

2. Appendix

Abridged Version of EXCISE DUTY ACT 2014 (ACT 878)

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Introduction

The Government of Ghana introduced the Excise Duty Act 2014 (Act 878) in 2014 to provide for the collection of excise duty on selected imported and locally manufactured goods. This document represents an abridged version of Act 878 and its amendment.

Payment of Excise Duty

Scope

Excise duty is payable on the under listed goods manufactured or imported into Ghana:

- waters including mineral water of all description, distilled, bottled water and sachet water;
- malt drinks, however a lower rate is payable if manufactured using local raw material;
- beer, stout other than indigenous beer however a lower rate is payable if local raw material is used in manufacturing;
- spirits including Akpeteshie;
- tobacco Products: cigarette, cigars Negro head snuff and other tobacco;
- plastic and Plastic products listed under chapters 39 and 63 of the Harmonized System and Customs Tariff Schedules;
- cider beer; and
- textiles and pharmaceuticals (currently attract zero rate of excise duty).

Exemptions

The under listed goods are exempted from the payment of excise duty:

- goods purchased from a manufacturer for the use of the President of Ghana;
- all goods purchased from a manufacturer by a person under a contract to the Government where such exemption from excise duty forms part of the terms of the contract;
- all goods purchased by a licensed manufacturer;
- all goods purchased by Diplomatic missions or a member for their use which is exempted by the Minister of Foreign Affairs provided similar privilege is accorded Ghanaian Diplomatic Missions in that Country;
- all goods purchased by personnel engaged by an International Agency or in a Technical Assistance Scheme where the terms of The Agreement made with the Government of Ghana include exemption from payment of excise duty and which is duly approved by Parliament; or

- all goods that are imported for re-export or goods that are manufactured in the country for export.

Temporary importation of goods

An importer, may be granted permission to import excisable goods without payment of the excise duty if; the Commissioner-General is satisfied that the goods have been imported for further processing or for exhibition purposes and shall be re-exported within three (3) months from the grant of the permission.

An importer, granted permission to import excisable goods without payment of excise duty shall secure the taxes on the goods, by posting a bond or other security equal to the excise duty amount.

The security or bond shall be

- cancelled when the goods are exported; or
- retained when the goods are not re-exported, within the three (3) month period.

Goods not accounted for

In the event that a Manufacturer cannot account for excisable goods, the Manufacturer is required to inform the Commissioner-General within seven (7) days of becoming aware of the discrepancy between the actual and recorded inventory.

Where the Manufacturer fails to inform the Commissioner- General of the discrepancy and cannot account for the missing goods, the Manufacturer shall be liable to pay excise duty on the goods unaccounted for.

Quantity and value of excisable goods

Where a rate of excise duty as provided for in the description above, is payable by reference to a unit of measurement rather than the value, the specific number of units marked or labelled on the container shall be taken to be the quantity of goods in the container.

Where the rate of excise duty payable is by reference to the value of the goods, the excisable value is determined as follows:

- imported goods shall be assessed for import duty as the sum of the goods at ad valorem rates and the amount of taxes, duties and fees or other charges payable on the goods at the time of entry into the country excluding excise duty and value added tax;
- where the goods are manufactured in Ghana and are entered for home use the amount paid or payable in relation to the sale of the goods;
- where the goods are manufactured in the country and are not sold at the time they are entered for home use, the open market value of the goods;

- the value of the goods shall be the open market price where the goods are sold between related parties; or
- for manufactured goods in Ghana the value of the goods shall be at least the ex- factory price of the goods.

Collection and recovery

Time for payment of excise duty

Excise duties on goods manufactured in Ghana, are payable when the goods are entered for home consumption.

Excise duties on imported goods, are due when the goods are entered for home consumption or is required to be entered for home use.

Excise duties on goods manufactured by an unregistered manufacturer are due at the time the goods were manufactured.

Payment of excise duty by manufacturers

Payment of excise duties on goods manufactured from approved premises, are due on or before the twenty-first (21st) day of the following month.

Payment of excise duties with respect to goods manufactured at an unapproved place, are due immediately they are manufactured.

A manufacturer must enter into a bond or lodge a security with the Commissioner-General, before that manufacturer enters excisable goods for consumption or use in the country.

A manufacturer must not enter excisable goods for home use if the amount of excisable duty is more than the amount of the security lodged.

The Commissioner-General upon receiving an application in writing from the manufacturer may grant permission for the entry and approval for the manufacturer to increase the amount of security.

Payment of excise duty by importers

Payment of excise duty in relation to imported baggage for which entry is not required is due, when the baggage is delivered to the passenger.

