combined Nomenclature code 2209;
- b) the production and preparation of medicinal products, medicaments and excipients⁴⁷⁾ by persons possessing authorisation for their production and preparation pursuant to a separate regulation⁴⁷⁾, the production and preparation of food supplements⁴⁸⁾, the production of medicinal preparations by persons possessing authorisation for their production and preparation pursuant to separate regulations⁴⁹⁾ that are produced from macerates and extracts, and for the production of macerates and extracts;
- c) the production of flavourings intended for use in the production of foodstuffs and beverages with alcoholic strength by volume not exceeding 1.2 % vol.
- d) the production of foodstuffs directly or as a part of a semi-finished product, if alcoholic strength does not exceed 5 l a. per 100 kg of finished product;
- e) the manufacturing process for products that are not subject-matter of tax pursuant to this Act;
- f) scientific, research and analytical purposes.

§66

Small independent brewery

(1) The operator of a small independent brewery is a person that produces beer as part of its commercial activities and meets the following requirements:

- a) annual beer production does not exceed 200 000 hectolitres;
- b) it is not a person controlling/controlled by or affiliated with another person that produces beer as part of its commercial activities;
- c) it does not produce beer under licence;⁷⁸⁾
- d) the production and operational premises are not technologically linked with the production and operational premises of another person that produces beer as part of its commercial activities.

(2) For the purposes of this Act, annual beer production means the total quantity of beer produced in the small independent brewery in the respective calendar year.

(3) A small independent brewery operator is required to notify the customs office, no later than by 25 January of the respective calendar year, of the expected annual beer production in hectolitres and demonstrate the fulfilment of the requirements under paragraph 1 in the tax return for the tax period which is December of the previous calendar year.

(4) A small independent brewery operator that commenced the production of beer during the calendar year, is required to notify the customs office, in the tax return for the first calendar month in which it commenced the production of beer, of the expected annual beer production in hectolitres and demonstrate the fulfilment of the requirements under paragraph 1. The expected annual beer production is calculated as the quotient of the expected production from the commencement until year-end divided by the number of months of production in the calendar year, including the month in which such production commenced, and multiplied by twelve.

(5) A small independent brewery operator is obliged to notify the customs office, within 15 days, of the fact that

- a) the actual quantity of beer produced in a calendar year exceeded 200 000 hectolitres and is required to apply the basic tax rate to the quantity of beer produced in the calendar year;
- b) it failed to meet any of the other requirements under paragraph 1(b) through (d) and is required to apply the basic tax rate to the quantity of beer produced in the calendar year.

(6) The tax period is a calendar month. Upon chargeability of excise duty, a small independent brewery is required to immediately file a tax return with the customs office by the 25th day of the calendar month following after the month in which the excise duty became chargeable and pay the duty within the same deadline. The provisions of §12 shall apply accordingly to the tax return.

(7) For each tax period preceding the tax period, in which the facts under paragraph 5 have occurred, the small independent brewery is required to file an additional tax return within the deadline for the submission of the tax return for the tax period, in which the facts under paragraph 5 have occurred. In the additional tax return, the tax period in question shall be indicated, including the difference between the excise duty calculated in accordance with the basic tax rate and the excise duty indicated in the tax return. The penalty under a separate regulation⁷⁹⁾ shall not be applied to the difference between excise duties.

§67 Beer-making enterprise

(1) For the purposes of this Act, a beer-making enterprise is a spatially limited location in the tax territory, where beer referred to in §4(6) is produced, processed, stored, received or dispatched as part of commercial activities.

(2) Beer production shall also mean a change in wort quantity or content in beer, if it results in a change of the tax base.

(3) In a beer-making enterprise, which is a tax warehouse, the beer under a duty suspension arrangement may be used for the production of beverages that are not the subject-matter of tax.

(4) A person whose scope of business includes the production of beer and seeks to operate an enterprise for the production of beer under a duty suspension arrangement must have an authorisation to operate a tax warehouse.

§68 Beer warehouse

(1) For the purposes of this Act, a beer warehouse is a spatially limited location in the tax territory, where beer is received, stored, dispatched or processed as part of commercial activities.

(2) A person seeking to operate a warehouse for beer under a duty suspension arrangement must have an authorisation to operate a tax warehouse.

(3) A beer warehouse, in which beer under a duty suspension arrangement is to be received, stored and dispatched, must meet the following requirements:

- a) the beer warehouse operator performs commercial activities in the distribution of beer;
- b) the minimum turnover of beer is 5,000 hectolitres per year;
- c) the average storage period is not less than one month.

PART FIVE TAX SUPERVISION AND TAX AUDIT

§ 69

(1) The customs office shall perform tax supervision, which entails supervision of the holding and movement of alcoholic beverages, printing and handling of tax stamps, as well as tax audit.⁸⁰⁾

(2) Tax supervision shall be performed by the competent customs office having jurisdiction over the audited entity's registered office or permanent residence or having jurisdiction over the audited means of transport, transportation tank, or audited alcoholic beverages.

(3) In the course of tax supervision and tax audit, the customs office is authorised

- a) to enter every operating plant, room, residential or non-residential premises which the audited entity also uses for commercial activities involving alcoholic beverages, and to enter premises which are known or can be expected to hold or possibly hold alcoholic beverages;
- b) to determine the stock of alcoholic beverages and goods which are intended for or may be used in the production of alcoholic beverages and to order the respective stock-taking;
- c) to check production equipment, warehouses, transport packaging, storage facilities, containers, tanks and other vessels that hold or may hold alcoholic beverages or goods produced therefrom;
- d) to perform the inspection of the use of alcoholic beverages exempt from excise duty pursuant to the applicable provisions of this Act, to determine the stock of products produced from alcoholic beverages exempt from excise duty;
- e) to stop vehicles which transport alcoholic beverages or which can be expected to transport alcoholic beverages, to determine the quantity of alcoholic beverages transported in such vehicles, to inspect shipping documents and mark the inspection in these documents;
- f) to take samples in cases pursuant to (a) to (e) free of charge in a technologically justified amount; the method for the taking of samples shall be laid down in a generally binding regulation to be issued by the Ministry pursuant to §72(4);
- g) to require the submission of data and documents related to the activities of the audited entity, the submission of documents demonstrating the contentions of the audited entity and all documents specified in this Act;
- h) to compare the determined losses of alcoholic beverage which is wine in the production, storage and movement in the tax warehouses and user enterprises using wine exempt from excise duty for the purposes under §60(1)(a), against the losses in an admissible amount set by a separate regulation;⁷⁷⁾
- i) to determine natural depletion of alcoholic beverage which is beer in the production, storage and movement due to its physical and chemical properties and, on the basis of long-term monitoring of at least 12 consecutive months, to determine, with the consent of the Financial Directorate, the greatest quantity of losses of beer admissible in tax warehouses and in user enterprises using beer exempt from excise duty for purposes pursuant to §7(2)(a);
- j) to determine production losses, manipulation losses, movement losses and other natural depletion of alcoholic beverage which is spirit in the production, processing, storage and movement due to its physical and chemical properties and, on the basis of long-term monitoring of at least 12 months, to determine the quantity of losses of spirit in tax warehouses and in user enterprises broken down by individual types of losses; based on the findings, to submit a proposal to amend the applicable standards for losses issued under a separate regulation;¹⁵⁾
- k) to determine and verify the standard amounts of consumption of alcoholic beverage which is spirit in enterprises which use spirit exempt from excise duty pursuant to §40(1), and to amend the standard amounts of spirit consumption based on long-term monitoring.

