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Excise Goods, Excise Tax Rates and the Methods of Calculating the Excise Price

Cabinet Decision No. 52 of 2019

Issue Date: 4th of August 2019

The Cabinet has decided:

- Having reviewed the Constitution;
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority;
- Federal Law No. 7 of 2017 on Tax Procedures;
- Federal Decree-Law No. 7 of 2017 on Excise Tax;
- Federal Decree-Law No. 32 of 2017 ratifying the Common Excise Tax Agreement of the States of the Gulf Cooperation Council (GCC);
- Cabinet Decision No. 38 of 2017 on Excise Goods, Excise Tax Rates and the Methods of Calculating the Excise Price;
- And pursuant to the presentation of the Minister of Finance,

Article 1 - Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

State	United Arab Emirates.
Authority	Federal Tax Authority.
Minister	Minister of Finance.
Tax	Excise Tax.
Decree-Law	Federal Decree-Law No. 7 of 2017 on Excise Tax.



Excise Goods	Goods that will be determined as subject to Tax by this Decision.
Taxable Person	Any Person registered or obligated to register for Tax purposes under the Decree-Law.
Importer	The natural or legal Person whose name appears for customs clearance purposes as the importer of the Excise Goods on the date of import.
Excise Price	The price calculated in accordance with this Decision.
Value Added Tax	Tax imposed on the import and supply of goods and services according to the Federal Decree-Law no. 8 of 2017 on Value Added Tax.
Milk Substitutes	A drink that is used for all or most uses of milk as a milk substitute, has a consistency similar to milk, and contains 120mg of calcium per 100ml, subject to being extracted from pulses, cereals, nuts, seeds or any other type of plants and not containing aerated substances.

Article 2 - Excise Goods

For the purposes of Article 2 of the Decree-Law, Tax shall be applicable on the following Excise Goods:

1. Tobacco and tobacco products
2. Liquids used in electronic smoking devices and tools
3. Electronic smoking devices and tools
4. Carbonated drinks
5. Energy drinks
6. Sweetened drinks

Article 3 - Tobacco and tobacco products

For the purposes of Article 2 of this Decision, tobacco and tobacco products shall include all items listed within Schedule 24 of the GCC Common Customs Tariff that are imported, cultivated or produced in the State, including electrically-heated cigarettes.



Article 4 - Liquids used in Electronic Smoking Devices and Tools

For the purposes of Article 2 of this Decision, liquids used in electronic smoking devices and tools include all liquids used in such devices and tools and the like whether or not containing nicotine pursuant to the Customs codes to be determined upon a decision issued by the Minister.

Article 5 - Electronic Smoking Devices and Tools

For the purposes of Article 2 of this Decision, electronic smoking devices and tools shall mean all electronic smoking devices and tools and the like whether or not containing nicotine or tobacco pursuant to the Customs codes to be determined upon a decision issued by the Minister.

Article 6 - Carbonated drinks

For the purposes of Article 2 of this Decision, carbonated drinks shall mean all of the following:

1. Any aerated beverage except unflavored aerated water;
2. Any concentrates, powder, gel, or extracts that can be transformed into an aerated beverage.

Article 7 - Energy drinks

For the purposes of Article 2 of this Decision, energy drinks shall mean all of the following:

1. Any beverages marketed or sold as an energy drink that may contain stimulant substances that provide mental and physical stimulation, which includes for example caffeine, taurine, ginseng and guarana, and also includes any substances that have an identical or similar effect as the aforementioned substances.
2. Any concentrates, powder, gel or extracts that can be transformed into an energy drink.



Article 8 - Sweetened Drinks

1. For the purposes of Article 2 of this Decision, Sweetened Drinks shall mean a product to which a source of sugar or other sweetener is added that is produced in any of the following forms:
 - a. A ready-to-drink beverage intended to be used as a drink,
 - b. Concentrates, powders, gel, extracts or any form that can be converted into a sweetened drink.
2. For the purposes of this Article, sugar includes any type of sugar determined under Standard 148 of the GCC Standardization Organization under the heading “Sugar” and any subsequent and relevant standards.
3. For the purposes of this Article, sweeteners include any type of sweeteners determined under Standard 995 of the GCC Standardization Organization under the heading “Sweeteners Permitted in Food” and any subsequent and relevant standards.
4. For the purposes of Article 2 of this Decision, the following Goods shall be excluded from the definition of sweetened drinks:
 - a. A drink that contains at least 75% milk in its ready-to-drink form.
 - b. A drink that contains at least 75% milk substitutes in its ready-to-drink form.
 - c. Baby formula, follow up formula or baby food.
 - d. Beverages consumed for special dietary needs as determined under Standard 654 of the GCC Standardization Organization under the heading “General Requirements for Prepackaged Foods for Special Dietary Use” and any subsequent and relevant standards.
 - e. Beverages consumed for medical uses as determined under Standard 1366 of the GCC Standardization Organization under the heading “General Requirements for Handling of Foods for Special Medical Purposes”, and any subsequent and relevant standards.