Payment of excise duty on excisable goods imported through the post is due, when the goods are delivered to the addressee.

Payment of excise duty by a person who imports excisable goods, but fails to enter for home use is due at the time when import duties become payable whether or not the goods are subject to import duties.

Excise duty returns

A person is required to file an excise duty return for each month not later than the twenty-first (21st) day of the following month whether or not an excise duty is payable.

Information required to be provided in the return amongst others, shall include excisable goods removed by the person during the month to which the return relates.

Assessment of excise duty and correction of return

Where the Commissioner-General believes that a manufacturer or any other person is unlikely to pay excise duties, the Commissioner-General shall, based on any information available make an assessment of the amount of excise duty payable.

Where the Commissioner-General makes an assessment, a notice of the assessment shall be served on the person indicating the excise duty payable, the date of payment, the place of payment and the procedure for objecting to the assessment.

A person may within three (3) months of submission of the return apply to the Commissioner-General to amend the return.

Credit and refund for excise duty paid on raw materials

A manufacturer who uses excisable goods on which excise duty has been paid, as raw materials in the manufacture of other excisable goods can claim a credit or be entitled to a credit for the excise duty paid, upon production of evidence of payment of the duty.

The credit shall be applied against the amount of excise duty payable for the month in which the entitlement to the credit arises. However, where a credit is not exhausted within a particular month, a manufacturer shall carry that amount forward as credit for the next month until no credit remains.

With respect to excess credits for excisable goods manufactured for export, a refund may be claimed where twenty-five percent (25%) of the goods manufactured in the month were exported and the export proceeds have been repatriated by the buyer's bank to the authorised dealer bank of the exporter.

Refund of Excise duty on imported excisable goods

A person is eligible to a refund of excise duty paid on imported excisable goods entered for home use when the goods meet the following conditions:

- when the goods are exported in the same condition in which they were imported; or
- when the goods are used for the manufacture of goods in the country and are later exported.

An application for refund shall be made within twelve (12) months from the date on which the goods are exported or put on board the ship or aircraft in which they are exported.

Application for refund of excise duty

An application for a refund shall be made in the prescribed format within twelve (12) months after the month to which the refund relates.

Where a refund is payable to a person, the Commissioner-General may choose to apply all or part of the refund in reduction of excise duty, interest, penalty, duties or any other taxes payable by the person. The Commissioner-General shall pay a refund within sixty (60) days of the filing of the application for refund.

Where a refund is paid in error to a person, the refund amount must be repaid within thirty (30) days of having been notified.

Where a person makes a false claim for a refund, that person shall repay the amount within fourteen (14) days and is liable to a penalty of twice the amount or refund claimed.

Manufacturers and approved warehouses

Registration of manufacturers

A person can only carry on the business of manufacturing excisable goods if that person is:

- registered by the Commissioner-General;
- the goods are manufactured in a warehouse; and
- the person has posted a general bond or lodged a form of security with the Commissioner-General.

Application for Registration

A person who intends to carry on the manufacture of excisable goods shall apply to the Commissioner-General to be registered, within thirty (30) days before the commencement of business. The Commissioner-General shall respond to the application within thirty (30) days.

The Commissioner-General shall register the applicant where he considers the application satisfactory and issue the applicant with a certificate, and may impose terms and conditions where it is appropriate.

The Commissioner-General shall give reasons for refusing to register the applicant.

An applicant who is dissatisfied with the decision of the Commissioner-General may submit a petition to the Commissioner-General for a review of the decision within thirty (30) days of receipt of the decision and the Commissioner-General has thirty (30) days within which to respond to the petition.

Where the petition is unsuccessful the applicant may petition the Minister for Finance within thirty (30) days for a further review.

Compulsory registration

The Commissioner-General may compulsorily register an unregistered person who is manufacturing excisable goods.

The Commissioner-General shall notify such a person before registration and that person may object to the registration within thirty (30) days.

Effective date of registration

Registration takes effect from the date specified on the certificate issued by the Commissioner-General.

Change in relevant events or goods

A manufacturer is required to notify the Commissioner-General of any change:

- in the particulars of that person within fourteen (14) days of the change; and
- the nature or quantity of goods manufactured not later than fourteen (14) days before making the change.

Disqualification of certificate of registration

The Commissioner-General shall not grant or transfer a certificate of registration to a person:

- who has been convicted of an offence;
- is less than eighteen years of age; or
- a person whose certificate of registration has been cancelled.

Death of a holder of a certificate of registration

On the death of a sole proprietor who holds a certificate, the Commissioner-General shall cancel the certificate and re-registration is required.

