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ASPI system - status as at 3 September 2014 to Section 79/2014 Coll. and 19/2014 Coll. of international treaties - RA607

353/2003 Coll. – Excise Tax Act – status as at 31 December 2014

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**353/2003 Coll.**

**ACT**

dated 26 September 2003

**on Excise Tax**

Amendment: 479/2003 Coll. (part)

Amendment: 479/2003 Coll.

Amendment: 353/2004 Coll., 237/2004 Coll.

Amendment: 313/2004 Coll.

Amendment: 558/2004 Coll.

Amendment: 693/2004 Coll.

Amendment: 179/2005 Coll.

Amendment: 217/2005 Coll.

Amendment: 377/2005 Coll.

Amendment: 217/2005 Coll. (part)

Amendment: 545/2005 Coll.

Amendment: 217/2005 Coll. (part)

Amendment: 310/2006 Coll.

Amendment: 217/2005 Coll. (part), 379/2005 Coll., 575/2006 Coll.

Amendment: 575/2006 Coll. (part)

Amendment: 270/2007 Coll.

Amendment: 261/2007 Coll., 296 / 2007 Coll.

Amendment: 37/2008 Coll.

Amendment: 124/2008 Coll.

Amendment: 245/2008 Coll.

Amendment: 309/2008 Coll.

Amendment: 87/2009 Coll.

Amendment: 292/2009 Coll.

Amendment: 362/2009 Coll.

Amendment: 362/2009 Coll. (part)

Amendment: 59/2010 Coll. (part)

Amendment: 59/2010 Coll.

Amendment: 281/2009 Coll.

Amendment: 95/2011 Coll.

Amendment: 95/2011 Coll. (part), 221/2011 Coll. (part), 420/2011 Coll.

Amendment: 457/2011 Coll., 18/2012 Coll., 407/2012 Coll., 500/2012 Coll.

Amendment: 308/2013 Coll.

Amendment: 407/2012 Coll. (part), 500/2012 Coll. (part), 458/2011 Coll. (part), 344/2013 Coll.

The Parliament passed this act of the Czech Republic:

## **PART ONE**

### **GENERAL PROVISIONS**

#### Section 1

#### **Subject-matter**

(1) This Act implements the relevant EU regulations<sup>1)</sup> and regulates

- a) conditions for the taxation of mineral oils, ethanol, beer, wine and intermediate products and tobacco products (the "selected products") by excise taxes,
- b) the method of marking and sale of tobacco products and the method of marking of certain mineral oils.

(2) Excise taxes comprise

- a) the tax on mineral oils,
- b) the ethanol tax,
- c) the tax on beer,
- d) the tax on wine and intermediate products, and
- e) the tax on tobacco products.

(3) The tax administration is conducted by authorities of the Customs Administration of the Czech Republic.

## Section 2

### **The Tax Territory**

(1) For the purposes of this Act:

- a) the tax territory of the Czech Republic means the territory of the Czech Republic,
- b) the European Union tax territory means the territory established by the Council Directive concerning the general arrangements for excise tax 1a),
- c) Member State means a European Union Member State,
- d) another Member State means a Member State other than the Czech Republic,
- e) a third country means a country outside the European Union tax territory,
- f) a third territory means the territory laid down in subsections 3 and 4.

(2) For the purposes of this Act

- a) the territory of the Principality of Monaco is considered to be a territory of the French Republic,
- b) the territory of Jungholz and Mittelberg (KleinesWalsertal) is considered to be a territory of the Federal Republic of Germany,
- c) the territory of the Isle of Man is considered to be a territory of the United Kingdom of Great Britain and Northern Ireland,
- d) the territory of San Marino is considered to be a territory of the Italian Republic,
- e) the sovereign territory of the United Kingdom Akrotiri and Dhekelia are considered to be a territory of Cyprus.

(3) For the purposes of this Act, territories whose international relations are the responsibility of a Member State, the Canary Islands, French overseas departments, Aland Islands and British Norman Islands are also considered to be third countries.

(4) For the purposes of this Act, the territory of island of Heligoland, the territory of Büsingen, Ceuta, Melilla, Livigno, Campione d'Italia and the Italian waters of Lake Lugano are also considered to be third countries.

(5) The requirements laid down by the customs legislation of the European Communities governing the entry of selected products into the customs territory of the European Union will apply mutatis mutandis to the entry of selected products into the customs territory of the European Union from territories referred to in subsection 3.

(6) The requirements laid down by the customs legislation of the European Communities governing the exit of selected products from the customs territory of the European Union will apply mutatis mutandis to the exit of selected products from the customs territory of the European Union, to the territories referred to in subsection 3.

## Section 3

### **Definition of Terms**

For the purposes of this Act:

- a) repealed,
- b) import means the entry of selected products in the European Union tax territory, provided that such products are not released, when entering the European Union tax territory, into a conditional tax exemption mode, and also the release of these selected products from the conditional tax exemption mode,
- c) the conditional tax exemption mode means any of the special regimes provided for in the Council Regulation establishing the Community Customs Code, related to the customs supervision, governing selected products that are not goods of the European Community 3b), during entry into the customs territory of the European Community, temporary storage, free zones or free warehouses, as well as any of the arrangements referred to in the Council Regulation establishing the Community Customs Code 3c),
- d) export means a release of selected products into export 4) or outward processing 5) procedure and the exit from the European Union tax territory,
- e) conditional tax exemption mode means the postponement of the obligation to declare, assess and pay tax to the date of placing selected products, not covered by the conditional tax exemption mode, into free tax circulation,
- f) exemption from tax means placing selected products into free tax circulation without giving rise to an obligation to declare, assess and pay tax,
- g) tax warehouse means spatially delimited place in the tax territory of the Czech Republic, where the tax warehouse operator, under the conditions stipulated by this Act produces, processes, stores, receives or sends the selected products, unless the Act provides otherwise (Sections 59, 78, 89 and 99), and the boundaries of such place may not be interrupted except for the place for passage of a public road; tax administrator may determine that certain objects and surfaces are not part of the place,
- h) tax warehouse operator means a corporate person or an individual who has been granted a license to operate a tax warehouse; tax warehouse operator is a taxpayer,
- i) authorized recipient means a corporate person or an individual who is not a tax warehouse operator at the place where, as part of its licensed business activity, the person receives, in a single event or repeatedly, selected products under conditional tax exemption mode transported from another Member State; the authorized recipient may not store or send the selected products under conditional tax exemption mode; the authorized recipient is a taxpayer,
- j) user of selected products exempt from tax (the "user") means a corporate person or an individual who receives and uses, or pursuant to Section 53 sells to another user, selected products exempt from tax; users enjoy the status of taxpayers without the obligation to register,
- k) authorized sender means a corporate person or an individual who transports the selected products under conditional tax exemption mode from the place of importation into the tax warehouse, to the authorized recipient in another Member State, the place of exportation in another Member State or a recipient in another Member State in accordance with the Council Directive on general arrangements for excise taxes 6a); this person must be a tax warehouse operator in the tax territory of the Czech Republic, under Section 3, letter h),
- l) placing into free tax circulation means
  - 1) each, also illegal removal of selected products from the conditional tax exemption mode,
  - 2) each, also illegal manufacture of selected products outside of conditional tax exemption mode,

- 3) each, also illegal importation of selected products outside of conditional tax exemption mode,
  - 4) each storage or transport of selected products that have not been substantiated to be taxed products, or unless they have been provably acquired legitimately untaxed,
- m) tax liability means the amount of tax attributable to manufactured or imported selected products in respect of which there is an obligation to declare and pay tax according to Section 9; tax liability regarding selected products exempt from tax means the amount of tax in respect of which there would be an obligation to declare and pay tax if these selected products were not exempt from tax,
- n) NACE classification means classification of economic activities referred to in the Regulation of the European Parliament and Council Regulation (EC) No 1893/2006 of 20 December 2006 establishing NACE Revision 2 statistical classification of economic activities, and amending Council Regulation (EEC) No 3037 /90 as well as certain EC Regulations on specific statistical domains, as amended,
- o) nomenclature code means numerical designation of selected products referred to in Council Regulation on the tariff, statistical nomenclature and the Common Customs Tariff, 8) as in force on 1 January 2002,
- p) place of residence means the address of the place of permanent residence of a citizen of the Czech Republic or the address of the place of residence of foreigners; persons that have no place of residence in the Czech Republic are obliged to inform the tax administrator on their delivery address,
- q) the amount of the selected product in units other than the number of pieces means the amount of the selected product, expressed in units of measurement 9) referred to in Sections 47, 69, 84 or 95 and measured in a manner laid down by a special legal regulation 10),
- r) pilot project means a project of technological development of more environmentally-friendly fuel mixture on the basis of fermentation ethanol anhydrous specifically denatured satisfying sustainability criteria for biofuels under the Clean Air Act (the "sustainability criteria for biofuels") or a project of technological development of more environmentally-friendly fuels produced from non-food part of biomass or from biological waste fulfilling the sustainability criteria for biofuels; these projects must be approved by the Ministry of Environment and the Ministry of Finance,
- s) unpredictable loss or devaluation means such devaluation, total destruction or irretrievable loss of selected products, which, due to unpredictable and unavoidable events, demonstrably cannot be subject to tax under this Act,
- t) production process means a process in which
- 1) the selected product originates,
  - 2) a selected product that is subject to another tax originates from the selected product that is subject to tax, with the exception of activities according to Section 45, subsection 12,
  - 3) mineral oil, which is listed under a nomenclature code, is formed out of different mineral oil which is listed under another nomenclature code, with the exception of activities according to Section 45, subsection 12,
- u) common household means a community of individuals who permanently live together and share expenses incurred to satisfy their needs.

#### Section 4

### The Taxpayer

(1) Taxpayer is a corporate person or an individual

- a) that is a tax warehouse operator, authorized recipient, authorized sender or manufacturer, which became liable to declare and pay tax in relation to placing the selected products into free tax circulation (Section 9, subsection 1), or in connection with the loss or devaluation of selected products transported under conditional tax exemption mode [Section 9, subsection 3, letter a)],
- b) that became liable to declare and pay tax
  - 1) on importation (Section 9, subsection 2),
  - 2) when using selected products exempt from tax for purposes other than for which the exemption applies [Section 9, subsection 3, letter b)],
  - 3) in the case of use of selected products, regarding which tax has been refunded, for purposes other than those for which the refund applies [Section 9, subsection 3, letter c)],
  - 4) in case of loss or devaluation of selected products [Section 9, subsection 3, letter d)],
- c) claiming a refund, unless this Act stipulates otherwise (Sections 15, 15a, 55 and 56a),
- d) that has provided tax guarantee on transport of selected products under conditional tax exemption mode, in which the mode was breached [Section 9, subsection 3, letter f) and Section 28]; a corporate person or an individual who was involved in the breach of the mode and was aware or may be reasonably assumed to have been aware of this breach, is also jointly and severally liable for the tax,
- e) that is liable to declare and pay tax on receipt of selected products placed in free tax circulation in another Member State for commercial purposes or intended for fulfilment of responsibilities of a public body or, on the completion of transportation of selected products, for business purposes [Section 9, subsection 3, letter g)],
- f) that stores or transports selected products without proving that the selected products are intended for personal consumption, or puts selected products into free tax circulation without proving that the selected products have been taxed, or if it fails to prove that the products have been acquired legitimately excluding taxes; the corporate person or the individual that was involved in that storage or transportation, is also jointly and severally liable for the tax,
- g) that is liable to declare and pay tax upon being deprived of ownership title to untaxed selected products and the like (Section 9, subsection 4), or
- h) which is a tax representative for sending selected products from another Member State to the tax territory of the Czech Republic [Section 9, subsection 3, letter l, and Section 33, subsection 3]; if the person referred to in Section 33, subsection 2 does not appoint a tax representative or if the appointed tax representative fails to meet the obligations specified in Section 33, subsection 6, the recipient becomes the taxpayer.

(2) A person other than those referred to in subsection 1, letter b), points 1 and 3, and letter f) and Section 14, subsections 2 and 3 is required to register as a taxpayer at the customs administration before the date of the first liability to declare and pay tax. A person claiming a tax refund is required to register no later than on the day it claims a refund for the first time, unless it is already registered as a tax payer. A taxpayer is required to register separately for each tax.

(3) In case of placing selected products into free tax circulation, both the taxpayer referred to in subsection 1, letter a) and the corporate person or an individual on whose behalf the selected products were placed into free tax circulation, are jointly and severally liable for tax. In the event that the placement of selected products into free circulation was unlawful, the corporate person or an individual who was involved in the unlawful placement into free tax circulation is also jointly and severally liable for tax.

(4) In case of importation, both the taxpayer referred to in subsection 1, letter b), point 1, and the corporate person or an individual on whose behalf the selected products were imported, are jointly and severally liable for tax. In the event that the importation of selected products was unlawful, the corporate person or an individual who was involved in the unlawful importation is also jointly and severally liable for tax.

(5) For purposes of subsection 1, letter f), the number of selected products for personal consumption means the amount that does not exceed

- a) the amount transported in standard tanks (Section 63, subsection 2) increased by 20 l regarding mineral oils, except liquefied petroleum gases transported in pressure containers weighing up to 40 kg load inclusive,
- b) 40kg of the load including 5 pressure vessels regarding liquefied petroleum gases in pressure containers,
- c) 10 l of final products regarding spirits under a directly applicable EU regulation governing the definition and description of spirits,
- d) 110 l of beer,
- e) 20 l of intermediate products,
- f) 90 l of wine, of which 60 l of sparkling wines,
- g) 800 pieces of cigarettes,
- h) 400 pieces of cigarillos or cigars weighing not more than 3 g / piece,
- i) 200 pieces of other cigars,
- j) 1 kg of smoking tobacco.

(6) The provisions of subsection 5 will be used to assess whether selected products provided for in subsection 1, letter f) are for personal consumption or for business purposes. At the same time Section 32, subsection 2, 4 and 5 will apply by analogy for these purposes.

## Section 5

### **Proof of Taxation of Selected Products**

(1) In the tax territory of the Czech Republic, taxation of selected products placed into free circulation is documented by a tax document or a document confirming a sale or a document confirming transport of selected products that have already been placed into free tax circulation, unless this Act stipulates otherwise (Section 6). Taxation of selected products that have already been placed into free tax circulation is documented only if the selected products are not for personal consumption (Section 4, subsection 6, Section 32, subsections 2, 4 and 5).

(2) The tax document pursuant to subsection 1, which the payer is obliged to render to the assignee, or to the person who temporarily acquires the products under subsection 1 for the assignee or the buyer, when placing the selected products into free tax circulation without delay, must contain the following information:

- a) business name or name, registered address and tax identification number of the payer,
- b) business name or name, registered address or place of residence and tax identification number, if assigned, of the assignee,
- c) the quantity of selected products put into free tax circulation, regarding which the obligation to declare and pay tax arose, and their name or commercial designation,

- d) total amount of excise tax,
- e) the date of issue of a tax document,
- f) the tax document number.

(3) The document confirming a sale referred to in subsection 1, which the seller is obliged to issue without delay when selling selected products, must contain the following information:

- a) business name or name, registered address and tax identification number of the seller,
- b) business name or name, registered address or place of residence and tax identification number, if assigned, of the buyer,
- c) the quantity of sold selected products put into free tax circulation, regarding which the obligation to declare and pay tax arose, and their name or commercial designation,
- d) total amount of excise tax,
- e) the date of issue of the document confirming a sale,
- f) number of the document confirming a sale.

(4) Document confirming transportation pursuant to subsection 1 is issued by a corporate person or an individual who dispatches the selected products that have already been placed into free tax circulation, and the conditions stipulating an obligation to issue a tax document in accordance with subsection 2 or a document confirming sale under subsection 3 have not been met. The document confirming transportation must contain the following information:

- a) business name or name, registered address or place of residence and tax identification number, if assigned, of the sender,
- b) the address of the destination, and if that is not possible, other data identifying the location of the place of destination,
- c) the quantity of transported selected products placed in free tax circulation regarding which the obligation to declare and pay tax arose, and their name or commercial designation,
- d) total amount of excise tax,
- e) date of issue of the document confirming transportation,
- f) number of the document confirming transportation.

(5) The taxation of selected products on importation is substantiated by the release of selected products into free circulation or the placement under inward processing procedure in the tax drawback scheme or another decision by the tax administrator on tax assessment.

(6) Selected products put into free tax circulation can be transported only with a tax document, a document confirming a sale, a document confirming transportation or a decision under subsection 5.

(7) Selected products placed into free tax circulation in another Member State which are sent to a corporate person or an individual residing or seated in the tax territory of the Czech Republic (Section 33), that does not engage in a business activity or does not carry out independent economic activity, may be transported only with a document certifying that the products were taxed in the Member State from which they were sent.

## Section 6

### **Substantiating the Legal Acquisition of Selected Products Exempt from Tax**



(1) Legal acquisition of selected products exempt from tax is substantiated using a specific permit under Section 13, if issued, and a certificate of exemption of selected products from tax. This provision does not apply to corporate persons or individuals referred to in Section 53, subsection 9 and 10.

(2) Document confirming the exemption pursuant to subsection 1, which the payer or the user are obliged to issue without delay after the dispatch of selected products exempt from tax, must contain the following information:

- a) business name or name, registered address and tax identification number, if assigned, of the sending payer or the user,
- b) business name or name, registered address or place of residence and tax identification number, if assigned, of the receiving user,
- c) the quantity of selected products exempt from tax in respect of which tax liability arose and their name or commercial designation,
- d) a statement that the price of selected products does not include tax,
- e) place of departure,
- f) the place of acceptance,
- g) the date of issue of the document confirming the tax exemption,
- h) the number of the document confirming the tax exemption.

(3) The legal acquisition of imported selected products exempt from tax is substantiated using a specific permit under Section 13, if it was required by law, and at the same time using a decision on the release of selected products into free circulation or inward processing system in the tax drawback scheme or another decision by the tax administrator on the tax assessment.

(4) Selected products exempt from tax may be transported only with a document confirming the tax exemption, unless this Act stipulates otherwise (Section 50).

## Section 7

### **Object of Tax**

The object of tax comprises selected products produced in the European Union tax territory or imported to the European Union tax territory.

## Section 8

### **The Arising of the Tax Liability**

The tax liability arises in relation to the production of selected products in the European Union tax territory or to the importation of selected products to the European Union tax territory.

## Section 9

### **The Emergence of the Liability to Declare and Pay Tax**

(1) The liability to declare and pay tax within specified deadline arises at the time of placing selected products into free tax circulation in the tax territory of the Czech Republic. This provision does not apply to waste oils referred to in Section 45, subsection 1, letter d).

(2) When importing selected products, the liability to declare and pay tax arises on the date a customs debt arose, unless the selected products have been placed under conditional tax exemption mode. If the selected products are not subject to customs duties, it will be assumed for the purposes of this Act, that a customs debt was incurred, if the other conditions for its formation stipulated in special regulation have been met. 13) When importing selected products that have been placed under conditional tax exemption mode, the liability to declare and pay tax under subsection 1 arises.

(3) The liability to declare and pay tax arises also

- a) for selected products transported under conditional tax exemption mode from the moment of their loss or devaluation, except for unpredictable loss or devaluation,
- b) for selected products exempt from tax at the time of their use for purposes other than those to which the exemption applies,
- c) for selected products, which have been refunded, the moment of their use for purposes other than those to which the refund relates,
- d) on the date of settlement of loss or devaluation of selected products, but not later than one month after the loss or devaluation was discovered, except for unpredictable losses or devaluation; loss and devaluation does not include loss and devaluation in the amount of technically justified actual production losses and losses during storage,
- e) on the date of acquisition of selected products or the date of their sale to a payer listed in Section 4, subsection 1, letter f) or the date when the payer held the selected products for some time, or is still holding them, whichever date occurred earlier,
- f) on the moment of breach of conditional tax exemption mode during the transport of selected products in this mode (Section 28),
- g) on the date of acceptance of selected products that have been put into free tax circulation in another Member State and which are intended for business purposes in the tax territory of the Czech Republic or for performance of duties of a public entity in the tax territory of the Czech Republic or on the date of termination of transportation services in the tax territory of the Czech Republic if these products were accepted by the payer indicated in Section 4, subsection 1, letter e) in another Member State and are transported to the tax territory of the Czech Republic,
- h) on the date of expiry or revocation of a license to operate a tax warehouse or specific permit to receive and use selected products exempt from tax; this does not apply to selected products that can be used without specific permit under Section 13, subsection 21, or to selected products for which the specific permit has expired pursuant to Section 13, subsection 22, letter d), which are placed under conditional tax exemption mode as of the date of expiry of the specific permit,
- i) on the date of receipt of selected products placed in free tax circulation in another Member State, which were sent to non-enterprising corporate person or individual or those that do not pursue any other independent economic activity, in the tax territory of the Czech Republic (Section 33), or
- j) on the date of use of selected products for own consumption.

(4) The liability to declare and pay tax arises also on the date of forfeiture or leasing of a business establishment or its part forming a separate organizational unit, to which untaxed selected products located outside the conditional tax exemption mode belong.

## Section 10

### **Rates and Tax Calculation**

The tax is calculated by multiplying the tax base and the tax rate specified for the selected product.

## Section 11

### **Exemption from Tax**

(1) The following selected products that were

- a) imported provided they are exempt as an occasional importation of goods in personal luggage of passengers, crew of an airplane, or of fuel imported to passengers under the Act on value added tax 31a), or customs exemption, with the exception of selected products that come back to the tax territory of the Czech Republic after being exported and are released into free circulation,
- b) purchased without tax under a state of emergency to the country or war, if the government decides so in line with Section 137,
- c) repealed,
- d) imported or transported from the territory of another Member State or from the place of importation in the tax territory of the Czech Republic to the tax territory of the Czech Republic for the armed forces of states which are members of the North Atlantic Treaty Organization, with the exception of the Armed Forces of the Czech Republic for the use of these products by the armed forces or the civilian staff accompanying them or for supplying their canteens; these products can be transported from another Member State only with a certificate of exemption from excise tax, issued in line with the specified template and the manner set out in the relevant European Union regulation, 17a)
- e) transported from the territory of another Member State to persons referred to in Section 15, subsection 1; these products may be transported from another Member State only with documents pursuant to Section 27 or 27c, and with a certificate of exemption from excise tax issued in line with the specified template and the manner set out in the relevant European Union regulation 17a),
- f) imported from third countries if these selected products are exempt from value added tax within the limits and under conditions laid down in international treaties signed with these countries,
- g) imported by international organizations or their members, if these selected products are exempt from value added tax within the limits and under conditions laid down in international conventions establishing the organizations or agreements governing the seat of their headquarters

will be exempt from tax.

(2) If a corporate person or an individual purchased selected taxed products and used them for purposes covered by the exemption, the selected products will be regarded, for the purposes of this Act, as if they were purchased at prices excluding tax.

(3) Selected products exempt from tax under subsection 1 may be received and used without any specific permit for receiving and using selected products exempt from tax (Section 13).

## Section 12

### **Claims for Exemption from Tax**

(1) The user is required to claim exemption of selected products from excise tax, including reference to the relevant provision of this Act, under which the entitlement is exercised, in writing to the payer or the user, at the latest before their release, otherwise the entitlement to the selected products without tax will not arise. This does not affect users referred to in Section 53, subsections 9 and 10.

(2) For imports of selected products, the user, which must also be the person declaring tax, claims exemption of the selected products from tax, when filing a customs declaration, proposing the release of selected products for free circulation or inward processing procedure in the drawback system. If an obligation to file a declaration in writing is stipulated, the exemption from tax is also claimed in writing.

(3) The user substantiates the right to receive the selected products without tax by presenting a specific permit for receiving and using selected products exempt from tax issued to the user under Section 13, unless this Act stipulates otherwise (Section 11, subsection 3, Section 32, Section 53, subsection 4 till 11, Section 73, subsection 2, Sections 87, 98 and 105a); if the user fails to do so, it is deemed as if the exemption of selected products from excise tax has not been claimed.

(4) If this Act lays down that selected products may be provided for a certain price excluding tax under the condition that a specific permit for receiving and using selected products exempt from tax is presented, the tax payer or the user is authorized to provide the selected product only to a user that presents such specific permit for examination.

(5) The user is obliged to immediately place the received selected product exempt from tax in the location specified in the specific permit.

## Section 13

### **Special Permission for the Receipt and Use of Selected Products Exempt from Tax**

(1) With the exception of the cases under Section 11(3), Section 32, Section 53(4)-(11), Section 73(2), Section 87, Section 98 and 105a, the selected products may be received and used only on the basis of a special permission for the receipt and use of selected products exempt from tax (hereinafter only "the special permission").

(2) The application for the issuance of a special permission shall contain the following details:

- a) the commercial name or name, registered office or the place of residence and the tax identification number and the date of birth of the applicant,
- b) the description of the place of storage of the selected products exempt from tax and the description of the method of their securing against unauthorized use,
- c) the name or, if appropriate, the commercial identification of the selected products,

- d) the purpose of the use and the estimated amount of annual consumption of the selected products,
- e) the supplier's business name or name, registered office and tax identification number and the place of delivery of the selected products,
- f) the applicant's declaration on word of honor that the terms and conditions stipulated by special statutory provisions for the protection of life and health of people and the environment are met,
- g) repealed
- h) the expected origin of the received selected products, whether they come from the Czech Republic, member states or third countries, and the place of dispatch,
- i) the document stating whether and in what amount the applicant has an outstanding amount in the Czech Republic recorded by a customs or financial authority or outstanding amount of insurance and penalty with respect to social security and contribution to the state employment policy, which may not be older than 30 calendar days as of the date of the submission of the application,
- j) the applicant's declaration on the word of honor, whether he has been fined for material or repeated breach of customs or tax regulations, if the applicant is an individual, or whether the applicant, his statutory bodies or members of the statutory bodies were fined for material or repeated breach of customs or tax regulations, if the applicant is a corporate person,
- k) the user's registration number, if it has already been assigned to the applicant by the tax administrator.

(3) The name of the selected product under subsection 2, letter c) shall be provided additionally using the exact term that shall enable to ascertain the identity of the selected product so that it would be possible to unequivocally determine which tax rate is set for this product if it was not tax-exempt.

(4) According to the special statutory provision 19a), the tax administrator shall require the extract from the criminal record with respect to the applicant; where the applicant is a corporate person, it will also require extracts from the Criminal Register with respect to the statutory body or the statutory body members. The request for the issuance of the extract from the Criminal Register and the extract from the Criminal Register are handed over in the electronic form, by a method enabling a remote access.

(5) Where the applicant, their statutory body or a member of the statutory body is an individual who is not a citizen of the Czech Republic, the applicant attaches to the application the documents under subsection 2 that correspond to the extracts from the Criminal Register issued by the country where he/she is a citizen as well as by the country where the person was residing in the last 3 years continuously for a period longer than 3 months. This applies mutatis mutandis in the case of a citizen of the Czech Republic who was residing abroad in the last 3 years continuously for a period longer than 3 months. Where a foreign natural person at the time as per the first sentence was residing in the Czech Republic, the tax administrator shall require the extract from the Criminal Register under subsection 4.

(6) The tax administrator shall decide about the issuance of a special permission only to the applicant who is not in liquidation or in an insolvency proceedings according to a special statutory provision<sup>20)</sup>. Where the applicant has tax or customs arrears or public health insurance and penalty arrears or social security insurance and penalty the arrears and arrears of the contribution to the

state employment policy, the tax administrator shall issue the permission only on condition that the payment of such arrears is secured. Otherwise, it shall decline the application.

(7) For the purposes of this act, the breach for which a penalty was imposed, the default interest or interest on the penalty amounted to CZK 250,000 and greater shall be considered as a material breach of customs and tax regulations; a breach that occurred five times during 2 years preceding the date of the submission of the application shall be considered as a repeated breach of customs and tax regulations.

(8) The applicant shall state and substantiate details necessary for tax administration upon the tax administrator's request.

(9) The tax administrator shall verify the details shown in the application and in the case of doubt of their correctness or completeness it shall invite the applicant to explain the details closer, change, supplement and substantiate them, and it shall also specify the time limit in which the applicant shall respond to the invitation. After the lapse of the time limit in vain, the tax administrator shall file away the application.

(10) In the special permission, the tax administrator shall state the facts as per subsection 2, letters a), b), c), d), e), a h).

(11) In the special permission, the tax administrator may set other conditions to secure the selected products or impose measures necessary to prevent from their unauthorized use.

(12) The tax administrator shall decide on the application for a special permission within 60 calendar days after the beginning of the proceedings; in particularly complicated cases, it shall decide within 90 calendar days; where, with respect to the nature of the matter, the decision cannot be made even in this time limit, it may be reasonably extended by the General Directorate of Customs. Where the tax administrator cannot decide within 60 calendar days, or where appropriate within 90 calendar days, it shall notify the applicant thereof providing the reason.

(13) The tax administrator shall make the decision on the issue of a special permission in three counterparts; one of which shall be for the user, the second for the supplier of the selected products and the third for the tax administrator of the relevant supplier of the selected products.

(14) In connection with the issue of a special permission, the tax administrator shall allocate a registration number to the user and shall issue the registration certificate.

(15) In the decision on the special permission, the tax administrator shall specify the term of its validity, which shall commence on the date of the decision coming into legal force. The special permission shall be valid at least until the end of the calendar year in which the decision on its granting came into legal force, no later than until the end of the third calendar year from the end of the year in which the decision on its granting was issued, unless this act stipulates otherwise (Section 73); this shall not apply with respect to special permissions regarding ethanol, where the validity may only be until the end of the calendar year in which the special permission was issued.

(16) The decision by which the application for the issue of a special permission is granted is not reasoned.

(17) The applicant shall apply for the issue of a new special permission no later than three calendar months prior to the termination of the validity of the preceding special permission, should he intend to continuously receive the selected products exempt from tax.

(18) The applicant shall inform the tax administrator of any change in the details under subsection 2, letter a) or b) within 5 calendar days after their occurrence and he shall announce the change in the details under subsection 2, letter c), d) or h) in advance.

(19) In the event of a change of

- a) the registered office or the place of residence of the user,
- b) the estimated quantity of the annual consumption of the selected products,
- c) the registered office or the place of residence of the supplier of the selected products, or
- d) the place of distribution of the selected products, the tax administrator shall issue the decision on the change of the original special permission.

(20) In the event of a change of other facts and details stated in the special permission, the tax administrator shall decide on the issue of a new special permission and the removal of the preceding special permission. Should the original special permission cease to exist by the lapse of the term for which it has been issued, the tax administrator shall decide on the withdrawal of the original special permission in the decision on the issue of a new special permission, if any.

(21) Should the special permission cease to exist by the lapse of time for which it was issued and the user has not applied for the issue of a new special permission under subsection 17 and should this user still store the selected products obtained on the basis of this expired special permission, he/she may use it even after the cessation of the validity of this permission until the storage was exhausted on condition that

- a) he shall perform an inventory check of the mentioned selected products with the presence of an official of the tax administrator no later than 5 calendar days after the date when the special permission expired and he/she shall notify the result thereof to the tax administrator of the relevant place where the selected products exempt from tax on the basis of the expired special permission are located,
- b) the mentioned selected products shall only be used under the terms and conditions that were specified in the expired special permission on the basis of which they were received by the user.

(22) The special permission shall cease to exist

- a) by the lapse of the term for which it has been issued,
- b) by the dissolution of the corporate person, where the user is a corporate person,
- c) by the death of the user or when the court ruling on the declaration of the user as a dead person comes into legal force,
- d) on the day when the decision on the permission to operate a tax warehouse under Section 20 with respect to the space-delimited place (Section 3, letter g) where the selected products exempt from tax are placed on the basis of the special permission shall come into legal force,
- e) on the day when the court ruling on the declaration of bankruptcy with regard to the user's property shall come into legal force, or
- f) on the day of the termination of the trade certificate. 21)

(23) The tax administrator shall withdraw the special permission if

- a) the selected product has been used for purposes other than those that were specified in the special permission and the user of the selected product has failed to pay the tax,
- b) the user fails to perform the terms and conditions specified in the special permission or materially violates the obligation to keep correct, evident, comprehensible and clearly arranged accounting records and in the manner ensuring the permanency of accounting records with respect to the facts arising from the permission or fails to keep records under this act (Section 40),
- c) the reasons have elapsed or the conditions have changed on the basis of which the special permission was issued and the user has failed to apply for the change thereof,
- d) the selected products exempt from tax under this special permission have not been purchased for the period of 12 months from the delivery of the decision on the issue of the special permission, or
- e) the user requests so.

(24) Should the special permission cease to exist or should it be withdrawn, the user shall perform an inventory check of the selected products with the presence of an official of the tax administrator no later than within 5 calendar days and no later than on the following business day after the inventory check was completed he shall submit a tax return and pay the tax, unless it is the case under subsection 21. In the case that the special permission ceases to exist under subsection 22, letter c), the person authorized to continue in the trade under the trade licensing act shall perform the inventory check in the same time limit; unless the inventory check is performed by the person authorized to continue in the trade under the trade licensing act in the determined time limit, the inventory check shall be performed by the tax administrator. The inventory check does not need to be done, should the special permission have ceased to exist by the lapse of the term for which it has been issued or should it have been withdrawn under subsection 20, if such a person has been granted a new special permission for these reasons.

## Section 14

### **Refunding Tax to Taxpayers**

(1) Taxpayers are entitled to a refund of tax regarding taxed selected products placed in free tax circulation on the date of

- a) their release into the export regime or outward processing arrangements, if the payer substantiates the exit of selected products from the European Union tax territory,
- b) their re-entry into the conditional tax exemption mode; tax may be refunded only to the tax warehouse operator that put them into free tax circulation and to whom the selected products were returned as uncollected by the purchaser or for reasons of settlement of claims as a result of defects of selected products; tax may be refunded only if the tax warehouse operator did not receive a fee for the selected products or if s/he has returned the fee to the buyer.

(2) Taxpayers that transport the selected products placed in free tax circulation in the tax territory of the Czech Republic to another Member State for commercial purposes or for performance of duties of a public entity, are entitled to tax refund under the conditions that



- a) they notify the tax administrator, before sending selected products, on claiming a tax refund; along with this notification, they will submit a document substantiating that tax has been paid in the tax territory of the Czech Republic in relation to selected products that will be transported to another Member State,
- b) the selected products are transported with a simplified accompanying document (Section 30),
- c) they will submit the returned copy of the simplified accompanying document duly confirmed by the recipient,
- d) they will submit a document confirming
  - 1) the payment of taxes in the Member State of destination,
  - 2) the payment of taxes in the Member State in which loss occurred during transport or in which loss was detected during transport except for unpredictable loss or devaluation, or
  - 3) the fact that the selected product is not subject to tax or that it is exempt from tax in the Member State of destination, issued by the competent authorities of the Member State of destination,
- e) For taxed selected products that are subject to labeling in accordance with this Act and were placed in free tax circulation in the tax territory of the Czech Republic, they will submit a certificate from the tax administrator of another Member State confirming that the labeling under this Act has been destroyed or removed.

The entitlement to a tax refund arises on the day the last of all the conditions specified in subsections a) to e) was met.

(3) Taxpayers who submit a document confirming that the tax has been paid for selected products on the tax territory of the Czech Republic and these products were sent to an individual in another Member State (Section 33), and a document confirming that the tax for selected products was declared in that other Member State, are entitled to a refund as at the date of submission of such documents. In case of loss during transportation, except for unpredictable loss or devaluation, the entitlement to a refund must also be substantiated by a document confirming that the tax was paid in the Member State in which the loss occurred or in which the loss was discovered.

(4) In case of an unpredictable loss or devaluation, authorized recipients or manufacturers who are not tax warehouse operators become entitled to a refund regarding taxed selected products put into free circulation if these were products of their own.

(5) The taxpayer may claim a refund in the tax return (Section 18).

(6) The taxpayer may claim a refund only up to the amount of actually paid taxes calculated at the rate applicable on the date of importation or on the date of placing the selected product into free tax circulation.

(7) If the amount of entitlement to refund exceeds the amount of tax liability in the taxable period, the procedure for settlement of the difference between these amounts is analogous to the settlement of excess tax.

(8) If the taxpayer does not claim a tax refund, during the next placement of the selected products in free circulation, they will be regarded as if this claim has been made and the refund has been granted.

(9) The right to a tax refund is also governed by Section 28, subsection 10 of this Act regarding cases of breach of conditional tax exemption mode during transport, Section 54 and 56a regarding cases involving refund of mineral oils and Section 78, subsection 6 regarding cases involving refund of ethanol tax.

(10) The provisions of subsections 1 to 3 do not apply to persons who have been granted a tax refund regarding selected products under Section 15 or 15a, if the person exported or transported the selected products, or sent them to another Member State.

## Section 15

### **Refund to Persons Enjoying Privileges and Immunities**

(1) For purposes of this Act, a person enjoying privileges and immunities under treaties that are part of the Czech system of law, 22) (the "person enjoying privileges and immunities") means:

- a) a diplomatic mission and a consular office, except for consular offices headed by honorary consular officers ("consulate") accredited for the Czech Republic as bodies of foreign states,
- b) a special mission,
- c) representations of international organizations,
- d) European Union bodies,
- e) a member of a diplomatic mission or 23) a consulate 24) based on the tax territory of the Czech Republic, with the exception of a member of the service staff and private servants who are accredited for the Czech Republic and not resident in the tax territory of the Czech Republic,
- f) officials of the representation of an international organization, who are not residents in the tax territory of the Czech Republic and not citizens of the Czech Republic, if they are permanently assigned to perform their official functions in the tax territory of the Czech Republic, citizens of a foreign state who are members of special missions accredited for the Czech Republic and who are not residents in the tax territory of the Czech Republic,
- g) a family member of the person referred to in subsection e) or f), provided that they live together in a common household in the tax territory of the Czech Republic, that s/he has reached the age of 15 years and is not a citizen of the Czech Republic and is registered with the Ministry of Foreign Affairs.

(2) Tax paid is refunded to

- a) a person referred to in subsection 1, letter a), based on the tax territory of the Czech Republic, and its member referred to in subsection 1 letter e), including members of his/her family pursuant to subsection 1, letter g) based on the principle of reciprocity, up to the extent to which the tax is refunded to a Czech person enjoying privileges and immunities in a foreign country,
- b) a person referred to in subsection 1, letter a), based on the tax territory of the Czech Republic, but whose sending state does not apply tax as part of the price of goods and services, up to a maximum amount of 2,000,000 CZK per calendar year, a member of a diplomatic mission or consular office referred to in subsection 1, letter e) up to a maximum amount of CZK 100,000 per calendar year and members of his/her family pursuant to subsection 1, letter g) up to 50 000 CZK per calendar year,
- c) a person referred to in subsection 1, letter a), which is accredited for the Czech Republic, but is located outside the tax territory of the Czech Republic, up to CZK 250 000 per calendar year,
- d) a person referred to in subsection 1, letter e), which is accredited for the Czech Republic, but has a place of residence outside the tax territory of the Czech Republic, up to CZK 10 000 per calendar year,
- e) a person referred to in subsection 1, letter b) and c) up to CZK 500 000 per calendar year unless an international treaty promulgated in the Collection of International Treaties provides otherwise,

f) a person referred to in subsection 1, letter d) without any restrictions,

g) a person referred to in subsection 1, letter f), including members of his/her family under subsection 1, letter g) up to CZK 100 000 per calendar year, unless an international treaty promulgated in the Collection of International Treaties provides otherwise.

(3) The limit for the tax refund provided for in subsection 2 above includes any tax on selected products exempt from tax under Section 11, subsection 1, letter a) or e) transported from another Member State or imported to persons enjoying privileges and immunities claiming a refund in the same period, to which the claim relates.

(4) Ministry of Foreign Affairs will confirm the compliance with the principle of reciprocity pursuant to subsection 2, letter a) both in terms of persons to which reciprocity applies when claiming a refund, and in terms of the materiality and the range of values of selected products in the annex to the completed tax return, which is an integral part of the tax return.

(5) The person enjoying privileges and immunities under subsection 1 has the possibility to claim a refund of tax paid not sooner than in the taxable period in which the selected products were purchased at prices including excise tax. The entitlement to the refund expires on the lapse of 31st January of the calendar year following the calendar year in which the selected products were purchased; this does not apply to persons enjoying privileges and immunities referred to in subsection 1, letter d). A person enjoying privileges and immunities referred to in subsection 1, letter a) to d) is entitled to a refund of taxes on selected products purchased solely for the purpose of the performance of the function of these persons. Persons enjoying privileges and immunities referred to in subsection 1, letter e) to g) are entitled to a refund of taxes on selected products purchased exclusively for their own use and consumption.

(6) A person enjoying privileges and immunities referred to in subsection 2, letter a) receives a refund of tax paid in the prices of selected products, if the price for these selected products, including taxes paid to a single seller in a single calendar day listed on a single document confirming sale pursuant to subsection 8 corresponds to the principle of reciprocity. Other persons enjoying privileges and immunities referred to in subsection 1 receive a refund of tax paid in the prices of selected products, if the price for these selected products, including taxes paid to a single seller in a single calendar day listed on a single document confirming sale pursuant to subsection 8 is greater than 4 000 CZK. This restriction does not apply to the purchase of mineral oils for engines or for production of heat.

(7) The entitlement to a refund is substantiated by a tax document or document confirming sale under Section 5, unless this Act provides otherwise.

(8) If the purchased quantities of selected products are greater than the amount specified in Section 4, subsection 5, the document confirming sale of selected products, which the seller is obliged to issue upon request no later than on the business day following the date of request, contains the following information:

a) business name or name, registered address and tax identification number of the seller,

b) the name of the buyer,

c) the name and quantity of selected products,

d) the date of issue of the document,

e) the date of sale,

f) the tax rate,

g) the amount of tax,

h) the price including taxes.

(9) A person enjoying privileges and immunities will claim a refund in the tax return using a form prescribed by the Ministry of Finance. Tax return is filed once per taxable period, and not before the first day after the first taxable period in the calendar year and not later than on 31 January of the following calendar year; this does not apply to persons enjoying privileges and immunities referred to in subsection 1, letter d). After this date it is no longer possible to claim a refund for the previous period, not even by filing an additional tax return. A person enjoying privileges and immunities referred to in subsection 1, letter d) files the tax return not before the first day of the calendar year in which the entitlement to the refund arose. If a person enjoying privileges and immunities does not claim a tax refund in the taxable period, no tax return for the taxable period is filed.

(10) For the purpose of tax refunds, persons enjoying privileges and immunities enjoy the status of taxpayers without the obligation to register.

(11) For persons enjoying privileges and immunities referred to in subsection 1, letter a) to c), taxable period is the calendar month, and for persons enjoying privileges and immunities referred to in subsection 1, letter d) it is the calendar year, and for persons enjoying privileges and immunities referred to in subsection 1, letter e) to g), it is the calendar quarter.

(12) For the purposes of tax refunds, persons enjoying privileges and immunities file their tax returns as follows:

- a) a diplomatic mission or consulate pursuant to subsection 1, letter a) and a special mission pursuant to subsection 1, letter b) based on the tax territory of the Czech Republic, file their tax returns to the locally competent tax administrator according to their registered addresses in the tax territory of the Czech Republic,
- b) a member of diplomatic missions, special missions or consulates based on the tax territory of the Czech Republic, including family members, files a tax return to the locally competent tax administrator office according to the registered address of persons referred to in subsection a),
- c) representations of international organizations referred to in subsection 1, letter c) file a tax return to the locally competent tax administrator according to their registered addresses in the tax territory of the Czech Republic,
- d) European Union bodies based on the tax territory of the Czech Republic file tax returns through the Ministry of Finance to the locally competent tax administrator according to their registered addresses on the tax territory of the Czech Republic,
- e) an official at a representation of international organizations referred to in subsection 1 letter f), including family members, files a tax return to the locally competent tax administrator according to their place of residence on the tax territory of the Czech Republic,
- f) a diplomatic mission or consulate pursuant to subsection 1, letter a), including their members pursuant to subsection 1, letter e) with registered seat in another Member State, files a tax return to the competent tax administrator in the capital city of Prague,
- g) a European Union body with registered seat in another Member State files a tax return through the Ministry of Finance to the competent tax administrator in the capital city of Prague,
- h) persons referred to in subsection 1 letter e) and f) file tax returns on behalf of their family members.

(13) A person enjoying privileges and immunities other than those referred to in subsection 1, letter d) will receive a refund of the tax paid within 30 days from the date on which the entitlement was assessed. If the tax return filed is incomplete or if there are doubts about the accuracy, truthfulness, or supportability of the tax return, the tax administrator will invite the person enjoying privileges and immunities to remove the deficiencies or doubts by the deadline set by the tax administrator. The tax administrator will not refund the tax unless the deficiencies or doubts regarding the filed tax returns have been removed.

(14) A person enjoying privileges and immunities referred to in subsection 1, letter d) will receive a refund of the tax paid within 6 months from the last day of the month in which the relevant tax administrator received the refund application.

(15) A person referred to in subsection 1, who claimed a tax refund under this provision, may not claim a tax refund for the same selected products according to Section 14, 15a, 54 and 56a.

#### Section 15a

### **Refunding Tax to the Armed Forces of NATO Member States except for the Armed Forces of the Czech Republic**

(1) The armed forces of the sending state are entitled to a tax refund to the extent to which the armed forces of the sending state 24a), or North Atlantic Treaty Organization purchase taxed selected products for the use of the forces or the civilian staff accompanying them or for supplying their canteens.

(2) Income tax paid is refunded to the armed forces of the sending state up to CZK 500 000 per calendar year. This limit does not apply to mineral oils according to Section 45, subsection 1, letter a) and b) or Section 45, subsection 2, letter c) to e) and j) to service vehicles, aircrafts and ships in the tax territory of the Czech Republic, where the paid tax is refunded without any restrictions.

(3) Paid tax is refunded to civilian employees accompanying the armed forces of the sending state up to CZK 100 000 per calendar year.

(4) The limit for the refund provided for in subsections 2 and 3 includes the amount of tax on selected products exempt from tax under Section 11, subsection 1, letter a) or d) transported from another Member State or imported to the armed forces or civilian employees accompanying the armed forces of the sending state in the same period, to which the claim relates.

(5) The entitlement to a tax refund is substantiated by a tax document or a document confirming a sale under Section 5.

(6) Military authorities of the armed forces 24a) of the sending state claim the tax refund under subsection 1 on behalf of the military personnel and civilian employees of the sending state through the Ministry of Defense with the competent tax administrator in the capital city of Prague, on a form issued by the Ministry of Finance.

(7) Military authorities of the armed forces of the sending state enjoy the status of taxpayers without the obligation to register, for the purpose of claiming a tax refund.

(8) The tax administrator refunds the tax through the Ministry of Defense within 30 calendar days from the day following the day on which the tax refund was claimed. Entitlement to a refund expires if not claimed at the tax administrator referred to in subsection 6 by the last day of the sixth calendar month following the calendar month in which the purchase was made pursuant to subsection 1.

(9) The military authority which claimed a tax refund regarding selected products, for which the tax refund was claimed and which were lent, pledged or transferred for a consideration or free of charge, is obliged to pay tax through the Ministry of Defense to the tax administrator referred to in subsection 6 in the amount of tax attributable to these products, and by the end of the calendar month in which the event occurred.

(10) Persons referred to in subsections 2 and 3, which claimed a tax refund under this provision cannot claim a tax refund for the same selected products according to Sections 14, 15, 54 and 56a.

## Section 16

### **Termination of Entitlement to a Tax Refund**

The entitlement to a tax refund expires unless claimed within six months from the date it could be first claimed, unless this Act provides otherwise. If the same selected product is placed in free tax circulation again before the expiration of this period without the entitlement to a refund having been claimed, the entitlement to the tax refund expires on the date of entry of the selected product into free tax circulation. No deadline postponement nor return to the previous state is allowed.

## Section 17

### **Taxable Period**

The taxable period for selected products with the exception of selected imported products is the calendar month.

## Section 18

### **Tax Return and Tax Maturity**

(1) Taxpayers who had the liability to declare and pay tax, are required to file a tax return for each tax separately, within 25 days after the end of the taxable period in which the liability arose, unless this Act provides otherwise; taxpayers are entitled to claim a tax refund in the same period and in the same manner, unless this Act provides otherwise.

(2) When importing selected products, customs declaration proposing the release of the selected products into the relevant customs procedure is considered to be a tax return.

(3) Taxpayers may submit additional tax return proposing to reduce tax or to increase the claimed tax refund within 6 months from the date of the deadline for filing a tax return for the taxable period to which the additional tax return relates, or from the last day on which the entitlement to a tax refund could be claimed, unless this Act stipulates otherwise (Section 88, subsections 4 and 5). No deadline postponement nor return to the previous state is allowed. The additional tax return cannot be applied to imported selected products.

(4) Tax returns filed during insolvency proceedings 20) are regulated in Section 136a.

(5) The tax is payable within 40 days after the end of the taxable period in which the liability to declare and pay tax arose, unless this Act provides otherwise. The tax levied on imports of selected products is due within 10 calendar days from the date on which the liable person received the decision on the assessment of customs duties, taxes and charges, or was verbally informed about the amount of tax, or within the period set by the tax administrator, if the administrator decided to postpone the payment of customs debt.

(6) If a liability to declare and pay tax arises according to Section 9, subsection 1 regarding selected products which were not immediately placed under conditional tax exemption mode after the tax liability arose according to Section 8, the tax return is filed and the tax is payable not later than the first working day after the date this tax liability arose, unless this Act provides otherwise.

(7) If a liability to declare and pay tax arises according to Section 9, subsection 3, letter a), the tax return is filed and the tax is payable not later than the first working day after the loss or the selected products devaluation was discovered.

(8) If a liability to declare and pay tax arises according to Section 9, subsection 3, letter f), the tax return is filed and the tax is payable not later than the first working day after the date this liability arose.

## Section 19

### **Conditional Tax Exemption Mode**

(1) Selected product is under conditional tax exemption mode if it is

- a) located in a tax warehouse pursuant to Section 3, letter g),
- b) transported under the conditions provided for transportation and exportation (Sections 24 to 27f).

(2) The following are considered to be tax warehouses

- a) an enterprise designed for production of selected products in which the tax warehouse operator produces, processes, stores, receives or sends the selected products under conditions stipulated by this Act, unless this Act stipulates otherwise (Section 59 and Section 78, subsection 3), or
- b) a warehouse of selected products in which the tax warehouse operator stores, processes, sends or receives the selected products under conditions stipulated by this Act, unless this Act stipulates otherwise (Section 59, 89 and 99).

(3) Selected products may be produced solely in the enterprise designed for production of selected products pursuant to subsection 2, letter a), unless this Act stipulates otherwise (Section 59, subsection 2, Section 78, subsection 3, Section 89, subsection 3, Section 99, subsection 3 and 5 and Section 100a, subsection 1). The tax administrator will notify the competent municipal trade licensing office of any breach of this duty, which under the Trade Act is considered a serious breach of the conditions laid down by the Excise Tax Act.

(4) The selected products may be placed in a tax warehouse only under the conditional tax exemption mode, unless this Act provides otherwise (subsection 5 and Section 59, subsection 3).

