

April 2021

Amendments to excise duty regulations

On 30 March 2021, the Polish Sejm passed an act amending the Act on Excise Duty and certain other acts.

The measures it brings include, inter alia, the requirement to keep excise records and other records required under the Excise Duty Act only in electronic format, the obligation for excise duty returns to be submitted only electronically, new excise duty returns to be lodged by taxpayers using duty-exempt or zero rate excise goods, modifications to Binding Excise Information, changes to the principles of issuing permits for conducting activities subject to excise duty, along with other amendments aimed at tightening up the excise duty collection system.

The key amendments to the excise duty regulations are presented below.

Electronic returns and excise duty records

Pursuant to the currently applicable provisions, excise duty records may be kept both electronically and in hard copy. Under the amending act, however, only electronic excise duty records and returns will be accepted.

From 1 July 2021, excise duty returns (excluding those due from individuals not conducting business activity) must be submitted electronically. In turn, the digitization requirement for excise duty records will take effect on 1 January 2022.

The purpose of the amendments is to make keeping excise records and other excise duty-related documentation easier and more flexible. To support it, with the day of entry into force of the new act, the requirement to specify the templates of tax records, excise stamps, audit books and documentation containing information on production activities related to beer or wine by way of subsequent decrees will cease to be enforced.

Simultaneously, the act is to introduce exemption from keeping excise duty records for entities consuming own-produced energy and natural persons producing energy from generators with a total capacity not exceeding 1 MW.

New excise duty returns for taxpayers using duty-exempt or zero rate excise goods

The amending act is to impose a new requirement on taxpayers conducting business activity, who use duty-exempt excise goods (with certain exceptions) as well as zero-rate excise goods listed in Annex 2 to the Excise Duty Act. Starting from 1 July 2021, they will be required to submit special excise duty returns to the head of the competent tax office.

The returns are to be submitted quarterly, by the 25th day of the second month following the quarter for which they are due. Hence, assuming that the first quarter for which the return is due means Q3 2021, ending on 30 September, the first return must be lodged already by 25 November 2021.

Changes to Binding Excise Information

Other amendments introduced by the act apply to the Binding Excise Information (BEI) scheme.

Up to now, BEIs had no time limit. Starting from 1 May 2021, however, they will be valid for 5 years from the date of their issuance. At the request of the entity for which the Information was issued, submitted no later than 3 months before the expiry date, the tax authority may, at its discretion, extend the BEI's validity for another 5 years (with the possibility of subsequent 5-year extensions).

Furthermore, it will become possible for the authority issuing the BEI to amend it, ex officio or at the request of the BEI holder. It will also become possible to modify the BEI if it ceases to comply with the regulatory framework at force, e.g. due to regulatory amendments, introduction of explanatory notes to sections or chapters of the Combined Nomenclature (CN), non-compliance with interpretations of the CN or adoption of new guidelines for tariff classification issued by the European Commission.

Additionally, the amendments bring the requirement of applying the BEI by its holder, effective as of 1 May 2021. Up to now, the use of BEI was non-compulsory.

Finally, under the new rules, BEI may be applied for only by entities performing or intending to perform activities subject to excise duty or involved with trading in excise goods or under the tax stamps regime, which is to eliminate cases

of applying for BEI by every possible entity willing to do it.

Permits for conducting activities subject to excise duty

Another important group of amendments relates to permits for conducting activities subject to excise duty.

Tax authorities are now to be vested with the right to deny entry to the tobacco intermediary operator register and issuance of an excise permit, where there is a justified concern that the applicant will fail to fulfil the obligation to settle taxes constituting the income of the state budget, in particular where the head of the tax office is aware that the individual managing the applying entity's activity was in charge of activities conducted by another entity which, when under the individual's management, was being persistently in arrears with tax liabilities or against which enforcement proceedings were conducted.

Furthermore, the provisions on the possibilities of revoking the excise permit were extended to situations where the activities conducted by an entity under the excise permit obtained are to the detriment of public interest. Importantly, under the amended provisions, decisions on revoking excise permits are to take immediate effect, which means that entities subject to such a decision must instantly cease to operate.

In turn, in the event of arrears in taxes constituting the income of the state budget, due under a decision setting or determining the amount of tax liability, the head of the competent tax office may not revoke the permit, unless they approve the form of securing the execution of tax obligations proposed by the taxpayer in the manner specified in the Polish Tax Code.

Amendments relating to vehicles

The new act amends the principles of imposing excise duty on vehicles, in particular, to remove taxation irregularities related to vehicles imported from EU countries as passenger cars and subsequently registered as trucks or special purpose vehicles, to avoid paying excise duty.

New excise duty obligations will relate to trucks and special purpose vehicles (e.g. towing service vehicles) up to 3.5t GVW. Now, to register such vehicles, a document confirming the lack of obligation to pay excise duty must be provided.

Furthermore, excise duty will be now levied on making any alterations to a vehicle registered in Poland resulting in re-classifying it as a passenger car and on owning a passenger car non-registered in Poland, where the entity that performed the previous taxable activity cannot be identified, or if as a result of an inspection (e.g. a tax audit), it has not been established that the excise duty has been paid. Moreover, the

amendments bring the requirement to submit a joint excise return by all co-owners of a passenger car.

Other amendments

Other measures introduced by the amending act aim at tightening up the Polish excise duty collection system, especially when it comes to trading in denatured alcohol, energy products, raw tobacco, along with heating and marine fuel, subject to labelling and dyeing obligations.

Subsequent provisions clarify sellers' obligation to keep a register of buyers of products that contain denatured ethyl alcohol with an actual alcoholic strength by volume exceeding 50 percent, introduce tax on raw tobacco purchased or possessed by a farmer not entered in the register of raw tobacco producers, in the event of discovery of an illegal tobacco plantation, and make excise duty exemption conditional on entering vessels using energy products for the purpose of navigation in the registers kept for them under separate acts.

Effective date

In principle, the amended regulations should enter into force on 1 May 2021, with some of the new requirements to become applicable at a later date.

If you would like to learn more about the of issues discussed, please do not hesitate to contact us.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

© 2021 KPMG Tax M. Michna sp. k., a Polish limited partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

KPMG offices

Warsaw

ul. Inflancka 4a
00-189 Warsaw
Tel. : +48 22 528 11 00
Fax: +48 22 528 10 09
kpmg@kpmg.pl

Gdańsk

al. Zwycięstwa 13a
80-219 Gdańsk
Tel. : +48 58 772 95 00
Fax: +48 58 772 95 01
gdansk@kpmg.pl

Kraków

ul. Opolska 114
31-323 Kraków
Tel. : +48 12 424 94 00
Fax: +48 12 424 94 01
krakow@kpmg.pl

Katowice

ul. Francuska 36
40-028 Katowice
Tel. : +48 32 778 88 00
Fax: +48 32 778 88 10
katowice@kpmg.pl

Poznań

ul. Roosevelta 22
60-829 Poznań
Tel. : +48 61 845 46 00
Fax: +48 61 845 46 01
poznan@kpmg.pl

Łódź

ul. Składowa 35
90-127 Łódź
Tel. : +48 42 232 77 00
Fax: +48 42 232 77 01
lodz@kpmg.pl

Wrocław

ul. Szczytnicka 11
50-382 Wrocław
Tel. : +48 71 370 49 00
Fax: +48 71 370 49 01
wroclaw@kpmg.pl



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

© 2021 KPMG Tax M. Michna sp. k., a Polish limited partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.