(4) The customs office shall inspect the production equipment in enterprises producing alcoholic beverage which is spirit; in doing so, it shall verify whether the production equipment and the condition and placement of the seals of the customs office comply with the documentation submitted with the application for an authorisation to operate a tax warehouse and the application for registration as operator of a distillery for home fruit growers. Once in a year, the Financial Directorate shall draw up a report on information obtained from data in the records kept in accordance with §34 through 39 and §56 through 59 which will be published on its website.

(5) During each denaturation of alcoholic beverage which is spirit, the customs offices shall take samples from the spirit intended for the denaturation of spirit and from the denatured spirit and is authorised to take samples from the denaturation agent. The holder of an authorisation for the denaturation of spirit is obliged to cooperate with the customs office in the necessary extent during the audit and allow the customs office to take samples free of charge.

(6) In the course of tax supervision and tax audit, the relevant person is obliged to suffer the performance of the customs office authorisations pursuant to paragraphs 3 and 4.

(7) The tax audit shall begin with the drawing up of minutes of tax audit commencement. The tax audit shall be performed with persons registered under this Act; with persons recorded pursuant to §9, §63 and §66 it shall be performed as necessary, however at least once until the date of expiration of the right to levy excise duty.⁸¹⁾

(8) Based on the nature of the facts determined in the course of the tax supervision, the customs office shall either prepare minutes or official record²⁷⁾ or shall perform a tax audit.

(9) If the customs office determines that, in the payment of excise duty on alcoholic beverage or in tax reimbursement, the audited entity proceeds to the detriment of the purchaser or to its own detriment, it shall notify the audited entity to that effect.

(10) Tax supervision may also be performed by the Financial Directorate. In such an event, the provisions of paragraphs 1 through 9, with the exception of paragraph 7, shall apply accordingly to the Financial Directorate.

§70
Administrative delicts

- (1) An administrative delict is committed by a legal or natural person – entrepreneur if that person
- a) fails to lodge a tax guarantee for the movement of alcoholic beverage oil pursuant to this Act;
 - b) operates a transit tax warehouse and sells alcoholic beverage exempt from excise duty to a natural person to which it is obliged to sell beer with the tax included;
 - c) operates a tax warehouse for foreign agents and sells alcoholic beverage exempt from excise duty to a foreign agent in a quantity that exceeds the limit as per §32a(12) through (14) or to a person that was not granted an authorisation to purchase spirit exempt from excise duty in a tax warehouse for foreign agents;
 - d) releases alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65 to a purchaser that failed to present a removal order;
 - e) uses alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65 for purposes not specified in the removal order;
 - f) uses alcoholic beverages exempt from excise duty pursuant to §40(1), §60(1) or §65 without the issued removal order, unless it constitutes a breach under paragraph (i);
 - g) cannot prove, in accordance with this Act, the origin or the manner of acquisition of the alcoholic beverage found to be, or to have been, held by that person, irrespective of whether that person disposes of or has disposed of that alcoholic beverage as if its own;
 - h) breaches the obligations referred to in §42(2);
 - i) produces spirit without an authorisation to operate a tax warehouse, with the exception of an operator of a distillery for home fruit growers and with the exception of a person that is a user enterprise pursuant to §9(18);
 - j) breaches the obligations referred to in §47(5);
 - k) produces spirit in a distillery for home fruit growers and is not registered by the customs office pursuant to §49(4);
 - l) fails to discharge of its notification obligation pursuant to §49(6);
 - m) provides untrue data in annexes specified in §49(10) in addition to data indicated in the application for the production of alcoholic beverage;⁶²⁾
 - n) breaches the obligation referred to in §49(13);
 - o) sells, offers for sale, stores or moves the consumer package which is not marked in accordance with this Act and the generally binding regulation issued pursuant to §51(10), with the exception of the purchaser of tax stamps if marking the consumer package pursuant to §51(4), (11) and (12);
 - p) marks the consumer package with a counterfeit tax stamp;
 - q) breaches the obligation referred to in §52(1)(c) or in §53(11) or (20);
 - r) fails to demonstrate the use of tax stamps pursuant to this Act (§53);
 - s) breaches the obligations referred to in §53(12);
 - t) sells the consumer package without a sale authorisation or without a distribution authorisation pursuant to §54;
 - u) is a holder of an authorisation or a person authorised for distribution and purchases the consumer package from a person other than that authorised for distribution;
 - v) is a holder of an authorisation and does not keep records pursuant to §54(7)(b) or is a person authorised for distribution and does not keep records pursuant to §54(15);
 - w) fails to pay the excise duty within the due date stipulated in this Act and the customs office uses the tax guarantee to pay the excise duty;
 - x) prints the tax stamps in the absence of an employee of the Financial Directorate.
- (2) The customs office shall impose a fine
- a) for an administrative delict under paragraph 1(a): in the amount of 20% of the excise duty attributed to the quantity of alcoholic beverage moved, for which no tax guarantee has been lodged;
 - b) for an administrative delict under paragraph 1(b): in the amount of 50% of the excise duty attributed to the quantity of the sold alcoholic beverage exempt from excise duty which should have been sold with the tax included, but not less than EUR 3,319;
 - c) for an administrative delict under paragraph 1(c): in the amount of 50% of the excise duty attributed to the quantity of alcoholic beverage exempt from excise duty which was sold in excess of the limit as per §32(12) through (14) or to a person without the permission to purchase spirit exempt from excise duty in a tax warehouse for foreign agents, but not less than EUR 3,319;
 - d) for an administrative delict under paragraph 1(d): in the amount of 50% of the excise duty attributed to the quantity of alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65 which was released to a purchaser that failed to present a removal order, but not less than EUR 331 for alcoholic beverage which is beer or wine or not less than EUR 3,319 for alcoholic beverage which is spirit;
 - e) for an administrative delict under paragraph 1(e): in the amount of 50% of the excise duty attributed to the quantity of alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65 which was used for