(5) In the case a new tax warehouse is established, selected products already placed in free tax circulation which were placed in a spatially delimited site [Section 3, letter g)] on the day the decision to grant a license to operate a new tax warehouse came into force, can be placed together with selected products that are under conditional tax exemption mode for a maximum period of six calendar months following the month in which the decision to grant a license to operate a new tax warehouse came into force. The products placed into free tax circulation must be recorded and stored separately, unless this Act stipulates otherwise (Section 59, subsection 3).

(6) The selected products that are subject to relief from customs duty are not subject to provisions governing the conditional tax exemption mode.

(7) In cases under Section 13, subsection 22, letter d), the selected products exempt from tax based on a specific permit, placed in a spatially delimited site, regarding which the decision to grant a license to operate a tax warehouse under Section 20 came into effect, are placed under conditional tax exemption mode as of the date this decision came into force.

## Section 20

## **The Permission to Operate a Tax Warehouse**

(1) A tax warehouse may only be operated on the basis of a permission issued upon the proposal of the tax administrator.

(2) The proposal for the issuance of a permission shall contain the following details:

- a) the payer's commercial name or name, registered office and tax identification number,
- b) a list of proposed tax warehouses and a list of tax documents for the operation of which the permission has already been issued,
- c) technical documentation, the description of the tax warehouse including the drawing and stating the kind of the tax warehouse and its location, the description of the method of securing the selected products against unauthorized use, the description of measuring instruments and the declaration on the method of their verification or calibration, the proposal of the date of establishing the tax warehouse,
- d) the technological description of the process of production of the selected products stating the processed raw materials, the description of products that are to be produced, attributes decisive for their taxation, byproducts and waste, if any, and the estimated annual volume of production, processing, storage and sales of the selected products, where a company producing the selected products is concerned, or the description and the estimated annual volume of the stored selected products, their processing and sales, where a warehouse of the selected products is concerned,
- e) the applicant's declaration on word of honor that the terms and conditions stipulated by special statutory provisions for the protection of life and health and the environment are met,
- f) repealed,
- g) the expected origin of the received selected products, whether they come from the Czech Republic, member states or third countries,
- h) repealed,
- i) the expected identification of the sold selected products, whether they will be shipped in the conditional tax exemption mode, released to free circulation or delivered tax exempt and whether they are intended to be delivered to the territory of the Czech Republic, to member states or third countries,
- j) the description of special operations within the processing of the selected products, for instance, additivation, coloring or marking,
- k) the method of securing the tax,
- l) the document stating whether and in what amount the applicant has an outstanding amount in the Czech Republic recorded by a customs or financial authority or outstanding amount of insurance and penalty with respect to social security and contribution to the state employment policy, which may not be older than 30 calendar days as of the date of the submission of the application,
- m) the applicant's declaration on word of honor, whether he has been fined for material or repeated breach of customs or tax regulations, if the applicant is an individual, or whether the applicant, his



statutory bodies or members of the statutory bodies were fined for material or repeated breach of customs or tax regulations, if the applicant is a corporate person,

n) the name or commercial identification, if any, of the selected products produced, processed, stored, received, dispatched or used for one's own consumption and the purpose of the use.

(3) The name of the selected product under subsection 2, letter n) shall be provided additionally using the exact term that shall enable to ascertain the identity of the selected product so that it would be possible to unequivocally determine which tax rate is set for this product.

(4) According to the special statutory provision 19a), the tax administrator shall require the extract from the Criminal Register with respect to the applicant; where the applicant is a corporate person, it will also require extracts from the Criminal Register with respect to the statutory body or the statutory body members. The request for issuance of the extract from the Criminal Register and the extract from the Criminal Register are handed over in the electronic form, by a method enabling a remote access.

(5) Where the applicant, his statutory body or the statutory body member is an individual who is not a citizen of the Czech Republic, the applicant attaches to the application the documents under subsection 2 that correspond to the extracts from the Criminal Register issued by the country where he/she is a citizen as well as by the country where the person was residing in the last 3 years continuously for a period longer than 3 months. This applies mutatis mutandis in the case of a citizen of the Czech Republic who was residing abroad in the last 3 years continuously for a period longer than 3 months. Where a foreign individual at the time as per the first sentence was residing in the Czech Republic, the tax administrator shall require the extract from the Criminal Register under subsection 4.

(6) The tax administrator shall decide to issue the permission only if the application for the issue of the permission contains the requisites specified in subsection 2 and the applicant is not in bankruptcy or in insolvency proceedings under a special statutory provision. Where the applicant has tax or customs arrears or public health insurance and penalty arrears or social security insurance and penalty the arrears and arrears of the contribution to the state employment policy, the tax administrator shall issue the permission only on condition that the payment of such arrears is secured. Otherwise, it shall decline the application.

(7) The applicant shall state and substantiate details necessary for tax administration upon the tax administrator's request.

(8) The tax administrator shall verify the details shown in the application and in the case of doubt of their correctness or completeness it shall invite the applicant to explain the details closer, change, supplement and substantiate them, and it shall also specify the time limit in which the applicant shall respond to the invitation. After the lapse of the time limit in vain, the tax administrator shall file away the application.

(9) For each tax warehouse, the tax administrator shall determine the amount of security and shall issue the permission to operate the tax warehouse only on condition that the applicant secures the tax under Section 21.

(10) The tax administrator shall issue a separate permission for each tax warehouse and shall specify therein the facts under subsection 2, letter a), c), d), j) and n), with the exception of the technical documentation and with the exception of the technological description of the production of the selected products.

(11) In the permission, the tax administrator may set other terms and conditions for the security of the selected products or impose other measures required for the prevention against their unauthorized use.

(12) When issuing the permission, the tax administrator shall allocate a registration number and shall issue a registration certificate for each tax warehouse.

(13) The tax administrator shall decide on the application for a permission within 60 calendar days after the beginning of the proceedings; in particularly complicated cases, it shall decide within 90 calendar days; where, with respect to the nature of the matter, the decision cannot be made even in this time limit, it may be reasonably extended by the directly superordinate tax administrator. Where the tax administrator cannot decide within 60 calendar days, or where appropriate within 90 calendar days, it shall notify the applicant thereof providing the reason.

(14) The decision by which the application for the issue of a permission to operate a tax warehouse is granted is not reasoned.

(15) The tax warehouse operator shall report any change of the facts and details stated in the permission through the tax administrator in whose territorial competence the tax warehouse is located (hereinafter only "the tax administrator territorially competent for the tax warehouse") within 5 calendar days after its occurrence. The tax administrator territorially competent for the tax warehouse shall verify the changes and shall make a report of the result, which it shall pass to the tax administrator together with the operator's report.

(16) Should the registered office or the place of residence of the tax warehouse operator, details of the operated tax warehouses under subsection 2, letter b), measuring instruments, the quantity of produced or stored selected products change, the tax administrator shall decide on the change of the original permission. Should the quantity of the produced or stored selected products change, the tax administrator may in the decision determine other conditions for the security of the selected products or impose measures required for the prevention from their unauthorized use.

(17) In the event of a change of other details stated in the permission, the tax administrator shall decide on the issue of a new permission and the removal of the preceding permission.

(18) The permission to operate a tax warehouse shall cease to exist

- a) by the dissolution of the corporate person, where the payer is a corporate person,
- b) by the death of the payer or when the court ruling on the declaration of the payer as a dead person comes into legal force,
- c) on the day when the court ruling on the declaration of bankruptcy with regard to the payer's property shall come into legal force, or
- d) on the day of the termination of the trade certificate. 21)

(19) The tax administrator shall withdraw the permission to operate a tax warehouse if

- a) the reasons on the basis of which it was issued elapsed,
- b) after granting the permission, the payer fails to meet the obligations that are the condition of its granting under subsection 6 or materially violates the obligation to keep correct, complete, evident, comprehensible and well-arranged accounting and in the manner ensuring the permanency of

accounting records in connection to the facts arising from the permission or fails to keep records under this act (Sections 37-38) or otherwise violates the obligations of the tax warehouse operator and even the imposition of a fine has not led to remedy or the terms and conditions of the security of the selected products against unauthorized use specified in the permission are not met,

c) the payer applies for the withdrawal of the permission,

d) for the period of three successive calendar months, for no reason, the payer does not operate the tax warehouse, or

e) the payer fails to replenish the security of tax in the specified time limit.

(20) Where the permission to operate one of the tax warehouses is withdrawn from the payer who is an operator of two or more tax warehouses under subsection 19, letter b), the permissions to operate other tax warehouses shall be withdrawn from him as well.

(21) Where the permission to operate a tax warehouse was withdrawn under subsection 19, letters b), d), e) or under subsection 20, a new permission to operate a tax warehouse may not be issued for such a tax warehouse operator earlier than after two years after the decision on the removal of the permission to operate a tax warehouse came into legal force.

(22) Should the permission to operate a tax warehouse cease to exist or should such a permission be withdrawn,

a) the payer shall, with the presence of an official of the tax administrator territorially competent for the relevant tax warehouse, perform an inventory check of the selected products no later than within 5 calendar days and he/she shall submit a tax return and pay the tax no later than on the following business day after the lapse of this time limit; the person authorized to continue in the trade under the trade licensing act in the case of the cessation of the tax warehouse under subsection 18, letter b) shall perform the inventory check within the same time limit; unless the inventory check is performed by the person authorized to continue in the trade under the trade licensing act within the set time limit, it shall be performed by the tax administrator territorially competent for the tax warehouse; the inventory check need not be done where in connection with the change of the details under subsection 17 a new permission has been issued,

b) in justified cases, particularly taking the amount of the stock in consideration, the tax administrator may extend the time limit for the performance of the inventory check of the selected products under letter a), up to 10 days at most,

c) the tax administrator shall use the security of the tax for the payment of the tax receivables and it shall return the balance of the tax security, if any, within 30 days after the use of the security for the settlement of tax receivables including the respective accessories,

d) in the case that tax security is provided by a guarantee, the tax administrator shall request of the guarantor to settle the tax receivables including the respective accessories.

## Section 20a

### **The Methods of Tax Security**

(1) The tax may be secured by the methods and in the amounts stipulated by this act or by the methods under the tax rules in the amount determined by the tax administrator's decision.

(2) In the decision on the tax security under the tax rules, the tax administrator shall take into consideration the amount of the tax security under this act, if any, so that the total security amount would be reasonable.

#### Section 20b

##### **Special Provisions on the Security of the Payment of Undue or To Date Undetermined Tax**

Should default be imminent, the security order shall be effective and enforceable upon its issue. Along with the issue of the security order, the tax administrator shall make an attempt to adequately notify the tax entity of the issue of the security order and shall make an official record thereof.

#### Section 20a

##### **Tax Guarantee Methods**

(1) Tax can be guaranteed only in a manner and amount stipulated in this Act or in manners laid down by the Tax Procedure Code in the amount set by the tax administrator.

(2) When making a decision on the tax guarantee in line with the Tax Procedure Code, the tax administrator will take into account the amount of the potential tax guarantee under this Act, so that the total amount of the guarantee was adequate.

#### Section 20b

##### **Specific Provisions on the Guarantee of a Payment of Not Yet Due or Not Yet Assessed Tax**

If there is risk of default, the order to guarantee becomes effective and enforceable upon its issue. Along with issuing the order to guarantee, the tax administrator will attempt to notify the taxpayer in an appropriate manner on the issue of the order to guarantee and will make an official record on this matter.

#### Section 21

##### **Tax Guarantee**

(1) Tax guarantee may be granted by means of

- a) depositing or transferring funds to the tax guarantee deposit account established by the tax administrator while the depositor is not entitled to interest on the deposited amount,
- b) a financial guarantee, which was accepted by the tax administrator, or

c) a surety, provided the tax administrator approves the person in the position of the guarantor.

(2) If the tax is guaranteed by means of a surety, the guarantor must declare, in the guarantee document in line with the form and the requirements prescribed in the implementing regulation, that together with the debtor s/he will pay the secured amount of tax and its penalties and other charges in the amount specified in the guarantee document.

(3) If the debtor fails to pay the tax within the statutory period of maturity, the customs office will call on him/her to pay it. Where the tax was guaranteed by means of surety, the tax administrator will send the call to the guarantor.

(4) The tax administrator will use the tax guarantee to ensure payment of the tax if the tax has not been paid within the statutory period of maturity.

(5) If the tax was guaranteed by means of surety, the tax administrator will call on the guarantor to meet his/her guarantor's obligations, if the tax has not been paid within the statutory period of maturity and if the call served upon the debtor to pay the tax and its penalties and other charges, issued under a special regulation governing the administration of taxes, was ignored.

(6) The guarantor may, without giving a reason, revoke its surety and the effects of the revocation are fulfilled on the 16th day after the delivery of the revocation to the tax administrator. However, the guarantor is liable for any arrears of excise tax which arose or will arise in the period from the effective date of the guarantor's authorization until the effective date of the revocation of the surety.

(7) Unless this Act provides otherwise (Sections 58 and 77), for each tax warehouse, the tax guarantee must equal

a) the amount of tax allocated to selected products, regarding which the tax warehouse operator expects their transport to begin in the taxable period in which the tax guarantee is provided; the minimum amount of tax must equal one-twelfth of the amount of tax that was allocated to selected products, the transportation of which was initiated by the tax warehouse operator in the current year immediately preceding the taxable period in which the tax guarantee is provided,

b) one-twelfth of the amount of tax liability that the tax warehouse operator incurred under Section 8 in the course of manufacturing of selected products in the current year immediately preceding the taxable period in which the tax guarantee was provided; this only applies to those selected products that are placed in a tax warehouse in the taxable period under conditional tax exemption mode and in respect of which the tax is no longer guaranteed in line with letter a),

c) one-twelfth of the amount of tax allocated to selected products received by a tax warehouse operator in the current year immediately preceding the taxable period in which the tax guarantee was provided; this only applies to those selected products that are placed in a tax warehouse in the taxable period under conditional tax exemption mode and in respect of which the tax is no longer guaranteed in line with letter a) or b).

(8) In the case of a newly established tax warehouse, the tax guarantee must correspond to the expected tax liability or the amount of tax under subsection 7 for one-twelfth of the current year immediately following the taxable period in which the tax warehouse was established. The date of establishment of a tax warehouse means the date the license to operate a tax warehouse came into force.

(9) A tax warehouse operator is obliged to continuously monitor the amount of tax guarantee and hand over to the tax administrator, according to its requirements, registration data relating to the tax liability that arose in the course of production of selected products.

(10) A tax warehouse operator is obliged to monitor the amount of tax guarantee. If the sum of the actual amount of tax liability and the amount of tax under subsection 7 for three consecutive taxable periods is greater than the sum of three twelfths of the tax liability that arose in the

production of selected products in the current year, and three twelfths of the amount of tax attributable to selected products received by a tax warehouse operator in the current year, the tax warehouse operator is obliged to increase the tax guarantee within 10 days from the date of discovery of the difference. This does not apply in cases where tax guarantee reduction or waiver were allowed in line with subsection 12.

(11) If the tax liability arising under Section 8 in the production of selected products and the tax attributable to selected products received by the tax warehouse operator which are not in production, is 20% lower than the tax guarantee in three consecutive taxable periods, the tax warehouse operator may apply at the customs office for tax guarantee reduction through the tax administrator in whose territorial jurisdiction the tax warehouse is located. The tax administrator will decide on the application within 30 days from the date on which it was submitted to the administrator. If there is such refundable overpayment, the tax administrator will refund it without a request within 10 days from the date the decision to reduce the tax guarantee came into effect.

(12) A tax warehouse operator can also apply for a tax guarantee reduction or waiver. The tax administrator may allow tax guarantee reduction or waiver if there is no doubt that the applicant is reliable in meeting its tax liabilities, shows long-term financial stability, duly and timely pays its obligations, is able to fully pay its cash debts and actively cooperates with the Customs Administration of the Czech Republic. The applicant demonstrates tax reliability, long-term financial stability, the fulfillment of payment obligations and the ability to pay cash debts in a manner stipulated in the implementing regulation.

(13) The decision to reduce or waive tax guarantee is issued for a limited period of time, not exceeding one year from the date of issue of this decision. A tax warehouse operator or an applicant must apply for a new license no later than three months before the expiry of the period for which the current license was issued, if the operator wants to be provided with continuous tax guarantee reduction or waiver. The tax administrator will decide on the application for tax guarantee reduction or waiver within 60 calendar days from the date of commencement of the proceedings; in particularly complex cases the administrator will decide within 90 calendar days. If it is not, due to the nature of the matter, possible to reach a decision within this period, the closest senior tax administrator may adequately extend the period. If the tax administrator cannot reach a decision within 60 or within 90 calendar days, it is obliged to inform the applicant and specify the reasons.

(14) A new application filed before the lapse of three months from the date a negative decision came into effect is not taken into account.

(15) A tax warehouse operator is obliged to notify the tax administrator of any change in the facts on the basis of which the decision to reduce or waive the tax guarantee was made, within 5 calendar days from the date on which the change occurred.

(16) The tax administrator may amend or revoke the decision to reduce or waive the tax guarantee if the payment of taxes is jeopardized or if there is a change in facts on the basis of which the decision to reduce or waive the tax guarantee was made.

## Section 21a

### **Authorizing a Guarantor**

(1) The guarantor may be an individual with a place of residence in the territory of the Czech Republic or a corporate person that has been authorized to be a guarantor by the tax administrator.

(2) The following persons cannot be guarantors

- a) a debtor, a member of a statutory or supervisory body or a partner of the debtor, the debtor's employer or employee,
- b) a person who owns, controls or is directly or indirectly holding at least 5% of the value of shares with voting rights of the debtor,
- c) a family member of the debtor.

(3) If the tax guarantee for the operation of a tax warehouse is to be provided by means of a surety, the tax administrator that makes the decision on the license to operate a tax warehouse, also makes a decision on the authorization of a guarantor. The permission allowing to guarantee the tax by means of surety is a part of the license to operate a tax warehouse.

(4) If the tax guarantee for the transportation of selected products under conditional tax exemption mode is to be provided by means of a surety, the tax administrator in whose territorial jurisdiction the sending tax warehouse is located, makes a decision on the authorization of a guarantor if the tax guarantee for the transportation of selected products is not provided from the tax guarantee for the operation of the tax warehouse.

(5) The guarantor authorization may only be issued to a person whose financial situation is such that the guarantor is able to pay tax including its penalties and other charges on behalf of the guaranteed person, to the amount of the guaranteed sum specified in the guarantee document.

(6) The tax administrator will not issue authorization or will withdraw its authorization in cases where it has reasonable doubts about the ability of the guarantor to fulfill its obligations of the guarantor.

(7) The tax administrator is entitled to require the applicant for authorization to provide information regarding the guarantor, similar to information required from a tax warehouse operator in an application for tax guarantee reduction or for a tax guarantee waiver.

(8) If the tax guarantee authorization by means of a surety when operating a tax warehouse has been withdrawn, the tax administrator's decision to withdraw the authorization will be delivered to the tax warehouse operator. An appeal against the decision does not have suspensory effect.

(9) If the tax guarantee authorization by means of a surety when transporting selected goods has been withdrawn, and the tax was not guaranteed using the tax guarantee in the operation of a tax warehouse, tax administrator's decision to withdraw the authorization will be delivered to the person that guaranteed or is supposed to guarantee the tax during transport of selected products. An appeal against a decision to withdraw an authorization does not have suspensory effect.

(10) If a body of the Customs Administration of the Czech Republic or of the Financial Administration of the Czech Republic discovers facts proving the guarantor's inability or unwillingness to fulfill the obligations of the guarantor, it will notify the tax administrator that issued the authorization to guarantee no later than on the first working day after discovering the facts.

## Section 22

### **A Recipient Entitled to a Repeated Admittance of Selected Products**

- (1) The entitled recipient may repeatedly admit products under the conditional tax exemption mode only based on a permission issued by the tax administrator per proposal.
- (2) The proposal for the issuance must contain the following requisites:
  - a) Trade or company name, business address and the tax payer identification number,

- b) The estimated annual volume of the selected products admitted under the conditional tax exemption mode,
  - c) The name, or trade name of the selected products admitted under the conditional tax exemption mode,
  - d) A statutory declaration of the proponent as to their compliance with the conditions set out by special regulations concerning the protection of lives and health of people and the environment,
  - e) A document attesting the amount of unpaid social insurance and of sanctions with regard to public health insurance or of unpaid insurance and sanction with regards to social security insurance and the contribution towards the state employment policy, which may not be older than 30 calendar day on the date of submitting the proposal.
  - f) A statutory declaration of the proponent as to whether they were fined for a severe or repeated violation of the customs or tax regulations, where the proponent is an individual, or whether the proponent, its statutory bodies or members of statutory bodies were fined for a severe or repeated violation of the customs or tax regulations, where the proponent is a corporate person.
  - g) Information on the method of securing a tax guarantee.
- (3) The name of the specific product pursuant to subsection 2, letter c) must be stated allowing sufficient time for the identification of the selected products so that the defined tax rate for this products can be established without ambiguity.
- (4) The tax administrator shall request an extract from the Criminal Register concerning the proponent; if the proponent is a corporate person, an extract from the Criminal Register concerning its statutory body or members of statutory bodies shall be requested as well. The request for the issuance of an extract from the Criminal Register and the extract from the Criminal Register are passed on electronically and in a manner enabling distant access.
- (5) Where the proponent, its statutory body or member of the statutory body is an individual who is not a citizen of the Czech Republic, the proponent supplies with the application pursuant to subsection 2 documents issued by the state of citizenship of the person corresponding to extracts from the Criminal Register, as well as documents issued by the state, in which the person resided in the past 3 years for unbroken periods exceeding 3 months. This is also applied similarly in a case of a Czech citizen who resided in the past 3 years abroad for unbroken periods exceeding 3 months. If a foreign individual resided in the Czech Republic under the first phrase, the tax administrator shall request an extract from the Criminal Register under subsection 4.
- (6) The tax administrator shall decide on the issuance of a permission only there, where the proposal for the issuance of a permission contains all requisites defined in subsection and where the proponent is not bankrupt or under insolvency proceedings pursuant to a special regulation. If the proponent has an unpaid balance as regards taxes or customs, or an unpaid balance on public health insurance or sanctions, or on social security insurance and the contribution towards the state employment policy or sanctions, the tax administrator shall issue the permission only when the unpaid balance has been settled. The proposal shall be declined in a contrary case.



- (7) At the request of the tax administrator, the proponent is obliged to state and document further data needed for tax administration.
- (8) The tax administrator shall verify the data stated in the proposal and in the case of any doubts over their correctness or completeness, the proponent shall be asked to explain them more closely, amend, supplement or document them, also stating the due period within which the proponent is obliged to respond to the appeal. After the expiration of the due period the tax administrator revokes the proposal.
- (9) The tax administrator shall state the amount of the tax guarantee and shall issue a permission to admit repeatedly selected products under the conditional tax exemption mode, where the proponent has secured the tax guarantee. In the matter of securing the tax guarantee, Section 21 is applied similarly.
- (10) The tax administrator shall state the facts in the permission according to subsection 2, letters a), b) and c).
- (11) The tax administrator may define further conditions in order to secure selected products or order measures needed to prevent an unauthorized use.
- (12) When issuing the permission, the tax administrator shall assign a registration number to any authorized recipient for the repeated admittance of selected products and shall issue a certificate of registration.
- (13) The tax administrator shall decide on the proposal on the issuance of the permission within 60 calendar days from the launch of the proceedings; in particularly complicated cases, the decision shall be issued no longer than within 90 calendar days; if the decision cannot be made due to the nature of the matter even within this period, the closest superior tax administrator may adequately extend it. If the tax administrator cannot make the decision within 60 calendar days, or within 90 days, they are obliged to notify the proponent of this stating the reason.
- (14) A positive decision on the proposal for the issuance of a permission to repeatedly admit selected products under the conditional tax exemption mode is not justified.
- (15) The authorized recipient is obliged to report to the tax administrator any changes of the data stated in the permission within 5 working days of their emergence.
- (16) If a change occurs to the business address or place of residence of the authorized recipient under subsection 2, letter a) or to the data under subsection 2, letter b), the tax administrator decides on the change of the original permission. If the real volume of the selected products admitted under the conditional tax exemption mode exceeds the estimated annual volume of selected products pursuant to subsection 2, letter b), the tax administrator may state further conditions in the permission in order to secure selected products or measures needed for the prevention of their unauthorized use may be imposed
- (17) If a change occurs to other data stated in the permission, the tax administrator shall decide on the issuance of a new permission and on the revoking of the previous permission.
- (18) The permission ceases to exist

- a) By the conclusion of the corporate person where the holder of the permission is a corporate person,
  - b) By the death of the authorized recipient or by a court decision declaring the holder of the permission dead coming into force, or
  - c) By the day of a court decision declaring the holder of the marking permission bankrupt coming into force, or
  - d) By the day of the conclusion of a trade license<sup>21)</sup>
- (19) The tax administrator shall revoke the permission of the authorized recipient if
- a) The reasons based on which it was issued ceased to exist
  - b) The authorized recipient does not meet their obligations which are conditional for its issuance under subsection 6 after the permission has been issued, or if they breach their duty of maintaining correct, complete, provable, comprehensible and reviewable accounting books in a manner ensuring permanence of the accounting records in connection with the facts based in the permission or if they fail to maintain a register pursuant this Act (Section 39), or if they otherwise breach the obligations of an authorized recipient, and not even an imposed fine issued in a remedy,
  - c) The authorized recipient asks that the permission be revoked,
  - d) The authorized recipient does not admit the selected products without a reason for three consequent calendar months, or
  - e) The authorized recipient does not top up the tax guarantee within the stated period.
- (20) If multiple permissions of an authorized recipient were issued to the authorized recipient and any of these is revoked under Section 19, letter b), the other permissions of an authorized recipient shall be revoked as well.
- (21) If a permission has been revoked from an authorized recipient pursuant to subsection 19, letter b) or d) a new permission may be issued to the authorized recipient after two years at the earliest of the decision on revoking the permission of an authorized recipient coming into force. This also applies to the revoking of a permission of an authorized recipient pursuant to subsection 20.
- (22) If a permission of an authorized recipient ceases to exist or is revoked, the tax administrator
- a) Shall use the tax guarantee in order to cover any debts concerning the tax, returning a potential tax guarantee residue within 30 calendar days of using the tax guarantee for the payment of the debts concerning tax, including any civil fruits.
  - b) In the case where that tax has been secured in the form of a guarantee, they shall ask the guarantor to pay for the debts concerning the tax and any civil fruits.
- (23) Further conditions relating to the repeated admittance of tobacco products under the conditional tax exemption mode have been set out in Section 109.

## Section 23

- (1) Selected products may be admitted on a one-off basis under the conditional tax exemption mode only based on a permission issued by the tax administrator. In the proposal for the issuance of a permission to admit specific goods on a one-off basis, a corporate person or individual shall state
- a) The trade name or title, business address and tax identification of a payer.

- b) The name, trade name and quantity of selected products in units of measure which are to be admitted under the conditional tax exemption mode,
  - c) The trade name or title, business address and tax registration data from another Member State of a supplier from another Member State; if supplier tax registration data from another Member State is not available when submitting the proposal, the proponent shall state the supplier's registration number from another Member State,
  - d) The address of the destination, and where this is not possible, other data determining the destination of selected products.
- (2) Product name under subsection 1, letter b) must be stated with a sufficiently clear term which shall make the identification of the product possible so that the appropriate tax rate can be established without ambiguity.
- (3) The tax administrator shall state a tax guarantee amount corresponding the amount of tax which is due to be declared and paid by the authorized recipient admitting selected products on a one-off basis following their launch into a free tax circulation, delivering their decision on the issuance of a permission only after tax has been secured. The proponent shall secure the tax by a wire transfer or depositing the financial means to a bank account established by the tax administrator for tax guarantees, while title does not arise for any interest of the deposits to this account made in order to secure the tax. Securing the tax means crediting the deposit account established by the tax administrator with the appropriate amount. With the proponent's approval, the tax administrator may use the tax guarantee amount to pay for the tax. Otherwise, the tax administrator with a local relevance as per the business address to residence of the authorized recipient shall decide on the release of the tax guarantee within 5 working days of the date when their specific account was credited with the tax amount.
- (4) The tax administrator shall use the tax guarantee to pay for the tax and any civil fruits if the tax has not been paid within the due payment date stated by this Act.
- (5) If the proponent's proposal is without faults, the tax administrator shall decide on the issuance of a permission to admit selected products on a one-off basis under the conditional tax exemption mode on the next working day following the provision of the tax guarantee at the latest.
- (6) The tax administrator shall state the period of validity in the decision on the permission of a one-off admittance of selected products. The permission expires by the moment of a one-off admittance of selected products, however, no later than 3 months after the decision came into force.

Section 23a

Repealed

Section 24

**Transport of Selected Products under the Conditional Tax Exemption Mode on the Tax Territory of the Czech Republic**

(1) Selected products may be transported under conditional tax exemption mode, unless this Act stipulates otherwise (Section 58a),

- a) from a tax warehouse to another tax warehouse, to a place of exportation or place of direct delivery, with the exception of transport of selected products to persons under Section 11, subsection 1, letter d),
- b) from the point of importation to a tax warehouse, the place of exportation or place of direct delivery, with the exception of transport of selected products to persons under Section 11, subsection 1, letter d).

(2) If the selected products are transported to a place of direct delivery, the operator of the recipient tax warehouse is obliged to provide the tax administrator with a list of places of direct delivery. The operator of the recipient tax warehouse is obliged to inform the tax administrator on the place of direct delivery no later than 3 working days before the transportation of selected products was initiated.

(3) Selected products can be transported under conditional tax exemption mode only if the operator of the sending tax warehouse or authorized sender guarantees the payment of tax in the amount of tax which the operator would have been obliged to declare and pay when placing the transported selected products into free tax circulation, unless the Act provides otherwise [Section 58, subsection 2, 3, 4 and Section 58, subsection 5, letter a)]. If the operator of the sending tax warehouse provided tax guarantee for the operation of a tax warehouse, this can be used to guarantee tax for the transport of selected products with the exception of transport pursuant to subsection 1, letter b). This exemption does not apply to the case where the authorized sender is the operator of the tax warehouse to which the selected products under conditional tax exemption mode are transported. The tax administrator in whose territorial jurisdiction the tax warehouse is located will decide on the application of the tax guarantee for the operation of a tax warehouse for transport of selected products. If the tax guarantee under Section 21 does not cover the amount of tax attributable to selected products transported under conditional tax exemption mode, the sending tax warehouse operator is required to provide additional tax guarantee to match the amount of tax attributable to the amount of transported selected products. If the selected products are transported by authorized sender, the tax guarantee is provided for each transport separately, by transferring or depositing funds to the tax guarantee deposit account established by the tax administrator. No entitlement to interest on the amount deposited on the deposit account arises during the tax guarantee period under this subsection. The tax is considered to be guaranteed from the date of crediting the amount to the account. If the tax is not paid by the due date provided for in this Act, the tax administrator will use the tax guarantee to pay taxes including its penalties and other charges.

(4) The tax administrator may request the operator of the sending tax warehouse or the authorized sender to grant consent with the tax guarantee being provided by the carrier, the receiving tax warehouse operator or the owner of the selected products, provided that the carrier, the receiving tax warehouse operator or the owner agrees with it in writing.

(5) The transportation of selected products pursuant to subsection 1, letter a) is initiated at the moment the products leave the tax warehouse from which they are sent. The transportation of the selected products pursuant to subsection 1, letter b) is initiated upon the release of the selected products for free circulation. The transportation of the selected products pursuant to subsection 1, letter b) can be initiated only after receiving specific Administrative Reference Code (the "Reference Code") pursuant to Section 26, subsection 4 and subject to the conditions specified in Section 27c, subsection 1.

(6) The transportation of selected products under conditional tax exemption mode to a tax warehouse or a place of direct delivery is completed upon the receipt of the selected products by the

recipient. The transportation of selected products under conditional tax exemption mode to the place of exportation is completed by confirmation of the Electronic Accompanying Document by border customs office using the computerized system for transportation and monitoring of selected products according to the decision of the European Parliament and of the Council on the introduction of the computerized system 27c) (the "electronic system"). If the recipient of the selected products is the tax warehouse operator, it is obliged to record these products, at the completion of the transportation, to the register under Section 37 or 38 and, if transportation was not completed in the place of direct delivery, the operator is obliged to immediately place them in a tax warehouse.

(7) Where tax guarantee has been provided for the transportation of selected products and the transportation was terminated, the tax administrator, to which tax guarantee has been provided, will decide on the release of the tax guarantee within 5 working days after the sender proves that the conditions of admission of selected products under conditional tax exemption mode have been met (Sections 27a, 27b, 27d, 27e or 27f), and returns the tax guarantee to the person who provided it.

(8) The operator of a tax warehouse or the authorized sender that sends selected products to a tax warehouse or the place of exportation via the electronic system can change the place of destination or the recipient of selected products. In this case, this person proceed in accordance with Section 27, subsection 7.

(9) The initiated transportation of selected products under conditional tax exemption mode may not be split during transportation in compliance with the Council Directive on the general arrangements for excise taxes 27d).

## Section 25

### **Transport of Selected Products under the Conditional Tax Exemption Mode between Member States**

(1) Selected products may be transported under a conditional tax exemption mode between Member States, if the selected products are transported from a tax warehouse located

a) In another Member State or from an authorized sender in another Member State

- 1) To a tax warehouse operator or to an authorized recipient who have been granted permit in the tax territory of the Czech Republic,
- 2) To the place of export of selected products in the tax territory of the Czech Republic, or
- 3) To a recipient pursuant to Section 11, subsection 1, letter d) or e),

b) In the tax territory of the Czech Republic, or by an authorized sender from the place of import in the tax territory of the Czech Republic

- 1) To a tax warehouse or to an authorized recipient in another Member State,
- 2) To the place of export of selected products in another Member State,
- 3) To a recipient under the Council Directive concerning the general arrangements for excise duty<sup>6a)</sup>

c) In another Member State, by an authorized sender from another Member State via the tax territory of the Czech Republic

- 1) To a tax warehouse or to an authorized recipient in another Member State,
- 2) To the place of export of selected products in another Member State,

3) To a recipient under the Council Directive concerning the general arrangements for excise duty<sup>6a)</sup> in another Member State.

(2) If the selected products are transported to a place of direct delivery, an operator of the receiving tax warehouse or an authorized recipient for repeated receiving of the selected products shall be obligated to provide to the tax administrator a list of direct delivery places. The operator of a tax warehouse or the authorized recipient for repeated receiving of the selected products shall be obligated to notify the tax administrator of the place of direct delivery not later than 3 working days prior to conveying the selected products.

(3) Pursuant to subsection 1, letter b) selected products may be transported under a conditional tax exemption mode from the place of import in the tax territory of the Czech Republic only by a tax warehouse operator. If an authorized sender fails to fulfill its obligations under this Act after the penalty imposed on the sender, the customs authority referred to in Section 26, subsection 3, letter b) shall not, pursuant to Section 26, subsection 4, issue a reference code to the authorized sender for transport from the place of import pursuant to Section 27c, subsection 2 under a conditional tax exemption mode for two years from the date of the legal force of the ruling on the penalty imposed.

(4) If the selected products are transported pursuant to subsection 1, letter b), a tax warehouse operator or an authorized sender shall provide a guarantee tax in the amount of tax which they would have been required to declare and pay when putting transported selected products in free circulation, unless provided otherwise under this Act [Section 58, subsection 5, letter b)]. The guarantee tax must be valid for all Member States. If the operator of a tax warehouse of dispatch provided a guarantee tax for the operation of a tax warehouse, this can be used as the guarantee tax for transport of selected products except when the operator of a tax warehouse of dispatch transports the selected products from the place of import in the tax territory of the Czech Republic as an authorized sender. The tax administrator may, at the request of a tax warehouse operator or an authorized sender, grant approval for the guarantee tax to be provided by a carrier or an owner of the selected products, provided that the carrier or the owner of the selected products agrees in writing. If the selected products are transported from the place of import in the tax territory of the Czech Republic by an authorized sender, the guarantee tax must be provided for each transport separately. Section 24, subsection 3 applies for the guarantee tax for transport.

(5) Pursuant to subsection 1, letter b) transport of the selected products starts at the time when the products leave the tax warehouse from which they are sent, or upon release of the selected products for free circulation. Pursuant to subsection 1, letter b), points 1 and 2 transport of the selected products can start only after the reference code has been allocated according to Section 26, subsection 4 or, in case of unavailable electronic system, subject to fulfilment of conditions specified in Section 27c, subsection 1. Pursuant to subsection 1, letter b), point 3 transport of the selected products may only start based on the excise duty exemption certificate referred to in the Commission Regulation on the excise duty exemption certificate<sup>17a)</sup>.

(6) Pursuant to subsection 1, letter a), points 1 and 3 transport of the selected products under a conditional tax exemption mode is ended upon receipt of the selected products by a recipient. If the recipient of the selected products is a tax warehouse operator, it shall be obliged under Sections 37, 38 or 39 to register such products at the end of their transport, and, in case their transport is not ended in place of direct delivery, to promptly place them in a tax warehouse. Pursuant to subsection 1, letter a), point 2 transport of selected products under a conditional tax exemption mode is ended upon confirmation of the Electronic Accompanying Document by the border customs authority.

(7) A tax warehouse operator or an authorized recipient for repeated receiving of the selected products may, pursuant to subsection 1, letter a), point 1, end transport of selected products under a conditional tax exemption mode also upon their receipt in place of direct delivery.

(8) When a tax guarantee has been provided for transport of the selected products and transport was ended, the tax administrator shall decide on release of the guarantee tax within 5

working days after the recipient receives a confirmation that conditions were fulfilled for selected products to be accepted as products under a conditional tax exemption mode (Sections 27a, 27b, 27d, 27e and 27f), and the guarantee tax shall be returned to the person who provided it.

(9) A tax warehouse operator or an authorized sender that sends selected products from the tax territory of the Czech Republic to a tax warehouse, to an authorized recipient or to a place of export in another Member State, may, by means of an electronic system, change the destination or the recipient of the selected products. Section 27, subsection 7 shall apply in this case.

(10) Under the Council Directive concerning the general arrangements for excise duty<sup>27d)</sup>, in line with subsection 1 the transport of selected products started cannot be divided in its course.

## Section 26

### **Draft Electronic Accompanying Document at the Start of Transport of Selected Products under a Conditional Tax Exemption Mode**

(1) Selected products may be transported under a conditional tax exemption mode only with an Electronic Accompanying Document. This does not apply to transport of selected products under a conditional tax exemption mode pursuant to Sections 27c till 27f or Section 100, or transport of selected products under a conditional tax exemption mode to persons referred to in Section 11, subsection 1, letter d) or to persons referred to in the Council Directive concerning the general arrangements for excise duty<sup>27e)</sup>.

(2) Operator of a tax warehouse of dispatch or an authorized sender shall prepare a draft Electronic Accompanying Document using the electronic system.

(3) The draft Electronic Accompanying Document shall be sent via the electronic system

- a) By the operator of the tax warehouse of dispatch to the local competent tax administrator having jurisdiction over the tax warehouse,
- b) By the authorized sender to the customs authority which decides on the release of selected products for free circulation.

(4) The authority referred to in subsection 3 shall verify the accuracy and validity of the particulars contained in the draft Electronic Accompanying Document. In the event that the particulars are found incorrect or incomplete, the authority shall promptly inform the operator of the tax warehouse of dispatch or the authorized sender. If the draft Electronic Accompanying Document shows no defects, the authority referred to in subsection 3 shall allocate a reference code to the draft and communicate it to the operator of the tax warehouse of dispatch or to the authorized sender promptly after the condition of providing a guarantee tax pursuant to Section 24, subsection 3 or 4, or Section 25, subsection 4 and the condition of marking the selected products pursuant to subsection 7 have been fulfilled.

(5) The authority referred to in subsection 3 shall be entitled, in addition to verification pursuant to subsection 4 of the accuracy and validity of the particulars contained in the draft electronic accompanying document, to perform a physical check whether the particulars in this draft are true.

(6) The requirements of the Electronic Accompanying Document are listed in the Commission Regulation implementing the Council Directive concerning the general arrangements for excise duty<sup>28)</sup>.

(7) The authority referred to in subsection 3 may order marking of the selected products before start of transport of these products under a conditional tax exemption mode or excise duty exemptions.

## Section 27

### **Electronic Accompanying Document at the Start and during Transport of the Selected Products under the Conditional Tax Exemption Mode**

(1) If transport of selected products under a conditional tax exemption mode is carried out pursuant to Section 25, subsection 1, letter b), point 1, or Section 25, subsection 1, letter b), point 3, with the exception of transport of selected products to persons referred to in the Council Directive concerning the general arrangements for excise duty<sup>27e)</sup>, or is carried out pursuant to Section 25, subsection 7, the authority referred to in Section 26, subsection 3 shall promptly send an Electronic Accompanying Document to the competent authorities of another Member State in which the transport is to be ended. If, pursuant to Section 24, transport of selected products under a conditional tax exemption mode is carried out to a tax warehouse or a place of direct delivery, the authority referred to in Section 26, subsection 3 shall promptly send an Electronic Accompanying Document to a tax warehouse operator listed as a recipient in the Electronic Accompanying Document.

(2) If transport of selected products under a conditional tax exemption mode is carried out pursuant to Section 25, subsection 1, letter a), point 1, or subsection 7, or to the recipient pursuant to Section 11, subsection 1, letter e), the tax administrator which received the Accompanying Electronic Document from the competent authority of another Member State shall promptly send the Document to the recipient specified therein and to local competent tax administrator having jurisdiction over the place in which the transport is to be ended, if this tax administrator is different from the tax administrator which received the Document.

(3) If transport of selected products under a conditional tax exemption mode is carried out pursuant to Section 25, subsection 1, letter b), point 2, the authority referred to in Section 26, subsection 3 shall promptly send an Electronic Accompanying Document

- a) to the competent authorities of the Member State in which the export customs declaration is lodged under the Council Regulation establishing the Community Customs Code<sup>28a)</sup>, unless that Member State is the Czech Republic, or
- b) To the customs authority which decides on the release to export of the selected products transported, if the point of exit from the tax territory of the European Union lies within the tax territory of the Czech Republic.

(4) If transport of selected products under a conditional tax exemption mode is carried out pursuant to Section 25, subsection 1, letter a), point 2, the tax administrator which received the Electronic Accompanying Document from the competent authority of another Member State shall release for export the selected products transported and shall promptly forward this Document to the border customs authority.

(5) The operator of a tax warehouse of dispatch or an authorized sender is obliged to submit a paper copy of an Electronic Accompanying Document or a commercial document stating the reference code to the person physically transporting the selected products. During the transport of the selected products under a conditional tax exemption mode such person is obliged to submit a relevant document to the tax administrator which has requested it.

(6) Pursuant to Section 24, subsection 5, or Section 25, subsection 5 the operator of a tax warehouse of dispatch or an authorized sender may cancel the Electronic Accompanying Document before the start of transport.



(7) The operator of a tax warehouse of dispatch who provided a guarantee tax, or the authorized sender who provided a guarantee tax may, in the course of transport of the selected products under a conditional tax exemption mode, change the recipient or the end point of transport, unless it is transport to persons listed in Section 11, subsection 1, letter e). The change will be realized in line with the procedure laid down in the Commission Regulation implementing the Council Directive concerning the general arrangements for excise duty<sup>28)</sup>.

#### Section 27a

### **Electronic Accompanying Document at the end of Transport of the Selected Products under the Conditional Tax Exemption Mode**

(1) Pursuant to Section 24, subsection 1, letter b), or Section 25, subsection 7, after the receipt of the selected products by the receiving tax warehouse, by an authorized recipient, or in place of direct delivery, such recipients shall, pursuant to Section 24 or Section 25, subsection 1, letter a), point 1, submit the report of receipt of the selected products under a conditional tax exemption mode within 5 working days after the end of transport, by means of an electronic system to the local competent tax administrator having jurisdiction over the place receiving the selected products. Losses and damages occurring during transport, except for unforeseen losses or damages, shall be specified by the recipient in the report of receipt of the selected products under a conditional tax exemption mode. Particulars of the report of receipt of the selected products under a conditional tax exemption mode are stipulated by the Commission Regulation implementing the Council Directive concerning the general arrangements for excise duty<sup>28)</sup>.

(2) After the receipt of the selected products by persons referred to in Section 11, subsection 1, letter e), such recipients shall, pursuant to Section 25, subsection 1, letter a), point 3, submit the report of receipt of the selected products under a conditional tax exemption mode and the excise duty exemption certificate within 5 working days after the end of transport, by means of an electronic system to the local competent tax administrator having jurisdiction according to the registered office or place of residence. If the recipient does not have a registered office or place of residence in the tax territory of the Czech Republic, it shall submit this notification to the tax administrator having jurisdiction over the capital city of Prague. Losses and damages occurred during transport, except for unforeseen losses or damages, shall be specified by the recipient in the report of receipt of the selected products under a conditional tax exemption mode. Particulars of the report of receipt of the selected products under a conditional tax exemption mode are stipulated by the Commission Regulation implementing the Council Directive concerning the general arrangements for excise duty<sup>28)</sup>. Particulars of the excise duty exemption certificate are provided for in the Commission Regulation for excise duty exemption certificate<sup>17a)</sup>.

(3) After the receipt of the selected products by persons referred to in Section 11, subsection 1, letter d), such recipients shall, pursuant to Section 25, subsection 1, letter a), point 3, submit the excise duty exemption certificate within 5 working days after the end of transport to the tax administrator having jurisdiction over the capital city of Prague. Particulars of the excise duty exemption certificate are provided for in the Commission Regulation for excise duty exemption certificate<sup>17a)</sup>.

(4) Pursuant to subsection 1, 2 or 3 the tax administrator shall verify the accuracy and validity of the particulars contained in the report of receipt of the selected products under a conditional tax exemption mode. In the event that the particulars are found incorrect or incomplete, it shall promptly inform the recipient referred to in subsection 1, 2 or 3, and set the period in which the shortcomings are to be removed by the recipient. If the report of receipt of the selected products

under a conditional tax exemption mode shows no defects, the authority referred to in subsection 1 or 2 shall confirm to the recipient the fact that the conditions for receipt of the selected products under a conditional tax exemption mode have been fulfilled.

(5) The tax administrator referred to in subsection 1, 2 or 3 shall be entitled, in addition to verification of the accuracy and validity of the particulars contained in the report of receipt of the selected products under a conditional tax exemption mode pursuant to subsection 4, to perform a physical check whether the particulars in this report are true.

(6) The tax administrator referred to in subsection 1 or 2 shall send the report of receipt of the selected products under a conditional tax exemption mode to the competent authorities of another Member State of dispatch. Pursuant to subsection 3 the tax administrator shall notify the competent authorities of another Member State of dispatch that transport of the selected products under a conditional tax exemption mode to persons referred to in Section 11, subsection 1, letter d) has been ended.

(7) If the selected products are transported under a conditional tax exemption mode from the tax territory in the Czech Republic to another Member State pursuant to Section 25, subsection 1, letter b), point 1 or 3, the local competent tax administrator having jurisdiction over the place of dispatch of the selected products shall send to the sender, promptly upon its receipt, the report of receipt of the selected products under a conditional tax exemption mode received from another Member State.

(8) If transport of selected products under a conditional tax exemption mode is carried out pursuant to Section 24, the tax administrator shall, pursuant to subsection 1, send the report of receipt of the selected products under a conditional tax exemption mode directly to the sender.

## Section 27b

### **Electronic Documents on Export of the Selected Products under the Conditional Tax Exemption Mode**

(1) If the selected products under a conditional tax exemption mode are transported pursuant to Section 25, subsection 1, letter a), point 2, the border customs authority shall prepare a certificate of exit of selected products from the European Union fiscal territory. This certificate shall be sent to the customs authority that released the selected products in the tax territory of the Czech Republic for export. This customs authority shall verify the accuracy and validity of the particulars provided in the certificate. If the certificate shows no defects, the authority above shall send the report of export of selected products via the electronic system to the competent authorities of another Member State of dispatch. Losses and damages occurring during transport, except for unforeseen losses or damages, shall be specified by the customs authority that released the selected products in the tax territory of the Czech Republic for export in the report of export of selected products under a conditional tax exemption mode. Particulars of the report of export of the selected products are stipulated by the Commission Regulation implementing the Council Directive concerning the general arrangements for excise duty<sup>28)</sup>.

(2) If transport is carried out according to Section 25, subsection 1, letter b), point 2, the local competent tax administrator having jurisdiction over the place of dispatch of selected products shall send to the sender a report of export of the selected products from the European Union fiscal territory received from another Member State.

(3) If transport of the selected products under a conditional tax exemption mode to the place of export is carried out pursuant to Section 24, subsection 1, the border customs authority shall prepare a certificate of exit of selected products from the European Union fiscal territory. This certificate shall

be sent to the customs authority that released the selected products for export. This customs authority shall verify the accuracy and validity of the particulars provided in the certificate. If the certificate shows no defects, the authority shall send the report of export of selected products to the sender. Losses and damages occurring during transport, except for unforeseen losses or damages, shall be specified by the customs authority that released the selected products in the tax territory of the Czech Republic for export in the report of export of selected products under a conditional tax exemption mode.

#### Section 27c

##### **Unavailability of an Electronic System at the Start and during Transport of the Selected Products under the Conditional Tax Exemption Mode**

(1) If the electronic system is unavailable at the time before the start of transport of the selected products under a conditional tax exemption mode, an operator of the tax warehouse of dispatch or an authorized sender shall start such transport only under the following conditions:

- a) Selected products are transported with a document that contains the same particulars as the draft Electronic Accompanying Document referred to in Section 26,
- b) They shall inform the authority referred to in Section 26, subsection 3 before the start of transport, and submit a copy of the document referred to in letter a),
- c) They shall provide a guarantee tax according to Section 24, subsection 3 or 4, or Section 25, subsection 4,
- d) They shall provide information on the reasons for unavailability of the electronic system in the event that they are responsible for such unavailability.

(2) Transport of selected products accompanied with the document pursuant to subsection 1, letter a) can only be started with the consent of the authority referred to in Section 26, subsection 3.

(3) Promptly after restoring the availability of an electronic system the sender shall pursuant to subsection 1 submit to the authority referred to in Section 26, subsection 3 a draft Electronic Accompanying Document in accordance with Section 26, subsection 2.

(4) The authority referred to in Section 26, subsection 3 shall verify the accuracy and validity of the particulars contained in the draft electronic accompanying document, especially by comparing the particulars contained in the document pursuant to subsection 1, letter a) with the draft Electronic Accompanying Document referred to in subsection 3. In the event that the particulars are found incorrect or incomplete, it shall promptly inform the sender referred to subsection 1 and shall set the deadline in which the sender shall remove the shortcomings. If the draft Electronic Accompanying Document shows no defects, the authority referred to in Section 26, subsection 3 shall allocate a reference code to the draft and communicate it to the sender pursuant to subsection 1. The Electronic Accompanying Document shall then replace the document pursuant to subsection 1, letter a). Sections 26 and 27 shall be applied further.