Article 9 - Drinks Containing Alcohol

As an exception to the provisions of this Decision, drinks covered by Articles 6, 7 and 8 of this Decision shall not include those containing alcohol.



Article 10 - Goods Previously Subject to Tax

1. Where any Excise Good referred to in articles 6, 7 and 8 of this Decision, has previously been subject to Tax in the State, the beverage produced by combining that Good with other products at the selling point for consumption by a non-Taxable Person shall not be considered an Excise Good for the purposes of the Decree-Law and no further Tax shall be due on it.
2. Tax paid on the Excise Goods specified under Clause 1 of this Article cannot be considered as Deductible Tax according to Article 16 of the Decree-Law.

Article 11 - Compatibility with More Than One Definition

1. Where a product meets the definition of more than one Excise Good specified in this Decision, it shall be classified as the Excise Good subject to Tax at the highest rate.
2. Where a product meets the definition of Carbonated Drinks and Sweetened Drinks as per this Decision, it shall be classified as a Carbonated Drink.

Article 12 - Tax Rates

For the purposes of Article 3 of the Decree Law, Tax shall apply to the Excise Goods stipulated under Article 2 of the Decision pursuant to the following rates:

Excise Good	Tax Rate
Tobacco and tobacco products	100%
Liquids used in electronic smoking devices and tools	100%
Electronic smoking devices and tools	100%
Carbonated drinks	50%
Energy drinks	100%
Sweetened drinks	50%



Article 13 - Excise Price

1. Pursuant to Article 3 of the Decree-Law, the Excise Price shall be the higher of the following two prices:
 - a. the price published by the Authority for the Excise Good in a standard price list that it issues, if available;
 - b. the designated retail sales price for the Excise Good, less the Tax included therein.
2. In order to deduct the value of Tax included within the designated retail sales price according to Paragraph (b) of Clause 1 of this Article, the following calculations should be used:
 - a. For Excise Goods taxable at a rate of 50% of the Excise Price, the Tax shall be equivalent to one third of its designated retail sales price.
 - b. For Excise Goods taxable at a rate of 100% of the Excise Price, the Tax shall be equivalent to half of its designated retail sales price.
3. As an exception to the provision of paragraph (b) of Clause 1 of this Article, the Excise Price of concentrates, powders, gels or extracts referred to in this Decision shall be calculated in accordance with the mechanism specified by the Minister.

Article 14 - Designated Retail Sale Price

1. For the purposes of Article 13 of this Decision, the designated retail sales price shall be the higher of:
 - a. The recommended selling price of the Excise Good in the course of its retail sale that is identified, declared and affixed to the goods by the Importer or Producer after deducting VAT. "The recommended selling price of the Excise Good in the course of its retail sale" shall mean the price achieved when the Excise Good is sold for retail purposes directly to the consumer, and does not include the cases where the price is increased as a result of selling the Excise Good in a hotel, restaurant or similar establishment for the purpose of consumption inside these premises.
 - b. the average retail selling price of the goods in the market after deducting VAT.



2. For the purposes of paragraph (b) of Clause 1 of this Article, the average retail selling price of the goods in the market shall be calculated pursuant to procedures specified by the Authority.

Article 15 - Procedures of the Authority

1. The Authority may determine the procedures required to prove the classification of a product to ensure that it is an Excise Good. The Authority may request the Person to provide documents, laboratory tests, or any other evidence determined by the Authority to prove and identify the product's ingredients, where the Authority is unable to classify the product.
2. The Authority may determine the procedures required to add a product to the published price list referred to in Article 13 of this Decision.
3. Where a Person fails to provide documents referred to in Clause 1 of this Article within the timeframe specified by the Authority, the Authority may consider the product as an Excise Good that is subject to the provisions of the Decree-law, until proven otherwise.

Article 16 - Abrogation

Cabinet Decision No. 38 of 2017 referenced herein and all provisions violating or conflicting with the provisions of this Decision are hereby canceled.

Article 17 - Implementation

The Minister shall issue a decision to set a date for the implementation of this Decision that shall come into effect before 1 January 2020.

Article 18 - Publication

This Decision shall be published in the Official Gazette.