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LAWS OF SAINT VINCENT AND THE GRENADINES  
REVISED EDITION

**EXCISE TAX ACT**

**CHAPTER 430**

**Act No.  
16 of 2007**

Amended by  
SRO 41 of 2007  
Act No. 1 of 2008  
SRO 63 of 2008  
SRO 2 of 2009

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**CHAPTER 430****EXCISE TAX ACT**

## ARRANGEMENT OF SECTIONS

## PART I

*Preliminary*

## SECTION

1. Short title and commencement.
2. Interpretation.

## PART II

*Imposition of Excise Tax*

3. Imposition of excise tax.
4. Deemed entry of excisable goods.
5. Value and quantity of excisable goods.
6. Relief for goods damaged or destroyed.
7. Exemption for goods exported before entry for home use.
8. Temporary importation.
- 8A. Exemptions.

## PART III

*Registration and Approvals*

9. Prohibition on manufacture of excisable goods.
10. Registration.
11. Cancellation of registration.
12. Approved warehouses.

## PART IV

*Collection and Recovery*

13. Excise tax returns.
14. Payment of excise tax by manufacturer.
15. Payment of excise tax by importers.
16. Interest on late payments.
17. Refunds for overpayments.
18. Refunds of excise tax paid on raw materials.
19. Refunds of excise tax paid on exports.
20. Refund procedures.

PART V

*Offences and Penalties*

DIVISION 1

*Administrative Penalties*

SECTION

21. Unregistered manufacturer.
22. Unapproved warehouses.
23. Failure to complete documents.
24. Failure to enter into bond and lodge security.
25. Failure to provide notice.
26. Failure to file return.
27. Miscellaneous provisions relating to penalties.

DIVISION 2

*Criminal Offences*

28. Prosecution for offences.
29. Penalty on second conviction.

PART VI

*Appeals and Reviews*

30. Appeals and reviews.

PART VII

*Administration*

31. Administration.
32. Security.
33. Delegation.
34. Debt due to the Crown.
35. Temporary closure of business premises.

PART VIII

*Miscellaneous*

36. Transition.
37. Regulations.
38. Repeal.

FIRST SCHEDULE

SECOND SCHEDULE

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## CHAPTER 430

## EXCISE TAX ACT

**An Act to provide for the imposition and collection of Excise Tax, and for related matters.**

**Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows.**

[Act No. 16 of 2007 amended by SRO 41 of 2007, Act No. 1 of 2008, SRO 63 of 2008, SRO 2 of 2009.]

[Date of commencement: 1st May, 2007.]

## PART I

*Preliminary***1. Short title and commencement**

- (1) This Act may be cited as the Excise Tax Act, 2007.
- (2) This Act comes into operation on the 1st day of May, 2007.

**2. Interpretation**

- (1) In this Act, unless the context indicates otherwise—

“**approved form**” means a form approved in writing by the Comptroller or the Comptroller of Customs;

“**approved warehouse**” means—

- (a) a place approved as a warehouse by the Comptroller under section 12 of this Act;
- (b) a place approved as a customs warehouse under section 58 of the Customs (Control and Management) Act; or
- (c) a place approved as a warehouse under section 47 of the Customs (Control and Management) Act;

[Chapter 422.]

“**commencement date**” means the date appointed for the purpose of section 1(2);

“**Comptroller**” has the meaning given in the VAT Act;

[Chapter 445.]