(5) By the time when the draft Electronic Accompanying Document is allocated a reference code which is communicated to the sender pursuant to subsection 1, transport of the selected products is considered to be under a conditional tax exemption mode based on the document in subsection 1, letter a).

(6) The sender of the selected products under a conditional tax exemption mode referred to in subsection 1 shall keep the document referred to in subsection 1, letter a) for 10 years from the date of start of transport concerned.

(7) If the electronic system is unavailable pursuant to subsection 1, an operator of the tax warehouse of dispatch or an authorized sender shall electronically notify the authority referred to in Section 26, subsection 3 of the changes pursuant to Section 27, subsection 7 before they are implemented. Subsections 3 till 5 shall apply further.

(8) The unavailability of the electronic system means a situation when access communication means of the tax administrator to the electronic system are not working or when the electronic system itself is malfunctioning.

#### Section 27d

### **Unavailability of an Electronic System at the end of Transport of Selected products under the Conditional Tax Exemption Mode**

(1) If transport under a conditional tax exemption mode is carried out pursuant to Section 25, subsection 1, letter a), points 1 and 3, with the exception of transport to the recipient according to Section 11, subsection 1, letter d), and pursuant to Section 24, subsection 1, with the exception of transport to the place of export, and if the recipient of the selected products is unable to produce the report of receipt of the selected products via an electronic system according to Section 27a, subsection 1 or 2, or Section 27b, subsection 1, because of

- a) Unavailability of an electronic system in place of receipt of the selected products,
- b) unavailability of an electronic system at the place of dispatch of the selected products from another Member State if the recipient has not received an Electronic Accompanying Document with a specific administrative reference code allocated, by the time of receipt of the selected products, or
- c) unavailability of an electronic system at the place of dispatch in the tax territory of the Czech Republic, if it was not possible to proceed according Section 27c, subsection 3 till 5 by the time of receipt of the selected products, the recipient shall use a document containing the same particulars as the report of receipt of the selected products. This document shall be deemed to confirm the end of transport. The recipient shall promptly submit the document to the local competent tax administrator having jurisdiction over the place of receipt of the selected products.

(2) If the recipient fails to submit the report of receipt of the selected products to the local competent tax administrator having jurisdiction over the place of receipt of the selected products, via the electronic system by the end of the day when the selected products were received, due to reasons set out in subsection 1, the tax administrator shall send a copy of the document referred to in subsection 1 to the competent authorities of the Member State of dispatch or pursuant to subsection 1 to the sender in the tax territory of the Czech Republic.

(3) The local competent tax administrator having jurisdiction over the place of receipt of the selected products shall submit the document referred to in subsection 1 to the competent authorities of the Member State of dispatch from another Member State.

(4) Promptly after the availability of an electronic system has been restored, the recipient shall submit the report of receipt of the selected products under a conditional tax exemption mode pursuant to Section 27a, subsection 1 or 2, or Section 27b, subsection 1. Section 27c, subsection 3 till 5 shall apply further.

#### Section 27e

### **Unavailability of an Electronic System at Export**

(1) If in cases pursuant to Section 25, subsection 1, letter a), point 2 or in cases of export of the selected products pursuant to Section 24, subsection 1 due to reasons of unavailable electronic system in the Czech Republic or the reasons specified in Section 27d, subsection 1, letter b) or c), the report of export of the selected products from the European Union fiscal territory cannot be issued, the tax administrator that has released the selected products to export shall issue a document containing the same particulars as the report above to confirm that the transport has been ended.

(2) The customs authority referred to in subsection 1 shall send the document referred to in subsection 1 to the competent authorities of the Member State of dispatch or to the sender in the tax territory of the Czech Republic, unless a report of export of the selected products can be issued by the end of the day when the customs authority referred to in subsection 1 received a certificate of exit of the selected products from the European Union fiscal territory from the border customs authority in case that these customs offices are different or when the selected products exited from the European Union fiscal territory.

(3) In the case of transport pursuant to Section 25, subsection 1, letter b), point 2, the local competent tax administrator having jurisdiction over the place of dispatch of the selected products shall provide to the sender a copy of the document referred to in subsection 1 drawn up by the competent authority of another Member State of export.

(4) If the electronic system unavailability pursuant to subsection 1 is removed, the procedure according to Section 27b shall be applied.

(5) If in cases pursuant to Section 25, subsection 1, letter a), point 2 or in cases of export of the selected products pursuant to Section 24, subsection 1, the end of transport of the selected products under a conditional tax exemption mode cannot be demonstrated upon providing the report of export of selected products from other reasons than unavailability of the electronic system or reasons set out in Section 27d, subsection 1, letter b) or c), the customs authority referred to in subsection 1 shall prepare a replacement report of export of the selected products to replace this document. The replacement report of export of the selected products shall then be sent to the competent authorities of the Member State of dispatch or to the sender in the tax territory of the Czech Republic.

## Section 27f

### **Replacement Documents for Transport of Selected Products under the Conditional Tax Exemption Mode**

(1) If transport of selected products under a conditional tax exemption mode is carried out pursuant to Section 25, subsection 1, letter a), points 1 and 3, or Section 24, subsection 1, with the exception of transport to the recipient according to Section 11, subsection 1, letter d) and with the exception of transport to the place of export in accordance with Section 24, subsection 1, and if the recipient of the selected products is unable to provide the report of receipt of the selected products via the electronic system according to Section 27a, subsection 1 or 2, or Section 27b for reasons other than those referred to in Section 27d, subsection 1, and these facts cannot be proven upon procedures stipulated for cases of unavailable electronic system, the recipient shall be obliged to submit to the local competent tax administrator having jurisdiction over the place of receipt a replacement document on receipt of the selected products, which must contain the same particulars as the report of receipt of the selected products.

(2) If the replacement document on receipt of the selected products shows no defects, the tax administrator referred to in subsection 1 shall forward the document to the competent authorities of the Member State of dispatch or in the case of transport pursuant to Section 24, subsection 1 to the

local competent tax administrator having jurisdiction over the sender. The local competent tax administrator having jurisdiction over the sender then sends the document directly to the sender.

(3) In the case of transport pursuant to Section 25, subsection 1, letter b), with the exception of persons listed in the Council Directive concerning the general arrangements for excise duty<sup>27e)</sup>, the local competent tax administrator having jurisdiction over the place of dispatch of the selected products that will receive the replacement document on receipt of the selected products from the competent authorities of another Member State shall examine this document and in the case of its recognition shall record end of transport into the electronic system.

## Section 28

### **Violation of a Conditional Tax Exemption Mode during Transport**

(1) As a violation of a conditional tax exemption mode during transport, except cases listed in subsection 2, shall be considered the failure to end the transport of the selected products within the time limit to a tax warehouse, to the authorized recipient, to the place of direct delivery, to the point of export, to a person referred to in Section 11, subsection 1, letter d) or e), or to a recipient under the Council Directive concerning the general arrangements for excise duty<sup>6a)</sup> in another Member State.

(2) If the conditions referred to in subsection 1 were not fulfilled as a result of unforeseen loss or damage or as a result of losses under Section 49, subsection 11, or Section 71, subsection 2 and the local authority referred to in Section 26, subsection 3 having jurisdiction over the tax warehouse or place of import from which the transport started was promptly informed about the events, this shall not be considered as a breach of a conditional tax exemption mode.

(3) Selected products at which the breach of a conditional tax exemption mode occurred are considered as excluded from such arrangements, unless stipulated otherwise in subsection 9.

(4) If it is found that a breach of a conditional tax exemption mode occurred in the tax territory of the Czech Republic, the obligation to declare and pay tax arises in the tax territory of the Czech Republic.

(5) If it is found in the tax territory of the Czech Republic that a breach of a conditional tax exemption mode occurred during transport commenced in another Member State and it is impossible to determine where the breach occurred, the obligation to declare and pay tax arises in the tax territory of the Czech Republic.

(6) The tax administrator shall inform the competent taxation authority of the Member State in which the transport started about the obligation to declare and pay the tax in the tax territory of the Czech Republic.

(7) If the selected products were transported in the tax territory of the Czech Republic pursuant to Section 24, subsection 1 and the recipient does not prove or customs authority which decided to release these selected products to export does not confirm within four months from the date of dispatch of the selected products that the selected products

a) Have been delivered to their destination,

b) Exited from the European Union fiscal territory, or

c) Have been completely destroyed or damaged as a result of loss or damage in the sense of Section 3, letter s), these selected products shall be considered as excluded from a conditional tax exemption mode. The operator of a tax warehouse of dispatch shall inform the local competent tax administrator having jurisdiction over the tax warehouse that it has not been confirmed as yet whether the conditions with the selected products transported specified in subsections a) and b)

have been met, and that within two months from the date of start of transport. The authorized sender shall inform in this respect the customs authority which decided on the release of the selected products into free circulation, in the same deadline.

(8) If the selected products were transported from the tax territory of the Czech Republic pursuant to Section 25, subsection 1, letter b) and the recipient from another Member State does not prove or a competent authority of another Member State of export does not confirm within four months from the date of dispatch of the selected products that the selected products

a) Have been delivered to their destination,

b) Exited from the European Union fiscal territory,

c) Have been completely destroyed or damaged as a result of unforeseen loss or damage, or

d) Have not been delivered to their destination due to a breach of a conditional tax exemption mode, which occurred during transport outside the tax territory of the Czech Republic, these selected products shall be considered as excluded from a conditional tax exemption mode. The operator of a tax warehouse of dispatch shall inform the local competent tax administrator having jurisdiction over the tax warehouse that it has not been confirmed as yet whether the conditions with the selected products transported specified in subsections a), b) or c) have been met, and that within two months from the date of start of transport. The authorized sender shall inform in this respect the customs authority which decided on the release of the selected products into free circulation in the same deadline.

(9) If the payer referred to in Section 4, subsection 1, letter d) did not know or could not know that the selected products transported under a conditional tax exemption mode were not delivered to their place of destination, it may, within one month from the day when it was informed of this fact by the local competent tax administrator having jurisdiction over the tax warehouse from which the transport has been commenced, or by the customs office which decided on the release of the selected products for free circulation, prove that the transport was ended in accordance with Section 24, subsection 6, or Section 25, subsection 6, or that a breach of a conditional tax exemption mode occurred during transport in the territory of another Member State.

(10) If it is found within a period of three years from the date of start of transport that there was no breach of a conditional tax exemption mode or that the breach of a conditional tax exemption mode occurred in another Member State and the duty was collected in such Member State, the claim for refund of the excise duty paid in the tax territory of the Czech Republic shall arise on the day of such finding. The claim to excise duty refund shall be lodged in the tax return in accordance with Section 14, subsection 5. This tax return must be accompanied with a document of excise duty paid in another Member State. If upon the assessment of entitlement to the tax refund there is a qualification to be refunded an excess tax, it shall be refunded without an application within 30 calendar days from the day after it arises.

(11) If the breach of a conditional tax exemption mode is found during transport in another Member State and then within a period of three years from the date of the transport start it is found out that the breach occurred in the tax territory of the Czech Republic, the procedure in accordance with subsection 4 shall be applied. After the excise duty has been paid, the tax administrator shall inform the competent authorities of the Member State in which the breach of a conditional tax exemption mode during transport was discovered.

## Section 29

### **Transport of Selected Products Subject to Excise Duty Released into a Free Circulation in another Member State for Commercial Purposes**

(1) A corporate or natural person purchasing selected products from another Member State for the commercial purposes is required to register as a tax payer and announce the tax administrator the amount of selected products and provide a guarantee tax before receipt of the selected products released for free tax circulation in another Member State.

(2) A person referred to in subsection 1 provides a guarantee tax at the amount which it would be required to declare and pay if the selected products have been put into free tax circulation in the tax territory of the Czech Republic, unless provided otherwise hereunder (Section 60, subsection 13) . This person shall provide for a guarantee tax by wire transfer or paying the funds to the guarantee tax deposit account established by the tax administrator, whereas there shall not be any entitlement to interest on the amount deposited at the guarantee tax deposit account. With the consent of the person who provided the guarantee tax, the tax administrator may use the guarantee tax provided to pay the tax. Otherwise, the tax administrator shall decide on release of the guarantee tax within 5 working days from the date on which the amount of tax paid under subsection 3, 6, or 8 has been credited to the account designated by the tax administrator in whose territorial jurisdiction the person referred to in subsection 1 has a registered office or place of residence.

(3) After collection of the selected products or end of transport, the corporate or natural person referred to in subsection 1 shall be obliged to file a tax return and pay tax. If the corporate or natural person fails to comply with the procedure stipulated in subsection 1, it shall be obliged to file a tax return and pay the tax on the next commercial day after receipt of products.

(4) Selected products which have been put into free tax circulation in another Member State and are accepted by a public body shall be deemed as selected products received for commercial purposes, whereas the public entity shall proceed in accordance with subsections 1 and 2.

(5) The tax administrator shall use the guarantee tax to pay the tax, including its accessories, unless the tax is paid within the due date hereunder.

(6) In case that the selected products released for free tax circulation in another Member State and intended for commercial purposes in the tax territory of the Czech Republic are lost or damaged during transport, the provisions of Section 4, subsection 1, letter d), and Section 28, subsection 4, 5, 10 and 11 shall be applied accordingly. This does not apply in the case of unforeseeable loss or damage. In this case, the tax administrator shall decide to release the guarantee tax within 5 working days from the date of proof of this fact.

(7) The provisions of Section 29 shall not apply to the selected products released for free tax circulation in another Member State

a) Transported via the tax territory of the Czech Republic to another Member State, or

b) Placed on board of an aircraft during a stopover in the tax territory of the Czech Republic, unless a loss or damage of selected products occurs during this transport.

(8) If it is found in the tax territory of the Czech Republic that during the transport the selected products referred to in subsection 7 were lost or damaged, the obligation to declare and pay the tax arises on the tax territory of the Czech Republic, regardless of whether they have been lost or damaged in the tax territory of the Czech Republic or whether it is impossible to determine where this event has occurred. This does not apply in the case of unforeseeable loss or damage.

(9) The tax administrator shall inform the competent taxation authority of the Member State in which the transport was started about the obligation to declare and pay the tax in the tax territory of the Czech Republic. At the same time, it shall provide this information to the competent taxation authority of the Member State in which the transport is to be ended.



(10) If it is found in the tax territory of the Czech Republic that during transport the selected products referred to in subsection 7 were unpredictably lost or damaged, the tax administrator shall provide this information to the competent taxation authority of the Member State in which the transport is to be ended.

## Section 30

### **Simplified Accompanying Document**

(1) Selected products released for free tax circulation in another Member State and transported into the tax territory of the Czech Republic for commercial purposes or to perform tasks of a public entity can be transported with a simplified Accompanying Document.

(2) Selected products released for free tax circulation in another Member State and transported via the tax territory of the Czech Republic to the other Member State for commercial purposes may be transported only with a simplified Accompanying Document and using the appropriate route. If these selected products are transported in the above way often and regularly, a bilateral agreement may be agreed with that other Member State to transport such products without the simplified Accompanying Document.

(3) Selected products released for free tax circulation in the tax territory of the Czech Republic and transported via the territory of another Member State to the tax territory of the Czech Republic for commercial purposes may be transported only with a simplified Accompanying Document and using the appropriate route. If these selected products are transported in the above way often and regularly, a bilateral agreement may be agreed with that other Member State to transport such products without the simplified Accompanying Document.

(4) The taxpayer who collects the selected products released for free tax circulation in another Member State for the commercial purposes must upon request of the dispatching supplier send back a certified copy of the simplified Accompanying Document promptly after the selected products have been received. The tax administrator is obliged to issue a receipt upon request that the tax was declared or paid.

(5) The sample of the simplified Accompanying Document and its terms and conditions are set out in the relevant regulation of the European Union<sup>30</sup>.

## Section 31

### **Transport of Selected products Subject to Excise Duty Released into a Free Circulation on the tax Territory of the Czech Republic to Another Member State or via Another Member State Territory for Commercial Purposes**

(1) Selected products released for free circulation in the tax territory of the Czech Republic and transported to another Member State for commercial purposes may be transported with a simplified Accompanying Document. A sender shall notify the tax administrator in writing before the start of transport. The notification shall specify the transport start date.

(2) The sender shall prepare a simplified Accompanying Document in triplicate and mark each copy with numbers 1, 2 and 3. Copy No 1 shall be kept by the sender, copies No 2 and 3 shall be

submitted to the carrier. The sender is obliged to keep the certified copy No. 3 received from the recipient for 10 years from the end of the calendar year in which the documents were issued.

(3) Selected products released for free circulation in the tax territory of the Czech Republic and transported via another Member State to tax territory of the Czech Republic for commercial purposes may be transported with a simplified Accompanying Document. The sender shall notify the tax administrator in writing before the start of transport.

(4) The sender shall prepare a simplified Accompanying Document in triplicate and mark each copy with numbers 1, 2 and 3. Copy No 1 shall be kept by the sender, copies No 2 and 3 shall be submitted to the carrier. The recipient shall retain copy No 2 and confirm receipt of the selected products on Copy No 3 which shall be sent to the sender not later than on the first working day after the end of transport.

(5) If the selected products released for free circulation in the tax territory of the Czech Republic are transported via another Member State to tax territory of the Czech Republic for commercial purposes often and regularly, the competent tax administrator may, on condition of a bilateral agreement with the other Member State, grant a permit for a simplified procedure different from subsections 2 till 4.

(6) In case that the selected products released for free tax circulation in the tax territory of the Czech Republic and intended for commercial purposes in another Member State are lost or damaged during the transport, the provisions of Section 4, subsection 1, letter d), and Section 28, subsection 4, 5, and 10 shall be applied accordingly. This does not apply in the case of unforeseeable loss or damage.

(7) The tax administrator shall inform the competent taxation authority of the Member State in which the transport is to be ended about the obligation to declare and pay the tax in the tax territory of the Czech Republic.

(8) If it is found in the tax territory of the Czech Republic that during the transport the selected products were unpredictably lost or damaged, the tax administrator shall provide this information to the competent taxation authority of the Member State in which the transport is to be ended.

## Section 32

### **Transport of Selected Products for Personal Use**

(1) Selected products that were released for free tax circulation in another Member State and which were acquired by natural persons in that Member State for personal use and are transported by them to the tax territory of the Czech Republic are exempt from tax. Pursuant to Section 13 no special permit is required for these products.

(2) In assessing whether the selected products are intended for commercial purposes or for personal use, the tax administrator shall take into account, in particular,

- a) Whether the natural person is an entrepreneur and why it acquired the selected products,
- b) The place where the selected products are located, or mode of their transport,
- c) Documents to the selected products,
- d) Amount and nature of the selected products.

(3) In case that an individual requests transport of selected products from another Member State to the tax territory of the Czech Republic, these selected products shall be considered as selected products acquired for commercial purposes with the exception of small consignments of

non-commercial nature sent by natural persons to natural persons. In assessing whether the consignment is small and of non-commercial nature, the provisions of subsections 2 and Section 4, subsection 5 shall be applied accordingly. Selected products contained in small consignments of non-commercial nature are exempt from tax and pursuant to Section 13 no special permit is requested for their receipt.

(4) For the purposes of this provision the amount of selected products for personal use shall be deemed the amount listed in Section 4, subsection 5.

(5) The tax administrator may decide that a bigger amount of selected products may be considered as intended for personal use than mentioned in subsection 4, if it results from an assessment of the facts referred to in subsection 2.

### Section 33

#### **Sending Selected Products**

(1) If the selected products which were released for free tax circulation in another Member State are sent by an individual or corporate person or on behalf of such a person which has the place of residence or registered office in that other Member State, to a corporate person or natural person with the registered office or residing in the tax territory of the Czech Republic and which is neither engaged in business nor pursues any independent economic activity, the obligation to declare and pay the tax arises in the tax territory of the Czech Republic.

(2) Natural person or corporate person which sends the selected products from another Member State to the tax territory of the Czech Republic to a corporate person or natural person referred to in subsection 1 shall, to fulfil this obligation, designate a fiscal representative for sending selected products.

(3) The fiscal representative for sending selected products may only be a corporate person or natural person that has the registered office or place of residence in the tax territory of the Czech Republic, and is not identical with the corporate person or natural person referred to in subsection 1 to which the selected products are sent.

(4) The fiscal representative for sending selected products is required to provide the local competent tax administrator before each dispatch of selected products from another Member State

a) name or corporate name, type and amount of selected products shipped in measuring units; the name of the selected product must be a sufficiently precise term enabling identification of the selected product so that it can be unambiguously determined what tax rate is determined for this product,

b) Name, registered office or place of residence and tax identification number, if assigned, of a corporate person or natural person referred to in subsection 1 to whom the selected products are sent.

The fiscal representative shall also be obliged to provide a guarantee tax before each shipment of the selected products, which corresponds to the amount of tax for the volume of selected products sent, in case that these selected products were released for free tax circulation in the tax territory of the Czech Republic. The guarantee tax is provided by cash payment or wire transfer of funds to the guarantee tax deposit account established by the local competent tax administrator having jurisdiction over the fiscal representative for sending selected products, whereas there shall not be any entitlement to interest on the amount deposited at the guarantee tax deposit account.

(5) Fiscal representative for sending selected products is obliged to declare and pay the tax in the tax territory of the Czech Republic [Section 9, subsection 3, letter i)] upon receipt of the selected products by corporate person or natural person, pursuant to subsection 1, to which the selected products are dispatched.

(6) If the fiscal representative for sending selected products fails to fulfil its obligations set out in subsection 4, the duty to declare and pay the tax shall pass on the corporate person or natural person pursuant to subsection 1, which received the selected products sent.

(7) With the approval of a fiscal representative for sending selected products, the local competent tax administrator having jurisdiction over the fiscal representative for sending selected products may pay the tax using the guarantee tax provided. If the consent is not given, the tax administrator shall decide on release of the guarantee tax within 5 working days from the date when the amount of tax paid pursuant to subsection 5, 6 or 15 has been credited to the designated account of the tax administrator.

(8) The local competent tax administrator having jurisdiction over the fiscal representative for sending selected products shall use the guarantee tax to pay the tax, including its accessories, unless the tax is paid within the due date hereunder.

(9) The fiscal representative for sending selected products is obligated to keep records on received selected products and on corporate persons and natural persons, pursuant to subsection 1, to whom the selected products have been sent. The records must contain the particulars given in subsection 4.

(10) If the selected products are to be sent repeatedly, the tax administrator having jurisdiction over the fiscal representative for sending selected products may upon proposal of the fiscal representative for sending selected products grant a permit to include the selected products received in one tax period in one tax return (Section 18).

(11) In line with Section 18 the fiscal representative for sending selected products is obligated to enclose to the tax return a document confirming that the tax for the selected products sent has been paid in the Member State from which they were sent.

(12) At the request of a fiscal representative for sending selected products, after payment of the tax, the tax administrator having jurisdiction over the fiscal representative for sending selected products shall issue for tax refund purposes in the Member State from which the selected products were sent,

a) Confirmation on tax payment in line with subsection 5 or 6,

b) Confirmation on tax payment in line with subsection 15, or

c) Confirmation on unforeseeable loss or damage of the selected products during their transport in the tax territory of the Czech Republic.

(13) An individual or corporate person with the place of residence or registered office in the tax territory of the Czech Republic may send the selected products released for free tax circulation in the tax territory of the Czech Republic to a corporate person or natural person with the place of residence or registered office in the territory of another Member State, which is neither engaged in business nor pursues another independent economic activity, if such person informs in writing its local competent tax administrator before the dispatch of the selected products and specifies the name and amount of selected products sent and the Member State of destination.

(14) An individual or corporate person with the place of residence or registered office in the tax territory of the Czech Republic, sending selected products released for free tax circulation in the tax territory of the Czech Republic to a corporate person or natural person with the registered office or place of residence in the territory of another Member State, which is neither engaged in business nor pursues another independent economic activity, is obligated to keep records on the selected

products sent and to evidence fulfillment of conditions for the dispatch of the selected products to another Member State, given by the particular State to which the selected products are being sent.

(15) In case that the selected products sent to the tax territory of the Czech Republic from another Member State or sent from the tax territory of the Czech Republic to another Member State are lost or damaged during transport, the provisions of subsection 8 and Section 4, subsection 1, letter d), and Section 28, subsection 4, 5 and 10 shall be applied accordingly. This does not apply in the case of unforeseeable loss or damage. In this case, the tax administrator shall decide to release the guarantee tax within 5 working days from the date of proof of this fact, if such guarantee tax has been provided in line with subsection 4.

(16) In case that the selected products sent from the tax territory of the Czech Republic to another Member State are lost or damaged during transport, the tax administrator shall inform the relevant Member State authority in which the transport of the selected products is to be ended about the obligation to declare and pay the tax in the tax territory of the Czech Republic.

(17) In case that the selected products sent from the tax territory of the Czech Republic to another Member State are unpredictably lost or damaged during transport, the tax administrator shall inform the competent authority of the Member State in which the transport of the selected products is to be ended.

(18) The provisions of Section 33 do not apply to selected products which are small consignments of non-commercial nature in line with Section 32, subsection 3.

#### Section 33a

##### **Permit for Appointment of a Fiscal Representative for Sending Selected Products**

(1) A corporate person or natural person with the registered office or a place of residence in the tax territory of the Czech Republic may act as a fiscal representative for sending selected products only upon a permit. The tax administrator decides on issuance of such a permit upon a proposal to issue a permit appointing a fiscal representative for sending selected products. This proposal is lodged by an individual or corporate person who sends the selected products from another Member State to the tax territory of the Czech Republic.

(2) The proposal to issue a permit appointing a fiscal representative for sending selected products must contain the following particulars:

a) corporate name or name, registered office and particulars about a tax registration in another Member State of the person sending the selected products from another Member State; these particulars shall be confirmed by a relevant tax administrator,

b) Corporate name or name, registered office and tax identification number of a person that shall be appointed the fiscal representative for sending selected products,

c) power of attorney for representation and a declaration of the person to be appointed the fiscal representative for sending selected products showing its consent with such representation; the declaration of the person showing its consent with the representation shall be submitted with a notarized signature of the principal, unless this declaration is an integral part of the power of attorney,

d) document proving whether the person to be appointed the fiscal representative for sending selected products is in arrears and at what amount with the customs or revenue office in the Czech

Republic on premiums and penalties for public health insurance, or on premiums and penalties for social security contributions and state employment policy contribution, which may not be older than 30 calendar days on the day of submission of the proposal.

(3) The tax administrator shall decide to issue a permit only if a proposal to issue a permit contains the particulars referred to in subsection 2. If the person to be appointed the fiscal representative for sending selected products is in arrears in taxes or customs duties, or in arrears on premiums and penalties for public health insurance, or on premiums and penalties for social security contributions and state employment policy contribution, the tax administrator shall issue a permit only if payment of these arrears is provided for.

(4) The principal or the person who is to be appointed the fiscal representative for sending selected products is obliged, upon the tax administrator's request, to provide and to document additional data needed for the tax administration.

(5) If the proposal of the principal is free from defects, the local competent tax administrator having jurisdiction over the person to be appointed the fiscal representative for sending selected products shall decide on issuance of the permit within 30 calendar days from the start of the proceedings; particulars pursuant to subsection 2, letter a) till c) shall be provided in the decision.

(6) The decision satisfying the proposal to issue a permit to appoint the fiscal representative for sending selected products shall not be substantiated.

(7) A corporate person or natural person to whom a permit for appointment of a fiscal representative for sending selected products has been issued is obliged to notify the local competent tax administrator having jurisdiction over the fiscal representative of any change of particulars pursuant to subsection 2, letter a) specified in the permit, within 5 calendar days from the date of its creation.

(8) A corporate person or natural person who has been appointed the fiscal representative for sending selected products is obliged to notify the local competent tax administrator having jurisdiction over the fiscal representative of any change of particulars pursuant to subsection 2, letter b) specified in the permit on appointment of the fiscal representative for sending selected products, within 5 calendar days from the date of its creation.

(9) A corporate person or natural person who terminated the power of attorney pursuant to subsection 2, letter c) is obliged to notify this fact to the tax administrator having jurisdiction over the fiscal representative, within 5 calendar days from the date of its creation.

(10) In case of any change of the registered office in line with subsection 2, letter a) or b), the tax administrator shall decide on the change of the original permit.

(11) In case of a change of other particulars provided in the permit, the tax administrator shall decide on the issue of a new permit, if any.

(12) The permit shall expire

a) Upon expiration of the corporate person in case the fiscal representative for sending selected products is a corporate person,

b) Upon death of the fiscal representative for sending selected products or upon legal effect of the court judgment on declaration of the fiscal representative for sending selected products dead,

c) On the day of legal effect of the court judgment on declaration of bankruptcy of the fiscal representative for sending selected products,

d) On the day of expiration of the trade licence<sup>21)</sup>,

e) upon withdrawal of the power of attorney by an individual or corporate person sending the selected products from another Member State to the tax territory of the Czech Republic who granted this power of attorney, or

f) Upon termination of the power of attorney by the fiscal representative for sending selected products.

(13) The tax administrator shall withdraw the permit issued to the fiscal representative for sending selected products if

a) Reasons cease to exist based on which the permit has been granted,

b) the fiscal representative for sending selected products who has been granted the permit breaches its obligations which has been serving as a condition of the permit, or seriously violates the obligation to keep records accurate, complete, conclusive, understandable, and transparent, in a manner providing for the permanent accounting records in relation to the facts resulting from the permits, or fails to keep records pursuant to Section 33, subsection 9, or otherwise violates the obligations of a fiscal representative, whereas the penalty imposed on the representative did not lead to a remedy,

c) The fiscal representative for sending selected products request termination of the permit, or

d) The fiscal representative for sending selected products does not receive the selected products for the period of three consecutive calendar months for no reason.

#### Section 34

#### **Import of Selected Products**

If the selected products are imported into the tax territory of the Czech Republic and are not put under a conditional tax exemption mode or a duty suspension arrangement, the tax shall be imposed under the conditions laid down by customs rules.

#### Section 35

#### **Repealed**

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#### Section 36

#### **Sales at prices excluding taxes**

(1) Selected goods may be sold with the authorization of the tax administrator for prices excluding taxes in the transit area of international airports and on board aircraft during a flight to persons in the course of their immediate exit from the tax territory of the European Union. A transit area is defined by virtue of a decision of the international airport's locally relevant tax administrator.

(2) Selected goods may be supplied to the premises referred to in subsection 1 and on board aircraft only under the conditional tax exemption regime. Goods supplied in this fashion shall be considered to be placed under a conditional tax exemption regime until being sold.

(3) Selected goods may be sold to persons at prices excluding taxes after verifying that their destination is a third country or a third territory. The permit holder must ensure that during the sale of selected goods a sale document indicates the flight number, type and price of selected goods.

(4) A permit is issued by the locally relevant tax administrator in respect to the international airport, including in the case of a permit of sales at prices excluding taxes on board aircraft during the flight.

(5) A permit application shall contain the following particulars:

a) The company or name, the registered office or place of residence and the tax identification number or the date of birth of an applicant,

b) The identification of the premises referred to in subsection 1, or citing the airlines, respectively, on which a sale of selected goods at prices excluding taxes is intended,

c) The name or designation of selected goods for sale, respectively,

d) An airport operator's approval of sales at prices excluding taxes in the premises referred to in subsection 1, or, alternatively, an airport operator's consent with sales at prices excluding taxes on board aircraft during the flight,

e) a proof of whether and in what amount an applicant has an outstanding balance in the Czech Republic recorded by the customs office or tax office or an outstanding balance on premiums and penalties for public health insurance or on premiums and penalties for social security, and on contributions toward the state employment policy, which shall not be older than 30 calendar days on the day of the submission of the application.

(6) According to the special legal regulation<sup>19a)</sup>, the tax administrator shall request an extract from the Criminal Records register relating to an applicant; if an applicant is a corporate person, he shall also request extracts from the Criminal Records register in respect to the statutory body or members of statutory bodies. A request for an extract from the Criminal Records register and an extract from the Criminal Records register shall be transmitted in electronic form, in a manner enabling remote access.

(7) The tax administrator shall grant a permit provided a permit application contains the requirements referred to in subsection 5 and the applicant is not in liquidation or insolvency proceedings under a special legal regulation<sup>20)</sup>.

(8) The tax administrator shall decide on a permit application within 60 calendar days from the commencement of proceedings; in particularly complex cases, it shall decide within 90 calendar days; if, owing to the nature of the subject matter, a decision cannot be made in this period either, the legal period can be reasonably extended by the most immediate superior tax administrator. If the tax administrator is unable to decide within 60 calendar days, or 90 calendar days, respectively, he shall inform the applicant thereof stating the reasons.



(9) In a permit for sales at prices excluding taxes, the tax administrator shall determine the types of selected goods which can be sold tax-free.

(10) The tax administrator is authorized to lay out in a permit the conditions for securing the selected goods in the premises referred to in subsection 1 and on board aircraft and in the premises in which the selected goods are stored before their being placed in the premises referred to in subsection 1 and on board aircraft.

(11) When granting a permit the tax administrator shall assign to each permit holder a registration number and issue a registration certificate.

(12) The permit holder shall notify the tax administrator of any change in facts and data referred to in subsection 5 within 5 calendar days from the date of occurrence of the change. In case of change of the registered office, and place of residence, respectively, the designation of the premises and airlines, respectively, or the types of selected goods, the tax administrator shall decide to revise the permit. In the event of changes in other facts and data that are listed in a permit, the tax administrator shall issue a new permit and withdraw the prior authorization. The delivered or communicated new decision to issue a permit must at the same time include in the statement section the decision on withdrawing the original permit.

(13) A permit expires

- a) On the termination of a corporate person, if the holder is a corporate person,
- b) On the death of the holder or on a court verdict declaring the holder dead coming into legal force,
- c) On the effective date of a court verdict declaring bankruptcy of the holder, or
- d) On the date of expiry of a trade licence.<sup>21)</sup>

(14) The tax administrator shall revoke a permit if

- a) The conditions under which the license was issued have changed, and the holder has not requested a change,
- b) The holder does so, or
- c) The holder fails to comply with the conditions relating to a sale of selected goods for prices excluding taxes prescribed by this law or another legal regulation<sup>13)</sup> or the conditions stated in the permit.

(15) If a permit for sales at prices excluding taxes expires or if a permit is revoked, the tax payer shall carry out, in the presence of an official representing the tax administrator, an inventory of stocks of selected goods no later than within 5 calendar days after the fact and shall submit by the next working day after the expiry of this period at the latest a tax return and pay taxes. In the case referred to in subsection 13 letter b) an inventory shall be carried out, within the same period, by a person authorized to continue the business activities under the Trade Act; if an inventory has not been done within the prescribed period, the tax administrator shall take inventory of the stock. A person authorized to continue business activities under the Trade Act is required, no later than the following day after the completion of the inventory, to file a tax return and pay taxes.

(16) If a holder of a permit for sales at prices excluding taxes intends to terminate business activities and has asked for the permit to be withdrawn, he may with the approval of the tax administrator sell the selected goods received for prices excluding taxes to another person who is a holder of a permit for sales at prices excluding taxes. He can sell the selected goods to this person no later than on the day of entry into force of the decision to withdraw the permit.

## Section 37

### **Records at an Enterprise Producing Selected Goods**

(1) Pursuant to section 19, subsection 2, letter (a), a tax warehouse operator shall keep records of selected goods

- a) Produced or processed in an enterprise producing selected goods,
- b) Received by an enterprise producing selected goods,
- c) Released by an enterprise producing selected goods,
- d) Used for own consumption,
- E) received on the site of direct delivery,
- f) Released from the site of direct delivery.

(2) The records pursuant to subsection 1 shall include in the breakdown by individual types of selected goods the following:

- a) The trade names of the selected goods, the amount expressed in units of measurement, and the dates of manufacture or processing of selected goods,
- b) the trade names of selected goods, the quantity expressed in units of measurement, and the dates of acceptance of selected goods and the identification of the supplier; for imported selected goods, also the identification of the declarant,<sup>32)</sup> if a declarant is a person other than a tax warehouse operator, the identification of the customs office where customs proceedings took place, including the date of release of imported selected goods into free circulation, or if in their case the right to a tax refund is applicable pursuant to section 14, subsection 1, letter (b), section 54, subsection 2, and section 78, subsections 6 and 7; the place of direct delivery, if this place is other than a tax warehouse,
- c) the trade names of selected goods, the quantity expressed in units of measurement, the date and purpose of use of selected goods for own consumption by a tax warehouse operator, for consumption by members of his joint housekeeping household and persons close to him, his employees, members, partners and members of their joint housekeeping households and persons close to them,
- d) the trade names of selected goods, the quantity expressed in units of measurement, and the release date of selected goods and the identification of the recipient; if the selected goods have been taken over by a carrier that is not meant to be the recipient the records must also state the identification of the carrier; the place of direct delivery if this place is different from the location of a tax warehouse,
- e) the trade names of selected goods and quantities in units of measurement of exported selected goods, the date of their release for export, the identification of the customs office where customs proceedings took place, and the identification of the declarant,

f) the particulars listed in documents pursuant to section 27, section 27a, section 27b or section 27f unless these particulars are already listed pursuant to letters (a) through (e).

(3) Entry into the register upon the manufacture, processing, release or use of selected goods must be made within a period set by the tax administrator. Entry into the register after accepting selected goods must be made immediately after the completion of their transport.

(4) Records are kept for the duration of 10 years from the end of the calendar year in which such records were made.

## Section 38

### **Records of Selected Goods at a Warehouse**

(1) Pursuant to section 19, subsection 2, letter (b), a tax warehouse operator shall keep records of the selected goods

- a) accepted into a warehouse of selected goods,
- b) processed or used for own consumption by a tax warehouse operator,
- c) released from a warehouse of selected goods
- d) accepted on the site of direct delivery,
- e) released from the site of direct delivery.

(2) For record keeping purposes, section 37, subsection 2, letter (b) through (f), subsections 3 and 4, apply mutatis mutandis.

## Section 39

### **Records Kept by an Authorized Recipient**

(1) The authorized recipient is required to keep records of selected goods accepted and released.

(2) For record keeping purposes, section 37, subsection 2, letter (b) through (f), subsections 3 through 4 apply mutatis mutandis.

## Section 39a

### **Records kept by an Authorized Sender**

(1) An authorized sender referred to in section 3, letter (k) is required to keep records of selected goods accepted for transportation from a point of import, and of selected goods the transportation of which from the place of import has been completed.

(2) The records referred to in subsection 1 shall include in the breakdown by types of selected goods the following:

- a) The trade names of selected goods accepted for transportation from the place of import, the quantity expressed in units of measurement and the commencement date of transport,
- b) The trade names of selected goods the transportation of which from the place of import has been concluded, quantity expressed in units of measurement, and the date of completion of transport.

(3) For record keeping purposes, section 37, subsections 3 and 4 apply mutatis mutandis.

## Section 40

### **Records Kept by a User**

(1) Unless this Act stipulates otherwise (section 53a), a user is obliged to keep records of the selected goods

- a) Accepted,
- b) Used for the purposes specified in a special permit,
- c) Used for purposes other than those listed in a special permit,
- d) dispatched to another user,
- e) Produced from the accepted selected goods.

(2) For record keeping purposes, section 37, subsection 2, letters (b) through (e), subsections 3 and 4 apply mutatis mutandis.

## Section 41

### **Powers of the Tax Administrator**

(1) The tax administrator may order a taxpayer to carry out an inventory within a period of time set by the tax administrator. A taxpayer informs the tax administrator of the result of this inventory the next working day after its completion.

(2) On the grounds of a prior notice, officials may for the purposes of exercising tax administration be continuously present in a taxpayer's premises that are allocated for business purposes.

(3) The tax administrator shall publish, in a manner allowing remote access, a list of taxpayers. This list contains the following information:

- a) The company or name, the registered office and the tax identification number of a taxable entity,
- b) The tax administrator of the respective taxable entity,
- c) Selected goods that a taxable entity produces, processes, stores, accepts or dispatches,
- d) The date of issue of a business permit.

### **Proceedings to Seize Selected Goods or a Means of Transport**

## Section 42

### **Title omitted**

(1) The tax administrator shall seize selected goods, and, where appropriate, also a means of transport that is used for their transportation, if he learns that:

- a) the selected goods are transported without the records referred to in sections 6, 27 and 27c, 30, 51, 100, or 100a, except as provided in section 50, subsection 8,
- b) The selected goods are transported without the records referred to in section 5,
- c) The particulars listed in the document pursuant to letters (a) or (b) are incorrect or untrue, or

d) The document referred to in letter (a) or (b) has been modified or falsified.

(2) If selected goods are not meant for personal consumption or if legitimate acquisition of selected goods at prices excluding taxes has not been proved, the tax administrator shall seize these selected goods provided:

a) They are stored without a document referred to in section 5,

b) The particulars provided in the document referred to in letter (a) are incorrect or untrue, or

c) The document referred to in letter (a) has been modified or falsified.

(3) The seizure of selected goods or of a means of transport referred to in subsection 1 or 2 shall be done by the tax administrator who is the first to learn about the reasons for seizure, and he shall write a protocol with respect to this. A copy of the protocol shall be handed over to the person with whom the selected goods have been found.

(4) A person with whom the selected goods have been found shall hand over the seized selected goods or the means of transport to the tax administrator; if he refuses to hand them over, the tax administrator shall remove the selected goods or the means of transport. The removal of selected goods or a means of transport shall be indicated in the protocol.

(5) The tax administrator shall determine the place and manner of storage of the seized selected goods or the means of transport. The cost of storage of the seized selected goods and the means of transport shall be borne by the owner, or, where applicable, by a person with whom the selected goods have been found only provided the tax administrator should decide that the seized selected goods or the means of transport shall be forfeited or confiscated.

#### Section 42a

(1) A party to the proceeding on the seizure of selected goods or a means of transport is:

a) A person with whom the selected goods have been found;

b) A person who has the in rem right for the seized selected goods or the means of transport.

(2) The tax administrator shall make a decision on seizure no later than 3 working days from the drawing up of the original protocol in accordance with section 42, subsection 3. In his decision, the tax administrator shall impose a ban to dispose in any manner of the seized selected goods or the means of transport.

(3) The decision to seize selected goods or a means of transport may be appealed within 7 working days of its receipt.

#### Section 42b

### **Proceedings to Seize Selected Goods or a Means of Transport**

(1) The tax administrator who took a decision to seize selected goods or a means of transport shall promptly initiate proceedings aimed at determining whether the selected goods had been treated in a manner specified in section 42, subsections 1 or 2, or if the means of transport had been used to transport these goods.

(2) The persons referred to in section 42a, subsection 1 are parties to the proceedings on seized selected goods or a means of transport.

## Section 42c

### **The Release of Seized Selected Goods or a Means of Transport**

(1) The tax administrator shall decide on the release of

- a) The seized selected goods, if it is proven that they had not been handled in the manner specified in section 42, subsections 1 or 2, or
- b) The means of transport if it is shown that selected goods which this vehicle had transported were not handled in ways specified in section 42, subsection 1.

(2) The tax administrator may decide to release the means of transport if the value of the means of transport is obviously disproportionate to the tax amount which should have been levied on the selected goods that had been seized.

(3) The released selected goods or means of transport shall, without undue delay, be returned to the person with whom the selected goods had been found. If the selected goods or the means of transport cannot be returned to that person they shall be returned to the owner. The tax administrator who decided to release the seized selected goods or means of transport shall write a protocol regarding the return.

## Section 42d

### **Forfeiture or Confiscation of Seized Selected Goods or a Means of Transport**

(1) If the tax administrator does not take the decision to release the selected goods or means of transport, he will decide on their

- a) Forfeiture in the event that the owner of the goods or means of transport is known, or on
- b) Confiscation in other cases.

(2) The state is the owner of the forfeited or confiscated selected goods or means of transport.

(3) The forfeited or confiscated selected goods are to be disposed of in a manner stipulated in special legal regulation<sup>68)</sup> or these goods are to be destroyed; seized or confiscated tobacco goods shall be destroyed at all times. The destruction of selected goods is done at the expense of the original owner, or, where applicable, a person with whom the selected goods had been found.

## Section 42e

### **Reimbursement of Costs**

(1) The tax administrator determines the costs for storing the seized selected goods and means of transport in proceedings on the seizure of selected goods or a means of transport no later than 60 days after the decision on forfeiture or confiscation of selected goods or a means of transport comes into effect.

(2) The reimbursement of the costs of the destruction or physical elimination of selected goods shall be ordered by the tax administrator no later than 60 days from the date of the destruction or physical elimination of these selected goods.

(3) The reimbursement of costs pursuant to subsections 1 and 2 is due no later than 30 days from the entry into effect of the verdict ordering cost reimbursement to be paid.

(4) The reimbursement of costs is a revenue of the state budget.

#### Section 43

##### **Penalties**

If the tax administrator uses a tax guarantee for the payment of tax, it shall impose on a tax warehouse operator, an authorized recipient under section 22, an authorized sender pursuant to section 3, letter (k), a tax representative for dispatching selected goods pursuant to section 33, or a user a fine of 10 per cent of the amount of the tax guarantee used to settle a tax payment. If the tax administrator uses the tax guarantee to settle the payment of taxes pursuant to section 33, subsection 7, the penalty shall not be levied.

## **PART TWO**

### **SPECIAL PROVISIONS**

#### TITLE I

#### TAXATION OF MINERAL OILS

#### Section 44

##### **Payers of Tax on Mineral Oils**

- (1) Taxpayers include legal or natural persons that become liable to declare and pay taxes
- a) when using or selling mineral oils referred to in section 45, subsections 1 and 2, which had not been taxed, or for which the applicable tax rate is lower than the tax rate specified for the intended use, for purposes for which a higher tax rate is set,
  - b) when using or selling a mixture of mineral oils used for propelling two-stroke engines to drive engines other than two-stroke engines [section 45, subsection 2, letter (b)],
  - c) when using or selling mineral oils referred to in section 45, subsection 3 to
    - 1. propel motors,
    - 2. produce heat regardless of the way of heat consumption (hereinafter referred to as "heat production"), or
    - 3. production of mixtures referred to in section 45, subsection 2,
  - d) for the use or sale of mineral oils referred to in section 45, subsection 5 for propelling engines,
  - e) for the use or sale of mineral oils referred to in section 45, subsection 6 for the production of heat,
  - f) for the sale or use of additives or fillers for mineral oils (section 45, subsection 7);
  - g) for the sale or free transfer of waste oils referred to in section 45, subsection 1, letter (d), which had not been taxed, for final consumption in engine propulsion or heat production, or

h) for the use of waste oils referred to in section 45, subsection 1, letter (d), which had not been taxed, for engine propulsion or for heat production.

(2) A taxpayer is not a person who uses mineral oils only under section 58b.

## Section 45

### The Subject Matter of a Mineral Oils Tax

(1) The subject matter of taxation are these mineral oils:

- a) Motor gasoline listed under nomenclature codes 2710 11 41 through 2710 11 59, gasolines other than motor gasoline listed under nomenclature codes 2710 11 11 through 2710 11 25 and 2710 11 90 (hereinafter referred to as "other gasoline") and gasoline-type jet fuels specified under nomenclature codes 2710 11 31 and 2710 11 70,
- b) Middle oils and heavy gas oils listed under nomenclature codes 2710 19 11 through 2710 19 49,
- c) Heavy heating oils listed under nomenclature codes 2710 19 51 through 2710 19 69,
- d) Waste oils listed under nomenclature codes 2710 91 through 2710 99,
- e) liquefied petroleum gas and liquefied biogas designated for use, offered for sale or used for engine propulsion or other purposes listed under nomenclature codes 2711 12 11 through 2711 19, with the exception of liquefied petroleum gas and liquefied biogas specified in letters (f) and (g),
- f) liquefied petroleum gas and liquefied biogas designated for use, offered for sale or used for heat production listed under nomenclature codes 2711 12 11 through 2711 19, or
- g) Liquefied petroleum gas and liquefied biogas designated for use, offered for sale or used
  - 1. for stationary engines,
  - 2. In connection with the operation facilities and machinery used in construction, civil engineering and public works, or
  - 3) for vehicles intended for use off public roads or for vehicles that are not approved for use mainly on public roads listed under nomenclature codes 2711 12 11 through 2711 19.

(2) Subject to taxes are also

- a) Any mixtures of selected goods referred to in subsection 1 and in this subsection,
- b) mixtures of mineral oils containing gasoline or a mixture of gasolines and mineral oils referred to in subsection 1 or with substances that are not included in subsection 1, except for mixtures arising under letters (d) and (e) and a mixture for use in two-stroke engines, unless the mixture contains other gasoline,
- c) mixtures of mineral oils referred to in subsection 1, letter (b) intended as a fuel for use in diesel-powered engines with methyl ester of rapeseed meeting the sustainability criteria for biofuels, with the proportion of the methyl ester of rapeseed oil having to be at least 30 per cent by volume of all substances contained in the mixture,
- d) a mixture of gasoline and specially denatured anhydrous fermentation alcohol or generally denatured anhydrous fermentation alcohol<sup>35)</sup>, which contain at least 90 per cent by volume of gasoline and a maximum of 10 per cent by volume of specially denatured anhydrous fermentation alcohol or generally denatured anhydrous fermentation alcohol<sup>35)</sup>, while the oxygen content must not exceed 3.7 per cent by weight,



- e) mixtures of gasoline and ethyl tert-butyl ether made from specially denatured anhydrous fermentation alcohol or generally denatured anhydrous fermentation alcohol<sup>35)</sup>, which contain at least 78 per cent by volume of gasoline and a maximum of 22 per cent by volume of ethyl tert-butyl ether, including unreacted alcohol during the production of ethyl tert-butyl ether,
- f) any mixtures intended for use, offered for sale or used for engine propulsion or for heat production, which is, with its purpose of use, equivalent to some mineral oil referred to in subsection 1, except for mixtures referred to in letters (b) through (e) and (g) through (m),
- g) mixtures of mineral oils and specially denatured anhydrous fermentation alcohol or anhydrous generally denatured fermentation alcohol<sup>35)</sup> not specified in letters (d), (e), (l), and (m), which contain a maximum of 95 per cent by volume of specially denatured anhydrous fermentation alcohol or generally denatured anhydrous fermentation alcohol<sup>35)</sup> intended for use, offered for sale or used for engine propulsion,
- h) mixtures of gasoline and ethyl tert-butyl ether made from specially denatured anhydrous fermentation alcohol or generally denatured anhydrous fermentation alcohol, and specially denatured anhydrous fermentation alcohol or anhydrous fermentation alcohol generally denatured<sup>35)</sup> simultaneously so that the total oxygen content does not exceed 3.7 per cent by weight<sup>35a)</sup>, which contain at least 78 per cent by volume of gasoline and a maximum of 22 per cent by volume of a mixture of ethyl tert-butyl ether, including unreacted alcohol during the production of ethyl tert-butyl ether and specially denatured anhydrous fermentation alcohol or generally denatured anhydrous fermentation alcohol<sup>35)</sup>,
- i) mixtures of gasoline and other oxygenated components of biological origin<sup>35a)</sup> so that the total oxygen content does not exceed 3.7 per cent by weight; the ratio of gasoline in this mixture must be at least 78 per cent by volume,
- j) mixtures of mineral oils referred to in subsection 1, letter (b) intended as a fuel to be used for propelling diesel-powered engines with fatty acid methyl esters listed under nomenclature code 3824 90 99, while the proportion of fatty acid methyl esters must not exceed 7 per cent by volume of all substances contained in the mixture,
- k) mixtures of heavy gas oils and water containing 9 to 15 per cent of the water weight intended for use, offered for sale or used for engine propulsion,
- l) mixtures of mineral oils and specially denatured anhydrous fermentation alcohol meeting sustainability criteria for biofuels, or generally denatured anhydrous fermentation alcohol meeting the sustainability criteria for biofuels, not enumerated in letter (m), which contain at least 70 per cent and a maximum of 85 per cent by volume of specially denatured anhydrous fermentation alcohol meeting the sustainability criteria of biofuels, or generally denatured anhydrous fermentation alcohol meeting the sustainability criteria for biofuels, and which are, with its purpose of use, equivalent to mineral oils referred to in subsection 1, letter (a) and comply with the relevant technical norm<sup>35b)</sup>, intended for use, offered for sale or used to propel engines,
- m) mixtures of mineral oils and specially denatured anhydrous fermentation alcohol meeting the sustainability criteria of biofuels not specified in letters (d), (e), (i), or (l), which contain a maximum of 95 per cent by volume of specially denatured anhydrous fermentation alcohol and which are, with their purpose of use, equivalent to mineral oils mentioned in subsection 1, letter (b) and correspond to the technical norm<sup>35c)</sup>, intended for use, offered for sale or used for engine propulsion, or
- n) mixtures of heavy fuel oil referred to in subsection 1, letter c) and mineral oils enumerated in letters (a) through (m), or mineral oils referred to in subsection 1, letter b), intended for use, offered for sale or used for engine propulsion.
- o) or mineral oils referred to in subsection 1, letter (b), intended for use, offered for sale or used for engine propulsion.