- purposes not specified in the removal order, but not less than EUR 165 for alcoholic beverage which is beer or wine or not less than EUR 1,659 for alcoholic beverage which is spirit;
- f) for an administrative delict under paragraph 1(f): in the amount of 50% of the excise duty attributed to the quantity of alcoholic beverage exempt from excise duty pursuant to §40(1), §60(1) or §65 which was used without the issued removal order, but not less than EUR 331 for alcoholic beverage which is beer or wine or not less than EUR 3,319 for alcoholic beverage which is spirit;
 - g) for an administrative delict under paragraph 1(g): in the amount of 50% of the excise duty attributed to the quantity of the found alcoholic beverage, but not less than EUR 331 for alcoholic beverage which is beer or wine or not less than EUR 1,659 for alcoholic beverage which is spirit, and shall secure such alcoholic beverage;¹⁸⁾
 - h) for an administrative delict under paragraph 1(h) and (j): in the amount between EUR 2,000 and EUR 100,000;
 - i) for an administrative delict under paragraph 1(i): in the amount of the excise duty attributed to the quantity of spirit produced without the authorisation to operate a tax warehouse, but not less than EUR 33,193, and shall secure such spirit;¹⁸⁾
 - j) for an administrative delict under paragraph 1(k): in the amount of excise duty calculated as the product of the basic tax rate and the quantity of spirit produced by an unregistered person in a distillery for home fruit growers, but not less than EUR 3,319, and shall secure such spirit;¹⁸⁾
 - k) for an administrative delict under paragraph 1(l) and (m): in the amount of up to EUR166;
 - l) for an administrative delict under paragraph 1(n): in the amount of excise duty calculated as the product of the basic tax rate and the quantity of spirit offered for sale or otherwise placed on the market, but not less than EUR 332;
 - m) for an administrative delict under paragraph 1(o): in the amount of excise duty attributed to the quantity of spirit in the consumer package not marked in accordance with this Act, but not less than EUR 50, and shall secure such spirit in the consumer package;¹⁸⁾
 - n) for an administrative delict under paragraph 1(p): in the amount of excise duty attributed to the quantity of spirit in the consumer package marked with a counterfeit tax stamp increased by 100%, but not less than EUR 1,660, and shall secure such spirit in the consumer package;¹⁸⁾
 - o) for an administrative delict under paragraph 1(q): in the amount between EUR 332 to EUR 1,660;
 - p) for an administrative delict under paragraph 1(r): in the amount of excise duty attributed to the quantity of spirit in the consumer package for which the tax stamps were intended, but not less than EUR 332;
 - q) for an administrative delict under paragraph 1(s): in the amount of up to EUR 50,000, but not less than EUR 10,000;
 - r) for an administrative delict under paragraph 1(t) and (u): in the amount between EUR 332 and EUR 3,319;
 - s) for an administrative delict under paragraph 1(v): in the amount between EUR 50 and EUR 1,660;
 - t) for an administrative delict under paragraph 1(w): in the amount of 20% of the portion of tax guarantee used for the payment of excise duty, but not less than EUR 100;
 - u) for an administrative delict under paragraph 1(x): more than EUR 100,000;
- (3) If a person was fined for an administrative delict pursuant to paragraph 1(t), (u) and (v) and the customs office discovers that it failed to rectify the situation, it shall file a motion with the Trade Licence Office for proceedings pursuant to a separate regulation.⁸²⁾
- (4) The customs office shall destroy wine and beer which it has secured¹⁸⁾ and which becomes property of the state on the date on which the decision to forfeit such wine and beer enters into force¹⁸⁾. A special regulation shall apply to the procedure of wine and beer destruction accordingly.⁷²⁾
- (5) In determining the amount of fine, the customs office shall take account of the gravity, duration and consequences of the unlawful conduct.
- (6) A fine may not be imposed if five years have lapsed since the end of the year in which this Act was breached.

§71 Offences

- (1) An offence is committed by a natural person if that person
- a) cannot prove, in accordance with this Act, the origin or the manner of acquisition of the alcoholic beverage found to be, or to have been, held by that person, irrespective of whether that person disposes of or has disposed of that alcoholic beverage as if its own;
 - b) uses alcoholic beverage exempt from excise duty pursuant to §7(2)(h) or §8(2) for other than the specified purpose;
 - c) provides untrue data in the application for the production of distillate;⁶²⁾
 - d) breaches the obligation referred to in §49(13);
 - e) sells, offers for sale, stores or moves the consumer package which is not marked in accordance with this Act and the generally binding regulation issued pursuant to §51(10);
 - f) marks the consumer package with a counterfeit tax stamp;
 - g) produces spirit.

- (2) The customs office shall impose a fine
- a) for an offence under paragraph 1(a): in the amount of 50% of the excise duty attributed to the quantity of the found alcoholic beverage, but not less than EUR 331 for alcoholic beverage which is beer or wine or not less than EUR 1,660 for alcoholic beverage which is spirit, and shall secure such alcoholic beverage;¹⁸⁾
 - b) for an offence under paragraph 1(b): in the amount of 50% of the excise duty attributed to the quantity of alcoholic beverage exempt from excise duty pursuant to §7(2)(h) or §8(2) which was used for other than the specified purpose, but not less than EUR 166;
 - c) for an offence under paragraph 1(c): in the amount of up to EUR 166;
 - d) for an offence under paragraph 1(d): in the amount of excise duty calculated as the product of the basic tax rate and the quantity of spirit offered for sale or otherwise placed on the market, but not less than EUR 332;
 - e) for an offence under paragraph 1(e): in the amount of excise duty attributed to the quantity of spirit in the consumer package not marked in accordance with this Act, but not less than EUR 50, and shall secure such spirit in the consumer package;¹⁸⁾
 - f) for an offence under paragraph 1(f): in the amount of excise duty attributed to the quantity of spirit in the consumer package marked with a counterfeit tax stamp increased by 100%, but not less than EUR 1,660, and shall secure such spirit in the consumer package;¹⁸⁾
 - g) for an offence under paragraph 1(g): in the amount of excise duty attributed to the quantity of spirit produced, but not less than EUR 3,319, and shall secure such spirit.¹⁸⁾
- (3) In determining the amount of fine, the customs office shall take account of the gravity, duration and consequences of the unlawful conduct.
- (4) The customs office shall destroy wine and beer which it has secured²⁹⁾ and which becomes property of the state on the date on which the decision to forfeit such wine and beer enters into force¹⁸⁾. A special regulation shall apply to the procedure of wine and beer destruction accordingly.⁷²⁾
- (5) For offence under paragraph 1(b) the customs office may impose an on-the-spot fine of up to EUR 165.
- (6) Offences and proceedings related thereto are governed by a general regulation on offences.⁸³⁾