“**Comptroller of Customs**” has the meaning given in the VAT Act;

“**consideration**” has the meaning given in the VAT Act;

“**Customs (Control and Management) Act**” means the Customs (Control and Management) Act, 1999;

“**entered for export**” means entered for export in accordance with the Customs (Control and Management) Act;

**“entered for home use”** means—

- (a) in relation to excisable goods imported into the State—
  - (i) an entry made under section 23(3)(a)(ii) of the Customs (Control and Management) Act, or
  - (ii) an entry made under section 55(2)(a) of the Customs (Control and Management) Act,
  - (iii) in any other case, an import of goods that are deemed, under this Act or the Customs (Control and Management) Act, to have been entered for home use; and
- (b) in relation to excisable goods manufactured in the State, the first removal, other than a removal referred to in section 7(b), of those goods from a warehouse;

**“excisable goods”** means goods that—

- (a) are specified in the second column of the First Schedule; and
- (b) are not exempt goods;

**“excise tax”** means—

- (a) the excise tax imposed under this Act; and
- (b) any amount required to be brought to account under this Act as excise tax or otherwise deemed under this Act to be excise tax;

**“exempt goods”** means goods that—

- (a) are specified in the Second Schedule; or
- (b) are specified to be exempt goods under this Act or the Regulations;

**“export”** has the meaning given in the Customs (Control and Management) Act;

**“fair market value”** has the meaning given in the VAT Act;

**“Harmonised System”** means the Harmonised Commodity Description and Coding System set out in the First Schedule to the Customs Duties Act, as amended from time to time, and includes the general rules for the interpretation of that system;

[Chapter 423 (O).]

**“import”** has the meaning given in the Customs (Control and Management) Act;

**“import duty”** means a duty of customs charged on the import of goods and has the same meaning, in relation to an import of goods, as the word “duty” in the Customs (Control and Management) Act;

**“manufacture”** means make or produce excisable goods, and includes—

- (a) all processes, including intermediate or incomplete processes, undertaken in making or producing the goods;
- (b) filtering, diluting, or blending excisable goods with other goods (including other excisable goods);
- (c) putting excisable goods, for the first time, into a container in which they may be presented for sale or from which they may be dispensed; and

(d) labelling or marking, for the first time, containers filled with excisable goods;

“**manufacturer**” includes a person who manufactures excisable goods;

“**Minister**” has the meaning given in the VAT Act;

“**officer**” means—

(a) a person who is an officer for the purposes of the Customs (Control and Management) Act;

(b) a person who is authorised by the Comptroller of Customs or the Comptroller to carry out the functions or duties of an officer under this Act;

“**person**” has the meaning given in the VAT Act;

“**premises**” includes—

(a) a place, whether or not that place is enclosed or built on;

(b) a structure, vehicle, vessel or aircraft;

“**registered manufacturer**” means a person who is registered under section 9;

“**Regulations**” means Regulations made under this Act;

“**related person**” has the meaning given in the VAT Act;

“**removal**”, “**remove**” and “**removed**”, in relation to excisable goods manufactured in the State, refer to the removal of those goods from a warehouse to another place in the State, including another warehouse;

“**repealed taxes**” has the same meaning as in the Value Added Tax (Transitional Provisions and Consequential Amendments) Act;

[Chapter 446.]

“**sale**” means an agreement of purchase and sale, or any other transaction (including a barter transaction) under which ownership of goods, or the right to dispose of goods as owner, passes or is intended to pass from one person to another for consideration;

“**State**” means Saint Vincent and the Grenadines;

“**tax fraction**” has the meaning given in the VAT Act;

“**unrelated persons**” means persons who are not related persons;

“**VAT**” has the meaning given in the VAT Act;

“**VAT Act**” means the Value Added Tax Act, 2006, as amended from time to time;

[Chapter 445.]

“**warehouse**” means a place for the deposit, keeping, manufacture, or securing of excisable goods.

(2) The classifications and descriptions of goods which bear heading numbers designated in the Customs Tariff are to be interpreted in accordance with the rules for interpretation set out in Part 1 of the Customs Tariff.

## PART II

*Imposition of Excise Tax***3. Imposition of excise tax**

(1) Subject to the provisions of this Act, excise tax is imposed at the rates specified in the Third Column of the First Schedule on—

- (a) excisable goods manufactured in the State; and
- (b) excisable goods imported into the State.

(2) The excise tax imposed under subsection (1)(a) becomes payable at the time when the goods are entered for home use, and must be paid to the Comptroller, at the time and in the manner specified in section 14, by the manufacturer from whose warehouse the goods are removed.