(3) Subject to taxes are also mineral oils listed under these nomenclature codes:

- a) 1507 through 1518, provided they are intended to be used to drive engines, for heat production, or for producing mixtures referred to in subsection 2,
- b) 2707,
- c) 2709,
- d) 2710 19 71 through 2710 19 99,
- e) 2714 and 2715,
- f) 2901 and 2902,
- g) 2905 11 00, which are not of synthetic origin, if intended to be used for propelling engines or for production of heat,
- h) 3403,
- i) 3811,
- j) 3817, or
- k) 3824 90 99, if intended to be used for engine propulsion, for heat production or for producing mixtures referred to in subsection 2.

(4) For mineral oils pursuant to subsection 3, when released into free tax circulation, there arises obligation to declare and pay a tax only when and if they are intended for use, offered for sale or used for engine propulsion, for heat production or for producing mixtures referred to in subsection 2.

(5) Subject to taxation are also all goods which are not listed in subsections 1 through 3, intended for use, offered for sale or used for engine propulsion. This does not apply to goods that are subject to a tax on natural gas and some other gases, and subject to a tax on solid fuels.

(6) Subject to a tax are also all goods listed under nomenclature codes 2701 through 2715, with the exception of goods that are subject to a tax on natural gas and some other gases, and are subject to a tax on solid fuels, and with the exception of mineral oils in accordance with subsections 1 and 3, designed for use, offered for sale or used for heat production.

(7) Subject to a tax are also goods intended for use, offered for sale or used as additives or fillers (of additives) for mineral oils intended for use, offered for sale or used for engine propulsion, with the exception of goods that absorb water from mineral oils in tanks and fuel systems.

(8) An entity that buys liquefied petroleum gases enumerated in subsection 1, letter (e), (f) or (g) is obliged, no later than before their being released into free tax circulation, to notify the seller in writing as to what purpose these gases will be used for. Otherwise, these gases shall be taxed at the rate of a tax set for these gases intended for use, offered for sale or used for engine propulsion. The same obligation applies to the transferee, or a person who shall temporarily acquire liquefied petroleum gases on behalf of the transferee or purchaser. This provision shall not apply to liquefied petroleum gases in pressure containers, the content of which weighs up to 40 kg inclusive.

(9) Liquefied petroleum gases referred to in subsection 1, letters (e), (f) and (g) may not be stored together in the same container unless this container for joint storage is a tax warehouse. The individual containers in which liquefied petroleum gas under subsection 1, letter (e), (f) or (g) are stored separately must be technologically separated and must not be interconnected. Liquefied petroleum gases listed in subsection 1, letters (e), (f) and (g) removed from the containers in liquid phase may be stored only in a container fixed firmly to the ground, one which is deployed in accordance with the Building Act<sup>35d</sup>, unless this Act stipulates otherwise (section 59, subsection 10). This restriction does not apply to liquefied petroleum gases referred to in subsection 1, letter (f) and (g) stored in pressurized containers, the content of which weighs up to 40kg inclusive, and for

liquefied petroleum gases referred to in subsection 1, letters (f) and (g), which were not purchased or acquired for resale.

(10) Technological separation of containers for liquefied petroleum gases means such an arrangement, where

- a) these gases cannot be disbursed from a container in which liquefied petroleum gases, referred to in subsection 1, letter f), are stored through a dispenser or a filling equipment for disbursing liquefied petroleum gases pursuant to subsection 1, letter e) or g), or
- b) these gases cannot be released from a container in which liquefied petroleum gases, referred to in subsection 1, letter (g), are stored through a dispenser or a filling equipment for releasing liquefied petroleum gases pursuant to subsection 1, letter (e).

(11) Mineral oils consumed in cogeneration units, i.e. in facilities that simultaneously produce heat and electricity in a decentralized manner, are deemed to be mineral oils used for heat production.

(12) The production of mineral oils is not considered to be

- a) the mixing of mineral oils already released into free tax circulation in standard tanks of motor vehicles (section 63, subsection 2) at filling stations,<sup>10a)</sup>
- b) the mixing of mineral oils already released into free tax circulation in storage tanks at filling stations<sup>10a)</sup>, if they are mineral oils for which excise duty has already been paid and the tax rate of which is not lower than the tax rate of the resulting mixture, or if the resulting mixture does not contain mineral oils which are eligible for a tax refund under section 54, subsection 3.

## Section 46

### **The Origin of the Obligation to Declare and Pay a Tax on Mineral Oils**

(1) The obligation to declare and pay a tax arises also

- a) on the day of use or sale of mineral oils referred to in section 45, subsections 1 and 2, which were not taxed, or for which the applicable tax rate is lower than the tax rate specified for the intended use, for purposes for which a higher tax rate is set,
- b) on the day of use or sale of mixtures of mineral oils to be used in two-stroke engines to drive engines other than two-stroke engines,
- c) on the day of use or sale of mineral oils enumerated in section 45, subsection 3 for engine propulsion, or heat production,
- d) on the day of use or sale of mineral oils enumerated in section 45, subsection 5 for driving motors,
- e) on the day of use or sale of mineral oils enumerated in section 45, subsection 6 for the production of heat,
- f) on the day of use or sale of goods referred to in section 45, subsection 7 as additives or fillers in mineral oil, provided that the goods are obtained tax-free or at a lower tax rate than the tax rate fixed for this mineral oil,
- g) on the day of sale or free transfer of waste oils referred to in section 45, subsection 1, letter (d) that were not taxed for final consumption in engine propulsion or for heat production, or
- h) on the day of use of waste oils referred to in section 45, subsection 1, letter (d) that were not taxed for propulsion or for production of heat.

(2) The obligation to declare and pay a tax does not arise in cases under section 58b.

## Section 47

### The Tax Base of Mineral Oils

a The taxable amount is the amount of mineral oils expressed in 1 000 liters at a temperature of 15 degrees Celsius. This does not apply to heavy heating oils in accordance with section 45, subsection 1, letter (c) and to liquefied petroleum gases for which the taxable amount is an amount expressed in tons of net weight.

b For the purposes of tax calculation, it is the volume of mineral oils at the time of the origin of the obligation to declare and pay a tax that is determinative.

c The calculated amount of mineral oils for which a tax liability has arisen shall be rounded up to two decimal places.

## Section 48

### Tax Rates on Mineral Oils

(1) Tax rates are set as follows:

Nomenclature Code	Text	The tax rate
2710	motor gasoline, other gasoline and aviation fuel of gasoline type in accordance with section 45, subsection 1, letter (a) with a lead content up to 0.013 g / l inclusive	CZK 12,840/1 000 l
	motor gasoline, other gasoline and aviation fuel of gasoline type in accordance with section 45, subsection 1, letter (a) with a lead content over 0.013 g / l	CZK 13,710/1 000 l
	medium oils and heavy gas oils according to section 45, subsection 1, letter (b)	CZK 10,950/1 000 l
	heavy heating oils in accordance with section 45, subsection 1, letter (c)	CZK 472 / t
	waste oils in accordance with section 45, subsection 1, letter (d)	CZK 660/1 000 l
2711	liquefied petroleum gas according to section 45, subsection 1, letter (e)	CZK 3,933/t
	liquefied petroleum gas according to section 45, subsection 1, letter (f)	CZK 0/t
	liquefied petroleum gas according to section 45, subsection	CZK 1,290/t

	1, letter (g)	
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(2) Mixtures of mineral oils referred to in section 45, subsection 2, letter (a) are taxed at the same rate as the mineral oil referred to in section 45, subsection 1 to which they are closest in terms of properties and use.

(3) Mixtures of mineral oils referred to in section 45, subsection 2, letter (b), containing gasoline with a lead content up to 0.013 g/l inclusive, are taxed at a rate of CZK 12,840/1 000 l.

(4) Mixtures of mineral oils referred to in section 45, subsection 2, letter (b), containing gasoline with a lead content over 0.013 g/l, are taxed at a rate of CZK 13,710/1 000 l.

(5) Mixtures of mineral oils mentioned in section 45, subsection 2, letter c) are taxed at a rate of CZK 7,665/1 000 l.

(6) Mixtures of gasoline referred to in section 45, subsection 2, letters (d) and (e), containing gasoline with a lead content up to 0.013 g/l inclusive, are taxed at a rate of CZK 12,840/1 000 l.

(7) Mixtures of gasoline referred to in section 45, subsection 2, letters (d) and (e), containing gasoline with a lead content over 0.013 g/l, are taxed at a rate of CZK 13,710/1 000 l.

(8) Mixtures of mineral oils referred to in section 45, subsection 2, letter (f) are taxed at the same rate as the mineral oil referred to in section 45, subsection 1, to which they are closest in terms of their properties and use.

(9) Mixtures of mineral oils referred to in section 45, subsection 2, letter (g) are taxed at the same rate as the mineral oil referred to in section 45, subsection 1, to which they are closest in terms of their properties and use.

(10) Mineral oils referred to in section 45, subsection 3 shall be taxed at the same rate as the mineral oil referred to in section 45, subsection 1, to which they are closest in terms of their properties and use.

(11) The goods referred to in section 45, subsections 5 and 6 are taxed at the same rate as the mineral oil referred to in section 45, subsection 1, to which they are closest in terms of their properties and use.

(12) Goods used as an additive or filler ingredient in mineral oils are taxed at the same rate as the mineral oil for which they are intended. If these goods are intended as an additive or filler ingredient for two or more mineral oils, for which a different tax rate is set, they are taxed at the higher tax rate of the two.

(13) Mixtures of gasoline referred to in section 45, subsection 2, letters (h) and (i), containing gasoline with a lead content up to 0.013 g/l inclusive, are taxed at a rate of CZK 12,840/1 000 l.

(14) Mixtures of gasoline referred to in section 45, subsection 2, letters (h) and (i), containing petrol with a lead content over 0.013 g/l, are taxed at a rate of CZK 13,710/1 000 l.

(15) Mixtures of mineral oils referred to in section 45, subsection 2, letter (j) are taxed at the same rate as the mineral oils enumerated in section 45, subsection 1, letter (b).

(16) Mixtures of heavy gas oils and water referred to in section 45, subsection 2, letter (k) are taxed at the same rate as the mineral oil referred to in section 45, subsection 1 to which they are closest in terms of their properties and use.

(17) Mixtures of mineral oils referred to in section 45, subsection 2, letter (l) are taxed at a rate of CZK 12,840/1 000 l.

(18) Mixtures of mineral oils referred to in section 45, subsection 2, letter (m) are taxed at a rate of CZK 10,950/1 000 l.

(19) Mixtures of mineral oils referred to in section 45, subsection 2, letter (n) are taxed at a rate of CZK 10,950/1 000 l.

## Section 49

### **Mineral Oil Tax Exemptions**

(1) Exempted from taxation are mineral oils referred to in section 45, subsections 1, 2 and 6 used for purposes other than engine propulsion or heat production. Exempted from taxation are therefore not:

a) other gasolines,

b) mineral oils used for mineralogical processes or in metallurgical processes.

(2) Exempted from taxation are other gasolines provided they are used for manufacturing goods which are not subject to a tax. When claiming a tax exemption, a purchaser shall submit to a seller a trade license for the manufacturing and import of chemicals and chemical preparations. Should he fail to do so, the right to exemption ceases to exist.

3) For the purposes of this Act, mineralogical processes mean the technological processes listed in the NACE classification under the C 23 code "Manufacture of other non-metallic mineral goods."

(4 ) For the purposes of this Act, metallurgical processes mean a heat treatment of ores and their concentrates as the final product of this activity and the production of metals listed in the NACE classification under C 24 code "Manufacture of basic metals."

(5) Exempted from taxation are mineral oils referred to in section 45, subsections 1, 2 and 3 used in the premises of an enterprise producing selected goods according to section 19, subsection 2, letter (a) in which they were produced or processed. This tax exemption does not apply to the use of these mineral oils for purposes not related to production, especially for the propulsion of motor vehicles.

(6) Exempted from taxation are aviation fuels of gasoline type listed under nomenclature codes 2710 11 31 or 2710 11 70 or a jet fuel listed under nomenclature code 2710 19 21 used as a fuel for air transport and aerial work, except for mineral oils used for private pleasure flying.

(7) For the purposes of this Act, private pleasure-flying means the use of an aircraft by its owner or an individual or corporate person who enjoys the right to use it either by virtue of hire or otherwise in a way other than for business purposes, in particular otherwise than for carrying passengers or goods, for the provision of paid aircraft services or for the purposes of public authorities.

(8) Exempted from taxation are mineral oils referred to in section 45, subsection 1, letter (b) or section 45, subsection 2, letter (j) used for heat production or as a fuel for navigation in the waters within the taxable territory of the Czech Republic, including voyages outside the taxable territory of the Czech Republic into the tax territory of another Member State, or voyages from another Member State into the tax territory of the Czech Republic. This exemption does not apply to mineral oils used for private pleasure vessels.

(9) For the purposes of this Act, a private pleasure vessel means any vessel which is used by its owner or a corporate person or an individual who is authorized to use it for purposes other than business purposes or for purposes of public authorities.

(10) Exempted from taxation are also mixtures of mineral oils and specially denatured anhydrous fermentation alcohol<sup>35)</sup> meeting the sustainability criteria for biofuels laid out in section 45,

subsection 2, letter (m), used as tested fuels for selected motor vehicles within the approved pilot projects enumerated in section 3, letter (r).

(11) Exempted from taxation are also mineral oils up to the technically justified actual production losses and losses incurred during transport and storage, as a maximum. The tax administrator is authorized to assess whether the losses incurred in the production of mineral oils match the character of the payer's activities and the usual amount of losses of other taxpayers carrying out the same or similar activities, and adjust the tax base accordingly using the observed difference.

(12) The amount of technically justified losses during transportation and storage of mineral oils, including their storage in an enterprise producing selected goods, and the method of calculation is laid out in the implementing regulation.

(13) Exempted from taxation are fatty acids methyl esters or ethyl esters listed under the nomenclature code 3824 90 99, which meet the sustainability criteria for biofuels and which are intended for use, offered for sale or used for engine propulsion.

(14) Exempted from taxation are vegetable oils referred to under nomenclature codes 1507 through 1518, which meet the sustainability criteria for biofuels and which are intended for use, offered for sale or used for engine propulsion.

(15) Exempted from taxation is liquefied biogas listed under the nomenclature code 2711 19, which is subject to a tax under section 45, subsection 1, letter (e) and meets the sustainability criteria for biofuels.

(16) Exempted from taxation are mineral oils made from non-food parts of biomass or from organic waste that correspond, with their use, to mineral oils referred to in section 45, subsection 1, letters (a) or (b), or to mixtures referred to in section 45, subsection 2, letter (l) that meet the sustainability criteria for biofuels and which are intended for use, offered for sale or used for engine propulsion of selected motor vehicles in pilot projects referred to in section 3, letter (r).

## Section 50

### **Transport of Mineral Oils Exempt from Tax within the Tax Territory of the Czech Republic**

(1) Mineral oils exempted from a tax under section 49 may be transported only

a) From a tax warehouse to a user,

b) From one user to another user,

c) During an import performed by a user,

d) From one organizational unit to another organizational unit of the same user,

e) From a manufacturer to a user; this applies only to waste oils exempted from taxation according to section 49, subsection 1, or

f) from a user to a tax warehouse, if the user returns mineral oils into a tax warehouse from which they were released into free tax circulation on account of a settlement of claims arising from defects

of these mineral oils, on account of their abandonment by a user, or on account of their reworking in a tax warehouse as a result of their contamination or unintentional mixing.

(2) When transporting mineral oils that are exempted from taxation under section 49, subsections 1, 2, 6 and 8, the sender is obliged to provide a tax guarantee as specified in section 21, namely in the amount of a tax he would be obliged to declare and pay were these mineral oils not exempted from taxation. If the sender is a tax warehouse operator who provided a tax guarantee to operate a tax warehouse pursuant to section 21, this guarantee can be used to provide a tax guarantee for the transport of mineral oils. The locally relevant tax administrator for a tax warehouse shall decide on the use of a tax guarantee to operate a tax warehouse for the transport of mineral oils. The tax administrator may, at the request of the sender, give his consent that a tax guarantee can be provided by a carrier or the owner of these mineral oils, if the carrier or the owner agrees in writing. This provision does not apply to mineral oils exempted from taxation pursuant to section 49, subsection 1, if they are transported to natural or corporate persons referred to in section 53, subsections 8 and 9, and to waste oils exempted from taxation pursuant to section 49, subsection 1.

(3) During the transport of liquefied petroleum gases pursuant to section 45, subsection 1, letters (e), (f), and (g) exempted from taxation, a tax must be guaranteed as specified in subsection 21 in the amount of a tax that would have to be declared and paid as if the gases were intended for engine propulsion.

(4) The sender is required, before commencing the transport of mineral oils exempted from taxation, to notify of the fact the tax administration which has territorial jurisdiction over the site of the commencement of transport. If the condition of a tax guarantee under subsections 2 or 3 is met, and the condition of marking of selected goods according to section 41, subsection 7 and the tax administrator has no objections to the transport being initiated, the sender can initiate transport. The tax administrator may set a period of time by which transport is to be terminated, and a route along which the mineral oils are to be transported.

(5) The tax administrator referred to in subsection 4 is entitled to decide that a sender's employee may give his consent to the transport being commenced.

(6) If a destination or a recipient changes during the transport of mineral oils exempted from a tax, the sender is obliged to immediately notify of the change the tax administrator referred to in subsection 4. The sender must also promptly see to the recording of the change in a document referred to in subsection 6.

(7) Mineral oils transported in accordance with subsection 1 shall be placed immediately after the completion of transport into areas specified in a special permit pursuant to subsection 13. If a guarantee for the transport of mineral oils was provided in accordance with subsection 2, the tax administrator will release the tax guarantee within 5 working days from the date when the tax administrator was handed over a proof of tax exemption (section 6) with an acknowledgment of receipt of selected goods by a user.

(8) Waste oils listed in section 45, subsection 1, letter (d) transported by a non-entrepreneurial individual to a corporate person or an individual who sells or passes them for free for final consumption can be transported without an exemption certificate under section 6.



## Section 51

### **Proof of Taxation of Mineral Oils**

(1) A tax document under section 5, subsection 2, a sale document under section 5, subsection 3, or a transport document in accordance with section 5, subsection 4 must also state the nomenclature code of a mineral oil to which it relates; a tax document referred to in section 5, subsection 2 shall further specify the quantity of mineral oils in a breakdown by individual rates of excise duty. If the place of destination is a filling station, a transport document must indicate in accordance with section 5, subsection 4 its registration number, if the Ministry of Industry and Trade had assigned one.

(2) When transporting mineral oils marked and colored under Part Four or marked under Part Five, a tax document according to section 5, subsection 2, a sale document under section 5, subsection 3, or a transport document according to section 5, subsection 4 must indicate that these oils were marked and colored under Part Four or marked under Part Five.

(3) When transporting liquefied petroleum gases listed in section 45, subsection 1, letters (f) and (g), their taxation is proved by showing, in addition to presenting a tax document pursuant to section 5, subsection 2, a sale document under section 5, subsection 3, or a transport document in accordance with section 5, subsection 4, also a tax guarantee document pursuant to section 60, subsection 10.

## Section 52

### **Proof of an Authorized Acquisition of Mineral Oils Exempt from Taxation**

(1) When proving authorized acquisition of mineral oils exempted from taxation under section 6 no proof of exemption is required in the case of mineral oils exempted from taxation under section 49, subsection 5.

(2) A tax exemption document pursuant to section 6, subsection 2 shall also state the nomenclature code of the mineral oil to which this document relates.

(3) When transporting mineral oils according to section 50, subsection 1, letter (d) the information contained in the tax exemption document pursuant to section 6, subsection 2, letters (a) and (b) is identical.

## Section 53

### **A Special Permit for the Admittance and Use of Mineral Oils Exempt from Taxation**

(1) Mineral oils exempted from taxation under a special permit (section 13) may also be sold to users who were also granted a special permit, and users who do not need a special permit for accepting and use of mineral oils exempted from taxation (subsections 4 through 11). This does not apply to mineral oils referred to in section 45, subsection 2, letter (m), which are exempted from a tax under section 49, subsection 10, or mineral oils exempted from a tax under section 49, subsection 16.

(2) For the free transfer of waste oils which are subject to a tax pursuant to section 45, subsection 1, letter (d) the provisions of subsection 1 shall apply mutatis mutandis.

(3) An application for a special permit must also include the nomenclature code of a mineral oil to which a special permit is related and an estimated volume of annual sales of the mineral oils.

(4) Mineral oils exempted from a tax under section 49, subsections 5, 6, 8, 13 through 15 and section 63 are accepted and used without a special permit. However, if accepted for a resale, a special permit is required.

(5) A tax warehouse operator who accepts and uses waste oils exempted from a tax under section 49, subsection 1, accepts and uses these oils without a special permit.

(6) A tax warehouse operator who accepts mineral oils exempted from taxation under section 49, subsection 1 on the grounds specified in section 50, subsection 1, letter (f) receives and uses these oils without a special permit.

(7) A special permit is not required of users who sell or hand over waste oils listed in section 45, subsection 1, letter (d) that they themselves have produced or during the activity of whom such waste oils have originated, in a quantity of less than 10 000 l per one calendar year.

(8) A corporate person or an individual who within his business activities receives, in packaging units containing no more than 20 liters, mineral oils exempted from taxation under section 49, subsection 1 exclusively for sale to a final consumer, accepts and sells these mineral oils without a special permit.

(9) A final consumer who outside any business activities receives mineral oils exempted from taxation under section 49, subsection 1 in packaging units whose content does not exceed 20 liters receives these mineral oils without a special permit.

(10) A final consumer who fills mineral oils exempted from taxation under section 49, subsections 13 through 15 at filling stations<sup>10a)</sup> into standard tanks of motor vehicles (section 63, subsection 2), accepts these mineral oils without a special permit.

(11) Mineral oils exempted from a tax under section 49, subsection 1, intended for use or used as samples for laboratory purposes are received and used without a special permit.

## Section 53a

### **Records of Mineral Oils Exempt from Tax**

The obligation to keep records pursuant to section 40 does not apply to cases referred to in section 53, subsections 4 through 8, with the exception of users who receive and use mineral oils according to section 53, subsection 4 in quantities of more than 10,000 liters per one calendar year.

## Section 54

### **Recovery of Tax on Mineral Oil by the Tax Payer**

(1) A taxpayer shall claim his right to a tax refund as provided for in section 14, subsection 5 and within a period specified in section 16. If in this period his right to a refund was not exercised, although it could have been, the right to a tax refund shall expire and this period cannot be extended nor can a return to the previous state be permitted.

(2) The right to a tax refund on the part of a tax warehouse operator arises

a) On the day on which he accepts for reworking or modifying taxed mineral oils that are contaminated or accidentally mixed,

b) On the day of acceptance of taxed mineral oil which enter as material into manufactured or processed mineral oils,

c) On the day of receipt of taxed mineral oils intended for technological purposes directly related to production,

d) on the day on which he receives taxed mineral oils he had put into free tax circulation and which have not been sold yet, namely no later than the second working day after the day of entry into free tax circulation; on these days, the above mentioned mineral oils are once again placed under the regime of conditional tax exemption.

(3) For taxed mineral oils referred to in section 45, subsection 2, letter (l), a taxpayer becomes entitled to a tax refund on the day of their entry into tax free circulation for the purpose of driving motors within the tax territory of the Czech Republic. A tax is returned in an amount equal to the tax calculated from the volume of specially denatured anhydrous fermentation alcohol meeting the sustainability criteria for biofuels and generally denatured anhydrous fermentation alcohol<sup>35)</sup> meeting the sustainability criteria of biofuels contained in a mineral oil.

## Section 55

### **A Refund of Tax on Mineral Oils to Persons Using these Oils in Mineralogical Procedures and Metallurgical processes**

(1) The right to a tax refund arises for the benefit of a person who made a purchase for a price including taxes, produced for own consumption or accepted under a conditional tax exemption regime mineral oils referred to in section 45, subsections 1, 2, 3, or 6 and demonstrably used these mineral oils in mineralogical processes or in metallurgical processes; this does not apply to a person to whom a tax refund has been granted in accordance with sections 15, 15a, 56, or 56a.

(2) For mineral oils under subsection 1, which are subject to marking and coloring of selected mineral oils, the right to a tax refund arises only if these mineral oils have been shown to be marked and colored under Part Four. For mineral oils under subsection 1, which are subject to marking of certain

other mineral oils, the right to a tax refund only arises if these mineral oils have been demonstrably proven to be marked under Part Five.

(3) A person who becomes entitled to a tax refund under subsection 1 shall have, for this purpose, the position of a taxpayer without the obligation to register.

(4) The right to a tax refund arises on the day of the use of mineral oils in mineralogical processes or metallurgical processes.

(5) A tax is returned in the amount of the tax that was included in the price of mineral oils or that is equivalent to the tax on mineral oils produced or received under a conditional tax exemption regime.

(6) The right to a tax refund is proved by presenting a tax document or a sale document and records of purchase and use. When claiming a tax refund a person must prove that the mineral oils that were used in accordance with subsection 1 can no longer be used for engine propulsion, production of heat or mixtures according to section 45, subsection 2. In the case that a person uses in mineralogical processes or in metallurgical processes mineral oils which he himself produced and colored or marked in a tax warehouse, the right to a tax refund is proved by providing an internal document.

(7) A document of purchase which the seller is obliged to issue upon request no later than the next working day after the day a request was submitted must contain the following particulars:

- a) The company or name, the registered office or place of residence and the tax identification number or the date of birth of the seller,
- b) The business or name, the registered office and the tax identification number of the purchaser,
- c) the amount of mineral oils expressed in units according to section 47, subsection 1, their commercial designation and nomenclature code,
- d) The rate of excise duty applicable on the day the mineral oils were released into free tax circulation,
- e) The amount of excise duty in total,
- f) The date of issue of the sale document,
- g) The number of the sale document.

(8) The internal document must contain the following particulars:

- a) The company or name, the registered office and the tax identification number of the manufacturer,
- b) the amount of mineral oils expressed in units according to section 47, subsection 1, their commercial designation and nomenclature code,

c) The rate of excise duty applicable on the day the mineral oils were set into free tax circulation,

d) The total amount of excise duty,

e) The date of issue of an internal document,

f) The number of an internal document.

(9) The right to a tax refund may be claimed in a tax return form for the first time by the 25<sup>th</sup> day of the month following the month in which entitlement to a tax refund arose, but no later than six months from the date on which the entitlement may have been claimed for the first time. If during this period the right to a tax refund was not exercised, the right to a tax refund expires and this period cannot be extended nor can a restoration of the previous state be permitted. If, on assessing the entitlement to a refund, there arises a refundable tax overpayment, it is returned without an application within 30 calendar days from the day following its origin.

(10) An additional tax return form to increase a claim for a tax refund can be filed no later than six months from the day on which entitlement to a tax refund may have been exercised for the last time. If during this period an additional tax return is not filled out, the right to a tax refund expires and this period cannot be extended nor can a return to the previous state be permitted.

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## Section 56

### **Refund of Mineral Oil Tax to Persons Receiving these Oils for Heat Production**

(1) The claim to tax refund arises to corporate person and individuals who purchased for a price, including taxes, produced for own consumption or accepted in the conditional tax exemption mode mineral oils according to Section 45, subsection 1, letter b), stated under codes of nomenclature 2710 19 41 till 2710 19 49 (hereinafter referred to as "fuel oils"), which were provably used by them for heat production and which were provably marked and colored according to the fourth part, if they are the subject of marking and coloring of selected mineral oils. This provision does not apply to the persons who were refunded the tax on purchased fuel oils according to Sections 15, 15a or 55.

(2) The claim to tax refund also arises to corporate person and individuals who purchased for a price, including taxes, produced for own consumption or accepted in the conditional tax exemption mode mineral oils according to Section 45, subsection 3, or the other gasoline (hereinafter referred to as "fuel oils ") and provably used the fuel oils for heat production. This does not apply to mineral oils referred to in Section 45, subsection 3, for which according to Section 48, subsection 10, when used for heat production, the same tax rate as for mineral oils referred to in Section 45, subsection 1, letter c) is determined. The persons who got the tax refund according to Section 55 are not entitled to the tax refund.

(3) The claim to tax refund also arises to legal or natural persons who colored and marked fuel oils referred to in subsection 1 or 2 according to the fourth part in a tax warehouse and provably used the fuel oils for heat production.

(4) Corporate person and individuals who are entitled to a tax refund are, for this purpose, in the position of taxpayers with no obligation to register.

(5) The claim to tax refund arises as of the day of consumption of fuel oils for heat production.

(6) The tax is returned at the amount of the tax that was included into the price of fuel oils purchased or which corresponds to the amount of the tax on fuel oils produced or accepted in the conditional tax exemption mode, reduced by CZK 660 per 1000 liters.

(7) The claim to tax refund shall be proven by a document confirming sale and records of purchase and consumption kept by the purchaser. In the case that corporate person and individuals use fuel oils which they produced or colored and marked in a tax warehouse for heat production, the claim to tax refund shall be proven by an internal document.

(8) The document of sale that shall be issued at the seller's request not later than on the working day following the date of filing the application shall include the following particulars:

- a) Corporate name or name, registered office and tax identification number of the seller,
- b) Corporate name or name, registered office or place of residence and tax identification number or date of birth of the buyer,
- c) The quantity of fuel oils in the units of volume, their trade name and nomenclature code,
- d) Excise tax rate valid on the day of putting fuel oils into circulation,
- e) The amount of excise tax in total,
- f) The date of issue of the document on sale,
- g) The number of the document on sale.

(9) The internal document shall include the following particulars:

- a) Corporate name or name, registered office and tax identification number of the manufacturer,
- b) The quantity of fuel oils in the units of volume, their business name and nomenclature code,
- c) The rate of excise tax applicable on the date of putting the fuel oils into free tax circulation,
- d) The amount of excise tax in total,
- e) The date of issue of the internal document,
- f) The number of the internal documents.

(10) The claim to tax refund may be applied in the tax return, first by 25<sup>th</sup> day of the month in which the claim to tax refund arose, however, not later than by 6 months after the day on which the claim could be applied for the first time. If the claim to tax refund is not applied in that period of time, the claim ceases to exist and the period shall not be exceeded nor shall restoring to former position be allowed. If by assessment of the claim to tax refund a refundable overpayment arises, it shall be returned without any request within 30 calendar days.

(11) The additional tax return to increase the claim to tax refund may be filed not later than by 6 months from the date on which the claim to tax refund could be last applied. Unless the additional tax return is submitted in that period of time, the claim to tax refund ceases to exist and the period shall not be exceeded nor shall restoring to former position be allowed.

(12) The implementing legal regulation stipulates the method of calculation of the claim to tax refund applied and the method and conditions of recording purchase and consumption of fuel oils according to subsections 7 till 9.

## Section 56a

### **The Other Gasoline Tax Refund**

(1) The claim to tax return arises to corporate person and individuals who purchased for a price, including taxes, produced for own consumption or accepted in the conditional tax exemption mode

the other gasoline and provably used the gasoline within their business activities, otherwise than for sale, for motor drive, heat production or for the production of mixtures referred to in Section 45, subsection 2. This provision shall not be applied to persons who have been returned the other gasoline tax according to Section 15 or 15a.

(2) Corporate person and individuals who are entitled to tax refund are, for this purpose, in the position of taxable entities with no obligation to register.

(3) The claim to tax return arises on the day of consumption of the other gasoline for purposes other than sale, motor drive, heat production or production of mixtures referred to in Section 45, subsection 2.

(4) The tax is returned at the amount of the tax that was included into the price of the other gasoline or that corresponds to the amount of the tax falling on the other gasoline, produced or accepted in the conditional tax exemption mode.

(5) The claim to tax return is proven by a document on sale and recording of purchase and consumption. When making the claim to tax return, the person is obliged to prove that the other gasoline that was used according to subsection 1 cannot be further used for motor drive, heat production or production of mixtures according to Section 45, subsection 2. In the event that corporate person and individuals use the other gasoline which they have produced or accepted themselves in the conditional tax exemption mode for other purposes than the sale, motor drive, heat production or production of mixtures referred to in Section 45, subsection 2, the claim to tax return is proven by an internal document.

(6) The document on sale, which the seller is obliged to issue at the request not later than on the working day following the day of filing an application, shall include the following particulars:

- a) Corporate name or name, registered office and tax identification number of the seller,
- b) Corporate name or name, registered office or place of residence and tax identification number or date of birth of the buyer,
- c) The quantity of the other gasoline in the units of volume, their business name and nomenclature code,
- d) Excise tax rate valid on the day of putting the other gasoline into circulation,
- e) The amount of excise tax in total,
- f) The date of issue of the document on sale,
- g) The number of the document on sale.

(7) The internal document shall include the following particulars:

- a) Corporate name or name, registered office and tax identification number of the manufacturer,
- b) The quantity of the other gasoline in the units of volume, their business name and nomenclature code,
- c) The rate of excise tax applicable on the date of putting the fuel oils into free tax circulation,
- d) The amount of excise tax in total,
- e) The date of issue of the internal document,
- f) The number of the internal documents.

(8) The claim to tax refund may be applied in the tax return, first by 25<sup>th</sup> day of the month in which the claim to tax refund arose, however, not later than by 6 months after the day on which the claim could be applied for the first time. If the claim to tax refund is not applied in that period of time, the claim ceases to exist and the period shall not be exceeded nor shall restoring to former position be

allowed. If by assessment of the claim to tax refund a refundable excess tax arises, it shall be returned without any request within 30 calendar days.

(9) The additional tax return to increase the claim to tax refund may be filed not later than by 6 months from the date on which the claim to tax refund could be last applied. Unless the additional tax return is submitted in that period of time, the claim to tax refund ceases to exist and the period shall not be exceeded nor shall restoring to former position be allowed.

#### Section 57

#### **Repealed**

#### Section 57a

#### **The Tax Return for the Mineral Oils Tax and Due Period of the Tax**

If the liability to declare and pay the tax to a corporate person or an individual who produces mineral oils that are not listed in Section 59, subsection 1 and which therefore cannot be after commencement of tax liability according to Section 8 immediately placed into the conditional tax exemption mode arises, the tax return shall be filed within 25 days after the end of the taxable period in which the liability arose, and the tax amount is due once per month, within 40 days after the end of such a taxable period.

#### Section 58

#### **Mineral Oil Tax Guarantee**

(1) The total tax guarantee per single tax warehouse does not exceed CZK 100 000 000 if the tax warehouse operator provides a tax guarantee by paying or transferring financial means to a deposit account in order to secure tax, opened by the tax administrator.

(2) In the case of transportation in the conditional tax exemption mode, if not referred to transport of another member state, securing the tax on the other gasoline referred to in Section 45, subsection 1, letter a), not intended for direct use, offered for sale or used to drive motors or for heat production is not required.

(3) In the case of transportation of liquefied petroleum gases according to Section 45, subsection 1, letters e), f) and g) in the conditional tax exemption mode, the tax shall be secured in the way stated in Section 21 to the amount of the tax that would have to be reported and paid as if those gases were used for motor drive.

(4) In the case of transportation in the conditional tax exemption mode in the tax territory of the Czech Republic, if not referred to the transportation to another member state, securing of the tax on mineral oils as referred to in Section 45, subsection 3, which are not intended for direct use, offered for sale or used to drive motors or for heat production or production of mixtures referred to in Section 45, subsection 2 and which are also subject to the conditional tax exemption mode according to Section 59, subsection 1, need not be provided.

(5) In the case of transportation of mineral oils by a product pipeline, securing of the tax is not required, if the transportation takes place

a) Exclusively in the tax territory of the Czech Republic or



b) Between the Czech Republic and another member state, solely provided that the competent authorities of the other member state agree.

(6) To determine the amount of the tax for the tax warehouse according to Section 21, the amount of mineral oils intended for special purposes, owned by the state<sup>34)</sup>, located in the tax warehouse, is not taken into account.

#### Section 58a

### **Transportation of Mineral Oils under the Conditional Tax Exemption Mode on the Tax Territory of the Czech Republic**

Mineral oils may be in the conditional tax exemption mode also transported from one part of a tax warehouse to another part of the same tax warehouse, if these parts are only linked by a product pipeline, which is part of the tax warehouse.

#### Section 58b

### **Transportation of Mineral Oils Put into a Free Tax Circulation on the Tax Territory of the Czech Republic in Unit Packaging to Another Member State**

Mineral oils listed under nomenclature code 2710 19 29 which are put into free tax circulation tax in the tax territory of the Czech Republic for purposes other than motor drive, heat production or production of mixtures referred to in Section 45, subsection 2 and which are demonstrably transported to another member state in unit packages of the volume of less than 5 liters inclusive, are shipped without the simplified accompanying document.

#### Section 59

### **Application for the Conditional Tax Exemption Mode on Mineral Oil Tax**

(1) Conditional tax exemption must be applied only for mineral oils listed under nomenclature codes

a) 1507 to 1518, if determined for motor drive, for heat production or production of mixtures referred to in Section 45, subsection 2,

b) 2707 10, 2707 20, 2707 30 and 2707 50

c) 2710 11 till 2710 19 69 with the fact that the conditional tax exemption is applied for the mineral oils listed under nomenclature codes 2710 11 21 2710 11 25 and 2710 19 29 only in the case of trade bulk transportation,

d) 2711, excluding 2711 11, 2711 21 and 2711 29,

e) 2901 10,

f) 2902 20, 2902 30, 2902 41, 2902 42, 2902 43 and 2902 44,

g) 2905 11 00, which are not of synthetic origin, if determined for motor drive or heat production,

h) 3811 11 10, 3811 11 90, 3811 19 00 and 3811 90 00,

i) 3824 90 99, if determined for motor drive, heat production or production of the mixtures referred to in Section 45, subsection 2.

For other mineral oils the conditional tax exemption cannot be applied.

(2) The provisions of Section 18, subsection 6 and Section 19, subsection 3 are not applied for the mineral oils which are not listed in subsection 1.

(3) In the tax warehouse, together with mineral oils in the conditional tax exemption mode, there may be placed

a) Mineral oils, which are not listed in subsection 1,

b) mineral oils that have been put into free tax circulation, placed in a tax warehouse under the conditions stipulated in Section 19, subsection 5, or

c) mineral oils, which were seized by the tax administrator or the body of the Financial Administration of the Czech Republic or decided on their forfeiture or confiscation, only if the operator of the tax warehouse agrees with the placing; the body of the Financial Administration of the Czech Republic immediately notifies the tax administrator of the locally competent tax warehouse of placing the mineral oils into the tax warehouse.

(4) The mineral oils referred to in subsection 3 need not be stored separately, but must be registered separately.

(5) The production pipeline for transportation of mineral oils shall be a separate tax warehouse, if not a part of another tax warehouse. It is not applied for the pipeline, in which the taxed mineral oils are exclusively transported. Transportation of individual supplies of mineral oils by the pipeline, which is a separate tax warehouse, must be separated from each other in registration.

(6) When transporting mineral oils by the pipeline, which takes place between the Czech Republic and another member state, the accompanying documents according to Sections 26 till 27f are replaced by electronic records of the pipeline operator as a separate tax warehouse, or by electronic records of the operator of the tax warehouse, the pipeline of which is part thereof, only if the competent bodies of the member state agree therewith.

(7) A petrol station cannot be a separate tax warehouse of mineral oils according to Section 19, subsection 2, letter b). Petrol stations located in the territory of the tax warehouse according to Section 3, letter g) is part of the tax warehouse.

(8) The tax warehouse of mineral oils according to Section 19, subsection 2, letter b) may only be the warehouse,

a) The storage facilities of which are connected firmly to the ground and are used in accordance with the Building Act 35d)

b) The storage facilities of which are verified 45) and are equipped with a suitable verified 45) measuring device for measuring the quantity of mineral oils, their specific weight and temperature at acceptance and issue,

c) The storage capacity of which is at least 50,000 liters of mineral oils; it is not applied for the tax warehouse of liquefied petroleum gases, the storage capacity of which must be at least 200,000 liters,

d) Which satisfies the conditions stipulated by special legal regulations for health of people and environment protection.

(9) The condition according to subsection 8, letter a) need not be met if a tanker with a storage capacity of at least 100,000 liters of mineral oils, for which the port manager has granted a permission for permanent placement in the harbor basin and from which the mineral oils are issued as ship fuel, is the warehouse of the mineral oils.

(10) When mineral oils are placed in a truck tank, rail tank complying with the provision of the International Regulations for the Transport of Dangerous Goods by Rail (RID), promulgated in the Collection of International Treaties or in a container corresponding provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), promulgated in the Collection of International Treaties, which are located in the tax warehouse according to Section 3, letter g), such transport facilities are regarded as part of the tax warehouse. It is also applied in the case when the transport facilities leave temporarily, for technical reasons, the tax warehouse with the permission of the tax administration of locally competent tax warehouse. In this case, the quantity of mineral oils returning to the tax warehouse shall not differ from the amount of mineral oils having left the tax warehouse.

(11) The condition according to subsection 8, letter c) need not be met in the case of storing mineral oils in the airport area.

#### Section 59a

##### **Registration of Mineral Oils in Tax Warehouses**

The tax administrator may decide that the records on mineral oils kept according to Sections 37 and 38, shall be kept together for the tax warehouses operated by the same operator, locally competent.

#### Section 60

##### **Purchase, Sale and Transportation of Liquefied Petroleum Gases Put into a Free Tax Circulation**

(1) Legal or natural persons who purchase or acquire liquefied petroleum gases referred to in Section 45, subsection 1, letters e), f) or g) in the free tax circulation for the purpose of their other sale can accept and sell the products only on the basis of a permission to purchase liquefied petroleum gases according to Section 60a. A breach of this obligation, which is according to the Trade Act considered as material breach of the condition stipulated by the Excise Tax Act, shall be notified by the tax administrator to the competent municipal Trade Register Office. This provision shall not be applied for legal or natural persons who purchase liquefied petroleum gases exclusively in pressure vessels of the charge weight up to 40 kg inclusive.

(2) Legal or natural persons who purchase or acquire liquefied petroleum gases referred to in Section 45, subsection 1, letter f) or g) for own consumption with the consumption exceeding 10 tone per one calendar year can accept the products only on the basis of the permission to purchase liquefied petroleum gases according to Section 60a. This provision shall not be applied for legal or natural persons who purchase liquefied petroleum gases exclusively in pressure vessels of the charge weight up to 40 kg inclusive.

(3) Legal or natural persons shall not issue the liquefied petroleum gases referred to in Section 45, subsection 1, letter f) or g) to the persons who do not have a permission to purchase liquefied petroleum gases referred to in Section 60a, subsection 1.

(4) The persons referred to in subsections 1 or 2 are obliged to keep records according to Section 40. The persons referred to in subsection 1, who purchase liquefied petroleum gases referred to in Section 45, subsection 1, letter e) in free tax circulation to the final consumer, do not state the data on such a final consumer.

(5) Liquefied petroleum gases referred to in Section 45, subsection 1, letters e), f) or g), which have been purchased or acquired, including the tax calculated on the basis of a lower tax rate, in free tax

circulation, shall not be further sold for the price including the tax calculated on the basis of a higher tax rate.

(6) Liquefied petroleum gases referred to in Section 45, subsection 1, letters e), f) or g), accepted in the conditional tax exemption mode by an authorized recipient, to whom the liability to declare and pay the tax calculated on the basis of a lower tax rate arose in the case of their putting into free tax circulation, shall not be further sold for the price including the tax calculated on the basis of a higher tax rate.

(7) Liquefied petroleum gases referred to in Section 45, subsection 1, letters e), f) or g), which have been put into free tax circulation in another member state and which have been transported to the tax area of the Czech Republic for the purposes of entrepreneurship and for which the tax calculated on the basis a lower tax rate was secured or paid in the Czech Republic, shall not be further sold for the price including the tax calculated on the basis of a higher tax rate.

(8) Liquefied petroleum gases referred to in Section 45, subsection 1, letter f) or g) shall be, when importing after putting into the regime of free circulation, immediately put into the conditional tax exemption mode. This provision shall not be applied for liquefied petroleum gases in pressure vessels of the charge weight up to 40 kg inclusive.

(9) In the case of transportation of liquefied petroleum gases referred to in Section 45, subsection 1, letters e), f) or g) after their putting into free tax circulation, these gases shall not be transported together in the same vehicle or in their vehicle combination, if different tax rate is stipulated for them. This provision shall not be applied for transportation of liquefied petroleum gases in technologically separated vehicle combinations, for which registration of the amount of issued liquefied petroleum gases is ensured through a verified stipulated meter, and which do not allow any transfer of liquefied petroleum gases between their combinations, and in pressure vessels of the charge weight up to 40 kg inclusive.

(10) In the case of transportation of liquefied petroleum gases according to Section 45, subsection 1, letter f) and g), put into free tax circulation, the shipper shall provide security of the tax in the way stated in Section 21, in the amount of tax that would have to be declared and paid if the gases were determined for motor drive. Securing of the tax may be also provided by a corporate person or an individual referred to in subsection 1 or 2, the carrier or owner of these gases, provided that the natural or corporate person referred to in subsection 1 or 2, the carrier or owner of these gases agree in writing, and the sender shall notify the tax administrator of the fact. This provision shall not be applied for liquefied petroleum gases in pressure vessels of the charge weight up to 40 kg inclusive.

(11) The transportation of liquefied petroleum gases according to Section 45, subsection 1, letters f) and g) may be commenced only if the person referred to in subsection 10 has provided the security of the tax for transportation of these gases. This provision shall not be applied for liquefied petroleum gases in pressure vessels of the charge weight up to 40 kg inclusive.

(12) The transportation of liquefied petroleum gases according to Section 45, subsection 1, letters f) and g), put into free tax circulation from the sender is finished by accepting of the products by a corporate person or an individual.

(13) A corporate person or an individual buying liquefied petroleum gases that are subject to the tax according to Section 45, subsection 1, letters f) or g) for the purposes of business and which have been released into free tax circulation in another member state, provides the security of the tax amounting to the tax that would have to be declared and paid as if those gases were used for motor drive.

(14) Persons who put liquefied petroleum gases specified in Section 45, subsection 1, letters f) or g) into pressure vessels of the weight of charge up to 40 kg inclusive, with the exception of firmly built-in tanks of motor vehicles, are obliged to use the approved measuring system<sup>10)</sup> (hereinafter referred

to as “mass flow meter”), an integral part of which is electronic registration of issued liquefied petroleum gases, which must be accurate, complete, conclusive, guaranteeing permanency of the records and allowing to make an excerpt from this system. Mass flow meter must be placed so that it could register the amount of filled liquefied petroleum gases, and must be provided by safety blocks of the tax administrator.

#### Section 60a

#### **Permission to Purchase Liquefied Petroleum Gases put into a Free Tax Circulation**

- (1) Legal or natural persons referred to in Section 60, subsection 1 or 2 can purchase liquefied petroleum gases specified in Section 45, subsection 1, letters e), f) or g) only on the basis of a permission to purchase liquefied petroleum gases put into free tax circulation, issued by the tax administrator on the basis of a motion.
- (2) The application for the issue of the permission must include the following particulars:
  - a) Corporate name or name, registered office or place of residence and tax identification number or date of birth of the applicant,
  - b) Description of the place of storing of liquefied petroleum gases and description of the method of their securing against unauthorized use,
  - c) Name or trade description of liquefied petroleum gases,
  - d) The purpose of use of liquefied petroleum gases,
  - e) Corporate name or name, registered office and tax identification number of the supplier and place of issue of the selected products,
  - f) a document proving whether the applicant has any arrears in the Czech Republic, registered by the customs or revenue office, arrears of insurance and of penalties concerning public health insurance or insurance and of penalties concerning social security and state employment policy benefit, which cannot be older more than 30 calendar days, and what the amount thereof is,
  - g) Registration number of the applicant, if assigned to the applicant by the tax administrator.
- (3) The name of liquefied petroleum gas specified in Section 2, letter c) shall be stated by a sufficiently accurate term that enables identifying the liquefied petroleum gas so that it would be possible to determine unambiguously which tax rate is determined for such a product.
- (4) The tax administrator shall decide on the issue of the permission only for an applicant who is not in liquidation or insolvency proceedings according to a special legal regulation<sup>20)</sup>. If the applicant has any arrears of taxes, duty, health insurance, payments of insurance and social security, and state policy employment benefits, the administrator shall grant the permission only if the arrears are settled. Otherwise, the administrator refuses the application.
- (5) The applicant is obliged to state and document other data required for tax administration on call of the tax administrator.
- (6) The tax administrator shall verify the data stated in the application and in the case of any doubts about their correctness or completeness, the administrator shall call the applicant to explain, change, complete and document the data and, simultaneously, shall set the period in which the applicant is obliged to answer the call. After a vain lapse of the period set, the tax administrator shall postpone the application.
- (7) The tax administrator shall state the facts according to subsection 2, letter a) till e) in the permission.

(8) The tax administrator may set in the permission other conditions of securing liquefied petroleum gases or impose measures needed for prevention of their other use.