PART SIX COMMON, TRANSITIONAL AND FINAL PROVISIONS

§72

Common provisions

- (1) This Act transposes the legal acts of the European Union listed in Annex 2.
- (2) Tax administration shall be subject to a separate regulation⁷⁾, unless §69 and §71(6) stipulate otherwise.
- (3) The customs office's procedure of registration in the register pursuant to §9, §29(7), §41, 52 and 66 shall be governed by the provisions of a separate regulation on registration proceedings.⁸⁴⁾
- (4) The details on the control of the quantity of produced alcoholic beverage which is spirit, of processed spirit, supplied spirit and received spirit, on determining the quantity of spirit produced, determining the stock of spirit, on requirements for the arrangement of production equipment for the production of spirit, technological equipment for the processing of spirit, storing of spirit, transport of spirit, removal of spirit and receipt of spirit, the details on the use of spirit control meters, the manner in which spirit control meters are secured and the details on the keeping of records on spirit shall be laid down by a generally binding regulation to be issued by the Ministry.
- (5) The manner in which the production equipment is arranged and secured, and the manner in which the spirit control meter pursuant to §45(1) is secured and samples of spirit are taken may be, with the consent of the Financial Directorate, different from that which is stipulated in this Act and which will be stipulated by a generally binding regulation to be issued pursuant paragraph 4, if it is justified by operational circumstances in the spirit producing enterprise, if there is no negative impact on tax administration and if it is necessary for the purposes of ensuring the control of production and circulation of spirit.

§73

Transitional provisions to amendments relating to alcoholic beverage which is spirit

- (1) The authorisation to print tax stamps issued pursuant to §10(9) of Act No. 105/2004 Coll. effective until 31 December 2012 shall expire as of 1 January 2013. Pursuant to §10(9) of Act No. 105/2004 Coll. effective until 31 December 2012, the Financial Directorate is obliged to notify the printing house of this fact within 15 days of the date

of expiry of the authorisation to print tax stamps issued pursuant to §10(9) of Act No. 105/2004 Coll. effective until 31 December 2012.

(2) The printing house under paragraph 1 is obliged to

- a) take stock of tax stamps pursuant to a special regulation²¹⁾ by 30 April 2013 in the presence of the customs office, in the case of the printing house referred to in §10(9)(a) of the regulation effective until 31 December 2012 or in the case of the printing house referred to in §10(9)(b) of the regulation effective until 31 December 2012, it is obliged to take, in the presence of the tax administrator of another Member State if the regulations of the respective Member State so permit, stock of tax stamps pursuant to a similar regulation of the respective Member State;
- b) submit any tax stamps that it holds in stock to the customs office by 15 May 2013, together with the stocktaking list²¹⁾, in the case of the printing house referred to in §10(9)(a) of the regulation effective until 31 December 2012 or in the case of the printing house referred to in §10(9)(b) of the regulation effective until 31 December 2012, it is obliged to submit any tax stamps that it holds in stock to the Bratislava Customs Office together with a similar record of the stocktaking of tax stamps made pursuant to the regulations of the respective Member State.

(3) The customs office or the Bratislava Customs Office shall destroy the tax stamps submitted pursuant to paragraph 2(b) at the expense of the printing house referred to in paragraph 1 and shall prepare an official record²⁷⁾ of the destruction thereof in two copies. The customs office or the Bratislava Customs Office shall retain one copy of the official record²⁷⁾ and submit the other to the printing house pursuant to paragraph 1.

(4) The registration receipt number assigned to a legal person or a natural person pursuant to §10 of Act No. 105/2004 Coll. effective until 31 December 2012 shall expire as of 1 January 2013.

(5) Consumer packages may be marked with the tax stamp made pursuant to §10(11) of Act No. 105/2004 Coll. effective until 31 December 2012 by 31 March 2013 at the latest.

(6) Consumer packages marked with the tax stamp made pursuant to §10(11) of Act No. 105/2004 Coll. effective until 31 December 2012 may be released for free circulation by 30 June 2013 at the latest.

(7) The purchaser of tax stamps that removed tax stamps made pursuant to §10(11) of Act No. 105/2004 Coll. effective until 31 December 2012 shall account for the receipt and use of such tax stamps together with the customs office by 31 July 2013. The purchaser shall submit unused tax stamps to the customs office which shall destroy such tax stamps at the expense of the purchaser of tax stamps. Tax stamps shall be accounted for in accordance with Act No. 105/2004 Coll. effective until 31 December 2012. The customs office shall prepare the minutes concerning the destruction of the tax stamps.

(8) Consumer packages marked with the tax stamp made pursuant to §10(11) of Act No. 105/2004 Coll. effective until 31 December 2012 may be sold by 31 December 2014 at the latest. After this date the consumer packages marked in this manner shall be deemed unmarked.

(9) The confirmation of inclusion in the register of consumer package importers pursuant to §10(13) of Act No. 105/2004 Coll. effective until 31 December 2012 shall expire as of 1 January 2013.

(10) A legal person or a natural person that seeks to import the consumer package from the third-country territory as of 1 January 2013 must apply to the customs office for inclusion in the register of consumer package importers by 30 September 2012 at the latest. The application for inclusion in the register must contain identification data of the applicant, the applicant's tax identification number and the import licence, if required pursuant to a separate regulation.²⁰⁾

(11) A legal person or a natural person seeking to move consumer package released for free circulation in other Member State to the tax territory for commercial purposes must apply to the customs office for inclusion in the register of consignees(purchasers) of spirit pursuant to §26(1) by 30 September 2012 at the latest. The application for inclusion in the register must contain identification data of the applicant.

(12) The applicant pursuant to paragraph 10 or paragraph 11 must satisfy the following conditions:

- a) it keeps accounting records pursuant to a separate regulation;²¹⁾
- b) it has no arrears against a customs office or a tax office;
- c) there are no arrears against a customs office or a tax office on behalf of a person controlling/controlled by or affiliated with the applicant or a person that had been controlling/controlled by or affiliated with the applicant during a period of ten years preceding the submission of the application, and no person that was wound up and that would have been considered a person controlling/controlled by or affiliated with the applicant had, during a period of ten years preceding the date of the submission of the application, any tax arrears that had not been settled before the winding up of that person; this also applies to any tax arrears assigned to third persons pursuant to separate regulations;²²⁾

- d) it has no arrears on compulsory insurance contributions and on contributions under an old-age pension saving scheme pursuant to separate regulations;²³⁾
- e) has not been lawfully convicted of an intentional economic crime, a crime against property or another crime the elements of which relate to the scope of its business; the foregoing accordingly applies to an authorised representative or natural persons who are members of the managing or supervisory bodies of the legal person or natural person;
- f) it is not subject to liquidation and no bankruptcy proceedings have lawfully been declared against the applicant, no composition permitted, no compulsory composition confirmed, or restructuring permitted.