Where the holder of a certificate of registration dies; the Commissioner-General may transfer the certificate to:

- the personal representative of the holder of the certificate;
- the person beneficially entitled to the business; or
- the Administrator-General or Public Trustee or an appointee.

Cancellation of registration

The Commissioner-General may after giving due notice, cancel the registration of a manufacturer if that person:

- does not comply with the terms, conditions or restrictions of the Licence ;

- commits an excise or customs offence; or
- is below eighteen (18) years of age;

The cancellation shall not affect any existing tax liability or obligation while the manufacturer was registered.

Approval of premises as warehouse

A manufacturer shall apply to the Commissioner-General for approval of premises as a warehouse for, depositing, keeping, manufacturing or securing excisable goods.

The Commissioner-General shall approve the application subject to such terms, conditions or restrictions that may be imposed.

The Commissioner-General may station an officer in a warehouse to ensure compliance, and the manufacturer shall provide the officer with an appropriate accommodation at, or within the warehouse.

Prohibition on warehousing of excisable goods

A registered manufacturer is required to store excisable goods on which excise duty has not yet been paid in an approved warehouse.

A registered manufacturer shall enter excisable goods for home consumption, from an approved warehouse.

Where excisable goods are entered for home consumption from an approved warehouse the relevant records, forms or documents shall be completed.

Notice to Commissioner -General

A manufacturer who ceases to manufacture excisable goods shall within fourteen (14) days of the date of cessation, notify the Commissioner-General in writing stating the reasons for the cessation.

Where the Commissioner-General receives notification from the manufacturer, an audit of the warehouse shall be conducted.

Where registration is cancelled all remaining excisable goods in the warehouse will be deemed entered for home consumption on the previous day.

Where a manufacturer sells his interest in the manufacturing business, the manufacturer shall inform the Commissioner-General within fourteen (14) days of the date:

- the sale occurred;
- the purchaser acquired any legal interest in the assets; or
- the assets are transferred.

Where the seller transfers the business to the purchaser the Commissioner-General shall cancel the registration.

Offences and penalties

Provisions relating to Offences and Penalties

Where a person is liable to more than one penalty or fine in relation to the same entry for home use of excisable goods manufactured in the country, the total maximum penalty or fine imposed on that person shall not exceed three times the value of the goods.

The penalty payable is recoverable as if, it were excise duty payable.

Where a person is convicted of an offence after a previous conviction of a similar offence, the court may either impose the prescribed fine, or in addition to the fine, impose a term of imprisonment with or without the right of release on payment of a fine.

Failure to register

A person who carries on the business of manufacturing excisable goods, without registration commits an offence and is liable to excise duty payable in relation to the goods or a term of imprisonment or to both.

In addition, a person shall pay a penalty not exceeding two times the amount of excise duty payable, in relation to the excisable goods or an amount of not less than five hundred currency points and not more than thousand currency points whichever is higher.

The Commissioner-General may authorise the forfeiture of goods, raw materials, apparatus, utensils and other materials which can be used in the manufacture of excisable goods.

Manufacture outside a warehouse

A person who manufactures, stores or removes excisable goods from a place that is not a warehouse shall:

- pay an administrative penalty equal to two times the amount of duty payable in relation to the excisable goods; and
- in addition, commits an offence and is liable to a fine not exceeding three times the amount of excise duty payable in relation to those excisable goods or to a term of imprisonment or to both.

Failure to enter into a bond or lodge security

A person who manufactures and or enters excisable goods for home consumption without having entered into a bond; or lodged a security with the Commissioner-General commits an

offence and is liable to a fine of not more than two times the amount of excise duty, in relation to the goods or to a term of imprisonment or both.

The person shall in addition, pay two times the amount of excise duty payable on the excisable goods.

Failure to give notice

A manufacturer who fails to give notice to the Commissioner-General as required commits an offence, and is liable to a fine or to a term of imprisonment or both.

In addition, the manufacturer shall pay an amount of not more than five hundred currency points for each failure.

Failure to provide office accommodation

A Manufacturer who fails to provide office accommodation to an officer shall pay a penalty of not more than five hundred currency points for each day that the manufacturer fails to do so.

Failure to submit a return

A manufacturer who fails to submit a return, by the due date is liable to a penalty of five hundred currency points and a further penalty of ten currency points for each day that the failure continues.

Failure to pay tax on due date

A manufacturer who fails to make a payment, by the due date is liable to pay a penalty of fifteen percent (15%) of the amount due and an interest of five percent (5%) of the amount due for each day that failure continues.

Disclaimer

This document is designed to provide user friendly information and is by no means replacing the Excise Duty Act, 2014 (Act 878).