(9) The tax administrator shall decide on the application to issue the permission within 60 calendar days from commencing the proceedings; in very complicated cases, the administrator shall decide within not more than 90 calendar days; if it is not possible to decide due to the nature of the matter even in that period of time, an immediate superior to the tax administrator may prolong the period reasonably. If the tax administrator is not able to decide within 60 calendar days, or 90 calendar days, he/she is obliged to notify the applicant, stating the reasons, of the fact.

(10) The tax administrator shall execute the decision on the issue of the permission in three counterparts, one of which is determined for the applicant, the second one for the supplier of liquefied petroleum gases and the third one for the tax administrator, competent for the supplier of liquefied petroleum gases.

(11) The tax administrator in connection with the issue of the first permission shall assign the applicant a registration number and issue a certificate on registration.

(12) In the decision on the permission the tax administrator shall set the period of its validity, commencing on the day when the decision comes into force. The permission is valid at least by the end of the calendar year, in which the decision on its granting is issued.

(13) The decision by which the issue of the permission is allowed is not justified.

(14) The holder of the permission is obliged to ask for issuing a new permission at least three calendar months before the end of the period of validity of the previous permission, if willing to purchase liquefied petroleum gases without any interruption.

(15) The holder of the permission is obliged to notify the tax administrator of each change of the data according to subsection 2, letter a) within 5 calendar days from the day of its occurrence and according to subsection 2, letters b), c) or d), the holder of the permission is obliged to notify before the change.

(16) If the registered office or place of residence of the permission holder or place of storing liquefied petroleum gases is changed, the tax administrator shall make a decision on an amendment of the initial permission. If the other facts and the date stated in the permission are changed, the tax administrator shall decide on issue of a new permission and revocation of the previous permission. If the initial permission ceases to exist by a lapse of the term it is issued for, the tax administrator shall decide on revocation of the initial permission in a relevant decision on the issue of a new permission.

(17) The permission ceases to exist

a) By a lapse of the term it is issued for,

b) By cessation of the corporate person if the holder of the permission is a corporate person,

c) By death of the permission holder or coming the court decision on pronouncement of the permission holder dead into force,

d) By the date of coming the court decision on declaration of bankruptcy concerning the permission holder's assets, or

d) By the date of expiration of the trade licence<sup>21)</sup>.

(18) The tax administrator shall revoke the permission if

a) The permission holder repeatedly breaches the liabilities stipulated in Section 60, subsection 3 till 9 and 11,

b) the permission holder fails to meet the conditions stipulated by the permission or materially breaches the liability to keep correct, complete, conclusive, transparent accounts, in the way

guaranteeing permanency of the accounting records in connection with the facts arising from the permission, or fails to keep records according to this Act (Section 40),

c) The reasons or the conditions, on the basis of which the permission was issued, have passed or changed and the holder of the permission has not asked for its change,

d) for the period of 12 months from the day of delivery of the decision on issue of the permission no purchase of liquefied petroleum gases according to the permission has not been made, or

e) The permission holder asks for the revocation.

(19) In the case of revocation of the permission according to subsection 18, letters a) till c), the provision of Section 13, subsection 21 is applied similarly.

(20) If a corporate person or an individual referred to in Section 60, subsection 1 or 2 is revoked the permission according to subsection 18, letters a) till c), such a person shall be issued a new permission to purchase liquefied petroleum gases put into free tax circulation not earlier than in two years after coming the decision on revocation of the permission to purchase liquefied petroleum gases put into free tax circulation into force.

## Section 61

### **The Permission to Operate a Tax Warehouse for Mineral Oils**

The application for the issue of the permission to operate a tax warehouse must also include a nomenclature code of the selected products the permission refers to.

## Section 62

### **An Authorized Recipient of Mineral Oils**

The application for the issue of the permission to accept selected products in the conditional tax exemption mode must also include a nomenclature code of the selected products the permission refers to.

## Section 62a

### **Repealed**

## Section 63

### **Import of Mineral Oils**

(1) When importing and transporting between the member states, mineral oils, kept in standard tanks of motor vehicles, machinery, air conditioning, refrigeration and other similar devices and used for their own drive and operation are exempt from a tax when entering the tax territory of the Czech Republic.

(2) For purposes of this Act the standard tank means

a) the tank permanently connected by the manufacturer to all motor vehicles of the same type as the motor vehicle, in a standard tank of which there are mineral oils; the permanent in-built of such a tank must allow direct use of mineral oil to drive the vehicle or to operate industrial machinery, air conditioning, refrigeration and other similar equipment during transportation,

b) the tank for liquefied petroleum gas fitted to motor vehicles for the direct use of liquefied petroleum gas as fuel and also the tank for liquefied petroleum gas built into other devices, which the motor vehicle is equipped with, or

- c) the tank permanently connected by the manufacturer to all working machines, air conditioning, refrigeration and other similar devices of the same type as the device, in a tank of which there are mineral oils; permanent fitting of such a tank must allow direct use of mineral oils to operate the working machine, air conditioning, refrigeration and other similar devices.

§ 64

**Export of Mineral Oils**

When exporting and transporting between member states, the claim to tax refund according to Section 14, subsection 1 cannot be applied, when entering the tax territory of the Czech Republic, for the mineral oils kept in standard tanks of motor vehicle, working machines, air-conditioning, refrigeration and other similar devices and are used for their own drive and operation.

Section 65

**Repealed**

**TITLE II**

**Ethanol Tax**

**Ethanol Taxpayer**

Section 66

**Ethanol Taxpayer**

(1) Taxpayers also are

- a) corporate person and individuals who purchase or import ethanol and products containing ethanol exempt from tax according to Section 71, subsection 1, letters a), d), f) and i),
- b) Corporate person and individuals who purchase or import the products containing ethanol exempt from tax according to Section 71, subsection 1, letter c),
- c) corporate person and individuals referred to in Section 4, subsection 1, letter ), which store or put into free tax circulation ethanol that is the subject of the tax according to Section 67, subsections 1 and 2, with the exception of ethanol exempt from tax according to section 71, subsection 1, letters b) and e), or
- d) Corporate person and individuals that exceed the stipulated standards of ethanol losses at manufacture and circulation of ethanol. 46)

(2) Corporate person and individuals according to subsection 1, letter b) are obliged to notify the tax administrator of the first purchase or import of the products containing ethanol exempt from the tax according to Section 71, subsection 1, letter c) in each calendar year.



## Section 67

### **Subject of Ethanol Tax**

- (1) The subject of the ethanol tax is ethanol (ethanol), including non-separated ethanol formed by fermentation, contained in any products, except for the products listed under nomenclature codes 2203, 2204, 2205, 2206, provided that the total ethanol content in these products is more than 1.2% of ethanol by volume.
- (2) The subject of the tax is ethanol referred to in subsection 1, including non-separated ethanol formed by fermentation, contained in the products listed under nomenclature codes 2204, 2205, 2206, provided that the total ethanol content in these products is more than 22% of ethanol by volume.
- (3) The ethanol denatured by other than stipulated denaturing agent, with smaller amounts of denaturant or used for other than intended purpose is regarded as non-denatured ethanol; the specially denatured ethanol in accordance with the requirements of another member state which is contained in the product, is regarded as a non-denatured, if any tax abuse of the product is found. The Ministry of Finance in cooperation with the Ministry of Agriculture shall refuse to claim an exemption or revoke already granted exemptions in accordance with Directive providing for harmonization of the structures of excise taxes on ethanol and ethanoic beverages <sup>47a)</sup>.
- (4) The ethanol which has already been taxed and tax refund according to Section 14 has not been applied is not subject to tax. This provision shall not be used in the cases according to Section 11, subsection 2, Section 14, subsection 7, Section 66, subsection 1, letter c) and in the cases when the tax has been sufficiently assessed on the basis of commencement of the obligation to declare and pay the tax in case of acquisition, sale or finding the untaxed ethanol [Section 68, letter d)].

## Section 68

### **Commencement of the Liability to Declare and Pay Ethanol Tax**

The liability to declare and pay tax also commences

- a) by the date of finding exceeding the stipulated standards of ethanol losses at production and circulation of ethanol, 46)
- b) By the date of finding removing ethanol from the manufacturing process, inventory or during transportation without any authorization,
- c) By the date of finding regeneration of ethanol without any authorization,
- d) by the date of acquiring, sale or finding untaxed ethanol by legal or natural persons referred to in Section 66, subsection 1, letter c) or the ethanol which legal or natural persons produced without a permission, 48), it means by such a day occurred sooner, or
- e) in the case of termination of the activity at least one day before filing an application for striking off the business register or an application for cancellation of the trade license; the tax liability relates to the ethanol and all products containing ethanol subject to the tax, which are as at that day in ownership of the payer who produced, purchased or imported the stated products, with the exception of untaxed ethanol exempt from tax according to Section 71, subsection 1, letters b) and e).

## Section 69

### Ethanol Tax Base

The tax base for purposes of this Act is the amount of ethanol expressed in hectoliters of ethanol at 20 ° C rounded to two decimal places.

## Section 70

### Ethanol Tax Rates

(1) The tax rates are set as follows:

Nomenclature Code	Text	The tax rate
2207	ethanol contained in the products listed under nomenclature code 2207	CZK 28 500 per hl of ethanol
2208	ethanol contained in the products listed under nomenclature code 2208 with the exception of growers distilled fruit beverages in quantities up to 30 l of ethanol for one grower for one production period in accordance with the Ethanol Act 49)	CZK 28 500 per hl of ethanol
	ethanol contained in growers distilled fruit beverages in quantities up to 30 l of ethanol for one grower for one production period in accordance with the Ethanol Act 49)	CZK 14 300 per hl of ethanol
the others	ethanol contained in the products listed under the other nomenclature codes	CZK 28 500 per hl ethanol

(2) The tax rate on ethanol contained in growers distilled fruit beverages in the quantities up to 30 l of ethanol for one grower for one production period shall be applied only in the case that the grower meets the conditions stipulated by Ethanol Act<sup>49)</sup> and simultaneously, the other conditions of operation of growers distillation according to Ethanol Act<sup>49)</sup> are met.

## Section 71

### Ethanol Tax Exemption

(1) The ethanol

a) determined for the use as material entering in the course of business into the manufacture of food products, food supplements, additives, flavorings and processing aids, <sup>50)</sup> with the exception of the products listed under the nomenclature codes 2207 and 2208,

- b) in food products referred to in letter a), if the ethanol content in them does not exceed 8.5 liters of ethanol per 100 kg of the product as for chocolate products or 5 liters of ethanol per 100 kg of the product as for the other products, and ethanol contained in pharmaceuticals; <sup>51)</sup> this exemption is not applied for the products listed under nomenclature codes 2207 and 2208,
- c) In flavorings
- 1) Of beverages, whereas ethanol content of such beverages does not exceed 1.2% ethanol by volume, or
  - 2) Of other foodstuffs, with the exception of the products listed under nomenclature codes 2207 and 2208,
- d) For the production and preparation of pharmaceuticals,
- e) Generally denatured, fuel and ethanol in the products, if manufacture from the ethanol denatured according to a special legal regulation <sup>52)</sup>
- f) Specially denatured synthetic and specially denatured fermented, intended to be the used for a determined purpose, <sup>52)</sup>
- g) In the products listed under nomenclature codes 2207, 2208, 3301 or 3302, degraded or destroyed according to the instructions an in the presence of the tax administrator,
- h) In the samples taken by the tax administrator,
- i) In the samples determined for mandatory tests. <sup>53)</sup>
- is tax-exempt.

(2) The ethanol to the amount of technically proven real losses, however, to the amount of the stipulated standards of losses at the maximum, is also tax-exempt. <sup>46)</sup>

## Section 72

### Claim to Ethanol Tax Exemption

- (1) The user shall apply the ethanol tax exemption, to which the provision of Section 71, subsection 1, letters a), c), d), f) and i) relates to, in writing with the taxpayer not later than before drawing up the document on putting the ethanol into free tax circulation by the taxpayer, or with the customs office when filing a written customs declaration, if the imported ethanol is proposed for releasing into the regime of free circulation or active improving contact in the system of returning.
- (2) The user is also obliged to apply in writing the exemption from taxation of ethanol with the original owner in the cases covered by the exemption from tax according to subsection 1, prior to acquisition of the ownership right to untaxed ethanol forming property of the original owner , before
- a) The conclusion of the contract on leasing a business plant or part thereof constituting a separate organizational unit of the original owner or
  - b) The expiry of the business plant or part thereof constituting a separate organizational unit of the original owner.
- (3) After the declaration of bankruptcy of the user's assets or dissolution of the user's business plant, the ethanol exempt from the tax may be granted to another user. The user who acquires the ethanol, which is covered by the tax exemption according to subsection 1, is also obliged to apply in writing the exemption with the original user.
- (4) In the cases according to subsections 1 till 3, the user, when applying the ethanol tax exemption in accordance with the provisions of Section 71, subsection 1, letters a), d) and f), is obliged to submit a

special permit of the tax administrator according to Section 13; it does not refer to the ethanol specially denatured, synthetic, technical <sup>53)</sup>, intended for the use for the determined purpose<sup>52)</sup>.

#### Section 73

##### **A Special Permit to Receive and Use Tax-Exempt Ethanol**

(1) The validity of the special permit to receive and use the tax-exempt ethanol is determined by the tax administrator by the end of the calendar year for which it has been granted.

(2) The tax-exempt ethanol according to Section 71, subsection 1, letters b), c), e), g), h) and i) is accepted and used without any special permit; it also refers to the ethanol specially denatured, synthetic, technical <sup>53a)</sup>, intended for the use for a determined purpose<sup>52)</sup>.

(3) The special permit to receive and use the tax-exempt ethanol cannot be issued to the applicant for the purpose of its other sale unless otherwise stipulated by a special legal regulation.

#### Section 74

##### **Ethanol Taxation Proof**

The payer or seller is obliged to state ethanol percentage by volume in the product in the tax document, document on sale or document on transportation of ethanol or selected products containing ethanol according to Section 5.

#### Section 74

##### **Proving the Authorized Acquisition of Tax-Exempt Ethanol**

(1) The payer or user is obliged to state ethanol percentage by volume in the product in the document on exemption of ethanol and selected products containing ethanol from the tax according to Section 6.

(2) Whilst proving the authorized acquisition of tax-exempt ethanol according to Section 71, subsection 1, letters a), c), d), f) and j), the document on ethanol tax exemption must include the fact that it refers to the tax-exempt ethanol, with reference to the provision of Section 71.

(3) In the cases according to Section 68, letters a) till c), Section 71, subsection 1, letters b) and e) and Section 42, subsections 2 and 3, the document on tax exemption is not issued.

(4) In the case of transportation of ethanol according to Section 79, subsection 1, letter d), the data stated in the document on tax exemption according to Section 6, subsection 2, letters a) and b) correspond.

#### Section 76

##### **Tax Return to Ethanol Tax and Maturity of the Tax**

(1) The tax is payable once per month, within 55 days after the end of the taxable period in which the obligation to declare and pay tax occurred. If there is a liability to declare and pay tax for an operator of a grower distillery 55), the tax return is filed by 25<sup>th</sup> day after the end of the tax year in which this obligation occurred.

(2) The taxpayer who is a registered person according to the Act providing for mandatory labeling of spirits files the tax return electronically.

## Section 77

### Securing of Ethanol Tax

(1) If the operator of a tax warehouse operates only one tax warehouse, security of the tax provided by lodging or transferring funds to a deposit account to secure the tax, opened by the tax administrator, amounts to not more than CZK 40,000,000.

(2) If the tax warehouse operator operates more than one tax warehouse, security of the tax provided by lodging or transferring funds to a deposit account to secure the tax, opened by the tax administrator, regardless of how many tax warehouses the operator operates, amounts to not more than CZK 120,000,000.

(3) To determine the amount of security of the tax for the tax warehouse according to Section 21, the quantity of ethanol intended for special purposes, the owner of which is the state, located in the tax warehouse, is not taken into account.

(4) To determine the amount of security of the tax for the tax warehouse according to Section 21, the quantity of ethanol generally denatured according to Ethanol Act <sup>52c)</sup>, located in the tax warehouse, is not taken into account.

## Section 78

### Restrictions of the Mode of Conditional Ethanol Tax Exemption

(1) If the distillery <sup>56)</sup> is under constant tax supervision and its production and storing facilities are secured by the tax official seals of the tax administrator; security of the tax is not required.

(2) The constant tax supervision means particularly securing the production and storing facilities by the seals of the tax administrator, permanent presence of an official authorized by the tax administrator or enabling direct constant access to the records kept by this Act and special legal regulations. 57)

(3) A distillery cannot be a tax warehouse according to Section 3, letter g).

(4) The ethanol produced in a distillery is not subject to the provision of Section 19, subsection 3.

(5) The ethanol, the owner of which is the state and is intended for special purposes <sup>34)</sup>, shall be placed in the conditional tax exemption mode.

(6) The tax administrator may, where justified, allow in the tax warehouse processing of ethanol already put into free tax circulation. Such ethanol is considered to be re-inducted into the conditional tax exemption mode and by the day of re-inducting into the conditional tax exemption mode, the tax warehouse operator is entitled to claim to a tax refund. Entitlement to the tax refund is applied according to Section 14, subsections 5 till 8 and terminates within the period stipulated in Section 16.

(7) The tax administrator in the permission referred to in subsection 6 shall determine the amount of ethanol that can be re-taken for processing in a tax warehouse, method of processing and record keeping of the ethanol.

#### Section 79

##### **Transportation of Ethanol Exempt from Ethanol Tax on the Territory of the Czech Republic**

(1) Tax-exempt non-denatured ethanol according to Section 71, subsection 1, letters a) till d) on the basis of the special permit according to Section 13 may be transported only

- a) From a tax warehouse to the user,
- b) From one user to another user according to Section 72, subsections 2 and 3,
- c) When importing by the user, or
- d) From one user's organizational unit to another organizational unit of the same user.

(2) When transporting ethanol according to subsection 1, the consigner is obliged to provide security of the tax as described in Section 21, to the amount of the tax which the consigner would be obliged to declare and pay if the ethanol was not exempt from tax. If the consigner is the operator of the tax warehouse, which provided security of the tax for provision of the tax warehouse according to Section 21, the security can be used for provision of security of the tax for transportation of non-denatured ethanol. The use of security of the tax for provision of the tax warehouse for transportation of the non-denatured ethanol shall be decided by the tax administrator of locally competent tax warehouse. The tax administrator may give consent at the consigner's request so that the consigner or owner of the ethanol could provide security, if the consigner or its owner agrees in writing.

(3) The ethanol transported according to subsection 1 shall be after transportation immediately placed in the premises determined in a special permit according to Section 13. If security of the tax for transportation of non-denatured ethanol is provided and transportation of the ethanol is properly finished, the tax administrator shall decide on releasing of the tax security within 5 working days from the day on which the document on tax exemption (Section 6) confirmed by the tax administrator, competent to the place of using the selected products.

(4) Generally denatured ethanol according to Ethanol Act 52) intended for production of mineral oils or for production of ethyl-tert-butyl-ether is transported in the tax territory of the Czech Republic with a simplified accompanying document (Section 30) issued by the consigner.

#### Section 79a

##### **Notification of Spirits Sale**

(1) A person who intends within its business activities to sell spirits put into free tax circulation for a price lower than the price corresponding to the amount of the sum of the tax amount and its corresponding value added tax amount, is obliged, within 15 days before commencing the sale, to notify the tax administrator of such a sale.

(2) The notification according to subsection 1 shall include the following information:

- a) Corporate name or name, registered office and tax identification number of the person who intends to sell spirits,
- b) The quantity and volume of the unit packaging of spirits, indicating the percent by volume of ethanol, in the classification according to

1. The individual sorts and groups according to the legal regulation regulating foodstuffs and tobacco products,
2. Categories according to directly applicable EU regulation regulating the definition and description of spirits,
- c) Corporate name or name, registered office and tax identification number of the person from whom the spirits have been purchased,
- d) Identification of the producer of the spirits,
- e) Place and day of commencement of sale,
- f) Reasons for sale of spirits.

### TITLE III

### BEER TAX

#### Section 80

#### **The Beer Taxpayer**

- (1) The taxpayer is not an individual who together with the persons who form with the natural person jointly governing household produce, using a device for domestic production of beer, for their own consumption, for consumption of the members of the jointly governing household, the next of kin or the natural person's guests, beer in a total volume not exceeding 200 l per calendar year, provided that the beer is not sold.
- (2) The natural person producing beer according to subsection 1, is obliged to notify immediately the tax administrator of the start date of manufacture, place of manufacture and the estimated volume of beer per calendar year.
- (3) If the natural person breaches the conditions set out in subsection 1, the natural person is obliged to register as a taxpayer within 15 calendar days from the date of breach of these conditions.

#### Section 81

#### **Subject of Beer Tax**

- (1) For the purposes of this Act, the beer means
  - a) The product listed under nomenclature code 2203, containing more than 0.5% alcohol by volume,  
or
  - b) The mixtures of the product referred to in a) with nonalcoholic beverages listed under nomenclature code 2206, containing more than 0.5% alcohol by volume.
- (2) The concentration of beer is expressed in weight percentage as the percentage content of the original hopped wort extract, which is determined by calculation according to the Balling's formula.
- (3) The implementing legal regulation stipulates the Balling's formula and methods of determination of original hopped wort extract.

## Section 82

### **A Small Independent Brewery**

- (1) A small independent brewery is a brewery, annual beer production of which, including beer produced under license, is not higher than 200,000 hectoliters and meets the following conditions:
- a) It is not legally or economically dependent on another brewery,
  - b) Aboveground or underground operation and storage facilities are not technologically or otherwise connected with the premises of another brewery.
- (2) The brewery is legally or economically dependent, if
- a) It owns more than 50 % of the net assets or holds more than 50 % of the voting rights of another brewery,
  - b) A major manufacturing operation set in a brewery is missing, or
  - c) Any agreement, from which it is possible to infer any direct or indirect economical or legal dependence on another brewery, is concluded. 58)
- (3) The main manufacturing operation set for the purposes of this Act means a brew house, fermentation room and storage cellar, or cylinder-tanks.
- (4) A small independent brewery can produce beer under license, provided that:
- a) Joint annual brewery production does not exceed 200,000 hectoliters,
  - b) Production of beer under license does not exceed 49% of its annual production,
  - c) The beer produced under license is always taxed at the standard tax rate.
- (5) If two or more small independent breweries cooperate and their joint production does not exceed 200,000 hectoliters, those breweries are considered to be one small independent brewery.
- (6) Annual production of beer for the purposes of this Act means any beer produced in the particular calendar year.

## Section 83

### **Commencement of the Obligation to Declare and Pay the Beer Tax**

- (1) The obligation to declare and pay tax also commences to the payer according to Section 80, subsection 3 by the date of breach of the conditions stipulated in Section 80, subsection 1 and refers to the volume of beer produced from 1<sup>st</sup> January of the calendar year, in which the obligation of declare and pay the tax arose.
- (2) If the beer intended for direct consumption is in the brewery premises or places adjacent to it, it must be transported from the tax warehouse according to Section 19, subsection 2, letter a) to the place of direct consumption only in packing or consumer package. If the beer is transported to the place of direct consumption directly from the bartender tank, the tax administrator is entitled to set other conditions for keeping records.

## Section 84

### **The Beer Tax Base**

The beer tax base is the quantity of beer expressed in hectoliters.



Section 85

**Rates and Calculation of Beer Tax**

(1) Basic rate of beer tax and reduced beer tax rates for small independent breweries and for 1 hectoliter and each full percentage of hopped wort extract, which was stipulated according to Section 81, subsection 2, are set as follows:

Hopped wort code	The tax rate in CZK / hl for each full weight percentage of the extract of the original nomenclature					
	Basic rate	Reduced rates for small independent breweries				
		Size class according to production in hl per year				
		to 10,000 including	over 10,000 to 50,000 including	over 50,000 to 100,000 including	over 100,000 to 150,000 including	over 150,000 to 200,000 including
2203, 2206	32.00 CZK	16,00 CZK	19.20 CZK	22.40 CZK	25.60 CZK	28.80 CZK

(2) The percentage fraction (decimal places) of the original hopped wort extract is not taken into account.

(3) The amount of the tax concerning the beer of particular concentration, which has been put into free tax circulation, is calculated as the product of the quantity of the beer in hectoliters, relevant amount of percentage of beer concentration and the basic or reduced rate.

(4) The concentration of beer expressed in weight percentage of the original hopped wort extract is for the purposes of this Act considered as the concentration expressed in degrees Plato (P).

Section 86

**Exemption from Beer Tax**

(1) The beer

- a) For the production of vinegar under nomenclature code 2209,
- b) For the production and preparation of pharmaceuticals,
- c) For the production of additives when producing foodstuffs and beverages the alcohol content of which does not exceed 1.2 volume percent, or
- d) for the manufacture of food products, where the alcohol content in them does not exceed 8.5 liters of alcohol in 100 kg of a product concerning chocolate products, or 5 liters of alcohol per 100 kg of a product concerning the other products.

Is also exempt from tax.

(2) The beer in technically justified actual production losses is also exempt from tax. The tax administrator is entitled to assess whether these losses correspond to the nature of the payer's

activities and the usual amount of losses of similar other payers providing the same activities, and require any proof of loss and adjust tax base by the difference found.

(3) The beer that is produced by an individual in facilities for domestic production of beer expressly for own consumption of the natural person or people forming jointly governing household, the next of kin or the natural person's guests is exempt from tax up to the quantity not exceeding 200 l per calendar year, under the condition that the beer is not sold.

(4) The beer intended for the use as samples for mandatory analyses, 53), necessary production tests or as samples taken by the tax administrator is also exempt from tax.

(5) Records on beer exempt from tax according to this provision are kept separately. The records are kept for the period of 10 years till the end of the calendar year in which the records are made.

## Section 87

### **Special Permit for Acceptance and Use of Tax-Exempt Beer**

Tax-exempt beer according to Section 86, subsections 3 and 4 is accepted and used without a special permit.

## Section 87a

### **Beer Taxation Proof**

The tax document according to Section 5, subsection 2 shall include the quantity of beer classified according to individual rates of the excise tax on beer and relevant concentration of beer expressed in weight percentage of the original hopped wort extract.

## Section 88

### **Inclusion into the Size Class**

(1) A small independent brewery, which begins production during a calendar year, notifies the tax administrator of their inclusion into the size class by the end of the month in which they began production. Estimated annual production is calculated as twelve times the share of the estimated production from the start of operation until the end of year and the number of months of production in the calendar year, including the month in which production starts.

(2) If there is a change in the inclusion into the size class, the small independent brewery is obliged to notify the tax administrator of this fact by 31 January of the calendar year.

(3) Inclusion of a small independent brewery into the size class may be more than one level lower than that corresponding to the actual production during the previous calendar year.

(4) If the actual production for the calendar year is greater than the upper limit of the size class into which the small independent brewery has been included, the payer shall submit the additional tax return for each taxable period of the calendar year. In the additional tax return the taxpayer shall state the difference between the tax liability according to the tax rate for the size class, which corresponds to the actual production, and the tax liability shown on the regular tax return for the

same taxable period. At the same time, in the tax return the taxpayer makes a claim to a tax refund, if occurred. The claim to the tax refund according to this subsection may be made for the whole calendar year. From the tax assessed under the additional tax return the interest on late payment does not arise.

(5) If the actual production for the calendar year is less than the lower limit of the size class, into which the small independent brewery was included, the taxpayer shall submit the tax administrator, not later than 25<sup>th</sup> February of the following calendar year, an additional tax return for which taxable period of the calendar year. In the additional tax return the tax payer state the difference between the tax liability under the tax rate for the size class, which corresponds to the actual production, and the tax liability shown in the regular tax return for the same taxable period. At the same time, in the tax return the taxpayer makes a claim to a tax refund, if occurred. The claim to the tax refund according to this subsection may be made for the whole calendar year. From the tax assessed under the additional tax return the interest on late payment does not arise.

## Section 89

### **Restriction of the Mode of Conditional Tax Exemption for Beer**

(1) The tax warehouse according to Section 19, subsection 2, letter b) may only be a warehouse, which annual sales of beer, or expected annual sales of beer are at least 5,000 hl of beer.

(2) The annual sales of beer for the purposes of this Act, means the quantity of beer left the warehouse in that calendar year according to subsection 1.

(3) Tax-exempt beer according to Section 86, subsection 3 need not be produced in a plant for production of selected products [Section 19, subsection 2, letter a)].

## § 90

### **Beer Tax Guarantee**

Total security of tax for one tax warehouse is a maximum of CZK 80 000 000 if the operator of the tax warehouse provides security of tax by lodging or transferring the funds to the deposit account opened by the tax administrator for security of tax.

## Section 90a

### **Records on Beer in Tax Warehouses**

The tax administrator may decide the records on beer kept according to Sections 37 and 38 shall be kept together for the tax warehouses operated by the same operator and for which the operator is locally competent.

## Section 91

### **Proving of Imported Beer Origin**

(1) If the beer is imported, it is taxed by the standard tax rate.

(2) When importing beer produced in a small independent brewery, the beer is taxed at a reduced tax rate, if it is proven by the certificate issued by the competent authorities of the state of origin of beer that the beer was produced in a small independent brewery with an annual production not exceeding 200,000 hectoliters. This confirmation shall include an annual production of beer in

hectoliters. If the origin of beer from a small independent brewery is not proven, the beer is taxed at the standard tax rate.

(3) Concentration of imported beers expressed in degrees Plato is for the purposes of this Act considered to be concentration of beer expressed in weight percent of the original hopped wort extract.

#### TITLE IV

#### TAX ON WINE AND INTERMEDIATE PRODUCTS

#### Section 92

#### **Taxpayer on Wine and Intermediate Products**

(1) The payer is not an individual producing exclusively still wine in the tax territory of the Czech Republic (Section 93, subsection 3) under the condition that the total quantity of the produced still wine for a calendar year does not exceed 2,000 liters.

(2) Still wine produced by an individual in the tax territory of the Czech Republic under the condition specified in subsection 1 cannot be transported to another member state for commercial purposes (Section 31).

(3) Still wine produced by an individual in the tax territory of the Czech Republic under the condition specified in subsection 1 cannot be placed into the conditional tax exemption mode.

(4) If an individual breaches the conditions set out in subsections 1 till 3, the natural person is obliged to register as a taxpayer within 15 calendar days from the date of breach of these conditions.

#### Section 93

#### **Subject of Tax on Wine and Intermediate Products**

(1) The subject of tax for the purposes of this Act are wines and fermented beverages (hereinafter referred to as "wine") and the intermediate products listed under nomenclature codes 2204, 2205, 2206, containing more than 1.2% alcohol by volume but not exceeding 22% alcohol by volume.

(2) Sparkling wine for the purposes of this Act, means all products that are contained in bottles with mushroom stoppers for sparkling wine, which is fixed with a special hitch apparatus, or which in case of closed content at 20 ° C have 3 bar and more pressure that can be derived from the presence of dissolved carbon dioxide, and which are listed under the following nomenclature codes:

a) 2204 10, 2204 21 10, 2204 29 10 and 2205, with an actual alcohol content <sup>60)</sup> exceeding 1.2% alcohol by volume, but not exceeding 15% alcohol by volume, if the alcohol contained in the final product is entirely of fermented origin, not containing added ethanol,

b) 2206 00 31, 2206 00 39 and under nomenclature codes 2204 10, 2204 21 10, 2204 29 10, 2205, if not included under letter a), which actual alcohol content is more than 1.2% alcohol by volume, but not exceeding 13% alcohol by volume, or

c) 2206 00 31, 2206 00 39 with actual alcohol content exceeding 13% alcohol by volume, but not exceeding 15% alcohol by volume, if the alcohol contained in the finished product is entirely of fermented origin, not containing added ethanol.

(3) Still wine for the purposes of this Act means the products which is not sparkling wine as defined in subsection 2 and which is listed under the following nomenclature codes:

- a) 2204 and 2205, with actual alcohol content exceeding 1.2% alcohol by volume, but not exceeding 15% alcohol by volume, if the alcohol contained in the finished product is entirely of fermented origin, not containing added ethanol,
- b) 2204 and 2205, with actual alcohol content exceeding 15% alcohol by volume, but not exceeding 18% alcohol by volume, if produced without any enrichment and if the alcohol contained in the finished product is entirely of fermented origin, not containing added ethanol,
- c) 2204 and 2205, unless specified in a) or b), and 2206, if not subject to the beer tax, provided that the actual alcohol content of such products exceeds 1.2% alcohol by volume, but not exceeding 10% alcohol by volume, or
- d) 2206, if not subject to the beer tax, with actual alcohol content exceeding 10% alcohol by volume, but not exceeding 15% alcohol by volume, if the alcohol contained in the finished product is entirely of fermented origin, not containing added ethanol.

(4) Intermediates for the purposes of this Act, mean all products that are listed under nomenclature codes 2204, 2205 and 2206, with actual alcohol content exceeding 1.2% alcohol by volume, but not exceeding 22% alcohol by volume, which are not sparkling or still wine and they are not subject to the beer tax.

#### Section 94

##### **Commencement of Tax on Wine and Intermediates Liability to Declare and Pay**

(1) In case of putting still wine produced by an individual in the tax territory of the Czech Republic into free tax circulation, the liability to declare and pay tax does not arise if the conditions specified in Section 92, subsections 1 till 3 are met.

(2) The liability to declare and pay tax also arises to an individual who has become a payer according to Section 92, subsection 4 by the date of breach of the conditions stipulated in Section 92, subsections 1 till 3, and refers to the quantity of still wine produced from 1 January of the calendar year in which the liability to declare and pay the tax arose.

#### Section 95

##### **The Tax Base on Wine and Intermediates**

The tax base is the quantity of wine intermediate products, expressed in hectoliters.

#### Section 96

##### **Rates of Wine and Intermediates Tax**

Tax rates are set as follows:

Text	The tax rate
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Sparkling wines according to Section 93, subsection 2	CZK 2,340 per hl
Still wines according to Section 93, subsection 3	CZK 0 per hl
Intermediates according to Section 93, subsection 4	CZK 2,340 per hl

#### Section 97

##### **Exemption from Taxes on Wine and Intermediate Products**

(1) Wines and intermediate products

- a) For the production of vinegar under nomenclature code 2209,
- b) For the production and preparation of pharmaceuticals,
- c) For the production of additives in food and beverages production, with alcohol content not exceeding 1.2% alcohol by volume, or
- d) For the production of food products, if alcohol content in them does not exceed 8.5 liters of alcohol per 100 kg of a product as to chocolate products or 5 liters of alcohol per 100 kg of a product as to the other products

Are exempt from tax.

(2) The wine and intermediate products at the amount of technically justified actual production losses are also exempt from tax. The tax administrator is entitled to assess whether these losses correspond to the nature of the activities of the payer and the usual amount of losses similar to other payers with the same activities, and require proving the losses and adjust the tax base by the difference ascertained.

(3) the wines and intermediate products intended for use as samples required for mandatory analyses,<sup>53)</sup> necessary production tests, or as samples taken by the tax administrator.

(4) Records on wine and intermediate products exempt from tax according to the provision are kept separately. The records are kept for the period of 10 years from the end of the calendar year in which the records were made.

#### Section 98

##### **Special Permit to Accept and Use Tax-exempt Wine**

(1) Still wine according to Section 93, subsection 3, exempt from tax according to Section 97, subsection 1 is accepted and used without a special permit.

(2) Wine and intermediate products exempt from tax according to Section 97, subsection 3 are accepted and used without a special permit.

#### Section 98a

##### **Tax Return and Maturity of the Wine Tax**

(1) If the liability to declare and pay tax arises to a corporate person or an individual who produces still wine (Section 93, subsection 3) according to Section 99, subsection 3 or Section 100a, the tax return is filed within 25 days after the end of the taxable period in which this liability arose, and the tax amount is payable in one amount per month, within 40 days after the end of this taxable period.

(2) If no tax liability (Section 8, subsection 2) arises to a corporate person or an individual who produces still wine (Section 93, subsection 3) according to Section 99, subsection 3, these persons are not obliged to notify the tax administrator of the fact.

## Section 99

### **Restriction of the Mode of Conditional Exemption of Wine and Intermediates Tax**

(1) The tax warehouse according to Section 19, subsection 2, letter b) may be only a warehouse, which annual sales, or expected annual sales of wine are at least 100 hl or annual sales or expected annual sales of intermediate products are at least 100 hl. This restriction is not applied to warehouses sending wine and intermediate products to another member state or accepting the products from another member state.

(2) Annual sales of wine or intermediates for the purposes of this Act mean the quantity of wine or intermediates leaving the warehouse in the calendar year according to subsection 1.

(3) A corporate person or an individual who is not a small wine producer according to Section 100a and which produces still wine in one spatially bounded place [Section 93, subsection 3)], need not produce this wine in the plant for the production of selected products [Section 19, subsection 2, letter a)] unless it simultaneously produces sparkling wine or intermediate products in that place and unless the still wine is intended for transportation into another member state in the conditional tax exemption mode or unless wine or intermediate products are accepted in that place in the conditional tax exemption mode from another member state.

(4) If a corporate person or an individual according to subsection 3 or Section 100a files a motion to issue a permit to operate a tax warehouse according to Section 20, it is obliged to take inventory of stock of still wine in the presence of an official authorized by the tax administrator. On the day when the decision on permit to operate a tax warehouse comes into force, the stock of still wine (Section 93, subsection 3) is considered to be put into the conditional tax exemption mode.

(5) Still wine (Section 93, subsection 3) produced by an individual referred to in Section 92, subsection 1 is not produced in the plant for the production of selected products [Section 19, subsection 2, letter a)].

(6) By-products<sup>60d)</sup> which are subject to tax, resulting in the production of still wine by an individual or corporate person according to Section 99, subsection 3 or according to Section 100a and are to be removed in accordance with the special legal regulation<sup>60e)</sup>, are transported in the tax territory of the Czech Republic to a tax warehouse with a document according to Section 100a, subsection 4. The person transporting by-products is obliged to submit such a document at the request of the tax administrator.

(7) In a tax warehouse, together with wine and still wine, still wine (Section 93, subsection 3) or by-products according to subsection 6, produced by a small producer of wine according to Section 100a or by a corporate person or an individual according to Section 99, subsection 3, still wine produced by a small producer of wine in another member state, may be placed. Such still wine or by-products are considered to be put into the conditional tax exemption mode.

(8) The operator of a tax warehouse, which accepts still wine produced by a small producer of wine from another member state to the tax warehouse, is obliged to notify the tax administrator, locally competent to the receiving tax warehouse of such acceptance within 5 days by sending a copy of the document according to Section 100a, subsection 4.

## Section 100

### **Transportation of Still Wine in the Conditional Tax Exemption Mode in the Tax Territory of the Czech Republic**

(1) Still wine according to Section 93, subsection 3 may be transported in the conditional tax exemption mode in the tax territory of the Czech Republic without the document referred to in Sections 27 or 27c unless it is transportation between member states (Section 25).

(2) While transporting still wine (Section 93, subsection 3) in the conditional tax exemption mode without the document according to subsection 1, a corporate person or an individual transporting still wine is obliged to submit the documents accompanying still wine during transport at the request of the tax administrator according to a directly applicable EU regulation regulating accompanying documents for transportation of wine products.

## Section 100a

### **Small Wine Producers**

(1) A small wine producer for the purposes of this Act means an individual or corporate person producing exclusively still wine (Section 93, subsection 3), whereas the average annual production according to directly applicable EU regulation regulating accompanying document for transportation of wine products of the wine does not exceed 100 hl and the wine is not produced in the plant for production of selected products [Section 19, subsection 2, letter a)].

(2) If still wine produced by a small producer of wine is transported to a tax warehouse in the tax territory of the Czech Republic, the document proving taxation according to Section 5 shall not be applied, but the document according to subsection 4.

(3) If still wine produced by a small producer of wine is transported to a tax warehouse in another member state, the document referred to in subsection 4 shall be applied.

(4) While transporting still wine to a tax warehouse according to subsections 2 and 3, the document on transportation according to the directly applicable EU regulation regulating accompanying documents for transportation of wine products shall be applied. The small producer of still wine is obliged to submit the document at the request to the tax administrator.

(5) A small wine producers shall, before commencing the transportation of still wine to a tax warehouse, notify the locally competent tax administrator of the place where still wine is produced, stored, processed, accepted or sent.

(6) If no tax liability (Section 8, subsection 2) arises to the small producer of wine, the small wine producer is not obliged to notify the tax administrator of this fact.

## Section 100b

### **Records on Wine in Tax Warehouses**



The tax administrator may decide the records on wine kept according to Sections 37 and 38 to be kept together for the tax warehouses operating by the same operator, for which the operator is locally competent.

## TITLE V

### TAX ON TOBACCO PRODUCTS

#### Section 100c

##### **The Taxpayer of the Tax on Tobacco Products**

The payer is also a corporate person or an individual who breaches the ban on cigarette sales to the final consumer for higher price than the price for final consumers stated on the tobacco stamp (Section 112).

#### Section 101

##### **The Subject Matter of the Tax on Tobacco Products**

(1) Tobacco products are the subject matter of the tax.

(2) For the purposes of this act, tobacco products shall mean cigarettes, cigars, cigarillos and smoking tobacco.

(3) For the purposes of this act

a) Cigarettes shall mean

1. Tobacco strings which are smoked in an unchanged state and are not cigars or cigarillos under letter b),
2. Tobacco strings which are inserted into cigarette tubes of cigarette paper by a simple non-industrial method, or
3. Tobacco strings which are rolled up into cigarette paper by a simple non-industrial method,

b) cigars and cigarillos, tobacco rolls, which are smoked in an unchanged state and with regard to their properties and the expectation of a common consumer they are designed in an unchanged state exclusively to be smoked and contain

1. Cover leaf of a raw tobacco, or
2. torn tobacco filling, with a cover leaf in the common color of a cigar from reconstituted tobacco, which covers the whole product, and also the filter, if appropriate, however not the mouthpiece, in the case of cigars with the mouthpiece, if their unit weight without the mouthpiece is no less than 2.3g and no more than 10g, and if the circumference of no less than one third of the length is at least 34mm,

c) Smoking tobacco,

1. Cut tobacco, or separated otherwise, if appropriate, tobacco twisted or pressed into plates and which can be smoked without any further industrial processing,
2. Tobacco waste adjusted for the sales to the final consumer who does not fall under letter a) or

b) And which may be smoked, or

3. Smoking tobacco with the slice width smaller than 1.5mm accounting for more than 25% of the weight of tobacco particles; it is a fine cut tobacco intended for manual production of cigarettes.

(4) For the purposes of this act, cigarettes shall also mean products that contain in full or partially also substances other than tobacco and that meet other conditions specified in subsection 3, letter a), with the exception of products specified in subsection 8.

(5) For the purposes of this act, cigars and cigarillos shall also mean products that contain in full or partially also substances other than tobacco and that meet other conditions specified in subsection 3, letter b).

(6) For the purposes of this act, smoking tobacco shall also mean a product that contains in full or partially also substances other than tobacco and that meet other conditions specified in subsection 3, letter c), with the exception of products specified in subsection 8., or a product not listed in subsection 3, letter c) if it is intended for a purpose other than smoking and concurrently such a product may be smoked and it is adjusted for the sales to the final consumer.

(7) For the purposes of this act, tobacco waste shall mean residues of tobacco leaves and residues arisen during the processing and production of tobacco products.

(8) The products that do not contain tobacco, meet the conditions specified in subsection 3, letter a) or c) and are used exclusively for medical purposes are not considered tobacco products and the certificate of this fact shall be issued by the Ministry of Health of the Czech Republic or an institution authorized by the former.

## **Section 101a**

### **Occurrence of the Obligation to Report and Pay the Tax on Tobacco Products**

The obligation to report the tax arises also on the day of the violation of the ban on the cigarettes sales to the final consumer at a price that is higher than the price that is indicated as the price for the final consumer on the tobacco stamp (Section 112).

## **Section 102**

### **Tax Basis of Tobacco Products**

(1) The price for the final consumer under Section 103 is the tax basis for the percentage part of tax on cigarettes.

(2) The number expressed in pieces is the tax basis for the fixed part of the tax.

(3) The number expressed in pieces and the amount expressed in kilos are the tax bases for cigars and cigarillos and smoking tobacco, respectively.

## **Section 103**

### **Price for the Final Consumer**

(1) The price for the final consumer shall mean the price that is fixed by the price resolution under the Act on Prices 61) as the price of a unit package for direct consumption for the final consumer, unless this act provides for otherwise. This price also includes the value added tax.

(2) The producer, authorized recipient or importer shall submit an application for the determination of the price for the final consumer to the Customs Authority of the Central Bohemian Region ("the authorized tax administrator"). A producer or importer with the registered office, or the place of residence, if appropriate, in another country, may authorize a person with the registered

office, branch of its company or the place of residence in the tax territory of the Czech Republic to file the application for the determination of the price for the final consumer, who is authorized to import tobacco products from another country in the regime of a conditional exempt of tax.

(3) The same price for the final consumer shall be fixed for cigarettes with the same commercial name and with the same number of pieces in a unit package.

(4) For the purposes of this act, the weighed price average shall mean the weighed average of cigarette prices for the final consumer recalculated to one piece, which is set by the Ministry of Finance on the basis the results of inventory checks of stamps of the preceding calendar year.

(5) For cigarettes that are not marked with tobacco stamps, the price for the final consumer is identical with the price set for cigarettes that must be marked with a tobacco stamp, with the same commercial name and the same number of pieces in one unit package. Unless it is possible to determine the price for the final consumer according to the first sentence, the weighed price average shall be the price for the final consumer.

(6) The weighed price average serves for the calculation of the cigarette tax rates in accordance with the statutory provision of the European Union <sup>61a)</sup>.

(7) The price for the final consumer must be stated on the tobacco stamp.

(8) Cigarettes may be released to the free tax circulation only with a tobacco stamp with the shown price for the final consumer valid from the date of effect of the price resolution until the last day of the effect of such a price resolution.

#### Section 104

##### Rates and Calculation of Tax on Tobacco Products

(1) The tax rates are set as follows:

Text	Tax rate	
Minimum	Percentage part	Fixed part
cigarettes	27%	1.19 CZK/piece   no less than
		2.25 CZK/piece
cigars, cigarillos	1.34 CZK/piece	
smoking tobacco		1 800.00 CZK/kg

(2) The amount of tax on cigars, cigarillos and smoking tobacco shall be calculated as the multiple of the tax base and the fixed tax rate, provided that the weight of smoking tobacco upon the occurrence of the obligation to report and pay the tax shall be decisive for the calculation of the tax on smoking tobacco.

(3) The amount of tax using the fixed and percentage rate shall be calculated as a sum of the following items:

a) A multiple of the percentage tax rate for the final consumer of such cigarettes divided by one hundred,

b) A multiple of the fixed rate and the number of pieces.

(4) The amount of the tax on cigarettes using the minimum tax rate shall be calculated as a multiple of the minimum tax rate and the number of pieces.

(5) A tobacco string up to 80mm long (including this length) is considered as 1 cigarette.

(6) A tobacco string longer than 80mm and no longer than 110mm shall be considered as 2 cigarettes. A tobacco string longer than 110 mm and no longer than 140 mm shall be considered as 3 cigarettes. Another 30mm, even less than this figure, of a tobacco string shall be considered as 1 more cigarette.

(7) Where the amount of tax on cigarettes calculated using the fixed and percentage tax rate is lower than the amount of tax calculated using the minimum amount, the amount of tax calculated using the minimum amount shall be applied.

## **Section 105**

### **Exemption from Tax on Tobacco Products**

(1) Tobacco products intended for tests regarding product quality and tests related to ensuring measurement quality or necessary production tests are exempt from tax on condition that such tobacco products shall be evidently consumed, destroyed or damaged during such a test in a technologically justifiable amount. Tests may only be performed in laboratories accredited according to the ČSN EN ISO/IEC 17025 standard for the object of tests being tobacco or tobacco products.

(2) Tax exemption applies also on tobacco products

a) Taken as samples by the tax administrator, or

b) destroyed according to the instructions and with the presence of officials of the tax administrator or destroyed with their presence; this only applies to tobacco products intended for export or for transport in the conditional tax exemption mode to another member state which are concurrently not fit for the release to the free tax circulation on the territory of another member state or a third country.

(3) The tax administrator shall make a report of the withdrawal or destruction of tobacco products according to subsection 2.

(4) Records of tobacco products exempt from tax under this provision are kept separately. The records are kept for the period of 10 years from the end of the calendar year in which such records were made.

## **Section 105a**

### **Special Permission for the Receipt and Use of Tobacco Products Exempt from Tax**

Tobacco products exempt from tax according to Section 105, subsection 2, are received and used without a special permission.

## **Section 106**

## **Evidence of Taxation of Tobacco Products**

A corporate person or an individual issuing a tax document under Section 5, subsection 2, a sales document under Section 4, subsection 3, or a transport document under Section 5, subsection 4 shall state in such documents the price for the final consumer for cigarettes and shall not state the total of excise tax.

### **Section 107**

#### **Unit Package**

(1) Repealed

(2) Tobacco products shall be released to the free tax circulation, imported to the tax territory of the Czech Republic or shipped to the tax territory of the Czech Republic from another member state in a closed unit package which is intended for direct consumption, unless this act stipulates otherwise.

(3) Repealed

(4) Tobacco products need not be imported to the tax territory of the Czech Republic or shipped from another member state to the tax territory of the Czech Republic in a closed unit package if they are intended for personal consumption or if they are shipped in the conditional tax exemption mode with a subsequent placement to a tax warehouse. Tobacco products need not be released to the free tax circulation in a closed unit package if they are exempt from tax under Section 105.

(5) A closed unit package of cigarettes shall contain no less than 20 pieces with the exemption of closed unit packages of cigarettes exempt from tax under Section 105. A unit package may contain only such tobacco products that are subject to the same tax rate <sup>61b</sup>.

(6) Tobacco products may be sold only in a closed unit package with an intact tobacco stamp with the exception of the sales of cigars and cigarillos to the final consumer where unit sales are allowed.

(7) Individual cigars and cigarillos may only be sold from an open unit package for the final consumer which is marked with a tobacco stamp.

### **Section 108**

#### **Import of Tobacco Products within Business Activities**

(1) The importer that intends to import tobacco products within its business activities shall notify the tax administrator thereof in writing no later than three weeks prior to the first import. Should the importer have the registered office or the place of residence outside the tax territory of the Czech Republic, he shall submit a written declaration to the authorized tax administrator.

(2) The importer with the registered office or place of residence on the tax territory of the Czech Republic shall include in the declaration the commercial name or the name, the registered office and legal form, the amount of the business assets and the legal representative. In addition, the importer shall state in the declaration whether there is an agreement on concerted action and, if appropriate, state the amount of the share in the business assets. The importer shall attach to the declaration a list of tobacco products classified by sorts, commercial names and sorts of packages, stating the number of pieces, and kilograms, if appropriate, in the unit packages.

### **Section 109**

### **Authorized Recipient of Tobacco Products**

(1) The recipient authorized to repeatedly receive the selected products under Section 22 and the recipient authorized to receive the selected products in a single case under Section 23 may only receive tobacco products marked with a tobacco stamp with the exception of tobacco products exempt from tax under Section 105.