(13) The applicant referred to in paragraph 10 or paragraph 11 is required to specify in further detail the data included in the application upon request by the customs office.

(14) Prior to registering the applicant in the register of importers of consumer packages or the register of consignees (purchasers) of spirit pursuant to §26(1), the customs office shall examine the facts and data specified in the application and the meeting of the conditions pursuant to paragraph 12. If the facts and data are true and the applicant meets the requirements referred to in paragraph 12, the customs office shall register the applicant in the register of importers of consumer packages or the register of consignees (purchasers) of spirit pursuant to §26(1).

(15) If a legal person or a natural person was granted an authorisation to operate a tax warehouse, or if a legal person or a natural person was registered, included in the records, or was granted an authorisation for the sale or an authorisation for distribution in accordance with Act No. 105/2004 Coll. effective until 31 December 2011, such authorisation, registration or inclusion in the records or sale authorisation or distribution authorisation shall be deemed to have been issued in accordance with the regulation effective from 1 January 2012.

(16) Where the proceedings concerning the application for registration, issuance of an authorisation, inclusion in the records, issuance of the sale authorisation or issuance of the distribution authorisation in accordance with Act No. 105/2004 Coll. effective until 31 December 2011 are pending completion, the customs office shall assess such application and issue the authorisation, perform the registration, inclusion in the records, issue a sale authorisation or a distribution authorisation in accordance with the regulation effective from 1 January 2012.

(17) Between 1 January 2012 and 31 December 2012, the marking of consumer packages shall be subject to §10 of Act No. 105/2004 Coll. in the wording effective until 31 December 2012.

§74

Transitional provisions relating to alcoholic beverage which is wine

(1) If a legal person or a natural person was granted an authorisation or if a legal person or a natural person was registered or included in the records in accordance with Act No. 104/2004 Coll. effective until 31 December 2011, such authorisation, registration or inclusion in the records shall be deemed to have been issued in accordance with the regulation effective from 1 January 2012.

(2) Where the proceedings concerning the application for registration and the issuance of an authorisation, or for registration and inclusion in the records pursuant to Act No. 104/2004 Coll. effective until 31 December 2011 are pending completion, the customs office shall assess such application and issue the authorisation, or perform the registration and inclusion in the records in accordance with the regulation effective from 1 January 2012.

§75

Transitional provisions for beer

(1) If a legal person or a natural person was granted an authorisation or if a legal person or a natural person was registered or included in the records in accordance with Act No. 107/2004 Coll. effective until 31 December 2011, such authorisation, registration or inclusion in the records shall be deemed to have been issued in accordance with the regulation effective from 1 January 2012.

(2) Where the proceedings concerning the application for registration and the issuance of an authorisation, or for registration and inclusion in the records pursuant to Act No. 107/2004 Coll. effective until 31 December 2011 are pending completion, the customs office shall assess such application and issue the authorisation, or perform the registration and inclusion in the records in accordance with the regulation effective from 1 January 2012.

§76

Transitional provisions to amendments relating to alcoholic beverages which are spirit, wine and beer

(1) A warehouse keeper that has lodged a tax guarantee pursuant to §18 of Act No. 104/2004 Coll. effective until 31 August 2012, §24 of Act No. 105/2004 Coll. effective until 31 August 2012 or §19 of Act No. 107/2004 Coll. effective

until 31 August 2012 is required to lodge a tax guarantee by 31 August 2012 amounting to the excise duty attributed to the average monthly quantity of alcoholic beverage which it released for free circulation over a period of 12 consecutive calendar months; the tax guarantee shall also include the excise duty attributed to the quantity of alcoholic beverage which it released for free circulation for purposes exempt from excise duty. The obligation under the foregoing sentence does not apply to a warehouse keeper which is an enterprise producing wine and intermediate product or a wine and intermediate product warehouse, if such warehouse keeper produces, processes, receives, stores or dispatches still wine only.

(2) The warehouse keeper - wine producing enterprise pursuant to §18 of Act No. 104/2004 Coll. effective until 31 August 2012, the warehouse keeper - spirit producing enterprise pursuant to §24 of Act No. 105/2004 Coll. effective until 31 August 2012 or the warehouse keeper - beer-making enterprise pursuant to §19 of Act No. 107/2004 Coll. effective until 31 August 2012, which the customs office relieved of the tax guarantee and which seeks to be relieved of the tax guarantee pursuant to §16 of the regulation effective from 1 September 2012, is required to apply to the customs office, not later than by 30 June 2012, for

- a) full relief of the tax guarantee, if the warehouse keeper has a reliable tax history of at least 24 consecutive calendar months prior to the submission of the request for relief of tax guarantee;
- b) for partial relief of the tax guarantee in the amount of 50%, if the warehouse keeper has a reliable tax history of at least 12 consecutive calendar months prior to the submission of the request for relief of tax guarantee.

(3) The customs office shall assess the request pursuant to paragraph 2 and, if the warehouse keeper pursuant to paragraph 2, which is alcoholic beverage producing enterprise, has a reliable tax history, the customs office shall decide upon full or partial relief of tax guarantee and shall determine the period of validity of such decision, which may be maximum two years from the date of entry into force of the decision on the relief of tax guarantee.

(4) For the purposes of this Act, the warehouse keeper is considered to have a reliable tax history until 31 August 2012 if

- a) on its balance sheet from ordinary financial statements, it reports a positive difference between assets and liabilities²¹⁾ at least in the amount of twice the average monthly chargeable excise duty for the period of 12 month for which the ordinary financial statements have been prepared,²¹⁾ during
 1. two consecutive accounting periods preceding the filing of the request for full relief of tax guarantee;
 2. one accounting period preceding the filing of the request for partial relief of tax guarantee;
- b) complies with the conditions under §15(4); and
- c) did not commit an administrative delict pursuant to §70(1)(g), (h), (o), (p), (r) and (w), over
 1. at least 24 consecutive calendar months preceding the filing of the request for full relief of tax guarantee;
 2. at least 12 consecutive calendar months preceding the filing of the request for partial relief of tax guarantee.