(3) The excise tax imposed under subsection (1)(b) must be paid to the Comptroller of Customs, at the time and in the manner specified in section 15, by the person who enters, or is required to enter, the goods for home use.

(4) This section does not apply to a person who produces excisable goods for private use (including use by family and friends) otherwise than in the course of carrying on a business of manufacturing excisable goods in the State.

**4. Deemed entry of excisable goods**

(1) If a person who manufactures excisable goods cannot, to the satisfaction of the Comptroller, account for a quantity of excisable goods manufactured by the person in the State, the person is liable to pay excise tax under section 3 as if those goods had been entered for home use from a warehouse of the person during the month in which the deficiency arose.

(2) A manufacturer must notify the Comptroller of any discrepancy between the manufacturer's actual and recorded inventory within seven calendar days of becoming aware of the discrepancy.

**5. Value and quantity of excisable goods**

(1) Where—

- (a) the Third Column of the First Schedule specifies a rate of excise tax payable by reference to a quantity measured by volume or weight;
- (b) goods are imported or removed from a warehouse in a container intended for sale with, or of a kind usually sold with, the goods in a retail sale; and
- (c) the container is marked, labelled, or commonly sold as containing, or commonly reputed to contain, a specific quantity of such goods,

the container is deemed to contain not less than that specific quantity for the purpose of determining the excise tax payable in respect of the goods.

(2) Where the Third Column of the First Schedule specifies a rate of excise tax payable by reference to the value of excisable goods, the value of the goods is—

- (a) where the goods are imported, the sum of—
  - (i) the value of the goods determined under the Customs (Control and Management) Act for the purpose of assessing import duty on the goods at ad valorem rates, whether or not such import duty is payable on the goods, and
  - (ii) to the extent that they are not included in subparagraph (i), the amount of any taxes, duties, fees, or other charges payable on the entry of the goods into the State (other than excise tax or VAT); or
- (b) where the goods are manufactured in the State and are sold at the time they are entered for home use, the consideration paid or payable in relation to the sale, minus (if the value so calculated includes VAT) the tax fraction of that value; or
- (c) where the goods are manufactured in the State and are not sold at the time they are entered for home use, the fair market value of the goods at time they are entered for home use,

minus (if the value so calculated would includes VAT) the tax fraction of that value.

#### 6. Relief for goods damaged or destroyed

No excise tax is imposed in respect of excisable goods that have not been entered for home use from the manufacturer's warehouse if the goods—

- (a) are destroyed by fire or other natural causes; or
- (b) have deteriorated or been damaged while stored in the manufacturer's warehouse and have been securely disposed of in a manner satisfactory to the Comptroller.

#### 7. Exemption for goods exported before entry for home use

No excise tax is imposed in respect of excisable goods that are exported if—

- (a) in the case of imported goods, they are entered for export without first being entered for home use; or
- (b) in the case of goods manufactured in the State, they are removed from a warehouse and immediately placed under the control of the Comptroller of Customs and entered for export.

#### 8. Temporary importation

(1) The Comptroller of Customs may grant permission for the importation of excisable goods without payment of excise tax if—

- (a) the Comptroller of Customs is satisfied that the goods—
  - (i) are imported only for temporary use or a temporary purpose,
  - (ii) are the *bona fide* property, and are for the exclusive use, of a person temporarily in the State, and



- (iii) will be exported within three months from the grant of the permission; and
  - (b) the person to whom the permission is granted deposits with the Comptroller of Customs an amount equal to the excise tax payable on the goods.
- (2) Where goods imported under subsection (1) are not exported within the period specified, in subsection (1)(a)(iii), the Comptroller of Customs must bring to account as excise tax the deposit made under subsection (1)(b).
- (3) Notwithstanding subsections (1) and (2), the Comptroller of Customs may, if he considers it appropriate, allow a further period for the export of the goods.
- (4) Where goods referred to in subsection (1) are exported within the time specified in subsection (1), or within a further period allowed under subsection (3), the Comptroller of Customs must refund the deposit made under subsection (1)(b).