(2) The payment of the value of tobacco stamps upon their purchase or securing the value of tobacco stamps under Section 119, subsection 4, letter a) or b) shall be considered as securing the tax in the case that the recipient authorized for repeated reception of the selected products under Section 22 receives exclusively tobacco products and is concurrently a buyer of tobacco stamps under Section 118, subsection 3.

(3) The payment of the value of tobacco stamps upon their purchase or securing the value of tobacco stamps under Section 119, subsection 4, letter b) shall be considered as securing the tax in the case that the recipient authorized for a one-off reception of the selected products under Section 23 receives exclusively tobacco products and is concurrently a buyer of tobacco stamps under Section 118, subsection 3.

(4) If the recipient authorized to the repeated reception of selected products under Section 22 receives exclusively tobacco products and he is not a buyer of tobacco stamps under Section 118, subsection 3, the tax is secured in accordance with Section 22, subsection 9.

(5) If the recipient authorized to the one-off reception of selected products under Section 23 receives exclusively tobacco products and he is not a buyer of tobacco stamps under Section 118, subsection 3, the tax is secured in accordance with Section 23, subsection 4.

(6) The application for the issue of the permission for the repeated or one-off reception of tobacco products in the conditional tax exemption mode shall also include a list of tobacco products classified according to sorts, commercial names, sorts of packages, stating the numbers of pieces and kilograms, if appropriate, in the unit package.

### **Section 109a**

**Repealed**

### **Section 110**

#### **Ban on Sales for a Price Lower than the Price for the Final Consumer**

(1) The seller may not sell cigarettes to the final consumer for a price lower than that price for the final consumer stated on the tobacco stamp, unless this act stipulates others. This shall not apply in the case of a free provision of cigarettes as testing samples or for advertising purposes.

(2) When selling cigarettes to the final consumer, the seller may not provide any discount of the price for the final consumer including the price provided on the basis of the sales volume.

(3) If another thing is attached to or placed in the pack of cigarettes, when selling to the final consumer, the total price may not be different from the price for the final consumer stated on the tobacco stamp. The sales of cigarettes may not be bound to the sales of other items.

### **Section 111**

#### **A Reduction in the Price for the Final Consumer**

(1) Apart from Section 110, in necessary cases, cigarettes may be sold to the final consumer for a price lower than the price for the final consumer stated on the tobacco stamp so that importers or sellers could sell the balance of their stock in the case of a declaration of bankruptcy, termination of production, termination of sales or termination of business activity and in the case of execution.

(2) In the case shown in subsection 1, the sales of cigarettes to the final consumer for a price lower than the price for the final consumer stated on the tobacco stamp require the consent of the authorized tax administrator.

(3) The sales for a lower price shall not lead to an entitlement to a tax reduction or refund.

### **Section 111a**

#### **Ban on Purchase for a Price Lower than the Price for the Final Consumer**

The final consumer may not purchase cigarettes for a price lower than the price for the final consumer stated on the tobacco stamp, unless this act stipulates others.

### **Section 112**

#### **Ban on Sales for a Price Higher than the Price for the Final Consumer**

The seller may not sell cigarettes to the final consumer for a price higher than the price for the final consumer stated on the tobacco stamp. If the seller sells cigarettes for a price higher than the price for the final consumer stated on the tobacco stamp, an obligation arises to report and pay the tax in the amount of a multiple of the percentage part of the tax rate under Section 104, subsection 1, and the difference of the price for which the cigarettes were sold and the price shown on the tobacco stamp.

### **Section 113**

#### **Special Provisions**

Tobacco products may not be a prize in a lottery or any similar betting game. 62)

### **Section 114**

#### **Marking with Tobacco Stamps**

(1) Repealed

(2) Tobacco products produced on the tax territory of the Czech Republic, imported to the tax territory of the Czech republic or shipped to the tax territory of the Czech Republic from another member state shall be marked with a tobacco stamp 62a), unless they are shipped in the conditional tax exemption mode with a subsequent placing to a tax warehouse or unless subsection 6 or 7 stipulates otherwise.

(3) The producer, authorized recipient or importer of tobacco products or supplier with the registered office outside the tax territory of the Czech Republic are obliged to mark tobacco products with tobacco stamps.

(4) Tobacco products marked with a damaged tobacco stamp or marked in a manner other than as set forth shall be considered as unmarked. Tobacco stamps damaged by slitting shall not be considered as damaged.

(5) Repealed

(6) A tobacco stamp may not be used to mark tobacco products that

- a) Are intended for export, or
- b) Are intended for transport in the conditional tax exemption mode to another member state.

(7) Those tobacco products need not be marked with a tobacco stamp which are exempt from tax under Section 11, subsection 1, or Section 105 or if they are imported to the tax territory of the Czech Republic or shipped from another member state to the tax territory of the Czech Republic for personal consumption (Section 32, subsection 4).

## **Section 115**

### **Violation of the Obligation of Marking Tobacco Products**

(1) Should the tax administrator learn that the obligation of marking tobacco products has been violated, it shall without delay inform thereof other authorities competent to investigate the performance of obligations of marking tobacco products.

(2) Should an authority of the Financial Administration of the Czech Republic or an authority of the Customs Administration of the Czech Republic learn that the obligation of marking tobacco products has been violated,

- a) It shall proceed according to the tax rules and
- b) It shall inform thereof without delay the tax administrator and the municipal trade registration office.

(3) If the tax administrator or any other competent authority discovers unmarked tobacco products, it shall secure them and without undue delay it shall hand over the decision on the securing of unmarked tobacco products to their holder. Where it is not possible to deliver the decision on the securing of unmarked tobacco products, such a decision shall be filed as undelivered in the file.

## **Section 116**

### **Tax Return for Tax on Tobacco Products and the Maturity of this Tax**

(1) The purchase order of tobacco stamps fulfills the function of a tax return with the exception of products with respect to which an obligation arose to report and pay tax under Section 9, subsection 3, letter e), Section 9, subsection 3, letter f) or Section 101a.

(2) Tax is paid by the use of a tobacco stamp. Tobacco stamps shall be used when the obligation to report and pay the tax arises.

(3) Tobacco products may be marked with tobacco stamps only in a tax warehouse or outside the tax territory of the Czech Republic.

(4) The use of a tobacco stamp means placing the tobacco stamp on a unit package and under a transparent overwrap, if it is used, so that when opening the unit package it shall be damaged.

## **Section 116a**

### **Securing the Tax on Tobacco Products**

(1) If a tax warehouse operator operates only one tax warehouse, the tax is secured by depositing or transferring funds to the deposit account for the tax security established by the tax administrator amounting to no more than CZK 50,000,000.



(2) If a tax warehouse operator operates more than one tax warehouse, the tax is secured by depositing or transferring funds to the deposit account for the tax security established by the tax administrator amounting to, irrespective of how many tax warehouses it operates, no more than CZK 100,000,000.

## **Section 117**

### **Permission to Operate a Tax Warehouse for Tobacco Products**

The application for the permission to operate a tax warehouse shall also contain a list of tobacco products classified by sorts, commercial names and sorts of packages, stating the number of pieces, and kilograms, if appropriate, in the unit packages.

## **Section 118**

### **Ordering, Taking and Distribution of Tobacco Stamps**

(1) Repealed

(2) The purchase of tobacco stamps from the producer, their transport from the tobacco stamps producer to the authorized tax administrator and their taking on the tax territory of the Czech Republic by the producer, authorized recipient or importer is ensured by the authorized tax administrator, who also verifies the transport, storage and use of tobacco stamps with the producer or importer.

A producer or importer with the registered office, or the place of residence, if appropriate, in another country, may authorize a person with the registered office, branch of its company or the place of residence in the tax territory of the Czech Republic who is authorized to import tobacco products from another country in the conditional tax exempt mode to collect tobacco stamps. With respect to tobacco stamps for cigarettes, only the person who was by the same producer or importer also authorized to file the application for the determination of the price for the final consumer (Section 103, subsection 2) may be such an authorized person. The purchase of tobacco stamps from the producer, their taking on the tax territory of the Czech Republic by the person authorized to receive tobacco stamps and the verification of the transport, storage and use of tobacco stamps with this person is ensured by the authorized tax administrator.

(4) The producer, authorized recipient, importer or the person authorized to receive tobacco stamps under subsection 3 (hereinafter only "the buyer") are obliged to calculate themselves in the purchase order the value corresponding to the amount of the tax liability of the ordered tobacco stamps.

(5) The buyer shall order and receive tobacco stamps exclusively from the authorized tax administrator.

(6) Should the buyer fail to receive the ordered tobacco stamps within 75 days after the delivery of the purchase order, the authorized tax administrator with the presence of an authorized official of the direct superordinate tax administrator shall destroy the tobacco stamps and shall make a report thereof. The buyer shall reimburse the costs related to the production and destruction of such tobacco stamps.

(7) The producer of tobacco stamps may sell tobacco stamps exclusively to the authorized tax administrator.

(8) Repealed

(9) The buyer may not sell or hand over without consideration the received tobacco stamps to individuals or corporate persons with the exception of the authorized tax administrator. This provision shall not apply to the case when tobacco stamps are handed over to producers or suppliers of tobacco products in another member state or in a third country for the purpose of marking the tobacco products to be released to the free tax circulation on the tax territory of the Czech Republic.

(10) The buyer shall pay the price of tobacco stamps. The transport of tobacco stamps from the authorized tax administrator to the buyer and their storage and use at the buyer shall be arranged by this buyer at its own costs.

(11) Tobacco stamps shall be ordered

- a) two weeks before the receipt in common cases,
- b) no less than six weeks prior to the first receipt of tobacco stamps in the case of a change in the tax rate, or
- c) no less than six weeks prior to the first receipt of tobacco stamps of a new pattern.

(12) Should the tax rate change, tobacco stamps containing the present valid tax rate may be ordered no later than six weeks prior to the effect of the change of the tax rate stating the dates of receipt. Tobacco stamps may be received no earlier than two weeks after the delivery of the purchase order to the authorized tax administrator.

(13) Should the tax rate change, tobacco stamps containing the new tax rate may be ordered no earlier than six weeks prior to the effect of the new tax rate. Tobacco products with tobacco stamps containing the new tax rate may not be released to the free tax circulation on the tax territory of the Czech Republic until the effect of the new tax rate.

(14) Should the tax rate change, tobacco products with tobacco stamps containing the currently valid tax rate may be produced, imported and shipped to the tax territory of the Czech Republic from another member state and released to the free tax circulation no later than on the date of effect of the new tax rate.

(15) Should the pattern of the tobacco stamp change, the tobacco stamps of the old pattern may be ordered no later than six weeks prior to the effect of the change of the pattern of the tobacco stamp stating the dates of receipt. Tobacco stamps may be received no earlier than two weeks after the delivery of the purchase order to the authorized tax administrator.

## **Section 118a**

**Repealed**

## **Section 119**

### **Value of a Tobacco Stamp**

(1) The obligation to reimburse the value of a tobacco stamp arises upon the receipt of the stamp. The value of tobacco stamps corresponds to the amount of the tax liability with respect to the tobacco product in a unit package intended for direct consumption.

(2) The buyer shall reimburse the value of tobacco stamps within 60 days after their receipt from the authorized tax administrator.

(3) Repealed

(4) The buyer shall provide the security of the value of tobacco stamps ordered with the authorized tax administrator, unless the value of tobacco stamps is reimbursed upon their receipt. The security is provided by

- a) A financial guarantee issued in favor of the authorized tax administrator, which this tax administrator has received,
- b) depositing or transferring funds to a deposit account for the tax security established by the authorized tax administrator, provided that during the period of securing the tax an entitlement to interest on the amount deposited on the deposit account for the tax security established by the authorized tax administrator shall not arise,
- c) Insurance of the security provided by an insurance company as long as this method of security is approved by the authorized tax administrator; Section 21, subsection 2 to 6, shall apply to the insurance of the guarantee *mutatis mutandis*.

(5) The entitlement to return the value of tobacco stamps arises to the buyer of tobacco stamps who shall produce a document stating that the value of tobacco stamps received for tobacco products on the tax territory of the Czech Republic has been reimbursed on condition that

- a) during the shipment of such marked tobacco products in the conditional tax exemption mode, the conditional tax exemption mode was violated (Section 28, subsection 1) in another member state and the tax for such tobacco products was reimbursed in such a member state; the value of the used tobacco stamps shall be returned no later than within 60 calendar days after the production of the document on the reimbursement of tax in another member state, or
- b) during the transport of such marked tobacco products in the conditional tax exemption mode, such tobacco products were lost or destroyed demonstrably as a result of an unforeseeable loss or destruction; the value of the used tobacco stamps shall be returned no later than within 60 days after the account of such a loss or such destruction of tobacco products and after proving that the loss or destruction of tobacco products was a result of an unforeseeable loss or destruction.

## **Section 120**

### **Right of Lien**

So as to secure the value of tobacco stamps, the right of lien arises on the basis of this act with respect to the withdrawn tobacco stamps to date not used on unit packages.

## **Section 121**

### **Records and Inventory Check of Tobacco Stamps**

(1) The buyer shall keep records of withdrawn, used and returned tobacco stamps and keep records and documents on the basis of which records were made for the period of ten years from the end of the calendar year in which such documents were issued.

(2) The buyer shall perform an inventory check of tobacco stamps every calendar year. In addition, it shall notify the authorized tax administrator of the result of the inventory check of tobacco stamps for the preceding calendar year no later than on 31 January of each calendar year. The authorized tax administrator shall send summary data of the results for all buyers to the Ministry of Finance no later than on 15 February of each calendar year.

## **Section 122**

## **Return of Tobacco Stamps**

(1) The buyer may return damaged or unclean tobacco stamps to the authorized tax administrator providing that it proves that they are tobacco stamps received in accordance with this act. The undamaged part of the damaged tobacco stamps shall account for no less than 60% of the total area of a tobacco stamp. Where the damaged tobacco stamp consists of more parts, it needs to be apparent that the individual parts belong to each other. The amount of the price for the final consumer and the number of pieces which are printed on damaged and unclean tobacco stamps for cigarettes must be demonstrable. The number of pieces or kilograms, if appropriate, which are printed on damaged or unclean tobacco stamps for cigars, cigarillos and smoking tobacco must be demonstrable.

(2) The authorized tax administrator shall return the value of damaged or uncleaned tobacco stamps that meet the conditions specified in subsection 1 providing that the value of the tobacco stamps has already been paid. The authorized tax administrator shall destroy the returned damaged or unclean tobacco stamps with the presence of an authorized official of the directly superordinate tax administrator. A report shall be made of the destruction of the returned damaged or unclean tobacco stamps.

(3) The buyer may return unused tobacco stamps to the authorized tax administrator. The authorized tax administrator shall return to the buyer the value of the tobacco stamps providing that the value of the tobacco stamps has been paid. The authorized tax administrator shall destroy the returned tobacco stamps with the presence of an authorized official of the direct superordinate tax administrator. A report shall be made of the destruction of the returned tobacco stamps.

(4) Should the Ministry of Finance issue a decree by which the pattern of a tobacco stamp shall change, the buyer shall return unused tobacco stamps of the old pattern to the authorized tax administrator no later than within 30 days after the effect of the decree. In the event that such tobacco stamps have been exported to third countries, the buyer shall return unused tobacco stamps of the old pattern to the authorized tax administrator no later than within 80 days after the effect of the decree.

(5) The authorized tax administrator shall provide free tobacco stamps of a new pattern for the returned tobacco stamps of the old pattern, unless the tax rate changed, within 30 days after the date when the tobacco stamps were returned. The authorized tax administrator shall destroy the returned tobacco stamps of the old pattern with the presence of an authorized official of the direct superordinate tax administrator. A report shall be made of the destruction of the returned tobacco stamps.

(6) The buyer shall without delay return unused tobacco stamps, including damaged or unclean tobacco stamps under subsection 1, to the authorized tax administrator in the event of the termination of its activity. Should the buyer have already paid the value of the tobacco stamps, the authorized tax administrator shall return it this amount.

(7) The authorized tax administrator may require of the buyer to have an official supervision of the destruction of tobacco stamps stuck to the unit packages. The request may only apply to products that the buyer produced, imported or shipped from another member state. The official supervision shall mean the presence of an official of the authorized tax administrator during the destruction of tobacco stamps stuck to the individual unit packages, which shall be ensured by the buyer at its costs. The destruction of tobacco stamps under the official supervision may only be performed on the tax territory of the Czech Republic. The authorized tax administrator shall satisfy such a request. The buyer's entitlement to return the value of tobacco stamps arises upon the destruction of tobacco stamps under official supervision. The entitlement to return the value may only be exercised if the value of the tobacco stamps has already been paid.

(8) No compensation is provided for lost tobacco stamps or tobacco stamps damaged in more than 40%.

(9) Should the tax rate change, the buyer may return unused tobacco stamps to the authorized tax administrator. Should the buyer have already paid the value of the tobacco stamps, the authorized tax administrator shall return it this amount.

### **The heading left out**

#### **Section 123**

##### **Request for a Reduction in the Payment or Security**

(1) The buyer may request a reduction in the payment or security of the authorized tax administrator.

(2) For the purposes of this act, the reduction of payment or security shall mean a reduction in the payment of the value of tobacco stamps upon their receipt or a reduction of the security of the value of tobacco stamps upon their receipt.

(3) The request for a reduction of the payment or security may be filed by a buyer who during 2 years prior to the filing of the request for a reduction in the payment or security

a) Was receiving such tobacco stamps regularly and

b) Paid for the value of tobacco stamps in such a manner that in the case of default with such a payment the obligation to pay default interest did not arise.

(4) The buyer receives tobacco stamps regularly when the period between the individual receipts does not exceed 90 days.

(5) The buyer may request the issue of the decision on the reduction in the payment or security which shall immediately follow up the existing decision on the reduction in the payment or security no earlier than 4 months and no later than 3 months prior to the lapse of the period for which the original decision on the reduction in the payment or security was issued; such a time limit may not be returned to the preceding state.

(6) If the request for the reduction in the payment or security is declined, a new request may not be filed until 3 months have elapsed from the date of the effect of this negative decision.

#### **Section 124**

##### **The Terms and Conditions for the Issue of the Decision on the Reduction in the Payment or Security**

The authorized tax administrator shall decide on the reduction in the payment or security if the buyer

a) during 2 years prior to the date of filing the request for the reduction in the payment or security was duly fulfilling the buyer's obligations and duly marked tobacco products with tobacco stamps in the manner stipulated by statutory provisions, and

b) meets the terms and conditions under which the tax administrator may permit the reduction of the tax security or may permit the abandoning of the tax security.

#### **Section 125**

##### **Decision on a Reduction in the Payment or Security**

(1) The decision on the reduction in the payment or security is issued for the period of 1 year commencing on the first day of the calendar quarter following the entry of legal force of such a decision.

(2) The authorized tax administrator shall decide on the request of the reduction in the payment or security within 60 days after the commencement of the proceedings; it shall decide within 90 days in particularly complicated cases.

(3) If the decision on the reduction in the payment or security should immediately follow up the existing decision on the reduction or security, such a new decision may not be issued prior to the lapse of the time limit for the filing of a request for the reduction in the payment or security.

## **Section 126**

### **The Amount of a Reduction in the Payment or Security**

(1) In the decision on a reduction in the payment or security, the authorized tax administrator shall state the amount of the decrease for the individual purchase of 10% of the value of tobacco stamps.

(2) In the decision on a reduction in the payment or security, the authorized tax administrator shall state the amount of the decrease for the individual purchase of 20% of the value of tobacco stamps, should a reduction in the payment or security last continuously for the period of 9 months prior to the issue of such a decision.

(3) In the decision on a reduction in the payment or security, the authorized tax administrator shall state the amount of the decrease for the individual purchase of 40% of the value of tobacco stamps, should a reduction in the payment or security last continuously for the period of 21 months prior to the issue of such a decision.

(4) A reduction in the payment or security may be applied in a given calendar quarter only in those immediately following purchases of tobacco stamps whose total amount shall not exceed 50% of the total value of tobacco stamps purchased for the immediately preceding calendar year.

## **Section 127**

### **Cancellation of the Decision on a Reduction in the Payment or Security**

The authorized tax administrator shall cancel the decision on a reduction in the payment or security in the case that:

- a) The payment of the tobacco stamps value is endangered or
- b) After the issue of this decision the buyer ceased to meet the conditions for
  1. The submission of the application for a reduction in the payment or security or
  2. The issue of the decision on a reduction in the payment or security.

## **Section 128**

### **The Buyer's Obligations in Relation with a Reduction in the Payment or Security**

(1) The buyer shall notify the authorized tax administrator of all the facts which have the influence on the fulfillment of the conditions for the issue of the decision on a reduction of the payment or security no later than 5 days from the date of its occurrence.

(2) No later than 5 days from the date of the cancellation of the decision on a reduction in the payment or security, the buyer shall

- a) Pay the value of the tobacco stamps in the amount of a reduction in the payment or security specified in such a decision or
- b) Secure the value of the tobacco stamps in the amount of a reduction in the payment or security specified in such a decision.

(3) Unless the existing decision on a reduction in the payments or security is followed immediately by a new decision, no later than the following day after the lapse of the time for which the existing decision was issued, the buyer shall

- a) Pay the value of the tobacco stamps in the amount of a reduction in the payment or security specified in the existing decision or
- a) Secure the value of the tobacco stamps in the amount of a reduction in the payment or security specified in the existing decision.

### **Section 129**

**Repealed**

### **Section 130**

**Repealed**

### **Section 131**

The implementing statutory provision shall specify

- a) The specimen and dimensions of a tobacco stamp and the method of its location on the unit package,
- b) The method of ordering, purchase and distribution of tobacco stamps,
- c) The specimen of the form for tobacco stamps ordering,
- d) Details regarding the way of transport and tobacco stamps storage,
- c) The specimen of the form for recording tobacco stamps,
- f) Details regarding the method of the inventory check of tobacco stamps,
- g) Details of the method of the recording and returning of damaged tobacco stamps,
- h) The specimen of the authorization of an official of the authorized tax administrator to enter the buyers' buildings,
- i) The specimen of the authorization of an official of the directly superordinate tax administrator authorized by the supervision pursuant to Section 118, subsection 6, and Section 122, subsection 2, 3, and 5.
- j) The procedure of the proposal preparation of the prices of cigarettes for the final consumer and their change.

## **PART THREE**

### **LIMITATION OF THE SALE OF SPIRITS AND TOBACCO PRODUCTS**

## **Section 132**

### **Definition of Terms**

For the purposes of this act

- a) The stand shall mean the premises marked by a firm or portable structure, counters, tables or other similar equipment where the goods shall be sold,
- b) The stand for the sale of daily and periodical press shall mean a stand of a firm structure which is not located on the market and, in addition to a wide range of daily and periodical press, it also offers tobacco products as a line side,
- c) The coffee stand shall mean a stand of a firm structure which shall not be located on the market or inside the market and, in addition to a range of refreshment, it also offers tobacco products and spirits as a line side,
- d) the market shall mean non-closable, closable or partially closable premises not covered with a roof, where the goods are sold or the services are provided and in which more than one stand is placed,
- e) the mobile shop shall be a mobile device designated for the sale of goods which is capable of moving and of a separate function and which complies with the technical requirements pursuant to special statutory provisions 65a) and, concurrently, it complies with the sanitary regulations 65b),
- f) The spirits shall mean alcoholic beverages containing no less than 15% of the ethanol volume, except for beer (Section 81) and wine (Section 93).

## **Section 133**

### **Ban on the Sale**

(1) Unless this act stipulates otherwise, it is prohibited to sell spirits and tobacco products on the stands, markets or places which do not comply with the technical requirements for territorially technical, purposeful and construction technical solution of constructions and which are not approved for selling goods or providing hostelry services.

(2) Tobacco products may be also sold as a side line in the stands with the sale of daily and periodical press (Section 132, letter b). Tobacco products and spirits may be also sold as a side line in the coffee stands (Section 132 letter c).

(3) Tobacco products may also be sold in the mobile shops selling the goods in the places where the sale is not secured in shops which comply with the technical requirements for territorially technical, purposeful and construction technical solution of constructions and which are approved for selling goods or providing hostelry services.

(4) Spirits, also the poured out, may be sold at public sports and cultural restaurants, bars and clubs, including dancing parties and discotheques, unless a special statutory provision stipulates otherwise.

(5) The person who may sell spirits in accordance with subsection 4 shall be obliged, no later than 3 days prior to the holding the event, to notify in writing the tax administrator in whose territorial competence spirits shall be sold of such an activity. The written information shall include the details of the person selling the spirits, the time scale of the spirit sale and details on the kind and amount of spirits sold.

(6) The ban on the sale of tobacco products and spirits determined by the special statutory provision <sup>65d)</sup> shall remain hereby unaffected.



## **Section 134**

### **Breach of the Ban on the Sale of Spirits and Tobacco Products**

(1) Should the tax administrator ascertain that the ban on the sale of spirits and tobacco products has been violated, it shall immediately notify thereof other authorities competent for inspecting the compliance with the ban of the sale of spirits and tobacco products.

(2) Should a Financial Administration Authority of the Czech Republic or Customs and Excise Authority of the Czech Republic ascertain that the ban on the sale of spirits and tobacco products was violated,

a) It shall proceed as per the Tax Procedure Code and

b) Notify without delay the tax administrator and municipal trade office thereof.

(3) The spirits or tobacco products found on the place where their sale is prohibited shall be detained by the tax administrator or other relevant authority, whereas it shall hand over without delay the decision on detaining spirits and tobacco products to their holder. Where it is impossible to deliver the decision on detaining spirits and tobacco products in such a way, such a decision shall be filed away as undeliverable.

## **PART FOUR**

### **MARKING AND COLORING OF SELECTED MINERAL OILS**

#### **Section 134a**

##### **Definition of the Term Marking and Coloring of Selected Mineral Oils**

(1) The marking and coloring of selected mineral oils shall mean even mixing of the marking substance and color in these oils.

(2) The kind of the marking substance and the kind of the color, their minimal amount in 1 liter of marked and colored mineral oils and the method of their record shall be determined by the implementing statutory provision.

#### **Section 134b**

##### **The Subject Matter of the Marking and Coloring of Selected Mineral Oils**

(1) The subject matter of the marking and coloring of selected mineral oils includes, except for the cases stipulated in subsections 2 and 4, the mineral oils laid down under the codes of the nomenclature 2710 19 25, 2710 19 29, 2710 19 41, 2710 19 45 and 2710 19 49.

(2) According to the rules stipulated in Sections 134c to 134k, the following oils may not be marked and colored

a) mineral oils other than those stipulated in subsection 1,

b) mineral oils stipulated in subsection 1, if the fuels and lubricants under the special statutory provision<sup>65e)</sup> are concerned, except for the mineral oils which are exempt from tax pursuant to Section 49, subsection 8.

c) mineral oils stipulated in subsection 1, if the fuels for the navigations on the waters on the tax territory of the Czech Republic are concerned to which the exemption from tax pursuant to Section 49, subsection 8, is not applied,

d) paraffin oils stipulated under the code of nomenclature 2710 19 21,

e) components for the production of those mineral oils which are stipulated in letters a) to d),  
f) mineral oils stipulated in subsection 1 in which marking and coloring should be a problem of their use.

(3) The list of mineral oils as per subsection 2, letter f) in which marking and coloring should be a problem of their use shall be specified by the implementing statutory provision.

(4) The mineral oils stipulated in subsection 1 which are or should be transported to other member states in the conditional tax exemption mode or in a free tax circulation or which are or should be exported to third countries need not be marked and colored.

### **Section 134c**

#### **Principles of Marking and Coloring of Selected Mineral Oils**

(1) The mineral oils stipulated in Section 134b, subsection 1, shall be marked and colored for the whole period of their occurrence on the tax territory of the Czech Republic, unless this act stipulates otherwise (Section 134b, subsection 4, and Section 134e, subsection 1).

(2) On the tax territory of the Czech Republic, the mineral oils stipulated in Section 134b, subsection 1, may be marked and colored exclusively in a tax warehouse pursuant to Section 19, subsection 2, which is equipped with the dosing and mixing equipment for marking and coloring of such oils. Marking and coloring mineral oils stipulated in Section 134b, subsection 1, outside a tax warehouse pursuant to Section 19, subsection 2, which is equipped with the dosing and mixing equipment for marking and coloring of such mineral oils shall be deemed to be a serious breach of this act.

(3) The mineral oils stipulated in Section 134b, subsection 1, are evaluated from the point of the contents of the marking substance and color in the form of certification according to the special statutory provision<sup>65f)</sup>.

(4) The mineral oils stipulated in Section 134b, subsection 1, marked and colored in a way other than as stipulated in this law are viewed as unmarked and colored mineral oils.

### **134d Section**

#### **Export of Selected Mineral Oils**

Corporate persons and individuals for whom the mineral oils stipulated in Section 134b, subsection 1, are intended for export to a free tax circulation shall submit a declaration for the release of such oils to the export regime or transit regime of the European Communities to the customs authority upon the release thereof to the free circulation. In the case they are not exported or the transit system of the European Communities is canceled, the stated persons shall mark and color such oils exclusively in a tax warehouse, unless they have been already marked and colored. Upon the receipt of the mineral to a tax warehouse, these oils shall be released again to the conditional tax exemption mode and upon their receipt the tax warehouse operator shall be entitled to the tax refund.

### **Obligations and Bans with Respect to Marking and Coloring of Selected Mineral Oils**

#### **Section 134e**

(1) The tax warehouse operator shall mark and color mineral oils stipulated in Section 134b, subsection 1, on the tax territory of the Czech Republic no later than prior to upon their release to a free tax circulation.

(2) During the transport of mineral oils stipulated in Section 134b, subsection 1, from another member state in the conditional tax exemption mode or in a free tax circulation or during their import from a third country, the obligation of marking and coloring thereof shall be secured by their recipient or importer prior to their entry to the tax territory of the Czech Republic. This shall not apply to the cases where mineral oils are transported in the conditional tax exemption mode to a tax warehouse according to Section 19, subsection 2.

(3) The producer and user of the mixture of the marking substance and color stipulated in the implementing statutory provision according to Section 134a, subsection 2, with the registered office on the tax territory of the Czech Republic, shall keep records of the marking substance and color as per the implementing statutory provision.

(4) The tax warehouse operator, recipient or importer who is obliged to mark and color the mineral oils stipulated in Section 134b, subsection 1, or who is obliged to secure such marking or coloring, upon tax administrator's or competent authority's request, shall submit a certificate as per the special statutory provision<sup>65f)</sup>.

(5) Corporate persons and individuals who shall buy or otherwise obtain the uncolored and uncolored mineral oils stipulated in Section 134b, subsection 1, with the intention to transport them to another member state in the conditional tax exemption mode or in a free tax circulation or export them to a third country, shall secure without delay marking and coloring thereof if they are not transported or exported. The obligations stipulated in subsections 1 and 2 shall apply for the stated corporate persons and individuals mutatis mutandis. Where such products have already been released to a free tax circulation, they shall be marked and colored in a tax warehouse. In such a case, these oils shall be released back to the conditional tax exemption mode and upon their receipt the tax warehouse operator shall be entitled to the tax refund.

(6) Corporate persons and individuals who produce, process, transport, store, buy or otherwise obtain, sell or consume the mineral oils stipulated in Section 134b within their business activity shall

a) produce, process, transport, store, buy or otherwise obtain, sell or consume such oils only under a trade license for such activities as per the special statutory provision governing trading; this shall not be applied to persons who sell, buy, transport or store such oils exclusively in a unit package of no more than 20 liters,

b) allow the tax administrator or competent authority to enter the buildings, premises and facilities used in the production, processing, transport, storage, purchase or other obtaining, sale or consumption thereof,

c) upon request, submit to the tax administrator or competent authority a relevant documentation and provide them with true and complete information connected with the production, processing, transport, storage, purchase or other obtaining, sale or consumption thereof,

d) allow the tax administrator or competent authority to take for free the required amount of the samples of such oils via a method stipulated by the implementing statutory provision,

e) pay the required costs connected with the performance of the analysis of a taken sample by an accredited person 65f), should the breach of the obligations stipulated by this act be ascertained upon such analysis.

(7) Corporate persons and individuals who produce, process, transport, store, buy or otherwise obtain, sell or consume the mineral oils stipulated in Section 134b within their business

activity shall hold and keep records of the kinds and amounts of such oils and of the specified methods of handling them in accordance with the implementing statutory provision.

(8) Corporate persons and individuals who produce, process or sell the mineral oils which, pursuant to Section 134b, subsection 2, letter f), may not be marked and colored shall

a) expressly state in the accompanying technical documentation and in the documents stipulated by this act that such oils may not be used as engine fuels,

b) except for the sale of the mineral oils in a unit package of no more than 20 liters to a non-enterprising individual, have the record of the buyer's declaration that he/she

1. meets the conditions as per subsection 10,

2. marking and coloring thereof should be a problem of their use and

3. such mineral oils shall not be used for purposes other than those for which they may not be marked or colored,

c) keeps the technical documentation and documents with respect to such oils for the period of 10 years from the day they commenced handling them in the method stipulated in subsection 6.

(9) Upon the seller's request, the corporate persons and individuals who buy the mineral oils stipulated in Section 134b, subsection 2, letter f), shall be obliged to issue a statement as per subsection 8, letter b), no later than prior to delivery thereof. This shall not apply to non-enterprising individuals buying the mineral oils in a unit package of no more than 20 liters.

(10) A recipient of the mineral oils stipulated in Section 134b, subsection 2, letter f), shall only be a person who

a) is demonstrably equipped with any of the technologies for which the marking or coloring of mineral oils should be a problem of their use or

b) sells or delivers such mineral oils to a person stipulated in letter a).

(11) The list of technologies as per subsection 10 is stipulated in the implementing statutory provision.

(12) The provision of subsection 8, letter a), shall not apply to the oils which demonstrably are or should be transported to other member states in the conditional tax exemption mode or in a free tax circulation or which are or should be exported to third countries, or

b) demonstrably are or should be transported between tax warehouses in the conditional tax exemption mode.

### **Section 134f**

It is prohibited to

a) dilute, remove or otherwise change the marking and coloring of the mineral oils stipulated in section 134b, subsection 1, outside a tax warehouse located on the tax territory of the Czech Republic which has a permission to mark and color such oils pursuant to Section 134g,

b) release the unmarked and uncolored mineral oils stipulated in Section 134b, subsection 1, to a free tax circulation,

c) offer for sale or use the marked and colored mineral oils stipulated in Section 134b, subsection 1, as engine fuels, except for stationary engines and gas turbines designed for the production of electric and thermal energy and except for the engines used in navigations on the waters on the tax territory of the Czech Republic, should the exemption from tax pursuant to Section 49, subsection 8, be applied to the mineral oils used for these navigations,

- d) transport and store the marked and colored mineral oils stipulated in Section 134b, subsection 1, in a container which is in connection with the engine or, tap such oils into such container,
- e) offer for sale or use the mineral oils stipulated in Section 134b, subsection 2, letter e) and f), for purposes other than those for which such mineral oils may not be marked and colored.

### **Permission for the Marking and Coloring of Selected Mineral Oils**

#### **Section 134g**

(1) The tax warehouse operator on the tax territory of the Czech Republic may mark and color the mineral oils stipulated in Section 134b, subsection 1, only under the permission for the marking and coloring of these oils (hereinafter only "the permission for marking". The decision on the permission for marking shall be made by the tax administrator upon the application submitted by the aforesaid tax warehouse operator.

(2) The marking and coloring of the mineral oils stipulated in Section 134b, subsection 1, without the permission for marking as per subsection 1 shall be deemed a material violation of this act.

(3) The application for the issuance of the permission for marking shall have the following particulars:

- a) the commercial name or the name, registered office and tax identification number of the applicant,
- b) the place of the tax warehouse in which the mineral oils stipulated in Section 134b, subsection 1, shall be marked and colored,
- c) the name or trade identification, if any, of the mineral oils stipulated in Section 134b, subsection 1 which shall be marked and colored,
- d) the estimated annual volume of the mineral oils stipulated in Section 134b, subsection 1 which shall be marked and colored,
- e) details on the installed equipment and the technical documentation of the equipment for marking and coloring of the mineral oils stipulated in Section 134b, subsection 1,
- f) the registration number of the applicant's tax warehouse, which has been assigned as per Section 20, subsection 12.

(4) Upon the tax administrator's call, the applicant shall submit and substantiate other details concerning the marking and coloring of the mineral oils stipulated in Section 134b, subsection 1.

#### **Section 134h**

(1) The tax administrator shall inspect the details stated in the application and in case of doubts about their correctness and completeness, it shall invite the applicant to specify, amend, supplement and substantiate the details and, concurrently, it shall state the period in which the applicant shall respond the call. After the time limit has elapsed in vain, the tax administrator shall adjourn the application. The tax administrator shall notify the applicant of the adjourned application.

(2) In the permission for marking, the tax administrator shall specify the facts pursuant to Section 134q, subsection 3, letters a) to c) and e) to f).

(3) The tax administrator shall decide on the application for the issuance of the permission for marking no later than within 60 calendar days after the commencement of the proceeding; in particularly complicated cases, it shall decide no later than within 90 calendar days; unless it may

decide due to the nature of the matter even within this period, it may be extended reasonably by the directly superordinate tax administrator. Unless the tax administrator is able to decide within 60 calendar days or within 90 calendar days, respectively, it shall notify the applicant thereof stating the reason.

(4) The tax administrator shall make the decision on the issuance of the permission for marking in two counterparts, of which one shall be received by the applicant and the other by the tax administrator.

(5) In the decision on the permission for coloring, the tax administrator shall determine the period of its validity, which commences upon the effect of such a decision. The tax administrator shall determine the period of validity of the permission for marking so that such a permission would be valid no less than until the end of the calendar year in which the decision on its granting became effective, no later than until the end of the third calendar year after the end of the year in which the decision on its granting was issued.

#### **Section 134i**

(1) The holder of the permission for marking shall apply for the issuance of a new permission for marking no later than three calendar months prior to the expiration of the period of validity of the previous permission for marking, if he/she intends uninterruptedly to color and mark the mineral oils which the previous permission for marking concerns.

(2) The holder of the permission for marking shall notify the tax administrator of each change of details stipulated in Section 134q, subsection 3, letter a), no later than until 5 calendar days after their occurrence. The holder of the permission for marking shall notify the change of the details stipulated in Section 134q, subsection 3, letters b), c) and e) prior to their occurrence.

(3) Should the details stipulated in Section 134q, subsection 3, letter a) change, the tax administrator shall issue a decision on the change of the original permission for marking. Should other facts and details stipulated in the permission for marking change, the tax administrator shall decide on the issuance of a new permission for marking and on the withdrawal of the previous permission for marking.

#### **Section 134j**

(1) The permission for marking shall cease to exist upon

- a) the lapse of the period for which it had been issued,
- b) the dissolution of the corporate person, where the holder of the permission for marking is a corporate person,
- c) the death of the holder of the permission for marking or upon the entry into legal force of the court ruling on the declaration of the death of the holder of the permission for marking,
- d) the entry into legal force of the court ruling on the declaration of the bankruptcy of the holder of the permission for marking, or
- e) upon the termination or withdrawal of the permission to operate a tax warehouse pursuant to Section 20, subsection 18 or 19,

(2) The tax administrator shall withdraw the permission if

- a) the holder of the permission for marking has violated obligations or bans stipulated in Section 134e and 134f,

- b) the facts upon which basis the permission was issued have changed and the holder of the permission for marking has not applied for their change, or
- c) the holder of the permission for marking shall apply for it.

#### **Section 134k**

##### **Breach of the Obligation with Respect to Marking and Coloring of Selected Mineral Oils**

(1) Should the tax administrator ascertain that the obligation with respect to marking and coloring of selected mineral oils has been violated, it shall immediately notify the Czech Trade Inspection Authority thereof.

(2) Should the Financial Administration Authority of the Czech Republic or Customs and Excise Authority of the Czech Republic ascertain that the obligation with respect to marking and coloring of selected mineral oils has been violated,

- a) it shall proceed as per the Tax Procedure Code, and
- b) notify without delay the tax administrator thereof.

#### **PART FIVE**

##### **MARKING OF CERTAIN OTHER MINERAL OILS<sup>65g)</sup>**

#### **Section 134l**

##### **Definition of Marking of Certain Other Mineral Oils**

- (1) Marking certain other mineral oils means an even blending of a marking substance in these oils.
- (2) The type of the marking substance and its minimal quantity per 1 liter of certain other mineral oils not mentioned in Part Four and the method of its registration is defined by an implementing regulation.

#### **Section 134m**

##### **Subject of the Marking of Certain Other Mineral Oils**

- (1) Except the instances stated in subsections 2 and 4, the following mineral oils are subject to marking:
  - a) benzene, toluene, xylene, other aromatic hydrocarbon mixtures and light crude oils listed under nomenclature codes 2707 10 10, 2707 20, 2707 30, 2707 50 and 2707 99 11,
  - b) medium oils listed under nomenclature codes 2710 19 11 and 2710 19 15,
  - c) heavy gas oils listed under nomenclature codes 2710 19 31 and 2710 19 35,

- d) heavy fuel oils listed under nomenclature codes 2710 19 51, 2710 19 55, 2710 19 61, 2710 19 63, 2710 19 65 and 2710 19 69 and possessing at least two of the following characteristics:
    - 1) Kinematic viscosity at 40°C is less than 12mm<sup>2</sup>. s<sup>-1</sup> including,
    - 2) Density at 15°C is over 784kg. m<sup>-3</sup> including and less than 913 kg. m<sup>-3</sup> including,
    - 3) during a distilling test according to the method defined by ČSN ISO 3405 at least 20% of the volume redistills below 350°C including losses, except heavy fuel oils determined for use as engine oil,
  
  - e) lubricating oils listed under nomenclature codes 2710 19 71, 2710 19 75, 2710 19 81, 2710 19 83, 2710 19 87, 2710 19 91 and 2710 19 99 possessing the following characteristics:
    - 1) Kinematic viscosity at 40°C is less than 12mm<sup>2</sup>. s<sup>-1</sup> including,
    - 2) the point of inflammation per the Pensky-Martens open cup method is below 150°C including,
    - 3) during a distilling test according to the method defined by ČSN ISO 3405 at least 20% of the volume redistills below 350°C including losses, while it suffices that such oil possesses the characteristic defined in point 1 and at least one of the characteristics defined in points 2 and 3,
  
  - f) acyclic saturated hydrocarbons and other acyclic hydrocarbons listed under nomenclature codes 2901 10 10, 2901 29 20 and 2901 29 80,
  
  - g) toluene, o-xylene, m-xylene, p-xylene and mixed xylenes listed under nomenclature codes 2902 30 00 and 2902 41 to 44,
  
  - h) Organic composite solvents listed under the nomenclature code 3814 00 90.
- (2) The following items may not be marked according to the rules set out in Section 134n
- a) mineral oils other than those listed in subsection 1,
  - b) kerosene listed under the nomenclature code 2710 19 21,
  - c) mineral oils determined for specific processing listed under nomenclature codes 2710 19 11, 2710 19 31, 2710 19 51 and 2710 19 71,
  - d) mineral oils determined for chemical processing listed under nomenclature codes 2710 19 15, 2710 19 35, 2710 19 55 and 2710 19 75; however, using these oils as an element for mineral oil production by mixing,
  - e) white and medicinal oils listed under the nomenclature code 2710 19 85,
  - f) electro-insulation oils listed under the nomenclature code 2710 19 93,
  - g) Mineral oils listed in subsection 1 used as elements for the production of mineral oils determined for combustion engines,
  - h) Mineral oils listed in subsection 1, letters a) and f) till e) in which marking impairs their use,
  - i) Mineral oils listed in subsection 1, letters a) and f) till h) in which marking impairs their use,
  - j) Mineral oils listed in subsection 1, packed in units under 20 liters.
- (3) The list of the mineral oils referred to in subsection 2, letters h) and i), in which marking impairs their use, is defined by an implementing regulation.
- (4) The marking is not mandatory for mineral oils referred to in subsection 1, which are, or are to be transported to other Member States under conditional tax exemption, in a tax free circulation or out of these modes, or which are, or are to be, exported to third countries.



## Section 134n

### **Principles of Marking of Certain Other Mineral Oils**

- (1) Mineral oils listed in Section 134m, subsection 1 must be marked at all times when they are in the tax territory of the Czech Republic, unless this Act stipulates otherwise (Section 134m, Section 4 and Section 134p, subsection 1).
- (2) The mineral oils referred to in Section 134m, subsection 1, may only be marked on the tax territory of the Czech Republic by the producer, who is equipped with a metering and mixing device for marking of these oils or by the operator of a tax warehouse in the event that the selected products are subject to the conditional tax exemption mode according to Section 59, subsection 1 and have not yet been put into tax free circulation.
- (3) Mineral oils listed in Section 134m, subsection 1 shall be assessed in terms of their marking substance content through certification pursuant a special regulation<sup>65F)</sup>.
- (4) Mineral oil listed Section 134m, subsection 1, marked differently than specified by this Act shall be treated as unmarked mineral oils.

## Section 134o

### **Export of Certain Other Mineral Oils**

Legal entities and individuals for which mineral oils mentioned in Section 134m, subsection 1, intended for export, have been manufactured or put into tax free circulation, are required to submit at the moment of the termination of production, or of starting a tax free circulation, their customs declaration to the customs office for the release of these oils into the export mode or transit mode of the European Communities. In such a case where the export does not take place or the transit mode of the European Communities is dropped, these persons are obliged to mark the oils if they have not been marked yet. If the oils released into tax free circulation have been admitted to marking by the tax warehouse operator, by the date of their receipt into the tax warehouse they re-enter the conditional tax exemption mode.

### **Obligations and Prohibitions when Marking Certain Other Mineral Oils**

## Section 134p

- (1) The producer is obliged to carry out the marking of mineral oils stated in Section 134m, subsection 1, at their departure from the manufacturing plant or, in the case of a tax warehouse operator, before they are put into a tax free circulation at the latest.
- (2) When transporting mineral oils listed in Section 134m, subsection 1, from another Member State under the conditional tax exemption mode, within a tax free circulation or out of these modes or when importing them from a third country, it is the duty of their recipient or importer to ensure their marking yet before they enter the tax territory of the Czech Republic. This does not apply to the cases of mineral oils transported under the conditional tax exemption mode into a tax warehouse pursuant to Section 19, subsection 2.

- (3) The producer and user of the marking substance specified in the implementing regulation pursuant Section 134l, subsection 2, with headquarters in the tax territory of the Czech Republic, is obliged to keep records of the marking substance in accordance with the implementing legal regulation.
- (4) The producer, recipient or importer for whom marking mineral oils listed in Section 134m, subsection 1, is mandatory, or who is obliged to ensure such marking, shall present a certificate in accordance with a special legal regulation<sup>65f)</sup> at the request of the tax administrator or of a relevant body.
- (5) Legal entities and individuals who purchase or otherwise acquire unmarked mineral oils referred to in Section 134m, subsection 1, with the intent of transporting them to another Member State under the conditional tax exemption mode, in a tax free circulation or out of these modes, or of exporting to them to a third country, are obliged to ensure without delay the marking of these oils if their transport or export does not take place. The above mentioned legal entities and individuals are equally bound by the obligations defined in subsections 1 and 2. If these products become subject to the conditional tax exemption mode while they have already been put into tax free circulation, they must be marked in the tax warehouse. In such a case, these oils -enter the conditional tax exemption mode and the tax warehouse operator becomes entitled by the date of their receipt to a tax refund.
- (6) Legal entities and individuals that produce, process, transport, store, buy or otherwise acquire, sell or consume mineral oils listed in Section 134m in the course of their business activities mineral oil are obliged to
  - a) Produce, process, transport, store, buy or otherwise acquire, sell or consume these oils solely based on a trade license for these activities according to a specific regulation governing business activities; this does not apply to entities which buy, sell, transport or store these oils exclusively in units of packaging under 20 liters,
  - b) Enable the tax administrator or another competent authority access to buildings, premises and facilities used in the production, processing, transportation, storage, purchase or other acquisition, in the sale or consumption of these oils,
  - c) Present the tax administrator or another competent authority the appropriate documentation and provide truthful and complete information in relation to the production, processing, transportation, storage, purchase or other acquisition, sale or consumption of these oils,
  - d) Enable the tax administrator or another competent authority free of charge the taking of samples of these oils in a required quantity and by the method specified within the implementing legal regulation,
  - e) Cover the necessary costs associated with carrying out the analysis of the samples taken by an accredited person<sup>65f)</sup> where this analysis revealed a breach of the obligations established per this Act.
- (7) Legal entities and individuals that produce, process, transport, store, buy or otherwise acquire, sell or consume mineral oils mentioned in Section 134m within their business activities, keep and maintain a record of the types and quantities of these oils and of any above mentioned way of manipulation with them.

- (8) Legal entities and individuals that produce, process or sell such mineral oils which may not be marked pursuant to Section 134m, subsection 2, letter c) till i) in the manner referred to in subsection 6, are obliged to
- a) State expressly in the accompanying technical documentation and documents defined per this Act for these oils that these oils may not be used as engine oil,
  - b) Keep in the records of the purchase or sale of these oils a statement of the purchaser that the marking of these oils impairs their use or that they shall not be used as engine oil or for the production of fuels and lubricants under a specific regulation<sup>65e)</sup>,
  - c) Keep in the records of the purchase or sale of these oils a statement of the purchaser that they comply with the conditions laid down in subsection 10; this does not apply to the purchase or sale of mineral oils listed in Section 134m, subsection 2, letter i),
  - d) Keep the technical documentation and documents related to the oils for the period of 10 years of the day when they began manipulate them in the manner referred to in Section 6.
- (9) Legal entities and individuals that purchase mineral oils listed in Section 134m, subsection 2, letter c) till i), are obliged to issue at the request of the seller and before the day of having these oils released to them at the latest a declaration pursuant Section 8, letter b). This does not apply to non-enterprising individuals purchasing these oils in unit packages under 20 liters.
- (10) Only such person or entity may become the purchaser of mineral oils which
- a) Can prove it is equipped with one or more of the technologies which Legal entities and individuals that produce, process or sell such mineral oils marked mineral oils, or
  - b) Sells or supplies these mineral oils or sold to an entity or person referred to in letter a).
- (11) The list of technologies under subsection 10 is defined by an implementing regulation.
- (12) Persons or entities purchasing mineral oils listed in Section 134m, subsection 2, letter h) are obliged to issue at the request of the seller and before the day of having these oils released to them at the latest a declaration pursuant Section 8, letter c). This does not apply to non-enterprising individuals purchasing these oils in unit packages under 20 liters.
- (13) Provisions of subsection 8, letter a) do not apply to mineral oils that
- a) Are provably being or shall be transported into other Member States under the conditional tax exemption or in the tax free circulation modes, or which are being or shall be provably exported into third countries, or
  - b) Are provably or shall be transported between tax warehouses under the conditional tax exemption mode.