(5) Annexes to the request pursuant to paragraph 2 comprise

- a) financial statements for the immediately preceding
 1. two accounting periods prior to filing the request for full relief of tax guarantee,
 2. one accounting period prior to filing the request for partial relief of tax guarantee;
- b) a confirmation demonstrating the compliance with requirement under paragraph 4(b)
 1. at least 24 consecutive calendar months preceding the filing of the request for full relief of tax guarantee;
 2. at least 12 consecutive calendar months preceding the filing of the request for partial relief of tax guarantee.

(6) Upon request by the customs office, the warehouse keeper pursuant to paragraph 2, alcoholic beverage producing enterprise, shall specify the data included in the request pursuant to paragraph 11 and its annexes in more detail.

(7) If the proceedings concerning the application for relief of tax guarantee submitted pursuant to §18 of Act No. 104/2004 Coll. effective until 31 August 2012, §24 of Act No. 105/2004 Coll. effective until 31 August 2012 or §19 of Act No. 107/2004 Coll. effective until 31 August 2012 were not concluded with finality by 31 August 2012, the customs office shall treat such an application as if submitted after 31 August 2012.

(8) If the proceedings concerning the request submitted pursuant to paragraph 2 were not concluded with finality by 31 August 2012, the warehouse keeper pursuant to paragraph 2 is required, by 15 September 2012 at the latest, to lodge a tax guarantee pursuant to §16 of the regulation in effect from 1 September 2012.

(9) If a warehouse keeper pursuant to paragraph 2, whom the customs office fully or partially relieved of the tax guarantee pursuant to §18 of Act No. 104/2004 Coll. effective until 31 August 2012, §24 of Act No. 105/2004 Coll. effective until 31 August 2012 or §19 of Act No. 107/2004 Coll. effective until 31 August 2012, fails to apply to the customs office for relief of the tax guarantee pursuant to paragraph 2, it is required to lodge, not later than by 15 September 2012, a tax guarantee pursuant to §16 of the regulation effective from 1 September 2012.

(10) Any fine imposition procedure not concluded with finality as of 31 December 2010 shall be concluded pursuant to §70 or §71 of the regulation effective from 1 January 2011, if the fine amount thus determined is more favourable to the legal or natural person.

(11) Between 1 January 2012 and 31 August 2012, the tax guarantee shall be subject to §18 of Act No. 104/2004 Coll. in the wording effective until 31 August 2012, §24 of Act No. 105/2004 Coll. in the wording effective until 31 August 2012 and §19 of Act No. 107/2004 Coll. in the wording effective until 31 August 2012.

(12) Between 1 January 2012 and 31 August 2012, the fines shall be subject to §40(1)(e) and §40(2)(e) of Act No. 104/2004 Coll. in the wording effective until 31 August 2012, §47(1)(p) and §47(2)(o) of Act No. 105/2004 Coll. in the wording effective until 31 August 2012 and §40(1)(e) and §40(2)(e) of Act No. 107/2004 Coll. in the wording effective until 31 August 2012.

(13) The provisions of §15(2)(e) in the wording effective from 1 September 2012 and §16(15)(a) in the wording effective from 1 September 2012 shall not apply from 1 January 2013.

§77

Repealing provisions

The following is repealed:

1. §1 through 17, §19 through 39, §40(1)(a) through (d), (f) and (g), §40(2)(a) through (d), (f) and (g), §40(3), §40a through 44 and Annex No. 1 and 2 of Act No. 104/2004 Coll. on excise duty on wine as amended by Act No. 556/2004 Coll., Act No. 629/2004 Coll., Act No. 217/2006 Coll., Act No. 283/2007 Coll., Act No. 378/2008 Coll., Act No. 465/2008 Coll. and Act No. 472/2009 Coll.;
2. Article I §1 through 9, §11 through 23, §25 through 46, §47(1)(a), (f) through (o), (r) through (v), §47(2)(a), (f) through (n), (p) through (t), §47a(1)(c) through (g), §47a(2)(c) through (g), §48 through 52c and Annex No. 1 and 2 of Act No. 105/2004 Coll. on excise duty on spirit and on the 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., Act No. 68/2005 Coll., Act No. 533/2005 Coll., Act No. 278/2006 Coll., Act No. 283/2007 Coll., Act No. 279/2008 Coll., Act No. 378/2008 Coll., Act No. 465/2008 Coll., Act No. 52/2009 Coll., Act No. 474/2009 Coll. and Act No. 256/2011 Coll.;
3. §1 through 18, §20 through 39, §40(1)(a) through (d), (f) and (g), §40(2)(a) through (d), (f) and (g), §40a through 44 and Annex No. 1 and 2 of Act No. 107/2004 Coll. on excise duty on beer as amended by Act No. 556/2004 Coll., Act No. 630/2004 Coll., Act No. 218/2006 Coll., Act No. 378/2008 Coll., Act No. 465/2008 Coll. and Act No. 475/2009 Coll.;
4. Act No. 104/2004 Coll. on excise duty on wine as amended by Act No. 556/2004 Coll., Act No. 629/2004 Coll., Act No. 217/2006 Coll., Act No. 283/2007 Coll., Act No. 378/2008 Coll., Act No. 465/2008 Coll. and Act No. 472/2009 Coll.;
5. Article I §24, §47(1)(p) and §47(2)(o) of Act No. 105/2004 Coll. on excise duty on spirit and on the 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. 632/2004 Coll. and Act No. 278/2006 Coll.;
6. Act No. 107/2004 Coll. on excise duty on beer as amended by Act No. 556/2004 Coll., Act No. 630/2004 Coll., Act No. 218/2006 Coll., Act No. 378/2008 Coll., Act No. 465/2008 Coll. and Act No. 475/2009 Coll.;
7. Article I of Act No. 105/2004 Coll. on Excise Duty on Spirit and on the 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., Act No. 68/2005 Coll., Act No. 533/2005 Coll., Act No. 278/2006 Coll., Act No. 283/2007 Coll., Act No. 279/2008 Coll., Act No. 378/2008 Coll., Act No. 465/2008 Coll., Act No. 52/2009 Coll., Act No. 474/2009 Coll. and Act No. 256/2011;
8. Decree of the Ministry of Finance of the Slovak Republic No. 202/2006 Coll. on authorised denaturation agents, their quantities stipulated for the denaturation of spirit, the requirements for denaturation of spirit and the handling of denatured spirit, the requirements for the properties and determined purpose of use of denatured spirit as amended by Decree No. 574/2004 Coll., Decree No. 414/2005 Coll., Decree No. 486/2008 Coll. and Decree No. 404/2009 Coll.;
9. Decree of the Ministry of Finance of the Slovak Republic No. 226/2004 Coll. laying down the details on the requirements for the arrangement of technological equipment for the production, processing, storing and transport of spirit, control of spirit quantity, establishing the stock of spirit and on the manner of keeping records as amended by Decree No. 228/2007 Coll.;
10. Decree of the Ministry of Finance of the Slovak Republic No. 613/2008 Coll. establishing the specimen tax return, specimen additional tax return, specimen application for reimbursement of excise duty on beer and specimen additional application for reimbursement of excise duty on beer;