#### **8A. Exemptions**

The excise tax imposed on diesel oil under this Act does not apply to diesel oil imported into the State by or on behalf of the Saint Vincent Electricity Services Limited if the diesel oil is for the consumption or use by the Saint Vincent Electricity Services Limited in connection with its business or operations.

[Section 8A inserted by SRO 41 of 2007 and Act No. 1 of 2008.]

### **PART III**

#### *Registration and Approvals*

#### **9. Prohibition on manufacture of excisable goods**

- (1) A person who is required to register under section 10 must not manufacture excisable goods in the State unless—
- (a) the person is registered under this Act for the purpose of manufacturing those goods;
  - (b) the excisable goods are manufactured in an approved warehouse; and
  - (c) the person has entered into a general bond and lodged a security with the Comptroller in accordance with section 32.
- (2) A manufacturer who is registered, or required to be registered, under this Act—
- (a) may store excisable goods on which excise tax has not yet been paid only in an approved warehouse;
  - (b) may enter excisable goods for home use only from an approved warehouse; and
  - (c) must complete, at the time of entry for home use, such records, forms, or documents, in such manner and form, as the Comptroller requires in relation to the entry.

**10. Registration**

(1) A person who carries on a business of manufacturing excisable goods in the State is required to be registered for the purposes of this Act.

(2) A person who intends to carry on a business of manufacturing excisable goods in the State and is not registered must apply to the Comptroller in the approved form to be registered for the purposes of this Act no later than twenty-one days before the date on which the person will commence carrying on a business of manufacturing excisable goods.

(3) The Comptroller—

- (a) must register a person applying under this section if the Comptroller is satisfied that the person is, or will be, carrying on a business of manufacturing excisable goods in the State; and
- (b) may impose such terms, conditions, or restrictions as the Comptroller considers appropriate in relation to the person's business of manufacturing excisable goods in the State.

(4) Where a person applies for registration under this section, the Comptroller must—

- (a) notify the person in writing of the Comptroller's decision no later than twenty-one days after the day on which the person makes the application;
- (b) include in the notification the details of, and reason for imposing, any terms, conditions, or restrictions imposed under subsection (3)(b) or, if applicable, the reason for refusing the application; and
- (c) unless the Comptroller has decided not to register the person, issue the person with a registration certificate,

which may be in such form and contain such information as the Comptroller thinks appropriate.

(5) Where the Comptroller reasonably believes that a person who has not applied for registration under subsection (1) is required to do so, the Comptroller may register the person and issue a registration certificate, provided that the Comptroller has first notified the person and given the person an opportunity to object.

(6) A registered manufacturer must, no later than fourteen days after the relevant event occurs, notify the Comptroller of the date and details of any change in the name, address, place of business, constitution, or nature of the principal activity or activities carried on by the manufacturer.

(7) A registered manufacturer must notify the Comptroller no later than fourteen days before making any significant change in the nature or quantity of excisable goods it manufactures in the State.

(8) A notice or application required to be made or given under this section must be in writing and must be given in the form and manner approved by the Comptroller.

(9) Registration under this Act takes effect from the later of—

- (a) the date on which the application for registration is due;

- (b) the date on which the person commences to manufacture excisable goods in the State; or
- (c) in the case of a registration under subsection (5), the date determined by the Comptroller.

#### **11. Cancellation of registration**

(1) The Comptroller may, on providing notice in writing to a registered manufacturer, cancel the manufacturer's registration under this Act at any time if the manufacturer does not comply with any terms or conditions imposed on the registration, or if the manufacturer is convicted of an offence against this Act, the VAT Act or the Customs (Control and Management) Act.