#### Section 134q

It is forbidden to

- a) dilute, remove or otherwise alter the marking of mineral oils referred to in Section 134m, subsection 1,

- b) put into tax free circulation or sell unmarked mineral oils listed in Section 134m, subsection 1,
- c) offer for sale or be using marked mineral oils listed in Section 134m, subsection 1, as engine oil
- d) transport and store marked mineral oils listed in Section 134m, subsection 1 in a container which is in conjunction with an engine, or to tap them off into such containers,
- e) offer for sale or use as engine oil the mineral oils that may not be marked pursuant to Section 134m, subsection 2, letter c) till j),
- f) offer for sale or use as engine oil the mineral oils listed in Section 134m, subsection 2, letter h) till i) for other purposes than those for which their marking is forbidden.

### **Basic Provisions on the Marking of Certain Other Mineral Oils**

#### Section 134r

- (1) A corporate person or individual listed in Section 134p, subsection 1, in the tax territory of the Czech Republic may be marking mineral oils listed in Section 134m, subsection 1, solely based on the permission for marking of these oils (hereinafter only referred to as “the marking permission”). The tax administrator decides on issuing a marking permission based on a proposal submitted by this person or entity.
- (2) Marking mineral oils listed in Section 134m, subsection 1, without the permission pursuant to subsection 1 is deemed a grave breach of this Act.
- (3) The proposal to the issuance of a marking permission must include the following requisites:
  - a) Company name, address and tax identification number of the proponent,
  - b) The place where the marking of mineral oils listed in Section 134m, subsection 1 shall be done,
  - c) The name, alternatively the trade name of the mineral oils listed in Section 134m, subsection 1, to be marked,
  - d) The estimated annual quantity of mineral oils listed in Section 134m, subsection 1, to be marked,
  - e) The specification of the installed equipment and the technical documentation of the marking equipment for mineral oils listed in Section 134m, subsection 1,
  - f) The registration number of the tax warehouse of the proponent where such number was issued pursuant to Section 20, subsection 12.
- (4) At the request of the tax administrator, the proponent is obliged to state and provide evidence of further data regarding the marking of mineral oils listed in Section 134m, subsection 1.

#### Section 134s

- (1) The tax administrator shall verify the data stated in the proposal and in the case of doubt on their correctness and entirety they shall call upon the proponent to elaborate more closely on the data, change it, amend and provide evidence of, while also stating a due period within which the proponent is obliged to respond to the call. After the expiry of the defined period, the tax administrator shall lay the matter aside. The proponent shall be notified in writing of the laying aside of the proposal.

- (2) In the marking permission, the tax administrator shall state the facts pursuant to Section 134r, subsection 3, letter a) till c) and e) till f).
- (3) The tax administrator shall decide on the proposal on issuing of a marking permission within 60 calendar days of the launch of the proceedings; in particularly complicated cases, they shall decide within 90 calendar days at the latest; if the nature of the matter makes it impossible for a decision to be issued within this period, the immediate superior to the tax administrator may adequately extend it. If the tax administrator is not able to issue a decision within 60 calendar days, or within 90 calendar days, they are obliged to notify the proponent of it stating the reason.
- (4) The tax administrator shall produce the decision on issuing of a marking permission in two counterparts, one of which is intended for the proponent and the other one for the tax administrator.
- (5) In the decision on the marking permission, the tax administrator shall determine the period of its validity starting as of the date of the legal effectivity of the decision. The tax administrator shall determine the period of validity of the marking permission so that it remains valid until the minimum of the end of the calendar year in which the decision on its granting took legal effect, however, until the end of the third calendar since the end of the year in which the decision was issued.

#### Section 134t

- (1) The holder of a marking permission is obliged to request a new one three calendar months before the expiration of the previous permission at the latest if they intend to continue marking the mineral oils subject to the previous permission without interruption.
- (2) The holder of a marking permission is obliged to report to the tax administrator any changes of the data stated under Section 134r, subsection 3, letter a) within 5 working days of the emergence of the changes. Any changes of the data stated under Section 134r, subsection 3, letter b), c) and e) shall be mandatorily reported by the holder of a marking permission prior to their occurrence.
- (3) If a change occurs to the data stated under Section 134r, subsection 3, letter a), the tax administrator shall issue a decision on the amendment of the original marking permission. If other data or facts stated in the marking permission change, the tax administrator shall decide on the issuance of a new marking permission and on the revoking of the original marking permission.

#### Section 134u

- (1) The marking permission ceases to exist
  - e) By the expiry of the period for which it was issued
  - f) By the conclusion of the corporate person where the holder of the marking permission is a corporate person,
  - g) By the death of the holder of the marking permission or by the day of a court decision declaring the holder of the marking permission dead coming into force, or
  - h) By the day of a court decision declaring the holder of the marking permission bankrupt coming into force.

- (2) The tax administrator shall revoke the marking permission if
- a) the holder of the marking permission breaches the duties or bans stated in Section 134p and 134q,
  - b) the facts underlying the issuance of the marking permission have changed and the holder of the permission has not asked that it be changed, or
  - c) if the holder of the marking permission requests it.

Section 134v

**A Breach of the Obligation to Mark Certain Other Mineral Oils**

- (1) Where tax administrator finds out that a duty has been violated relating to the marking of certain other mineral oils, they shall report it promptly to the Czech Trade Inspection.
- (2) If a body of the Financial Administration of the Czech Republic or a body of the Customs Administration of the Czech Republic finds out a duty has been violated relating to the marking or coloring of certain other mineral oils,
- a) Shall proceed in line with the tax code and
  - b) Convey this fact to the tax administrator without delay.

PART SIX  
**ADMINISTRATIVE OFFENCES**

TITLE I  
VIOLATIONS

Volume 1

**Violations as regards Mineral Oil Tax Administration**

Section 135

**Violations against the Storage of Liquefied Petroleum Gases**

- (1) An individual commits a violation by relating to the handling of liquefied petroleum gases specified in Section 45, subsection 1, letters e), f) or g) to those in a tax free circulation by
- a) storing them together in the same container,
  - b) storing them separately in containers which
    - 1. are not technologically divided, or
    - 2. are mutually joined,
  - c) as they are drawn in a liquefied state, not storing them in a tank which is firmly connected to the ground, or
  - d) as they are drawn in a liquefied state, storing them in a tank which is firmly connected to the ground, but which is not used in accordance with the Construction Act.
- (2) A violation under subsection 1 may be fined up to CZK 1 000 000.

Section 135a

**Violations against the Handling of Liquefied Petroleum Gases**

- (1) An individual as a person buying or obtaining liquefied petroleum gases specified in Section 45, subsection 1, letters e), f) or g) in a tax free circulation mode pro the purpose of resale, commits a violation if he/she receives or sells these gases without a permission to purchase liquefied petroleum gases that had been put into a tax free circulation.
- (2) An individual as a person buying or obtaining liquefied petroleum gases Section 45 Art. 1 letter f) or g) for their own use exceeding 20 tons per calendar year commits an offence by admitting or selling these gases without a permit to purchase liquefied petroleum gases put into a free tax circulation.
- (3) An individual commits a violation by
  - a) issuing liquefied petroleum gases specified in Section 45, subsection 1, letter f) or g) to a person without a permission to purchase liquefied petroleum gases which have been put into tax free circulation,
  - b) contrary to Section 60, subsection 5, 6 or 7, selling liquefied petroleum gas specified in Section 45, subsection 1, letter e), f) or g) at a price including the tax calculated on the basis of the higher tax rate, or
  - c) by initiating transportation of liquefied petroleum gases listed in Section 45, subsection 1, letter f) or g) without making a guarantee tax payment for the transportation of these gases according to Section 60, subsection 11.
- (4) An individual that fills liquefied petroleum oils specified in Section 45, subsection 1, letter f) or g) into pressurized containers to carry a load up to 40kg including container weight, commits a violation by
  - a) Not using a mass flowmeter,
  - b) Using a mass flow meter which does not incorporate electronic records of the issued liquefied petroleum gases that meet the statutory requisites, or by
  - c) Using a mass flow meter which includes electronic records of the issued liquefied petroleum gases that meet the statutory requisites, however, which has not been sealed by the tax administrator at all times.
- (5) A violation under subsections 1 till 4 can be fined up to CZK 1 000 000.

Volume 2

**Violations as regards the Administration of the Tax on Beer**

Section 135b

**Violations against the Reporting Duty of a Person producing Beer for their own Use**

- (1) An individual commits a violation against Section 80, subsection 1, as person producing beer by failing to report to the tax administrator within the defined period
  - a) The date of the start of the production
  - b) The place of the production, or
  - c) The estimated quantity of beer produced per calendar year.
- (2) A violation against subsection 1 may be fined up to CZK 50 000.

## **Volume 3**

### **Misdemeanors in the Administration of the Tax on Tobacco Products**

#### **Section 135c**

##### **Violations as regards the Unit of Packaging**

- (1) An individual commits a violation by selling tobacco products other than enclosed unit packaging with an intact tobacco stamp.
- (2) A violation under subsection 1 may be fined up to CZK 50 000.

#### **Section 135d**

##### **Violation against the Prohibition of a Purchase at a Price Lower than the Final Consumer Price**

- (1) An individual as the end consumer commits a violation by buying cigarettes at a price lower than the final consumer price stated on the tobacco label.
- (2) A violation under subsection 1 may be fined up to CZK 50 000.

#### **Section 135e**

##### **Violations against the handling of tobacco products**

- (1) An individual commits a violation by holding or otherwise handling, in the tax territory of the Czech Republic, without an authorization, tobacco products unmarked with a valid tobacco stamp.
- (2) A violation under subsections 1 till 4 can be fined up to CZK 1 000 000.

## **Volume 4**

### **Misdemeanors against the Restrictions of the Sale of Spirits and Tobacco Products**

#### **Section 135f**

##### **Violations against the Ban on the Sale of Spirits and Tobacco Products**

- (1) An individual commits a violation by breaching the ban on the sale of spirits or ban the sale of tobacco products in accordance with Section 133.
- (3) A violation under subsection 1 may be fined up to CZK 1 000 000.

#### **Section 135g**

##### **Offences against the Reporting Duty when Selling Spirits at Public Events**

- (1) An individual commits a violations as a person selling spirits at publicly accessible sports and cultural events, including dancing events and discos, by
  - a) Failing to report this activity in writing to the tax administrator of the area of where the sale is to take place, or when



- b) The written report of this activity does not contain the data of
  - 1. The person that shall be selling the spirits,
  - 2. The time range of the sale of the spirits,
  - 3. The types of spirits sold, or
  - 4. The quantity of the spirits sold.

(2) A violation under subsection 1 may be fined up to CZK 1 000 000.

## **Volume 5**

### **Misdemeanors in the Marking and Coloring of Specific Mineral Oils**

#### Section 135h

#### **Violations against the Ban on Marking and Coloring of Specific Mineral Oils**

- (1) An individual commits a violation by engaging in the following actions concerning minerals oils specified in Section 134b, subsection 1,
  - a) Diluting, removing or otherwise modifying the marking or coloring of the oils that are marked and colored, doing so outside a tax warehouse holding a permission as to the coloring of these oils,
  - b) Putting into a tax free circulation any oils that are not marked or colored,
  - c) Offering for sale or using as engine oil any oils that are marked and colored, or
  - d) Transporting or storing any marked and colored oils in a container connected to a motor, or tapping them off into such a container.
- (2) An individual commits a violation by offering for sale or using as engine oil any oils that may not be marked pursuant Section 134b, subsection 2, letter e) till f).
- (3) A violation against subsection 1 or 2 can be fined up to CZK 1 000 000.

## **Volume 6**

### **Misdemeanors in the Marking of Certain Other Mineral Oils**

#### Section 135i

#### **Violations against the Ban on the Marking of Certain Other Mineral Oils**

- (1) An individual commits a violation by engaging in the following actions concerning minerals oils specified in Section 134m, subsection 1,
  - a) Diluting, removing or otherwise modifying their marking,
  - b) Putting into a tax free circulation or selling any unmarked oils,
  - c) Offering for sale or using as engine oil any marked oils, or
  - d) Transporting or storing any marked oils in a container connected to a motor, or tapping them off into such a container.
- (2) An individual commits a violation by offering for sale or using as engine oil any oils that may not be marked pursuant Section 134m, subsection 2, letter h) till i).
- (3) An individual commits a violation by offering the minerals oils specified in Section 134m, subsection 2, letter c) till j) for sale or using them for other purposes that those for which they may not be marked or colored.

- (4) A violation against subsection 1 or 3 can be fined up to CZK 1 000 000.

TITLE II  
ADMINISTRATIVE OFFENCES OF CORPORATE AND ENTERPRISING NATURAL PERSONS

**Volume 1**  
**Administrative Offences in the Domain of Excise Tax Administration**

Section 135j

**Administrative Offence against the Placement of a Specific Admitted Product**

- (1) A corporate person or an individual commits an administrative offence as a user by failing to place the specific admitted product within the defined period at the place which is stated in the specific permit.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 1 000 000.

Section 135k

**Administrative Offence against the Reporting Duty on Changes to Data Stated in the Specific Permit**

- (1) A corporate or enterprising individual commits an administrative offence as a user by failing to report a change of the data they stated in the proposal for the issuance of a special permission, which the tax administrator cited in the permission, to the tax administrator within the defined period.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 50 000.

Section 135l

**Administrative Offense against Conditional Tax Exemption**

- (1) A corporate person or an enterprising individual commits an administrative offense, contrary to Section 19 subsection 4 places the selected products to a tax warehouse otherwise than under the conditional exemption.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 10 000 000.

Section 135m

**Administrative Offence against the Reporting Duty on Changes to Data or Facts in Permissions or Decisions**

- (1) A corporate person or enterprising individual commits an administrative offence by failing to report through the tax administrator to the relevant local tax warehouse the changes to facts and data stated in the permission for the operation of a tax warehouse.
- (2) A corporate person or enterprising individual commits an administrative offence as an authorized recipient by failing to report to the tax administrator any changes to the data stated in the permission for a recurring admission of selected products.

- (3) A corporate person or enterprising individual commits an administrative offence as a tax warehouse operator or authorized recipient by failing to report to the tax administrator within the defined period a change to the facts based on which the decision on the decreasing of the tax and data stated in the permission for the operation of a tax warehouse.
- (4) An administrative offence under subsection 1 till 3 shall be fined up to CZK 100 000.

#### Section 135n

##### **Administrative Offences against Guarantee Tax Payment**

- (1) A corporate person or enterprising individual commits an administrative offence as a tax warehouse operator or authorized recipient by failing to comply with the obligation of
  - a) continuously monitoring the level of the guarantee tax payment, or
  - b) handing down to the tax administrator the registration data as requested relating to the tax liability that arose during the production or by the adoption of selected products.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 10 000 000.

#### Section 135o

##### **Administrative Offences against Electronic Accompanying Document at the Termination of Transportation of Selected Products within the Conditional Tax Exemption Mode**

- (1) A corporate person or an enterprising individual as the recipient of selected products admitted under the conditional tax exemption mode commits an administrative offence by
  - a) failing to report within the defined period to the relevant local place of admittance an admittance of selected products via the electronic system, or
  - b) failing to define the losses and degradation that occurred during the transportation.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 200 000.

#### Section 135p

##### **Administrative Offences against Transportation of Selected Products Put to Tax Free Circulation in another Member State for Business Ends**

- (1) A corporate person or an enterprising individual as the recipient of selected products commits an administrative offence by
  - a) failing to report their quantity, or
  - b) Failing to ensure the mandatory tax guarantee.
- (2) An administrative offence under subsection 1 shall be fined up to 100 000 CZK.

#### Section 135q

##### **Administrative Offences against Sending Selected Products off to another Member State for Business Ends**

- (1) A corporate person or an enterprising individual as the sender of selected products that had been put into tax free circulation on the territory of the Czech Republic and were transported into another Member State for business ends commits an administrative offense by
  - a) failing to report in writing to the tax administrator the beginning of the transportation of selected products before it has begun, or
  - b) failing to state the date of the beginning of transportation in the written notification.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 200 000.

#### Section 135r

##### **Administrative Offences against Sending Selected Products**

- (1) A corporate person or an enterprising individual as the tax representative for the sending of selected products commits an administrative offense by failing to, prior to sending selected products from another Member State
  - a) Report in writing to the relevant local tax administrator the legally requisite data, or
  - b) Ensure the tax guarantee in the manner required by law.
- (3) An administrative offense under subsection 1 shall be fined up to CZK 50 000.

#### Section 135s

##### **Administrative Offences against the Reporting Duty on Changes to Data Stated in the Permission on Nominating a Tax Representative for the Sending of Selected Products**

- (1) A corporate person or an enterprising individual as the tax representative for the sending of selected products commits an administrative offence by failing to report within the stated period to the tax administrator any changes to the data stated in the proposal for the issuance of a permission on the nomination of a tax representative for the sending of selected products which the tax administrator stated in this permission, reporting on the person
  - a) That shall be sending the selected products, or
  - b) That stands as the tax representative.
- (2) A person revoking the power of attorney to representation commits an administrative offence by failing to report this fact within the stated period to the tax administrator.
- (3) An administrative offense under subsection 1 till 2 shall be fined up to 50 000 CZK.

#### Section 135t

##### **Administrative Offence against the Reporting Duty on Changes to Data Stated in the Permission on the Sale at Prices excluding Tax**

- (1) A corporate person or an enterprising individual as the holder of the permission for sale at prices excluding tax commits an administrative offence by failing to report within the stated period to the tax administrator any changes to the fact or data stated in the proposal for the issuance of this permission.

(2) An administrative offense under subsection 1 shall be fined up to 50 000 CZK.

**Volume 2**  
**Administrative Offences in the Domain of Mineral Oil Tax Administration**

**Paragraph 1**

**Administrative Offences against the Purchase, Sale and Transportation of Liquefied Petroleum Gases Put into Tax Free Circulation**

Section 135u

**Administrative Offenses against the Storage of Liquefied Petroleum Gases**

- (1) A corporate or an enterprising individual commits an administrative offense if liquefied petroleum gases specified in Section 45, subsection 1, letters e), f) or g) which had been put into a tax free circulation
- a) are stored together in the same storage tank,
  - b) are stored separately in storage tanks, which
    - 1. are not technologically separated, or which
    - 2. are mutually connected,
  - c) which are drawn from storage tanks in the liquefied form are not being stored in a storage tank that is firmly connected to the ground, or
  - d) which are drawn from storage tanks in the liquefied form are not being stored in a storage tank that is firmly connected to the ground, or
  - e) which are drawn from storage tanks in the liquefied form are being stored in a storage tank fixed to the ground which is not used in accordance with the Construction Act.
- (2) An administrative offense under subsection 1 shall be fined from CZK 50 000 to CZK 1 000 000.

Section 135v

**Administrative Offenses against the Transportation of Mineral Oils Exempt from Tax on the Tax Territory of the Czech Republic**

- (1) A corporate person or an enterprising individual as the sender of mineral oils that are exempt from tax pursuant to Section 49, subsection 1, 2, 6 or 8 commits an administrative offence by failing to ensure the tax guarantee in a manner determined by the law during the transportation of these oils.
- (2) A corporate person or an enterprising individual as the sender of liquefied petroleum gases listed in Section 45, subsection 1, letters e), f) or g) that are exempt from tax commits an administrative offence by failing to ensure a tax guarantee amounting to the minimum of the sum of the tax that would have been declared and paid, had these gases been determined as engine oil.

- (3) A corporate person or an enterprising individual as the sender of mineral oils that are exempt from tax commits an administrative offence by failing to
- a) Notify the local tax administrator, relevant according to the place of the commencement of the shipment, of the beginning of transportation of these oils,
  - b) Starting the transportation of these oils despite objections by the tax administrator,
  - c) Comply with the following as stated by the tax administrator
    1. The due period of termination of the transportation of these oils, or
    2. The route via which these oils are supposed to be transported, or
  - d) In the case of a change to the destination or recipient which occurred during the transportation of these oils, within the stated period
    1. Report this change to the tax administrator, or
    2. Secure the registration of this change in the document on the exemption of selected products from tax.
- (4) An administrative offence shall be fined up to
- a) CZK 500 000 in the case of an administrative offence under subsection 1, or
  - b) CZK 1 000 000 in the case of an administrative offence under subsection 2 or 3.

#### **Administrative Offences against the Handling of Liquefied Petroleum Gases**

##### Section 135w

- (1) A corporate person or an enterprising individual purchasing or acquiring liquefied petroleum gases listed in Section 45, subsection 1, letters e), f) or g) that are in a tax free circulation in order to resell them commits an administrative offence by admitting or selling these gases without a permission for the purchasing of liquefied petroleum that have been put into a tax free circulation.
- (2) A corporate person or an enterprising individual purchasing or acquiring liquefied petroleum gases listed in Section 45, subsection 1, letter f) or g) for their own use which exceeds 10 tons per single calendar year, commits an administrative offence by admitting or selling these gases without a permission for the purchasing of liquefied petroleum gases that have been put into a tax free circulation.
- (3) A corporate person or an enterprising individual commits an administrative offence by the following actions concerning liquefied petroleum gases listed in Section 45, subsection 1, letter f) or g)
- a) Issuing them to a person without a permission to purchase liquefied petroleum gases that have been put into a tax free circulation, or
  - b) When importing them, fails to put them into the conditional tax exemption mode within the stated period after they had been released into a tax free circulation mode.
- (4) A corporate person or an enterprising individual commits an administrative offense by, contrary to Section 60, subsection 5, 6 or 7, selling liquefied petroleum gases specified in Section 45, subsection 1, letter e), f) or g) at a price including tax calculated on the basis of the higher tax rate.

- (5) An administrative offense under subsections 1 to 4 shall be fined from CZK 50 000 to CZK 1 000 000.

#### Section 135x

- (1) A corporate person or an enterprising individual commits an administrative offense by
- a) Transporting liquefied petroleum gases specified in Section 45, subsection 1, letter e), f) or g) with a different tax rate, after their release into a tax free circulation, together in the same vehicle or a set of vehicles, or
  - b) Commencing the transportation of liquefied petroleum gases specified in Section 45, subsection 1, letter f) or g) without ensuring the guarantee tax for the transportation of these gases pursuant to Section 60, subsection 11.
- (2) A corporate person or an enterprising individual buying for business purposes liquefied petroleum gases subject to tax under Section 45, subsection 1, letter f) or g) which have been released into a tax free circulation in another Member State commits an administrative offense by failing to ensure a tax guarantee amounting to the minimum of the sum of the tax that would have been declared and paid, had these gases been determined as engine oil.
- (3) A corporate person or an enterprising individual as a person who fills liquefied petroleum gases specified in Section 45, subsection 1, letter f) or g) in pressurized containers to carry a load up to 40kg including container weight commits an administrative offense by
- a) Not using a mass flowmeter,
  - b) Using a mass flow meter which does not incorporate electronic records of the issued liquefied petroleum gases that meet the statutory requisites, or by
  - c) Using a mass flow meter which includes electronic records of the issued liquefied petroleum gases that meet the statutory requisites, however, which has not been sealed by the tax administrator at all times.
- (4) A violation under subsections 1 till 3 can be fined from CZK 50 000 till CZK 1 000 000.

#### Section 135y

##### **Administrative Offence against the Reporting Duty when Changing Data Stated on the Permission to Purchase Liquefied Petroleum Gases Put into Tax Free Circulation**

- (1) A corporate person or enterprising individual commits an administrative offence as the holder of the permission to purchase liquefied petroleum oils that have been put to tax free circulation by failing to report to the tax administrator any changes to the facts stated in the proposal for the issuance of this permission which have been stated in the permission by the tax administrator.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 50 000.

#### Section 135z

##### **Administrative Offence against the Reporting Duty on Purchase or Import of Products with Ethanol Content**

- (1) A corporate person or enterprising individual commits an administrative offence as the person who buys or imports products with ethanol content exempt from tax pursuant to Section 71, subsection 1, letter c) by failing to report to the tax administrator within the particular calendar year the first purchase or import of products with ethanol content.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 100 000.

#### Section 135za

##### **Administrative Offences against Transportation of Ethanol Exempt from Ethanol Tax on the Tax Territory of the Czech Republic**

- (1) A corporate person or an enterprising individual as the sender of ethanol that has been exempt from tax under Section 71, subsection 1, letters a) and d) commits an administrative offence by failing to ensure the mandatory tax guarantee.
- (2) A corporate person or an enterprising individual commits an administrative offence by transporting on the tax territory of the Czech Republic generally denatured ethanol pursuant to the Act on ethanol determined for the production of mineral oils stated under Section 45, subsection 2 or on the production of ethyl tertiary-butyl ether without the simplified accompanying document.
- (3) The administrative offence shall be fined up to
  - a) CZK 1 500 000 in the case of an administrative offence under subsection 1, or
  - b) CZK 100 000 in the case of an administrative offence under subsection 2.

#### Section 135zb

##### **Administrative Offences against the Reporting of the Sale of Spirits**

- (1) A corporate person or an enterprising individual which intends, within its business activities, to sell spirits released into a tax free circulation at a lower price than the price which is an equivalent to the sum of the tax and of the corresponding amount of value added tax, commits an administrative offence by
  - a) Failing to report such a sale to the tax administrator within the stated period, or
  - b) Failing to state the mandatory data in the report on such a sale.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 1 500 000.

#### Volume 4

##### **Administrative Offences in the Domain of Beer Tax Administration**



Section 135zc

**Administrative Offences against the Reporting Duty on Size Classification**

- (1) A corporate person or an enterprising individual as a small independent brewery commits an administrative offense by failing to report to the tax administrator
  - a) Its ranking as regards size class, or
  - b) A change of its ranking as regards size class.
- (2) An administrative offence pursuant to subsection 1 shall be fined up to CZK 250 000.

**Volume 5**

**Administrative Offenses in the Domain of Wine and Intermediate Products Tax Administration**

Section 135zd

**Administrative Offence against the Reporting Duty on the Admittance of Still Wine from Another Member State**

- (1) A corporate person or enterprising individual commits an administrative offence as a tax warehouse operator who admits still wine produced by a small wine producer from another Member State into a tax warehouse by failing to report this admittance, within the stated period by the method defined by law, to the tax administrator locally relevant to the admitting tax warehouse.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 50 000.

Section 135ze

**Administrative Offence against the Reporting Duty of a Small Wine Producer**

- (1) A corporate person or enterprising individual commits an administrative offence as a small wine producer by failing to report, within the stated period and by the method defined by law, to the tax administrator locally relevant to the place where still wine is produced, stored, processed, admitted or sent off, on the commencement of transportation of the still wine into a tax warehouse before it has begun.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 50 000.

**Volume 6**

**Administrative Offenses in the Domain of Administration of the Tax on Tobacco Products**

Section 135zf

### **Administrative Offense against the Final Consumer Price**

- (1) A corporate person or an enterprising individual commits an administrative offense by putting cigarettes with a tobacco stamp and a final consumer price statement into a tax free circulation at a time other than that for which the prize was established.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 1 000 000.

#### Section 135zg

### **Administrative Offenses against Unit Packaging**

- (1) A corporate person or an enterprising individual commits an administrative offense by putting into a tax free circulation, importing or transporting on the territory of the Czech Republic from another Member State
  - a) tobacco products which are not contained in an enclosed unit pack, or
  - b) a unit pack of tobacco products which are not subject to the same tax rate.
- (2) A corporate person or an individual commits an administrative offense to sell tobacco products other than indoor unit packaging with intact tobacco stamp.
- (3) An administrative offense shall be imposed
  - a) up to CZK 2 000 000 in the case of an administrative offence under subsection 1, or
  - b) from CZK 50 000 to CZK 2 000 000 in the case of an administrative offence under subsection 2.

#### Section 135zh

### **Administrative Offense against the Reporting Duty when Importing Tobacco Products**

- (1) A corporate person or an enterprising individual commits an administrative offense as an importer intending to import tobacco products within its business activity by failing to report in writing within the stated period the first import of tobacco products.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 2 000 000.

#### Section 135zi

### **Administrative Offenses against the Ban on Sale at a Price Other than the Final Consumer Price**

- (1) A corporate person or an enterprising individual as the seller commits an administrative offense by
  - a) selling cigarettes to the final consumer at a price lower or higher than the final consumer price stated on the tobacco label,

- b) selling cigarettes to the final consumer and providing a discount off the final consumer price.
- (2) A corporate person or an enterprising individual commits an administrative offense by
- a) selling cigarettes to the final consumer with another item attached to them for a total price different from the final consumer price stated on the tobacco label, or
  - b) tying together the sale of cigarettes to the final consumer with the sale of other objects.
- (3) A corporate person or an enterprising individual commits an administrative offense as the final consumer by
- a) consuming cigarettes purchased at a price lower than the price for the final consumer, or
  - b) buying cigarettes at a price lower than the final consumer price stated on the tobacco label.
- (4) An administrative offense shall be fined up to
- a) CZK 2 000 000 in the case of an administrative offense under subsection 1 or 2, or
  - b) CZK 100 000 in the case of an administrative offense under subsection 3.

#### Section 135zj

##### **An Administrative Offense against the Object of a Won Lottery or of another Similar Game**

- (1) A corporate person or an enterprising individual commits an administrative offense by giving out tobacco products as a lottery prize or as a prize of another similar game.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 2 000 000.

#### Section 135zk

##### **Administrative Offenses against the Designation by Tobacco Stamps**

- (1) A corporate person or an enterprising individual commits an administrative offense by
- a) allowing the storage or sale of unmarked tobacco products on the tax territory of the Czech Republic, or
  - b) failing to label tobacco products with tobacco stamps pursuant Section 114.
- (2) An administrative offense shall be fined
- a) from CZK 50 000 to CZK 10 000 000 in the case of an administrative offense pursuant to subsection 1, letter a),

- b) up to CZK 50 000 000 in the case of an administrative offense pursuant to subsection 1, letter b).

#### Section 135zl

##### **Administrative Offenses against Designation and Use of Tobacco Stamps**

- (1) A corporate person or an enterprising individual commits an administrative offense by
  - a) Using such tobacco stamps for the labeling of tobacco products which contain printed data that do not correspond with the actual content of the unit package on which the tobacco stamp was placed,
  - b) labelling tobacco products with tobacco stamps outside a tax warehouse on the Czech Republic, or
  - c) not using the tobacco stamp properly.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 5 000 000.

#### Section 135zm

##### **An Administrative Offense against the Order, Collection and Distribution of Tobacco Stamps**

- (1) A corporate person or an enterprising individual as the buyer commits an administrative offense by selling or passing the tobacco stamps on free of charge.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 5 000 000.

#### Section 135zn

##### **Administrative Offenses against the Registration and Inventory Check on Tobacco Stamps**

- (1) A corporate person or an enterprising individual as the buyer commits an administrative offense by
  - a) Failing to keep records of the bought, used or returned tobacco stamps,
  - b) Failing to keep records of the bought, used or returned tobacco stamps for the stated period of time or failing to preserve the documents on the basis of which entries were made in the register,
  - c) Failing to carry out an inventory check of tobacco stamps for the particular calendar year, or
  - d) Failing to report to the authorized tax administrator within the stated period the results of the inventory check on tobacco stamps for the previous calendar year.
- (2) An administrative offense shall be imposed up to

- a) CZK 2 000 000 in the case of an administrative offense pursuant to subsection 1, letters a) and b), or
- b) CZK 1 000 000 in the case of an administrative offense pursuant to subsection 1, letters c) and d).

#### Section 135zo

##### **Administrative Offenses against the Return of Tobacco Stamps**

- (1) A corporate person or an enterprising individual as the buyer commits an administrative offense by
  - a) Failing to return to the authorized tax administrator the unused tobacco stamps of the old edition within the stated period, or
  - b) in the event of a termination of their business activity, failing to return the unused tobacco stamps to the authorized tax administrator within the stated period.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 1 000 000.

#### Section 135zp

##### **An Administrative Offense against the Reporting Duty when Changing Terms Stated in the Decisions on Lower Payments or Tax Guarantee**

- (1) A corporate person or an enterprising individual commits an administrative offense as a buyer by failing to report to the tax administrator any changes to the facts impacting their compliance with the terms for the issuance of a decision on lowering payments or tax guarantees.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 100 000.

### **Volume 7**

#### **Administrative Offenses in the Domain of Restrictions on the Sale of Spirits and Tobacco Products**

#### Section 135zq

##### **Administrative Offenses against the Ban on the Sale of Spirits and Tobacco Products**

- (1) A corporate person or an enterprising individual commits an administrative offense by breaching the ban on the sale of spirits or the ban on the sale of tobacco products in accordance with Section 133.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 1 000 000.

## Section 135zr

### **Administrative Offenses against the Reporting Duty when Selling Spirits at Events Open to the Public**

- (1) A corporate or natural enterprising person as the person selling spirits at publicly accessible sports and cultural events, including dancing events and discos, commits an administrative offence by
  - a) Failing to report on this activity in writing to the tax administrator relevant to the area where the sale is to take place, or
  - b) Providing a written report of this activity that does not contain information on the following
    1. The person that shall be selling the spirits,
    2. The time range of the sale of the spirits,
    3. The types of spirits sold, or
    4. The quantity of the spirits sold.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 1 000 000.

## **Volume 8**

### **Administrative Offenses as regards the Marking and Coloring of Specific Mineral Oils**

#### **Part 1**

### **Administrative Offenses against Obligations when Marking and Coloring Specific Mineral Oils**

## Section 135zs

- (1) A corporate or natural enterprising person as the tax warehouse operator commits an administrative offense by putting unmarked or colored mineral oils listed in Section 134b, subsection 1, into a free tax circulation.
- (2) A corporate or natural enterprising person as the recipient or importer of mineral oils listed in Section 134b, subsection 1, commits an administrative offense by failing to secure the coloring or marking of these oils before they enter the tax territory of the Czech Republic.
- (3) A corporate or natural enterprising person as the producer or user of a mixture of the marking substance and pigment which has a business address on the tax territory of the Czech Republic commits an administrative offense by not maintaining records of the marking substance and pigment.
- (4) A corporate or natural enterprising person as the operator of a tax warehouse, the recipient or importer for whom marking or coloring the mineral oils stated in Section 134b, subsection 1, is mandatory or who is obliged to secure such marking or coloring commits an administrative offence by failing to present a certificate at the tax administrator's request or to submit it to the relevant body.

- (5) An administrative offense under subsections 1 to 4 shall be fined from CZK 50 000 to CZK 50 000 000.

#### Section 135zt

- (1) A corporate or natural enterprising person as the person who purchases or otherwise acquires unmarked or uncolored mineral oils stated in Section 134b, subsection 1, with the intent of transporting them to another Member State under the conditional tax exemption or free tax circulation modes or of exporting them to a third country, commits an administrative offense by failing to ensure their marking or coloring if they are not transported or exported.
- (2) A corporate or natural enterprising person as the person who produces, processes, transports, stores, purchases or otherwise acquires, sells or uses within its business activity the mineral oils stated in Section 134b, commits an administrative offense by
- a) carrying out these activities concerning oils in unit packages over 20 liters, without a trade license, or
  - b) failing to keep or preserve records of the types and quantities of these oils or records of the above mentioned ways of dealing with them in the defined manner.
- (3) A corporate or natural enterprising person as the person who produces, processes, or sells the mineral oils which may not be marked or colored pursuant Section 134b, subsection 2, letter f) by the manner stated in Section 134e, subsection 6, commits an administrative offense by
- a) Failing to explicitly state in the accompanying technical documentation that these oils may not be used as engine oil,
  - b) Not having a statement of the purchaser pursuant to Section 134e, subsection 8, letter b) within the purchase and sales register
  - c) Failing to keep the technical documentation or documents relating to these oils for the stated period of time.
- (4) An administrative offense under subsections 1 to 3 shall be fined from CZK 50 000 till CZK 50 000 000.

### Part 2

#### **Administrative Offenses against Bans when Marking and Coloring Specific Mineral Oils**

#### Section 135zu

- (1) A corporate or natural enterprising person commits an administrative offence by engaging in the following actions concerning mineral oils specified in Section 134b, subsection 1, whereby they
- a) Dilute, remove or otherwise modify the marking or coloring of the oils that are marked and colored, doing so outside a tax warehouse holding a permission as to the coloring of these oils,

- b) Putting into a tax free circulation any oils that are not marked or colored,
  - c) Offering for sale or using as engine oil any oils that are marked and colored, or
  - d) Transporting or storing any marked and colored oils in a container connected to a motor, or tapping them off into such a container.
- (2) An individual commits an administrative offence by offering for sale or using for other purposes any oils stated in Section 134b, subsection 2, letters e) till f) that those for which these mineral oils may not be marked or colored.
- (3) An administrative offense under subsections 1 or 2 shall be fined from CZK 50 000 to CZK 10 000 000.

### **Volume 3**

#### **Other Administrative Offenses with regard to the Marking and Coloring of Specific Mineral Oils**

##### Section 135zv

#### **An Administrative Offense against the Permission for the Marking and Coloring of Specific Mineral Oils**

- (1) A corporate or natural enterprising person commits an administrative offence as the tax warehouse operator by marking or coloring mineral oils listed in Section 134b, subsection 1, without a coloring permission.
- (2) An administrative offense under subsection 1 shall be fined from CZK 10 000 to CZK 10 000 000.

##### Section 135zw

#### **An Administrative Offense against the Reporting Duty when Changing Data in the Coloring Permission**

- (1) A corporate or natural enterprising person commits an administrative offence as the holder of a coloring permission by failing to report within the stated period to the tax administrator any changes of the data, stated in the proposal for the issuance of the coloring permission, which the tax administrator cited in this permission, except the registration number of the tax warehouse of the proponent.
- (2) An administrative offense under subsection 1 shall be fined up to CZK 50 000.

### **Volume 9**

#### **Administrative Offenses as regards the Marking of Certain Other Mineral Oils**

##### **Part 1**

#### **Administrative Offenses against Obligations when Marking**



## Certain Other Mineral Oils

### Section 135zx

- (1) A corporate or natural enterprising person as the producer or operator of a tax warehouse commits an administrative offense by putting unmarked mineral oils referred to in subsection 1, Section 134m, into a free tax circulation.
- (2) A corporate or natural enterprising person as the recipient or importer of mineral oils referred to in Section 134m, subsection 1 commits an administrative offense by failing to ensure the marking of these oils before their entry onto the territory of the Czech Republic.
- (3) A corporate or natural enterprising person as the producer or user of the marking substance who has a business seat on the tax territory of the Czech Republic commits an administrative offense by failing to maintain a register of the marking substance.
- (4) A corporate or natural enterprising person as the producer, recipient or importer who is subject to the obligation of marking mineral oils stated in Section 134m, subsection 1, or to the obligation of securing such marking, commits an administrative offense by failing to present a certificate at the request of the tax administrator or of a relevant body.
- (5) An administrative offense under subsections 1 to 4 shall be fined from CZK 50 000 to CZK 50 000 000.

### Section 135zy

- (1) A corporate or natural enterprising person as the person who purchases or otherwise acquires unmarked mineral oils stated in Section 134m, subsection 1, with the intention of transporting them to another Member State or of exporting them to a third country, commits an administrative offense by failing to secure their marking if their transportation or export does not take place within the defined period.
- (2) A corporate or natural enterprising person as the person who manufactures, processes, transports, stores, purchases or otherwise acquires, sells or uses within their business activity the mineral oils referred to in Section 134m, commits an administrative offense by
  - a) carrying out these activities concerning oils in unit packages of over 20 liters, without a trade license, or
  - b) failing to keep or preserve records of the types and quantities of these oils or records of the above mentioned ways of dealing with them.
- (3) A corporate or natural enterprising person that produces, processes or sells such mineral oils which may not be marked pursuant to Section 134m, subsection 2, letter c) till i), in the manner referred to in Section 134p, subsection 6, commits an administrative offence by
  - a) Failing to state expressly in the accompanying technical documentation and documents that these oils may not be used as engine fuel,

- b) Not having in the records of the purchase or sale of these oils a statement of the purchaser pursuant to Section 134p, subsection 8, letter b) or c), or by
  - c) Failing to keep the technical documentation or documents related to the oils for the stated period.
- (4) An administrative offense under subsections 1 to 3 shall be fined from CZK 50 000 to CZK 50 000 000.

## **Part 2**

### **Administrative Offenses against Bans when Marking Certain Other Mineral Oils**

#### Section 135zz

- (1) A corporate or natural enterprising person commits an administrative offence by engaging in the following actions concerning minerals oils specified in Section 134m, subsection 1,
- a) Diluting, removing or otherwise modifying the marking or coloring of the oils that are marked,
  - b) Putting into a free tax circulation any oils that are not marked,
  - c) Offering for sale or using as engine oil any oils that are marked, or
  - d) Transporting or storing marked oils in a container connected to a motor, or tapping them off into such a container.
- (2) A commercial person or enterprising natural person commits an administrative offense by offering for sale or using as engine oil any oils that may not be marked pursuant to Section 134m, subsection 2, letter c) till j).
- (3) A commercial person or enterprising natural person commits an administrative offense by offering for sale, or using for other purposes than those for which these oils that may not be marked, the mineral oils referred to in Section 134m, subsection 2, letter h) till i).
- (4) An administrative offense under subsections 1 to 3 shall be fined up to CZK 10 000 000.

## **Volume 3**

### **Other Administrative Offenses as regards the Marking of Certain Other Mineral Oils**

#### Section 135zza

#### **An Administrative Offense against the Permission for the Marking of Certain Other Mineral Oils**

- (1) A corporate or natural enterprising person commits an administrative offence as the producer or a tax warehouse operator by marking the mineral oils listed in Section 134m, subsection 1, without a marking permission.
- (2) An administrative offence under subsection 1 shall be fined from CZK 10 000 to CZK 10 000 000.

#### Section 135zzb

#### **An Administrative Offence against the Reporting Duty when Changing Data in the Coloring Permission**

- (1) A corporate or natural enterprising person commits an administrative offence as the holder of a coloring permission by failing to report within the stated period to the tax administrator any changes of the data, stated in the proposal for the issuance of the coloring permission, which the tax administrator cited in this permission, except the registration number of the tax warehouse of the proponent.
- (2) An administrative offence under subsection 1 shall be fined up to CZK 50 000.

### TITLE III

#### FORFEITURE AND SEIZURE OF SECURED SPIRITS AND TOBACCO PRODUCTS

#### Section 135zzc

#### **Forfeiture of Spirits and Tobacco Products**

- (1) The authority shall impose the forfeiture of
  - a) unmarked tobacco products which it secured in connection with a violation of a duty concerning the marking of tobacco products,
  - b) alcoholic beverages or tobacco products, which it secured in connection with a violation of a ban on the sale of spirits and tobacco products.
- (2) The forfeiture of spirits or tobacco products under subsection 1 may be imposed if
  - a) They belong to an administrative offender and
  - b) They were used or intended to commit an administrative offence.

#### Section 135zdd

#### **The Seizure of Spirits and Tobacco Products**

An administrative authority which has not imposed the forfeiture of spirits or tobacco products, decides on their seizure if

- a) They belong to an offender who cannot be prosecuted for an administrative offense,
- b) They do not belong to an administrative offender or do not belong to him/her completely, or
- c) The owner is not known.

#### Section 135zze

##### **Joint Provisions on Seized and Forfeited Spirits and Tobacco Products**

- (1) Forfeited or seized spirits or tobacco products pass to the state.
- (2) The General Directorate of Customs destroys the forfeited or seized spirits or tobacco products. Their destruction is overseen by a three-member committee composed of staff at the General Directorate of Customs.
- (3) The offender an administrative offense on whom a forfeiture of spirits or tobacco products was imposed, or a person at whom any seized spirits or tobacco products were secured, is ordered to reimburse the state for the costs associated with their administration and destruction.
- (4) A decision on the seizure of spirits or tobacco products or on the obligation to reimburse the state for the costs associated with their administration and destruction may not be appealed.
- (5) If spirits or tobacco products do not become forfeited or seized, they shall be returned to those who undoubtedly own them, or to the person at whom they were secured.

#### TITLE IV

##### JOINT PROVISIONS

#### Section 135zzf

##### **Liability of Corporate Persons and Enterprising Individuals**

- (1) A corporate or natural enterprising person shall not be liable for an administrative offence if they prove that they exerted every possible effort to prevent the breach of a legal obligation.
- (2) The liability of a corporate person for an administrative offense perishes if the administrative body did not commence proceedings over it within 1 year of the date on which it became aware of it, but not later than 3 years after the date on which it was committed.
- (3) The provisions of the law on the liability and sanctions against a corporate person apply to the liability for conduct that occurred during the business activity of an individual or in direct connection with it.

#### Section 135zzg

### **Jurisdiction to Hear Administrative Offense**

- (1) Offenses under this Act are tried by the customs office.
- (2) The Czech Trade Inspection Authority or the Financial Authority tries
  - a) offenses concerning administration of the tax on tobacco products, namely offenses against the handling of tobacco products,
  - b) offenses concerning restrictions of the sale of spirits and tobacco products, namely offenses against the ban on the sale of spirits and tobacco products,
  - c) offenses concerning
    1. the marking and coloring of specific mineral oils,
    2. the marking and coloring of certain other mineral oils,
  - d) administrative offenses in the area of administration of the tax on tobacco products, and
    1. administrative offences against unit packaging,
    2. administrative offences against the ban on sale at a different price than the final consumer price,
    3. administrative offences against marking by tobacco stamps,
  - e) administrative offenses concerning restrictions on the sale of spirits and tobacco products, namely administrative offenses against the ban on the sale of spirits and tobacco products,
  - f) administrative offenses concerning
    1. the marking and coloring of specific mineral oils, except the administrative offence against the reporting duty when changing data in the coloring permission,
    2. the marking and coloring of certain other mineral oils, except the administrative offence against the reporting duty when changing data in the marking permission.
- (3) The Czech Agriculture and Food Inspection Authority tries
  - a) offenses concerning the administration of the tax on tobacco products, namely offenses against the handling of tobacco products,
  - b) offenses concerning restrictions on the sale of spirits and tobacco products, namely offenses against the ban on the sale of spirits and tobacco products
  - c) administrative offenses concerning the administration of the tax on tobacco products, in particular
    1. administrative offences against unit packaging,
    2. administrative offences against the ban on sale at a different price than the final consumer price,

3. administrative offences against marking by tobacco stamps,
  - d) administrative offenses concerning restrictions on the sale of spirits and tobacco products, namely administrative offenses against the ban on the sale of spirits and tobacco products.
- (4) The Municipal Licensing Office tries
  - a) offenses concerning the administration of the tax on tobacco products, namely offenses against the handling of tobacco products,
  - b) offenses concerning restrictions on the sale of spirits and tobacco products, namely offenses against the ban on the sale of spirits and tobacco products,
  - c) administrative offenses concerning the administration of the tax on tobacco products, namely administrative offenses against the labelling by tobacco stamps,
  - d) administrative offenses concerning restrictions on the sale of spirits and tobacco products, namely administrative offenses against the ban on the sale of spirits and tobacco products.

#### Section 135zzh

#### **The Amount and Maturity of Fines**

- (1) In determining the amount of a fine for a corporate person, the seriousness of the administrative offense, particularly the manner in which it was committed, its consequences and the circumstances under which it was committed are considered.
- (2) The fine is payable within 30 days of the date of the decision through which it was imposed coming into force. Fines are collected by the authority that imposed them. The revenue from fines represents a part of the state budget revenues.

#### Section 135zzi

#### **Special Provisions on the On-the-Spot Fine Proceedings**

On-the-spot fines for offenses under this Act may reach up to CZK 5 000.

### **PART SEVEN**

### **JOINT, TRANSITIONAL, REPEALING AND FINAL PROVISIONS**

#### TITLE I

#### JOINT PROVISIONS

#### Section 136

- (1) As of 1 January 2004, corporate persons or individuals who wish to use or operate a tax warehouse are required to submit a proposal for the issuance of the relevant permit within 30 days of the date of publication of this Act.
- (2) Corporate persons or individuals producing selected products who are subject to the duty of operating a tax warehouse under this Act (Section 19, subsection 3) are obliged to submit a proposal for the issuance of the relevant permit (20) within 30 days of the date of publication of this Act.
- (3) Corporate persons or individuals that submit a proposal for the issuance of a permission to operate a tax warehouse within 30 days of the date of publication of this Act are required to secure the tax in the manner specified in Section 21, subsection 1, by 31 December 2003. The Customs Directorate may issue a permit to operate a tax warehouse yet before that date. If, however, the tax guarantee has not been secured by 31 December 2003, the customs directorate shall cancel the permission issued. The secured tax guarantee must correspond with the following for a particular tax warehouse:
  - a) the tax amount of the taxed selected products that were placed on the territory of a future tax warehouse in the month of the submission of the application for the issuance of a permission to operate a tax warehouse and for which the claim for a tax refund shall be made,
  - b) the amount of the tax liability which the proponent became subject to under the current legal regulations on the removal of such untaxed selected products from the warehouse that are placed located on the territory of a future tax warehouse in the month of the submission of the application for the issuance of a permission to operate a tax warehouse,
  - c) one tenth of the amount of the tax liability that the proponent became subject to under the existing legal regulations at the time of the removal of selected products from the warehouse for the period from 1 January 2003 until the last day of the month preceding the month in which an application for the issuance of a permission to operate a tax warehouse was submitted.
- (4) Corporate persons or individuals producing selected products on the tax territory of the Czech Republic are required to carry out the inventorying of all previously untaxed selected products and of the taxed selected products for which they shall claim a tax refund by 31 December 2003.

#### Section 136a

#### **The Reporting period, Tax Declaration and Tax Maturity in the Course of Insolvency Proceedings**

- (1) In the case of a taxpayer whose bankruptcy or impending bankruptcy is dealt with in insolvency proceedings, the current tax year ends on the day preceding the date of effectivity of the decision on bankruptcy. The next reporting period of the payer begins by the date of effectivity of the decision on bankruptcy and terminates on the last day of the calendar month in which the bankruptcy court decision was issued. For the further period of the duration of the insolvency proceedings, the calendar month shall represent the reporting period of the payer.

- (2) The day of the termination of the insolvency proceedings terminates the current tax year of the payer. The next reporting period of the payer begins by the day following the termination of the insolvency proceedings and terminates on the last day of the calendar month in which the insolvency proceedings were terminated.
- (3) Tax declarations for the tax periods specified in subsections 1 and 2 must be submitted by the insolvency administrator or another person which entitled to effectively with the corporate property until the 25th day following the end of the reporting period.
- (4) The income tax for the periods specified in subsections 1 and 2 is payable within 40 days of the end of the reporting period in which the obligation to declare and pay tax emerged.

#### Section 137

After the declaration of a state emergency or war, the government may do the following through a regulation for the duration of the state of emergency or war, within the necessary extent

- a) Adjustments to the current tax rates,
- b) Enable the armed forces, armed security corps, rescue fire corps, emergency services and agencies of economic mobilization the purchase of selected products at prices excluding tax.