11. Decree of the Ministry of Finance of the Slovak Republic No. 614/2008 Coll. establishing the specimen tax return, specimen additional tax return, specimen application for reimbursement of excise duty on wine and specimen additional application for reimbursement of excise duty on wine;
12. Decree of the Ministry of Finance of the Slovak Republic No. 616/2008 Coll. establishing the specimen tax return, specimen additional tax return, specimen application for reimbursement of excise duty on spirit and specimen additional application for reimbursement of excise duty on spirit;

§78

This Act shall become effective as of 1 January 2012, except for §16 and §77(4) through (6) which shall become effective as of 1 September 2012, and §51, 52, §53(8) through (21) and §77(7) which shall become effective as of 1 January 2013.

Ivan Gašparovič
Pavol Hrušovský
Iveta Radičová

Confirmation issued by the Ministry of Foreign Affairs of the Slovak Republic concerning the status of a foreign agent and the fulfilment of the condition of reciprocity

Foreign agent (name and surname)

Seconding state

Status of a foreign agent

Address (residence)

diplomatic mission, consular office,
international organisation
head of mission, consular office,
international organisation
diplomatic representative
consular officer
an administrative and technical staff member
consular staff member
international organisation official

(mark with X)

Phone number

Fax number

Signature by the foreign agent

Signature by the head of mission, stamp

Confirmation of the Ministry of Foreign Affairs of the Slovak Republic (hereinafter referred to as the “Slovak Foreign Ministry”)

Duration of stay of the foreign agent:

Fulfilment of the condition of reciprocity:

End of stay in the Slovak Republic:

Other change of the Slovak Foreign Ministry:

Date:

Signature:

**Stamp
by the Slovak Foreign Ministry:**

LIST OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN UNION

1. Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992) as amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003), as amended by the Act of Accession of Bulgaria and Romania (OJ L 157, 21.6.2005).
2. Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages (OJ L 316, 31.10.1992).
3. Council Directive 2006/79/EC of 5 October 2006 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries (codified version) (OJ L 286, 17.10.2006).
4. Council Directive 2007/74/EC of 20 December 2007 on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries (OJ L 346 29.12.2007).
5. Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009) as amended by Council Directive 2010/12/EU of 16 February 2010 (OJ L 50, 27.2.2010).

- 1) Article 52 of the Treaty on European Union.
Article 355 of the Treaty on the Functioning of the European Union.
- 2) Article 355(3) of the Treaty on the Functioning of the European Union.
- 3) Article 84(1)(a) of Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992) as amended.
- 4) Article 79 of Regulation (EEC) No 2913/92 as amended.
- 5) §2 of the Commercial Code.
- 6) § 116 and 117 of the Civil Code.
- 7) §7 of Act No. 563/2009 Coll. on Tax Administration (Tax Procedure Code) and on the amendment of certain other Acts, as amended by Act No. 331/2011 Coll.
- 8) §3 to 7 of Act No. 253/1998 Coll. on the notification of citizen residency and on the population register of the Slovak Republic as amended.
§42 of Act No. 404/2011 Coll. on stay of aliens and on amendments to certain other Acts.
- 9) §7 of the Commercial Code.
- 10) STN 560186-5 Beer testing methods. Determination of alcohol.
- 11) Part Three of Annex No. 16 to Decree of the Slovak Office of Standards, Metrology and Testing No. 210/2000 Coll. on measuring instruments and metrological control as amended.
- 12) §115 of the Civil Code.
- 13) §3(1) of Decree of the Ministry of Agriculture of the Slovak Republic No. 653/2002 Coll. on operation of fruit grower's distilleries and on the method of using spirit samples.
- 14) For instance, Act of the National Council of the Slovak Republic No. 152/1995 Coll. on foodstuffs as amended, Act No. 362/2011 Coll. on drugs and medical aids and on amendments to certain acts, Act No. 355/2007 Coll. on protection, support and development of public health and on amendments to certain Acts as amended.
- 15) §9(7) of Act No. 467/2002 Coll. on the production and distribution of spirit into the market as amended by Act No 105/2004 Coll.
Decree of the Ministry of Agriculture of the Slovak Republic No. 2915/2003-100 of 4 November 2003 on standards for losses of alcohol permissible in the operation of a distillery and alcohol processors, use of standards for losses of alcohol and alcoholic strength tables (Notification No. 59/2004 Coll.).
- 16) §21 of Act of the National Council of the Slovak Republic No. 152/1995 Coll. as amended.
- 17) For instance, Act No. 223/2001 Coll. on waste and on amendments to certain Acts as amended, Act No. 364/2004 Coll. on water resources and on amendments to Act No. 372/1990 Coll. on offences as amended (the Water Act), as amended.
- 18) For instance, §135, 456, 462 of the Civil Code, §64 through 66, 68, 69, 75, 77, 83 and 84a of Act No. 199/2004 Coll. Customs Act and on amendments to certain acts as amended, §59, 60, 83 and 83b of the Criminal Code as amended, §40 through 43 of Act No. 563/2009 Coll.
- 19) For instance, Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 324/1997 Coll. on the Conclusion of an Agreement among the States Parties to the North Atlantic Treaty and the other States participating in the Partnership for Peace regarding the Status of their Forces as amended by further additional protocols.
- 20) Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (OJ L 114, 26.4.2008) as amended.
- 21) Act No. 431/2002 Coll. on accounting as amended.
- 22) For instance, §524 of the Civil Code, §89 of Act No. 199/2004 Coll. as amended, §239 of the Criminal Code, §86 of Act No. 563/2009 Coll.
- 23) Act No. 461/2003 Coll. on social insurance as amended.
Act No. 580/2004 Coll. on health insurance and on amendments to Act No. 95/2002 Coll. on insurance and on amendments to certain Acts as amended.
- 24) Annex No. 48 to Decree of the Slovak Office of Standards, Metrology and Testing No. 210/2000 Coll. as amended.

