

**Amendments to Act No. 106/2004 on the Excise Duty on Tobacco Products
Article I of Act No. 378/2008**

378

ACT

of 17 September 2008,

amending and supplementing Act No. 106/2004 on the Excise Duty on Tobacco Products as amended amending and supplementing certain laws

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

Art. I

Act No. 106/2004 on the Excise Duty on Tobacco Products as amended by Act No. 556/2004, Act No. 631/2004, Act No. 533/2005, Act No. 610/2005, and Act No. 547/2007 is amended and supplemented as follows:

1. Paragraph 8 shall be inserted to § 5, which shall read as follows:

“(8) For the purposes of calculation of the tax pursuant to paragraph 11(2)(a), the tax base for cigarettes that are not labelled with a control label and that are not supplied under the same trade name to the tax territory is the number of cigarettes in such consumer pack of cigarettes and the price of the best selling price category of cigarettes (§ 40(4)) converted to the number of cigarettes in such consumer pack of cigarettes.”.

5. In § 7, item f) has the following wording:

“f) sent by a natural person from the territory of third states to a natural person to the tax territory in occasional small shipments of a non-commercial nature, intended for his/her personal consumption or for personal consumption of his/her household^{4a)} in the tax territory in a maximum amount of 50 pieces of cigarettes or 25 pieces of cigarillos, or 10 pieces of cigars, or 50 g of tobacco.”.

6. § 8 including the heading shall read as follows:

„§ 8

Tax exemption for tobacco products imported by travellers from third-state territories in personal luggage

(1) For the purposes of this provision

- a) air traveller is a person travelling by a means of air transport except for a means of transport for private leisure flying,
- b) private leisure flying is the use of an airplane by its owner or another person on the basis of a lease relationship or other relationship for other than commercial purposes or for purposes other than transport of passengers or goods or provision of services against a counter value or for the needs of public power authorities,
- c) personal luggage is the luggage that a traveller from a third-state territory can present to the customs authority upon conclusion of his/her travel, and also the luggage that the traveller can present to such customs authority later provided that such luggage had not been registered as hand luggage at the beginning of the travel by the company responsible for his/her transport,
- d) non-commercial import is the import of tobacco products in traveller's personal luggage provided that
 - 1. the tobacco products are intended for personal consumption by the traveller or personal consumption by his/her household,^{4a)} or are intended as a present,
 - 2. the nature and amount of the tobacco products does not arouse suspicion that they are being imported for commercial purposes,
 - 3. the import is taking place occasionally,
- e) cigarillo is a cigar with the unit weight of at most 3 grams.

(2) The tax exemption applies to non-commercial imports of tobacco products in traveller's personal luggage from third-state territory in an amount not exceeding

- a) 200 pieces of cigarettes per person for travellers travelling by air, and 40 pieces of cigarettes per person for travellers travelling otherwise than by air,
- b) 100 pieces of cigarillos per person for travellers travelling by air, and 20 pieces of cigarillos per person for travellers travelling otherwise than by air,
- c) 50 pieces of cigars per person for travellers travelling by air, and 10 pieces of cigars for travellers travelling otherwise than by air,
- d) 250 grams of tobacco for smoking for travellers travelling by air, and 50 grams of tobacco for smoking for travellers travelling otherwise than by air.

(3) Each amount laid down in paragraph 2(a) to (d) represents 100% of the total permitted amount for tobacco products. The tax exemption may be applied to any combination of the tobacco products provided that the total percentage of individual permitted amounts does not exceed 100% of the total permitted amount.

(4) The tax exemption pursuant to paragraph 2 shall not be applied where the traveller is a person younger than 17 years.”.

9. In § 9(30), item c) has the following wording:

“c) sent by a natural person from the territory of third states to a natural person to the tax territory in occasional small shipments of a non-commercial nature, intended for his/her personal consumption or for personal consumption of his/her household^{4a)} in the tax territory in a maximum amount of 50 pieces of cigarettes or imported from a third-state territory in traveller’s personal luggage in a maximum amount of 200 pieces of cigarettes per person for travellers travelling by air, or 40 pieces of cigarettes per person for travellers travelling otherwise than by air,”.

10. In § 41a(1)(d) and paragraph 2(d), the words “or § 8(2)” shall be inserted after the words “§ 7(f)”.

11. § 44e shall be inserted after § 44d that – including its heading – shall read as follows:

“§ 44e
Transitional provisions to amendments effective 1 February 2009

(1) Where the consumer pack of cigarettes is to be introduced to free tax circulation starting from 1 February 2009, it shall be marked with a control label showing a character – a capital “B” – signifying the validity of the cigarette tax rate effective 1 February 2009; the registration receipt number and price of the cigarettes shall be shown on two parts of the control label.

(2) It is prohibited to introduce consumer packs of cigarettes marked with a control label pursuant to regulations applicable before 1 February 2009 into free tax circulation after 31 January 2009.

(3) Consumer packs of cigarettes marked with a control label pursuant to regulations applicable before 1 February 2009 may be sold, marketed, or stored till 30 September 2009. After this date, consumer packs of cigarettes thus marked shall be deemed unmarked.

(4) A legal entity or a natural person authorised to sell, as part of their business, consumer packs of cigarettes and storing consumer packs of cigarettes mentioned in paragraph 2, which they failed to sell by 30 September 2009, shall be obliged, not later than on 15 October 2009, to notify the customs authority having jurisdiction over them on the amount of consumer packs of cigarettes so marked and, at the same time, to ask the customs authority having jurisdiction over them, within the same deadline, to destroy the same; the customs authority shall destroy such consumer packs of cigarettes at the legal entity’s or natural person’s costs and draw up an official record of the destruction. The provision of § 41(1)(a) shall not be applied to the procedure pursuant to this paragraph.”.

12. The fifth item of Appendix 1 shall read as follows:

„5. 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 (EU OJ L 346, 29 December 2007).”.

13. Sixth item shall be added to Appendix 1, which shall read as follows:

„6. 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 (EU OJ L 286, 17 October 2006).”.

Art. X

Except for Art. I, items 2, 3, 4, 7, and 8 that shall be effective as of 1 February 2009, the effective date of this Act shall be 1 December 2008.