#### Section 138

#### **Repealed**

#### Section 139

- (1) The Ministry of Finance shall issue a decree concerning the provisions of Section 21, subsection 2 and 12, Section 26, Section 56, 81 and 131.
- (2) The Ministry of Industry and Trade shall issue a decree concerning the implementation of Section 49, subsection 12, Section 134a, subsection 2, Section 134b, subsection 3, Section, subsection 3, Section 134e, subsection 6, letter d), Section 134e, subsection 7 and 11, Section 134l, subsection 2, Section 134m, subsection 3, Section 134p, subsection 3, Section 134p, subsection 6, letter d) and Section 134p, subsection 7 and 11.

### TITLE II

#### TRANSITIONAL PROVISIONS

#### Section 140

- (1) The administration of the taxes for which the right of tax assessment or enforcement has not expired or the title to a tax refund has not expired shall be performed by the current tax administrators pursuant to current legislation.



- (2) Any due periods which began to run before the date of this Act taking effect shall be assessed under the current legislation until the end of their run; the due periods for asserting the rights which arose before the date of this Act taking effect shall be governed by the current regulations, even when they start to run after the date of this Act taking effect.
- (3) Corporate persons or individuals producing selected products on the tax territory of the Czech Republic are obliged to declare and pay tax on untaxed selected products, to which the conditional tax exemption mode shall not be applied as of 1 January 2004, and to do so by 25 January 2004.
- (4) When calculating the tax which shall be declared and paid pursuant to subsection 3, the tax rates valid as of 1 January 2004 shall be applied. When claiming a tax refund under subsection 1, tax may be refunded only to the amount of tax which was included in the prices of the selected products at a rate applicable on the day of their release from the warehouse pursuant to current legislation.
- (5) The sale of selected products at prices excluding tax to the crew members of international flights on departure from the Czech Republic and to individuals in DUTY/TAX FREE stores in the transit area of international airports and onboard aircrafts of foreign airlines can be made until the date of the accession of the Czech Republic to the European Union under a license granted by the Ministry of Finance pursuant to regulations in force until 31 December 2003 and under the conditions set out by these regulations. The validity of these permits expires on the day following the date of the Czech Republic's accession to the European Union.
- (6) Where the sale of selected products was carried out in DUTY/TAX FREE stores situated on the customs routes of road customs crossings under the regulation in force until 31 December 2003, the persons conducting the sale of selected products excluding tax on the ground of a permission of the Ministry of Finance are obliged to carry out inventorying of all untaxed products by 31 December 2003 with the participation of the locally relevant customs office in the district of which the sale of goods excluding tax is done. As of 1 January 2004 until 31 March 2004, untaxed selected products listed on the inventory check list, sold until sold out at prices excluding tax in DUTY/TAX FREE stores located on the customs routes of road customs crossings. The goods remaining at the stores after March 31, 2004 shall be placed under the customs supervision following the payment of tax or until the assignment of a relevant customs-approved identification, including the selected products released into the export mode and placed in DUTY/TAX FREE stores.
- (7) Where the sale of selected products is carried out before the date of Czech Republic's accession into the European Union in DUTY/TAX FREE stores located in the transit area of international airports and onboard aircrafts of foreign airlines pursuant to the regulations in force until 31 December 2003 (subsection 5), the persons conducting the sale of specific tax-free goods under a license from the Ministry of Finance are required to carry out an inventorying check of all selected products on the next working day after the date of accession of the Czech Republic to the European Union with the participation of a customs office in whose territorial scope the sale of goods excluding tax is done. From this date on until the tax has been paid, until a sale permission on products for prices excluding tax comes into force under Section 36 or until the assignment of the relevant customs-approved identification under a customs supervision, any untaxed selected products including selected products released into the export mode and the placed in the store DUTY/TAX FREE shall be subject to customs supervision.

- (8) Producers or importers of tobacco products may manufacture or import tobacco products marked with tobacco stamps at the rate of excise duty on tobacco products valid until 31 December 2003 no later than 31 January 2004.
- (9) Producers or importers of tobacco products may produce, import or put tobacco unmarked by a tobacco stamp into a free tax circulation no later than 31 January 2004.
- (10) Corporate persons or individuals who purchased tobacco unmarked by a tobacco stamp for resale can sell this tobacco by 30 June 2005 at the latest. After this period, any tobacco not labelled by a tobacco stamp shall be considered unmarked.
- (11) Selected products manufactured before the date of this Act taking effect that have not been taxed under current regulations must be put into a tax free circulation or put into the condition tax exemption mode by the date of this Act taking effect.
- (12) Selected products manufactured before the date of this Act taking effect that were taxed under current regulations may be placed in a tax warehouse together with selected products put into the conditional tax exemption mode until their departure from the tax warehouse and up to 30 June 2004 at the latest. These taxed products must be stored and registered separately in the tax warehouse.
- (13) Waste oils listed under the nomenclature codes 2710 91 to 2710 99 of the customs tariff which were acquired without tax or with a zero tax rate before the date of this Act taking effect by corporate persons or individuals and have been used for the manufacturing of mixtures according to Section 19, subsection 2, letter c) of the Act No. 587/1992 Coll., on Excise Duty, as amended, and were sold for this purpose, or used for heat production regardless of the method of heat consumption or sold for this purpose, shall be exempt from excise tax. If excise duty has already been paid, the tax administrator referred to in subsection 1 shall return it at the request of the taxpayer.
- (14) Waste oils listed under the nomenclature codes 2710 91 to 2710 99 of the Customs Tariff which were obtained before the date of this Act taking effect by replacing the engine oil, the oil in gearboxes, transformers, in hydraulic systems and bearings, at the maximum amount of oil which was originally installed in these devices, shall be exempt from excise duty. If excise duty has been paid, the tax administrator referred to in subsection 1 shall return it to the taxpayer at their request.
- (15) If a product is exempt from excise tax pursuant to subsections 13 and 14, the obligation to register and issue tax documents pursuant to Act No. 587/1992 Coll., on excise duty, as amended, did not emerge for the taxpayer due to this reason. A failure of the taxpayer to comply with this obligation before the date of this Act taking effect is not subject to sanctions.
- (16) Cigarettes in unit packaging containing fewer than 20 pieces may be put into a free tax circulation on the tax territory of the Czech Republic until 31 January 2007. In such a case, the provisions of Section 135b, subsection 1, letter b) and Section 135b, subsection 3, letter b) are not applied.
- (17) Individuals or corporate persons which purchased cigarettes in unit packaging containing less than 20 pieces in order to resell them may sell these cigarettes until no later than 30 June

2007. In such a case, the provisions of Section 135b, subsection 1, letter h) and Section 135b, subsection 3, letter e) are not applied.

### TITLE III

#### REPEALING PROVISIONS

##### Section 141

The following are repealed:

Act no. [212/1992 Coll.](#), on tax system. X

Act no. [587/1992 Coll.](#), on excise taxes. X

Act no. [199/1993 Coll.](#), amending and supplementing Act no. [587/1992 Coll.](#), on excise taxes. X

Act no. [260/1994 Coll.](#), amending and supplementing Act no. [587/1992 Coll.](#), on excise taxes, as subsequently amended. X

Act no. [148/1995 Coll.](#), amending and supplementing Act no. [587/1992 Coll.](#), on excise taxes, as subsequently amended. X

Act no. [303/1993 Coll.](#), on abolition of state tobacco monopoly and related measures. X

7. Act no. [45/1994 Coll.](#), amending and supplementing Act no. [303/1993 Coll.](#), on abolition of state tobacco monopoly and related measures. X

8. Act no. [106/1995 Coll.](#), amending and supplementing Act no. [303/1993 Coll.](#), on abolition of state tobacco monopoly and related measures, as amended by Act no. [45/1994 Coll.](#) and Act no. [40/1995 Sb.](#)X

## TITLE IV

### FINAL PROVISIONS

#### Section 142

#### **Effectiveness**

1. This Act comes into effect on 1 January 2004, except for provisions

[Section 4 subsection 1](#) with the exception of letter e) and h) and subsection 2, [Section 13](#) with the exception of subsection 2 letter h), [Section 20](#) with the exception of subsection 2 letter g) and i), [Section 21](#), [117](#), [136](#), [138](#) and [140](#), which come into effect on the day of promulgation, X

[Section 2 subsection 1 letter b\), c\) and d\)](#) and [subsection 2](#), [Section 3 letter b\), h\) and m\)](#), [Section 4 subsection 1 letter e\) and h\)](#), [Section 7 subsection 2](#), [Section 8 subsection 2](#), [Section 9 subsection 3 letter g\) and i\)](#), [Section 11 subsection 1 letter d\)](#), [Section 13 subsection 2 letter h\)](#), [Section 14 subsection 2, 3 and 5](#), [Section 20 subsection 2 letter g\) and i\)](#), [Section 22](#), [23](#), [25](#), [Section 26 subsection 11](#), [Section 27](#), [Section 28 subsection 5, 6 and 9](#), [Section 29](#), [30](#), [31](#), [32](#), [33](#), [36](#), [39](#), [Section 49 subsection 8, 9, 10 and 11](#), [Section 103 subsection 2](#), [Section 104 subsection 2](#), [Section 107 subsection 2 and 4](#), [Section 109](#), [Section 114 subsection 2 and 6](#), [Section 118 subsection 2, 8 a 13](#), [Section 119 subsection 5](#), [Section 122 Art. 4 a](#) [Section 126 letter b\)](#), which come into effect on the day of entry into force of the Treaty of accession of the Czech Republic to the European Union. X

2. Provisions [Section 3 letter a\) and l\)](#), [Section 7 subsection 1](#), [Section 8 subsection 1](#), [Section 11 subsection 1 letter c\)](#), [Section 13 subsection 2 letter g\)](#), [Section 20 subsection 2 letter f\) and h\)](#), [Section 26 subsection 10](#), [Section 35](#), [Section 49 subsection 5, 6 and 7](#), [Section 104 subsection 1](#), [Section 107 subsection 1 and 3](#), [Section 114 subsection 1 a 5](#), [Section 118 subsection 1, 7 and 12](#), [Section 119 subsection 4 a](#) [Section 126 letter a\)](#) become ineffective on the day of entry into force of the Treaty of accession of the Czech Republic to the European Union. X

**Zaorálek m. p.**

**Klaus m. p.**

pp Gross m. p.

## Selected provisions of amendments

[Article II of the Act no. 693/2004 Coll.](#)

### Transitional Provisions

1. Legal claims to excise tax return on mineral oils to corporate or natural persons using these oils for primary agriculture; forest tree nurseries and forest regeneration and tending, occurring in the period before the date this Act goes into force, are assessed in accordance with existing legislation.
2. Still wines in accordance with Section 93 subsection 3, produced before the date this Act goes into force, taxed in accordance with existing legislation can be accepted in tax warehouse at its establishing, and in such a manner, as if they were not taxed yet in accordance with the existing legislation.

[Article II of Act no. 217/2005 Coll.](#)

### Transitional Provisions

1. Special permissions issued in accordance with [Section 13](#) and [60 of Act no. 353/2003 Coll.](#), in the version effective before the date this Act goes effect, are remaining valid during the period determined in the special permission or until the date of their termination or their withdrawal, and after the date this Act goes into force, are replacing permissions for purchase of liquefied petroleum gases introduced to free tax circulation in accordance with [Section 60a Act no. 353/2003 Coll.](#), in the version effective after the date this Act goes into force.
2. Corporate person storing mineral oils or ethanol exempted from a tax, as a part of the state material reserves, is obliged to introduce these products into status of conditional tax exemption at the date this Act goes into force. If it fails to do so, these products are considered introduced to free tax circulation as of this date.
3. Heavy fuel oils listed under the codes of nomenclature 2710 19 51 - 2710 19 69, which were subject to tax until the 26 May 2004 in accordance with [Section 45 subsection 1 letter b\) of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, are exempted from tax, if corporate or natural persons listed in the [Section 56 subsection 1 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, purchased them for the price including tax in the amount of 8,150 CZK/1,000 l or 9,950 CZK/1,000 l and if these corporate or natural persons used these oils for the purpose of heat production in the period between 1 May 2004 and 31 May 2005. The Customs office will return the tax to these persons upon their requests filed with all the formal elements in accordance with [Section 56 subsection 7 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, submitted on the 30 November 2005 at the latest.

4. Corporate or natural persons, which purchased or produced mineral oils, which were subject to excise tax in accordance with [Section 45 subsection 3 letter d\) of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, before the day of this Act coming into force, at price including tax or paid tax in the amount of 11,980 CZK/1,000 l or 11,840 CZK/1,000 l while their usage for heat production, and which used or will have used these oils for heat production until 6 months following after the date this Act goes into force, is qualified for tax return in the amount listed in [Section 56 subsection 6 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force. Tax return claim must be applied in a manner specified in [Section 56 subsection 10](#) and prove the documents in accordance with [Section 56 subsection 7 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force.

5. Still wine (Section 93 subsection 3) introduced to free tax circulation, which was placed in the tax warehouse in accordance with Section [19 subsection 5 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, is introduced into the status of conditional tax exemption on the date this Act is coming into force.

#### [Article II of Act no. 575/2006 Coll.](#)

##### **Transitional Provisions**

1. Controls of coloring and marking of certain carbon fuels and oils in accordance with Act no. [136/1994 Coll.](#), on coloring and marking of certain carbon fuels and oils and on related precautions, on amendments of Trade Licensing Act no. [455/1991 Coll.](#), as amended, of Excise Tax Act no. [587/1992 Coll.](#), as amended, and on amendments of Value Added Tax Act no. [588/1992 Coll.](#), as amended, which commenced before this Act came into force and were not closed upon a final judgment before this Act came into force, will be completed by authorities appointed in the in existing legislation, and in a manner and in terms in accordance with existing legislation.

2. Impositions of fines proceedings in accordance with Act no. [136/1994 Coll.](#), which commenced before this Act came into force and were not closed upon a final judgment before this Act came into force, will be completed by the authorities appointed in the existing legislation and in a manner and terms in accordance with existing legislation.

3. Tax warehouse operators coloring and marking mineral oils listed in [Section 134b subsection 1 of Act no. 353/2003 Coll.](#), in the version effective ode the date this Act goes effect, are allowed to color and mark these oils until 31 March 2007 without permission listed in [Section 134g subsection 1 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force.

4. Corporate or natural persons marking mineral oils listed in [Section 134m subsection 1 of Act no. 353/2003 Coll.](#), in the version effective as amended following the day of coming of this Act into force, are allowed to mark these oils until 31 March 2007 without permission listed in [Section 134r subsection 1 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force.

5. Mineral oils listed in [Section 134b subsection 1 of Act no.353/2003 Coll.](#), as amended after the day of coming of this Act into force, which were colored and marked before the 31 December 2006 in accordance with regulations as amended after the day of coming of this Act into force, are until 31 December 2007 considered, as if they were marked and colored in accordance with 4th Part of Act no. [353/2003 Coll.](#), as amended after the day of coming of this Act into force.

6. Mineral oils listed in [Section 134m subsection 1 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, which were produced before the 31 December 2006 or

introduced to free tax circulation on tax territory of the Czech republic, or which were transported from other member states or imported, are until 31 December 2007 being considered as if they were marked in accordance with the fifth part of Act no. [353/2003 Coll.](#), as amended after the day of coming of this Act into force.

7. Non-marked and non-colored mineral oils listed in [Section 134b subsection 1 Act no. č. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, used as engine oil used for sails on waters of tax territory of the Czech republic, if mineral oils used for these sails, are subject to tax exemptions in accordance with Section 49 subsection 10, until 30 April 2007, they are being considered, as if they were marked and colored in accordance with the fourth part of Act no. [353/2003 Coll.](#), as amended after the day of coming of this Act into force.

#### [Article XIX of Act no.261/2007 Coll.](#)

##### **Transitional Provisions**

1. Corporate persons or individuals using waste oils, listed under the codes of nomenclature 2710 91 - 2710 99 exempted from tax in accordance with [Section 49 subsection 1 and 3 of Act no. 353/2003 Coll.](#), as part of their business activities as amended after the day of coming of this Act into force, can use the waste oils until 31 March 2008 without special permission listed in Section 13 of Act no. 353/2003 Coll., as amended after the day of coming of this Act into force.

2. At selected products, which are subject to tax in accordance with Excise Tax Act no. [353/2003 Coll.](#), as amended after the day of coming of this Act into force, and which will be subject to tax on natural gas and certain other gases all the periods which commenced before the day this Act comes into force, are assessed in accordance with Excise Tax Act no. [353/2003 Coll.](#), on excise tax as amended by the day of coming of this Act into force.

#### [Article XCVII of Act no. 296/2007 Coll.](#)

##### **Transitional Provisions**

Provisions of this Act will also be used for excise tax related to proceedings, which were commenced and were not closed upon a final judgment in accordance with Act no. 328/1991 Coll., on Bankruptcy and Composition, as amended by the day of coming of this Act into force.

#### [Article II of Act no. 37/2008 Coll.](#)

##### **Transitional Provisions**

1. Provision of [Section 48 subsection 5 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, will be used for the first time reporting period starting on the first day of the month following after promulgation of a law, with exemption of provision of [Section 48 subsection 5 of Act no. 353/2003 Coll.](#), in the version effective as of 1 July 2010, which will be used for the first time in reporting period starting as of 1 July 2010.

2. Permission for running of a tax warehouse, permission to repeated acceptance of selected products in the status of conditional tax exemption and permission of tax representative issued in accordance with [Section 20, 22 and 23a of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, and agreements issued in accordance with [Section 50, 60 and 79 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, are considered as

permissions and agreements required in accordance with Act no. [353/2003 Coll.](#), as amended after the day of coming of this Act into force; given that, persons securing the tax in accordance with [Section 21 subsection 2 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force,

a) during 15 days following after this Act comes into force, they will submit a proposal for change in securing a tax to General Directorate of Customs via Customs office in accordance with [Section 21 subsection 1 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force,

b) during 15 days following after decision about changes in securing the tax comes into force, they will provide securing the tax in accordance with this decision, otherwise permission for running a tax warehouse, permission for repeated acceptance of selected products in status of conditional tax exemption and permission of tax representative issued in accordance with [Section 20, 22 and 23a of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, and agreements issued in accordance with [Section 50, 60 and 79 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, will be ceased to be valid at the day when this Act goes into force. Permission for running a tax warehouse, permission for repeated acceptance of selected products in status of conditional tax exemption and permission of tax representative issued in accordance with [Section 20, 22 and 23a of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, and agreements issued in accordance with [Section 50, 60 and 79 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, are also ceased to be valid after proposal submission dismissal in accordance with letter a), at the last date of the period listed in letter a).

3. Permissions to warehouse tax operator for running tax warehouse issued in accordance with [Section 20 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, which is providing securing the tax in accordance with [Section 77 subsection 1 and 2 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, are being considered as permissions required in accordance with Act no. [353/2003 Coll.](#), as amended by the day of coming of this Act into force; under the condition, that warehouse tax operator, which is providing securing the tax in accordance with [Section 77 subsection 1 and 2 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force,

a) will provide securing the tax until 60 days, in the amount in accordance with [Section 77 subsection 1 and 2 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, during 60 days following the date this Act goes into force,

b) until 15 days following

1. the date this Act comes into force, will submit to General Directorate of Customs via Customs office a proposal for change in manner of securing the tax in accordance with [Section 21 subsection 1 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force,

2. after the decision about changes in securing the tax comes into force, they will provide securing the tax in accordance with this verdict, with otherwise permissions to tax warehouse operator for running a tax warehouse issued in accordance with [Section 20 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, which is providing securing the tax in accordance with [Section 77 subsection 1 and 2 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, are ceased to be valid. Permissions for running a tax warehouse issued to tax warehouse operator in accordance with [Section 20 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, which is providing securing the tax in



accordance with [Section 77 subsection 1 and 2 of Act nr 353/2003 Coll.](#), as amended by the day of coming of this Act into force are also ceased to be valid proposal submission dismissal in accordance with point 1, on the last date of the period stated in point 1.

4. The General Directorate of Customs will decide about proposal for change of manner of securing the tax in accordance with point 2 and 3 during 60 days following after commencing a proceeding. It is possible to appeal against the decision in accordance with the first sentence within the period of 10 days following after its delivery; appeal against the decision has suspensive effect on an appeal.

5. Agreement with transport of fermented anhydrous ethanol – specifically denaturized and synthetic ethanol specifically denaturized in the status of conditional tax exemption on tax territory of the Czech republic, which was commenced without provisions of securing the tax in accordance with [Section 77 subsection 4 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, granted in accordance with [Section 24 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, is considered as an agreement required in accordance with Act no. [353/2003 Coll.](#), as amended after the day of coming of this Act into force, and in maximum of 10 days following after the date this Act comes into force. After expiration of this period agreement with transport of fermented anhydrous ethanol – specifically denaturized and synthetic ethanol - specifically denaturized in the status of conditional tax exemption on tax territory of the Czech republic granted in accordance with [Section 24 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, is ceased to be valid.

#### [Article II of Act no. 292/2009 Coll.](#)

#### **Transitional Provisions**

1. Corporate and natural persons, which acquired mineral oils exempted from tax in accordance with [Section 49 subsection 10 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, before the date this Act comes into force and not listed under codes of nomenclature 2710 11 31, 2710 11 70 or 2710 19 21, will perform a stock-taking, without unnecessary postponement, of mineral oils, which are no longer subject of exemption in accordance with [Section 49 subsection.10 of Act nr. 353/2003 Coll.](#), as amended after the day of coming of this Act into force.

2. Mineral oils listed in point 1 can be used under the circumstances given in [Section 49 subsection 10 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, but at the latest on the first day of the fourth calendar month following after the date this Act goes into force; at this date they are obliged to pay the tax.

3. If special permission for acceptance and usage of mineral oils exempted form tax was required, in accordance with [Section 49 subsection 10 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, corporate or natural person is obliged to immediately inform General Directorate of Customs about change of information stated in the permission, happening after this Act comes into force. In the case of the change of permission, Customs office is applying the same process in accordance with [Section 13 subsection 19 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force.

4. It is possible to use mineral oils mixtures exempted from tax listed in [Section 49 subsection 14 of Act no. 353/2003 Coll.](#), as amended by the day of coming of this Act into force, and introduced to free tax circulation before the day of coming of this Act into force, until the end of the third calendar month following after the date the date this Act goes effect. After this date, they are considered as non-taxed. Corporate or natural persons, which didn't use these oils, are obliged to pay the tax.

5. Corporate or natural persons using mineral oils mixtures in accordance with [Section 49 subsection 14 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, are allowed to use these mixtures without special permission, until the end of the third calendar month following after de the date this Act comes into force. If these persons are not provided with special permission on the first day of the fourth calendar month following after the date this Act comes into force, at the latest, they are obliged to pay the tax for the mineral oils, which were not used at the given date.

6. Provisions of [Section 54 subsection 3 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, will be used taxed mineral oils introduced to free tax circulation after the date this Act comes into force.

7. Provisions of [Section 45 subsection 3 letter a\), k\)](#) and [Section 45 subsection 4 of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, will be used for the first time for reporting period starting on the first day of the seventh calendar month following after the date of the date this Act comes into force.

8. Implementation of conditional tax exemption for mineral oils listed in [Section 59 subsection 1 letter a\) and h\) of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, will be used for the first time in the reporting period starting on the first day of the seventh calendar month following after the date this Act comes into force.

9. Corporate persons or individuals obliged to apply conditional tax exemption for mineral oils listed in [Section 59 subsection 1 letter a\) and h\) of Act no. 353/2003 Coll.](#), as amended after the day of coming of this Act into force, are obliged to submit a proposal to issue a permission for running a tax warehouse, during 30 days following after the date this Act comes into force; it will be possible to use the permission issued by The General Directorate of Customs at the earliest on the first day of the seventh calendar month following after the date this Act goes into force.

10. If legal or natural person listed in point 9, submits a proposal for tax warehouse operating permit, it is obliged to execute stock stock-taking of mineral oils listed in point 8 as of the last day of the sixth month following after the date this Act goes into force. These mineral oils are being considered as introduced to status of conditional tax exemption as of the first day of the seventh calendar month following the date this Act goes into force.

[Article VI of the Act no. 362/2009 Coll.](#)

## **Transitional Provisions**

Tax guarantee according to Act no. [353/2003 Coll.](#), as amended by the effective day of this Act, provided to operator of tax warehouses, entitled recipients and tax representatives for sending selected products shall be considered tax guarantee provided under the Act no. [353/2003 Coll.](#), as amended effective from the date of entry into force of this Act, provided that, said persons will increase tax guarantee within 60 days from the effective date of this Act, in order to comply with tax guarantee provided under the Act no. [353/2003 Coll.](#), as amended in the version effective from the date of entry into force of this Act. X

If the change of the manner of a tax guarantee provided to operator of tax warehouses shall happen after the date of entry into force of this Act, said persons a) shall file a proposal for change of the manner of tax guarantee at the Customs Directorate through a customs office within 15 days upon the effective date of this Act and b) shall provide within 15 days upon the date of coming into force of the decision on the change of the manner of tax guarantee in compliance with this decision; otherwise the permission for operation of a tax warehouse issued according to [Section 20 of the Act no. 353/2003 Coll.](#), as amended by the effective date of this Act, becomes invalid upon the effective date of this Act.X

Customs Directorate will decide on the proposal for change of the manner of tax guarantee pursuant to paragraph 2 within 30 days from the date of instigation of the proceedings. An appeal can be filed against such a decision within 10 days upon its delivery; appeal against the decision has suspensive effect.

Tax guarantee provided for the transport of selected products in a conditional tax exemption mode or for transport of selected products exempt from tax, initiated before the effective date of this Act and ended after the effective date of this Act, shall be considered as the tax guarantee provided under the Act no. [353/2003 Coll.](#), as amended by the effective date of this Act. X

[Article. II of the Act no. 59/2010 Coll.](#)

### **Transitional Provisions**

If the authorities of another Member State of the European Union during the period from 1 April 2010 to 31 December 2010, have used the possibility of Article 46 of Council Directive no. 2008/118/EC of 16 December 2008 on the general arrangements for excise duty and repealing Directive 92/12/EEC to transport selected products in a conditional tax exemption mode using the requirements set out in Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, as amended by the version effective upon 31 December 2009, the course or termination of such transport shall proceed pursuant to the Act no. 353/2003 Coll., as amended by the effective date of this Act.

Transport of selected products in a conditional tax exemption mode, which was initiated prior to the effective date of this Act and which has not ended until the effective date of this Act, shall accomplish or terminate pursuant to the Act no. [353/2003 Coll.](#), as amended by the effective date of this Act. X

If during the transport of the selected products in a conditional tax exemption mode, which was initiated prior to the effective date of this Act and which has not ended until the effective date of this

Act, the mode of conditional tax exemption was violated, the procedure pursuant to the Act no. [353/2003 Coll.](#), as amended by the effective date of this Act, shall be conducted.X

Transport of selected products already placed in free tax circulation carried out in accordance with Section 29 of Act no. 353/2003 Coll., as amended by the effective date of this Act, for which tax guarantee has been provided before the effective date of this Act and which has not ended until the effective date of this Act, shall be exercised or terminated pursuant to Act no. 353/2003 Coll., as amended until the effective date of this Act.

Transport of selected products already placed in free tax circulation carried out in accordance with Section 31 of Act no. 353/2003 Coll., as amended by the effective date of this Act, which commenced before the effective date of this Act, and after the end of which a tax payer becomes entitled to a tax refund pursuant to Section 14 subsection 2 of the Act no. 353/2003 Coll., as amended by the effective date of this Act, the earliest upon the effective date of this Act, shall be carried out pursuant to the Act no. 353/2003 Coll., as amended by the effective date of this Act. In such case, when claiming a tax refund under Section 14 subsection 2 of the Act no. 353/2003 Coll., as amended by the effective date of this Act, one shall proceed in accordance with the Act no. 353/2003 Coll., as amended until the effective date of this Act.

If sending selected products already placed in free tax circulation from another Member State to the tax territory of the Czech Republic is carried out pursuant to Section 33 of Act no. 353/2003 Coll., as amended by the effective date of this Act, for which the tax representative for sending selected products provided tax guarantee prior to the effective date of this Act and which has not ended by acceptance of shipped selected products until the effective date of this Act, shall be carried out in accordance with Act no. [353/2003 Coll.](#), as amended until the effective date of this Act. X

7. If sending selected products already placed in free tax circulation from the tax territory of the Czech Republic to another Member State is carried out pursuant to Section 33 of Act no. 353/2003 Coll., as amended by the effective date of this Act, which was announced to the customs office prior to the effective date of this Act and at after the end of which a tax payer becomes entitled to a tax refund pursuant to Section 14 subsection 3 of the Act no. 353/2003 Coll., as amended by the effective date of this Act, the earliest upon the effective date of this Act, shall be carried out pursuant to the Act no. 353/2003 Coll., as amended by the effective date of this Act. In such case, when claiming a tax refund under Section 14 subsection 3 of the Act no. 353/2003 Coll., as amended by the effective date of this Act, the procedure in accordance with the Act no. 353/2003 Coll., as amended until the effective date of this Act, shall apply.

8. Selected products specified in Section 19, subsection 6 of the Act no. 353/2003 Coll., as amended until the effective date of this Act, and placed in a tax warehouse pursuant to Section 19, subsection 7 of the Act no. 353/2003 Coll., as amended until the effective date of this Act, shall be placed in a conditional tax exemption mode upon the effective date of this Act.

9. The validity of authorizations of tax representatives issued according to Section 23a of Act no. 353/2003 Coll., as amended by the effective date of this Act, shall terminate on the effective date of this Act, except for those authorizations, for whose holders the transport of selected products in a conditional tax exemption mode was launched prior to the effective day of this Act. The validity of such authorizations shall expire on the day of the final acceptance of these products. A loss of an authorization does not affect the obligation of authorization holders to declare and pay tax, which arose as a result of the acceptance of selected products.

10. Proceedings in the matter of securing, forfeiture and confiscation of selected products and vehicles pursuant to Section 42 of Act no. 353/2003 Coll., as amended by the effective date of this Act, which started before the effective date of this Act and has not ended until the effective date of this Act, shall be completed pursuant to the provisions of Act no. 353/2003 Coll., as amended by the effective date of this Act, including all relevant periods, which commenced prior to the effective date of this Act.

11. If there originates an entitlement to a tax refund pursuant to Section 55 of Act no. 353/2003 Coll., as amended by the effective date of this Act, prior to the effective date of this Act, and if it is applied on the effective date of this Act the earliest, the procedure pursuant to the Act no. 353/2003 Coll., as amended by the effective date of this Act, shall apply.

[Article II of the Act no. 95/2011 Coll.](#)

### **Transitional Provisions**

If Bulgaria, Estonia, Lithuania, Latvia, Hungary, Poland, Romania and Greece will apply excise duty lower than set out in Article 2, subsection 2, first subparagraph of Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes, as amended by Council Directive 2010/12/ EC, in the time period from 1 January 2014 to 31 December 2017, the cigarettes placed into a tax free circulation in these Member States will be exempt from tax up to a maximum of 300 pieces, if they are transported by an individual for personal consumption from these Member States to tax territory of the Czech Republic.

Bank guarantee provided in accordance with Section 21, subsection 1, letter b) of Act no. 353/2003 Coll., as amended by the effective date of this Act, shall be deemed a bank guarantee provided pursuant to Section 21 subsection 1, letter b) of Law no. 353 / 2003 Coll., as amended by the effective date of this Act.

Mineral oils exempt from excise duty pursuant to Section 49, subsection 17 of the Act no. 353/2003 Coll., as amended by the effective date of this Act, shall be handled in accordance with the approved

pilot project under Section 3 letter p) of the Act no. 353/2003 Coll., as amended by Act no. 217/2005 Coll., no later than 1 January 2012; by this date persons who acquired mineral oils in accordance with the approved pilot project under Section 3 letter p) of the Act no. 353/2003 Coll., as amended by Act no. 217/2005 Coll., become obliged to declare and pay tax on mineral oils listed hereto.

Persons who acquired mineral oils exempt from tax under section 3 hereto before 1 January 2012, shall carry out inventory of these mineral oils on the following workday after December 31, 2011.

Tax guarantee provided for transport of selected products in the conditional tax exemption mode pursuant to Section 58 subsection 4 of the Act no. 353/2003 Coll., as amended by the effective date of this Act, which commenced before the effective date of this Act and ended after the effective date of this Act shall be deemed tax guarantee provided in accordance with the Act no. 353/2003 Coll., as amended from the effective date of this Act.

Transport of mineral oils initiated pursuant to [Section 59 subsection 5 of the Act no. 353/2003 Coll.](#), as amended until the effective day of this Act, shall be completed in accordance with existing legislation. X

Mineral oils listed under nomenclature code 2710 19 25, which were put into free tax circulation before the effective date of this Act and which have been tagged in accordance with Part Five of Act no. 353/2003 Coll., as amended until the effective date of this Act, shall be considered after the effective date of this Act mineral oils stained and tagged according to Part Four of the Act no. 353/2003 Coll., as amended from the effective date of this Act.

Tobacco stamps ordered before the effective date of this Act and unclaimed by the authorized customs office shall be governed by Act no. 353/2003 Coll., as amended until the effective date of this Act.

[Article III of the Act no. 407/2012 Coll.](#)

### **Transitional Provisions**

Authorizations issued pursuant to Section 23 of Act no. 353/2003 Coll., as amended prior to the effective date of this Act, shall be deemed authorizations issued pursuant to Section 23 of Act no. 353/2003 Coll., as amended from the effective date of this Act.

Mineral oils exempt from excise duty pursuant to Section 49 subsection 1 or 3 of the Act no. 353/2003 Coll., as amended prior to the effective date of this Act, shall be handled with in accordance with an exemption for mineral oils used for mineralogical processes and metallurgical

processes by 30 June 2013; persons who have acquired such mineral oils will be obliged to declare and pay tax by the following day.

Persons who acquired mineral oils exempt from tax pursuant to section 2 before the effective date of this Act, shall conduct an inventory of these mineral oils towards the effective day of this Act, within 5 days after the effective date of this Act.

If a person submits a proposal for an authorization for operating a tax warehouse, authorization for an authorized recipient for receiving selected products or a change of already issued authorizations for mineral oils listed under nomenclature codes 3811 11 10 3811 11 90 3811 19 00 and 3811 90 00, on which a conditional tax exemption mode must be applied pursuant to Section 59 subsection 1 letter h) of the Act no. 353/2003 Coll., as amended from the effective date of this Act, within 8 days after the effective date of this Act, such person shall be deemed a tax warehouse operator for such oils or an authorized recipient for receiving such oils, from the effective date of this Act until the date of legal force of the decision regarding such proposal, provided that the proposal was accepted.

Authorizations issued pursuant to Section 60a of Act no. 353/2003 Coll., as amended prior to the effective date of this Act, shall be deemed authorizations issued pursuant to Section 60a of Act no. 353/2003 Coll., as amended from the effective date of this Act.

6. An administrative offense proceedings under Part Six of Act no. 353/2003 Coll., as amended prior to the effective date of this Act, which commenced before the effective date of this Act shall be completed in accordance with existing legislation.

[Article XIII of the Act no. 500/2012 Coll.](#)

#### **Transitional Provision**

Person who purchased or produced mineral oils for primary agriculture, and who prior to the effective date of this section demonstrably used mineral oils for primary agriculture pursuant to Section 57 of the Act no. 353/2003 Coll., as amended prior to the effective date of this section, may claim tax refund on these mineral oils according to Section 57 of the Act no. 353/2003 Coll., as amended prior to the effective date of this section, no later than by 25 July 2014.

[Article XII of the statutory measure no. 344/2013 Coll.](#)



## Transitional Provision

Unless stipulated otherwise, the same provisions of the Act no. [353/2003 Coll.](#), as amended from the effective date of this statutory measure of the Senate, shall apply to the facts, circumstances, relationships, subjects, objects, rights and obligations of the private law according to legal regulation effective prior to the effective date of this statutory measure of the Senate from the effective day of this statutory measure of the Senate, as to the facts, circumstances, relationships, subjects, objects, rights and obligations of the private law according to legal regulation effective from the effective date of this statutory measure of the Senate, which are the closest in their nature and purpose. X

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1) Council Directive [2008/118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive [92/12/EEC](#).

Council Directive [2011/64/EU](#) of 21 June 2011 on structure and rates of excise duty applied to manufactured tobacco.X

Council Directive [92/83/EHS](#) of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages.X

Council Directive [92/84/EEC](#) of 19 October 1992 on approximation of the rates of excise duty on alcohol and alcoholic beverages. .

Council Directive [95/60/EC](#) of 27 November 1995 on fiscal marking of gas oils and kerosene.

Council Directive [2003/96/EC](#) of 27 October 2003, restructuring the Community Framework for the taxation of energetic products and electricity, as amended by Council Directive [2004/74/EC](#) of 29 April 2004, amending the Directive [2003/96/ES](#), as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation, and Council Directive [2004/75/EC](#) of 29 April 2004, amending Directive [2003/96/EC](#), as regards the possibility for Cyprus to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation.X

1a) Council Directive [2008/118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive [92/12/EEC](#).

2) [Section 128 et seq. of the Act no. 13/1993 Coll.](#), Customs Act, as amended by the Act no. [35/1993 Coll.](#), of the Act no. [113/1997 Coll.](#), Act no. [63/2000 Coll.](#), Act no. [256/2000 Coll.](#), Act no. [265/2001 Coll.](#) and Act no. [1/2002 Coll.](#)X

Article 79 et seq. of the Council Regulation (EEC) no. [2913/92](#) of 12 October 1992, establishing the Community Customs CodeX

3) [Section 163 et seq. of the Act no. 13/1993 Coll.](#)

Article 114 et seq. of the Council Regulation (EEC) no. [2913/92](#) of 12 October 1992, establishing the Community Customs CodeX

3b) Article 4 subsection 8 of the Council Regulation (EEC) no. [2913/92](#) of 12 October 1992, establishing the Community Customs CodeX

3c) Article 84 subsection 1 letter a) of the Council Regulation (EEC) no. [2913/92](#) of 12 October 1992, establishing the Community Customs CodeX

4) [Section 214 et seq. of the Act no. 13/1993 Coll.](#)

Article 161 et seq. of the Council Regulation (EEC) no. [2913/92](#) of 12 October 1992, establishing the Community Customs Code X

5) [Section 197 et seq. of the Act no. 13/1993 Coll.](#)

Article 145 et seq. of the Council Regulation (EEC) no. [2913/92](#) of 12 October 1992, establishing the Community Customs Code.X

6a) Article 12 subsection 1 of the Council Directive 2008/[118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive [92/12/EEC](#).

Council Regulation (EEC) no. [2658/87](#) of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff. X

[Section 2 of the Act no. 505/1990 Coll.](#), on metrology, as amended by Act no. [4/1993 Coll.](#) and Act no. [119/2000 Coll.](#) X

Act no. [505/1990 Coll.](#), as subsequently amended. X

10a) [Section 2 letter d\) of the Act no. 311/2006 Coll.](#), on propellants and petrol stations amending certain related acts (Act on propellants), as amended by Act no. [575/2006 Coll.](#)X

13) Act no. [13/1993 Coll.](#), as subsequently amended.X

17a) Commission Regulation (EC) no. [31/96](#) on the excise duty exemption certificateX

19) [Section 11 Act no.269/1994 Coll.](#), on Criminal Register.X

19a) Act no. [269/1994 Coll.](#), on Criminal Register, as subsequently amended.X

Act no. [182/2006 Coll.](#), on bankruptcy and manners of its solution (Insolvency Act), as subsequently amended. X

[Section 57 and 58 of the Act no. 455/1991 Coll.](#), as amended by the Act no. [273/1993 Coll.](#), Act no. [136/1994 Coll.](#), Act no. [237/1995 Coll.](#), Act no. [286/1995 Coll.](#), Act no. [280/1997 Coll.](#), Act no. [356/1999 Coll.](#), Act no. [119/2002 Coll.](#) and Act no. [320/2002 Coll.](#) X

For example the Decree of Ministry of Foreign Affairs no. [157/1964 Coll.](#), on Vienna Convention of Diplomatic Relations, Decree of Ministry of Foreign Affairs no. [21/1968 Coll.](#), on the Convention on the privileges and immunities of the specialized international agencies, Decree of the Ministry of the Foreign Affairs no. [32/1969 Coll.](#), on Vienna Convention of Consular Relations, Decree of the Ministry of the Foreign Affairs no. [40/1987 Coll.](#), on the Convention of special missions, Decree of the Ministry of the Foreign Affairs no. [52/1956 Coll.](#), on the access of the Czechoslovak Republic to the Convention on the privileges and immunities of the United Nations, approved by the UN General Assembly on 13 February 1946, Act no. [125/1992 Coll.](#), on the establishment of the Secretariat of the Conference of Security and Cooperation in Europe and on the privileges and immunities of this Secretariat and other institutions of the Conference of Security and Cooperation in Europe , announcement of the Ministry of Foreign Affairs no. [36/2001 Coll. m.s.](#), on the adoption of the

Agreement on legal status of North Atlantic Treaty Organization, state representatives and international staff. X

[Art. 1 of the Decree no. 157/1964 Coll.](#), on Vienna Convention of Diplomatic Relations. X

[Art. 1 of the Decree no. 32/1969 Coll.](#), on Vienna Convention of Consular Relations X

24a) Act no. [310/1999 Coll.](#), on the stay of foreign armed forces on the territory of the Czech Republic X

27c) Article 1 of the Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerizing the movement and surveillance of excisable products.

27d) Article 23 of the Council Directive [2008/118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive [92/12/EEC](#).

27e) Article 12 subsection 1 letter c) of the Council Directive [2008/118/ES](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive [92/12/EEC](#).X

28) Commission Regulation no. [684/2009](#) of 24 July 2009 implementing Council Directive concerning the general arrangements for excise dutyX

28a) Article 161 subsection 5 Council Regulation (EEC) no. [2913/92](#) on 12 October 1992, establishing the Community Customs Code.X

30) 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.X

31a) Act no. [235/2004 Coll.](#), on value added tax.X

32) [Section 107 Act no.13/1993 Coll.](#), as amended by Act no. [113/1997 Coll.](#) and Act no. [1/2002 Coll.](#)X

Art. 5 and Art. 64 of the Council Regulation no. [2913/1992/EEC](#), establishing the Community Customs Code.X

[Section 4 of the Act no.97/1993 Coll.](#), on the competence of the Administration of state material reserves, as amended by Acts no. [272/1996 Coll.](#), no. [189/1999 Coll.](#), no. [256/2000 Coll.](#) and no. [241/2000 Coll.](#) X

[Section 13 subsection 3 Act no.61/1997 Coll.](#), on alcohol and on amending and supplementing of the Act no. [455/1991 Coll.](#), on trading (Trade Act), as subsequently amended, and Act of Czech National Council no. [587/1992 Coll.](#), on excise taxes, as subsequently amended, (Alcohol Act). X

35a) ČSN EN 228.

35b) ČSN 65 6512 Engine fuels - Ethanol E85 - Technical requirements and test methods.

35c) ČSN 65 6513 Engine fuels- Ethanol E95 for compression ignition engines – Technical requirements and test methods.

35d) [Section 119](#) et seq. of the Act no. [183/2006 Coll.](#), on territorial planning and building code, as amended by Act no. [191/2008 Coll.](#)X

Act no. [50/1976 Coll.](#), on territorial planning and building code\_(Building Act), as subsequently amended. X

Act no. [310/1999 Coll.](#), on the stay of foreign armed forces at the territory of the Czech Republic. X

41) [Section 2f Act no.252/1997 Coll.](#), on agriculture, as amended by Act no. [85/2004 Coll.](#) [Article. II paragraph 1 Act no.85/2004 Coll.](#), amending Act no. [252/1997 Coll.](#), on agriculture, as subsequently amended, and some other laws.X

45) [Section 9 of the Act no.505/1990 Coll.](#), as amended by the Act no. [4/1993 Coll.](#), Act no. [20/1993 Coll.](#), Act no. [119/2000 Coll.](#), Act no. [13/2002 Coll.](#) and Act no. [137/2002 Coll.](#)X

[Section 2, subsection 1, letter k\) of the Act no.61/1997 Coll.](#)

[Section 2, subsection 1, letter a\) of the Act no.61/1997 Coll.](#)

47a) Article 27 paragraph 5 of the Council Directive [92/83/EHS](#) of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages.X

[Section 3 of the Act no.61/1997 Coll.](#), as amended by the Act no. [22/2000 Coll.](#) X

[Section 2, subsection 1, letter o\)](#) and [Section 4 of the Act no.61/1997 Coll.](#), on alcohol, as subsequently amended. X

Act no. [110/1997 Coll.](#), on foodstuffs and tobacco products and amending and supplementing some related laws, as subsequently amended. X

Act no. [79/1997 Coll.](#), on pharmaceuticals and amending and supplementing some related, as subsequently amended. X

[Section 10 subsection 2 of the Act no.61/1997 Coll.](#)

Act no. [22/1997 Coll.](#), on technical requirements on products and amending and supplementing some related laws, as subsequently amended. X

53a) [Section 12 subsection 1 of the Act no.61/1997 Coll.](#), on alcohol, as amended by the Act no. [22/2000 Coll.](#) and the Act no. [354/2003 Coll.](#)X

54) [Section 21, subsection 2, letter j\) of the Act no.61/1997 Coll.](#), on alcohol, as amended by the Act no. [22/2000 Coll.](#)X

[Section 2, subsection 1, letter l\), paragraph 7 of the Act no. 61/1997 Coll.](#)

[Section 2 subsection, 1 letter l\) and m\) of the Act no. 61/1997 Coll.](#) X

57) [Section 15 of the Act no.61/1997 Coll.](#), as amended by the Act no. [22/2000 Coll.](#)X

58) For example [Section 190b of the Act no.513/1991 Coll.](#), [Section 3 of the Act no.143/2001 Coll.](#), on protection of economic competition.X

60) [Section 2 letter v\) of the Act no.115/1995 Coll.](#), on viticulture and wine and amending some related laws, as amended by the Act no. [216/2000 Coll.](#)X

60d) Council Regulation (EC) No. [1493/1999](#) of 17 May 1999 on the common organization of the market in wine, as amended by Commission Regulation (EC) No. [1227/2000](#), Commission Regulation (EC) No. [1607/2000](#), Commission Regulation (EC) No. [1622/2000](#), Commission Regulation (EC) No. [1623/2000](#), Council Regulation (EC) No. [2826/2000](#), Council Regulation (EC) No. [1037/2001](#), Council Regulation (EC) No. [2585/2001](#), Council Regulation (EC) No. [527/2003](#), Council Regulation (EC) No. [806/2003](#), Commission Regulation (EC) No. [1687/2003](#), Commission Regulation (EC) No. [1793/2003](#), Commission Regulation (EC) No. [1795/2003](#) and Commission Regulation (EC) No. [709/2004](#). Commission Regulation (EC) No. [1227/2000](#) of 31 May 2000, setting out implementing rules for Council Regulation (EC) No. [1493/1999](#) on the common organization of the market in wine, concerning production potential, as amended by Commission Regulation (EC) No. [784/2001](#), Commission Regulation (EC) No. [1253/2001](#), Commission Regulation (EC) No. [1342/2002](#), Commission Regulation (EC) No. [315/2003](#), Commission Regulation (EC) No. [1203/2003](#) and Commission Regulation (EC) No. [1841/2003](#). Commission Regulation (EC) No. [1623/2000](#) of 25 July 2000, laying down detailed rules for implementing Council Regulation (EC) No. [1493/1999](#) on the common organization of the market in wine, concerning market mechanisms, as amended by Commission Regulation (EC) No. [2409/2000](#), Commission Regulation (EC) No. [2786/2000](#), Commission Regulation (EC) No. [545/2001](#), Commission Regulation (EC) No. [1282/2001](#), Commission Regulation (EC) No. [1660/2001](#), Commission Regulation (EC) No. [2022/2001](#), Commission Regulation (EC) No. [2047/2001](#), Commission Regulation (EC) No. [2429/2001](#), Commission Regulation (EC) No. [2464/2001](#), Commission Regulation (EC) No. [1315/2002](#), Commission Regulation (EC) No. [1795/2002](#), Commission Regulation (EC) No. [2224/2002](#), Commission Regulation (EC) No. [625/2003](#), Commission Regulation (EC) No. [1183/2003](#), Commission Regulation (EC) No. [1411/2003](#) and Commission Regulation (EC) No. [1710/2003](#).X

60e) [Section 11 subsection 3 letter b\) Act no.321/2004 Coll.](#), on viticulture and wine and amending some other related laws.X

61) Act no. [526/1990 Coll.](#), on prices, as subsequently amended.X

61a) Article 2, subsection 3 of the Council Directive [92/79/EEC](#), as amended by Council Directive [2010/12/EU](#).X

Article 16, subsection 1 and 2, of the Council Directive [95/59/EC](#), as amended by Council Directive [2010/12/EU](#).X

61b) Provision Section 107 subsection 5 was announced in accordance with Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, as amended by Directive [98/48/EC](#).X

62) Act no. [202/1990 Coll.](#), on lotteries and other similar games, as subsequently amended.X

62a) Decree No. [467/2003 Coll.](#), on the use of tobacco stamps in the labeling of tobacco products X

65a) For example [Section 16 Act no.56/2001 Coll.](#), on conditions for operating vehicles on roads and amending Act no. [168/1999 Coll.](#), on liability for damage caused by vehicles and amending some related laws (Act on vehicle operation insurance), as amended by the Act no. [307/1999 Coll.](#)X

65b) For example [Section 11](#) and [19 Act no.110/1997 Coll.](#), as subsequently amended.X

65c) For example [Section 10 letter b\) of the Act no.128/2000 Coll.](#), on municipalities (Municipality Act), as amended by the Act no. [273/2001 Coll.](#), Act no. [320/2001 Coll.](#), Act no. [450/2001 Coll.](#), Act no. [311/2002 Coll.](#), Act no. [313/2002 Coll.](#), Act no.X

[59/2003 Coll.](#), Act no. [22/2004 Coll.](#), Act no. [216/2004 Coll.](#), Act no. [257/2004 Coll.](#), Act no. [421/2004 Coll.](#), Act no. [501/2004 Coll.](#) and Act no. [626/2004 Sb.](#)X

65d) Act no. [37/1989 Coll.](#), on protection against alcoholism and other addictions, as subsequently amended.X

65e) [Section 77 Act no.56/2001 Coll.](#), on conditions for operating vehicles on roads, as amended by the Act no. [311/2006 Coll.](#)X

65f) [Section 10 of the Act no. 22/1997 Coll.](#), on technical requirements on products and amending and supplementing some related laws, as amended by the Act no. [71/2000 Coll.](#) and Act No. [205/2002 Coll.](#)X

65g) This part of the act was declared in compliance with the Directive of the European Parliament and European Council 98/34/EC of 22nd June 1998 on the procedure of the provision of information in the field of technical regulations and rules for services of information society, as amended by Directive 98/48/EC.



[Section 2 subsection 2 of the Commercial Code.](#)

For example Act No. [219/2000 Coll.](#), on property of the Czech Republic and its representation in legal relations, as subsequently amended.X

Decree No. [62/2001 Coll.](#), on the management of state organizational units and state organizations with the state property, as amended by Decree No. [569/2006 Coll.](#)X