- 25) Act No. 142/2000 Coll. on metrology and on amendments to certain Acts as amended.
Decree of the Slovak Office of Standards, Metrology and Testing No. 210/2000 Coll. as amended.
Act No. 264/1999 Coll. on technical requirements for products and on conformity assessment and on amendments to certain acts as amended.
- 26) §15(5) of Act No. 563/2009 Coll.
- 27) §19 of Act No. 563/2009 Coll.
- 28) §68 of Act No. 563/2009 Coll. as amended by Act No. 331/2011 Coll.
- 29) §§ 40 and 50 of Act No. 563/2009 Coll. as amended by Act No. 331/2011 Coll.
- 30) §2(3)(i) of Act No. 467/2002 Coll. as amended.
- 31) Act of the National Council of the Slovak Republic No. 82/1994 Coll. on state material reserves as amended.
- 32) Act No. 467/2002 Coll. as amended.
- 33) §39 of the Commercial Code.
§19 of Act. No. 431/2002 Coll. as amended.
- 34) §58 of Act No. 455/1991 Coll. on trade licensing (Trade Licensing Act) as amended.
§8a of Act No. 530/2003 Coll. on Commercial Register and on amendments to certain acts as amended.
- 35) §313 to 322 of the Commercial Code.
§2(2)(f) of Act No. 483/2001 Coll. on Banks and on amendments to certain acts as amended.
- 36) Decision No. 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products (OJ L 162, 1.7.2003).
- 37) Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (OJ L 197, 29.7.2009).
- 38) §4 of Act No. 215/2002 Coll. on electronic signature and on amendments to certain acts.
- 39) Commission Regulation (EC) No 31/96 of 10 January 1996 on the excise duty exemption certificate (OJ L 8, 11.1.1996).
- 40) Article 161 of Regulation (EEC) No 2913/92 as amended.
- 41) Article 4(4c) of Regulation (EEC) No 2913/92 as amended.
- 42) Article 4(4d) of Regulation (EEC) No 2913/92 as amended.
- 43) Article 66 of Regulation (EEC) No 2913/92 as amended.
- 44) 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 (OJ L 369, 18.12.1992).
- 45) For instance, Decree of the Minister of Foreign Affairs No. 157/1964 Coll. on the Vienna Convention on Diplomatic Relations, Decree of the Minister of Foreign Affairs No. 21/1968 Coll. on the Convention on Privileges and Immunities of Specialized Agencies, 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.
- 46) Council Regulation (EC) No 2073/2004 of 16 November 2004 on administrative cooperation in the field of excise duties (OJ L 359, 4.12.2004).
- 47) Act No. 362//2011 Coll.
- 48) Act of the National Council of the Slovak Republic No. 152/1995 Coll. as amended.
Act No. 355/2007 Coll. as amended.
- 49) Act No. 362//2011 Coll.
Act No. 355/2007 Coll. as amended.
- 50) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.02.2008) as amended.

- 51) Ordinance of the Ministry of Agriculture of the Slovak Republic and the Ministry of Health of the Slovak Republic No. 2313/4/2000-100 of 10 August 2000, issuing the head of the Food Code of the Slovak Republic regulating beverages (Notification No. 357/2000 Coll.).
- 52) Commission Regulation (EC) No 3199/93 of 22 November 1993 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty (OJ L 288, 23.11.1993) as amended.
- 53) Annex No. 24 to Decree of the Slovak Office of Standards, Metrology and Testing No. 210/2000 Coll. as amended.
- 54) Annex No. 72 to Decree of the Slovak Office of Standards, Metrology and Testing No. 210/2000 Coll. as amended by Decree No. 171/2008 Coll.
Slovak Government Ordinance No. 294/2005 Coll. on measuring instruments as amended by Slovak Government Ordinance No. 445/2010 Coll.
Act No. 142/2000 Coll. as amended.
- 55) §2(3)(k) of Act No. 467/2002 Coll. as amended by Act No. 279/2008 Coll.
- 56) §2(3)(j) of Act No. 467/2002 Coll.
- 57) §2(3)(h) of Act No. 467/2002 Coll. as amended by Act No. 279/2008 Coll.
- 58) §2(3)(l) of Act No. 467/2002 Coll.
- 59) §2(2)(f) of Act No. 467/2002 Coll.
- 60) §2(2)(m) of Act No. 467/2002 Coll.
- 61) For instance, Article 4 of Regulation (EEC) No 2913/92 as amended.
- 62) §4 of Decree of the Ministry of Agriculture of the Slovak Republic No. 653/2002 Coll. .
- 63) §2(1) of Decree of the Ministry of Agriculture of the Slovak Republic No. 653/2002 Coll. .
- 64) For instance §21(2) of Act No. 142/2000 Coll., Decree of the Slovak Office of Standards, Metrology and Testing No. 207/2000 Coll. on e-marked prepackages as amended, §4(2) of Act No. 529/2002 Coll. on packages and on amendments to certain Acts as amended, Ordinance of the Ministry of Agriculture of the Slovak Republic and the Ministry of Health of the Slovak Republic No. 2745/2002-100 issuing the head of the Food Code of the Slovak Republic on the labelling of foodstuffs (Notification No. 634/2002 Coll.).
- 65) For instance, §41(5) of Act No. 563/2009 Coll.
- 66) §269(2) of the Commercial Code.
- 67) §281 to 288 of the Commercial Code.
- 68) §66 of Act No. 25/2006 Coll. on public procurement and on amendments to certain acts as amended.
- 69) Act No. 215/2004 Coll. on the protection of confidential information and on amendments to certain Acts as amended
Decree of the National Security Authority No. 325/2004 Coll. on industrial security.
- 70) §33 of Act. No. 455/1991 Coll. as amended.
- 71) §57 of Act. No. 455/1991 Coll. as amended.
- 72) §§42 and 43 of Act No. 563/2009 Coll.
- 73) §2(2)(p) of Act No. 467/2002 Coll. as amended.
- 74) Article 3 of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007) as amended.
- 75) Act No. 313/2009 on viticulture and winemaking as amended by Act No. 198/2010 Coll.
- 76) Title III Chapter II of Commission Regulation (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept (OJ L 128, 27.5.2009) as amended.
- 77) Decree of the Ministry of Agriculture of the Slovak Republic No. 350/2009 Coll. implementing certain provisions of Act No. 313/2009 Coll. on viticulture and winemaking.

- 78) For instance, §§14 and 24 of Act No. 435/2001 Coll. on patents, supplementary protection certificates and on amendments to certain acts (the Patent Act) as amended by Act No. 84/2007 Coll., §269(2) and §508 of the Commercial Code.
- 79) §156 of Act No. 563/2009 Coll. as amended by Act No. 331/2011 Coll.
- 80) § 44 through 47 of Act No. 563/2009 Coll. as amended by Act No. 331/2011 Coll.
- 81) §69 of Act No. 563/2009 Coll.
- 82) §58(2)(a) of Act No. 455/1991 Coll. as amended.
- 83) Act of the Slovak National Council No. 372/1990 Coll. on offences as amended.
- 84) §67 of Act No. 563/2009 Coll.