(2) A registered manufacturer who ceases to manufacture excisable goods must, within fourteen days of the date of such cessation, notify the Comptroller in writing of that fact, stating—

- (a) the date on which the manufacturer ceased to manufacture excisable goods;
- (b) the date on which the manufacturer expects that no excisable goods will remain in the manufacturer's warehouse; and
- (c) whether or not the manufacturer intends to recommence manufacturing excisable goods within twelve months from the date provided under paragraph (b).

(3) If the Comptroller receives a notification under subsection (2), the Comptroller must, by notice in writing, cancel the manufacturer's registration with effect from the first day on which the Comptroller expects that there will be no remaining excisable goods in the manufacturer's warehouse, unless the Comptroller has reasonable grounds to believe that the manufacturer will recommence manufacturing excisable goods within twelve months from that date.

(4) If immediately after the cancellation of a manufacturer's registration under subsection (3), there are excisable goods remaining in the manufacturer's warehouse, those goods are deemed to have been entered for home consumption on the preceding day.

(5) The cancellation of a manufacturer's registration does not affect any obligation or liability of the manufacturer under this Act in respect of anything done or omitted to be done by the manufacturer while the manufacturer was registered, including the obligations to pay excise tax and file returns.

(6) A registered manufacturer who sells, as a going concern, a business of manufacturing excisable goods, must notify the Comptroller, in writing, at least three days before the earliest of the dates on which—

- (a) the sale occurs;
- (b) the purchaser acquires any legal interest in any of the assets to be acquired; or
- (c) the assets of the going concern are transferred.

**12. Approved warehouses**

(1) A registered manufacturer may apply, in the approved form, for the approval of a warehouse for the purposes of this Act.

(2) Where an application is made under subsection (1), the Comptroller must approve the warehouse for the deposit, keeping, manufacture, or securing of excisable goods, if the warehouse meets the requirements set out in the Regulations.

(3) A manufacturer who is registered, or required to be registered, under this Act may remove excisable goods only from an approved warehouse.

**PART IV***Collection and Recovery***13. Excise tax returns**

(1) A registered manufacturer must file an excise tax return for each calendar month no later than the last day of the following calendar month, whether or not any excise tax is payable for the month to which the return relates.

(2) An excise tax return required under subsection (1) must—

- (a) be filed with the Comptroller;
- (b) be in the form prescribed by the Comptroller;
- (c) provide such information as the form requires in relation to excisable goods removed by the manufacturer during the month to which the return relates; and
- (d) contain such other information as is specified in that form.

**14. Payment of excise tax by manufacturer**

(1) Where excise tax is payable by a manufacturer under section 3 in relation to excisable goods entered for home use from a warehouse by the manufacturer during a calendar month, the excise tax must be paid to the Comptroller on or before the last day of the following calendar month.

(2) The liability to pay excise tax arises by operation of this section and does not depend on the Comptroller making an assessment of the excise tax due, nor on the manufacturer making a return in accordance with section 13.

(3) Excisable goods manufactured in the State may not be entered for home use from an approved warehouse by a registered manufacturer unless the manufacturer has entered into a general bond, and lodged a security with the Comptroller in accordance with section 32.

(4) A registered manufacturer may not enter excisable goods for home use from an approved warehouse if the entry would result in the amount of excise tax payable by the manufacturer but not yet paid (including excise tax that has not been paid because the time allowed for payment under subsection (1) has not expired) exceeding the amount of security given under subsection (3), unless—

- (a) the Comptroller, on application in writing by the manufacturer, gives permission for the entry;

- (b) the manufacturer, with the agreement of the Comptroller, increases the amount of the security given with the general bond prior to the entry; or
- (c) in any other case, the manufacturer pays the excise tax payable on the goods before the excisable goods are entered for home use.

(5) For the avoidance of doubt, where a manufacturer who is required to pay excise tax in accordance with this section makes one or more payments of excise tax payable for a calendar month before the end of the following month, including where an amount is paid under subsection (4)(c), each such payment reduces the amount payable at the end of the following month.

#### 15. Payment of excise tax by importers

(1) The excise tax payable under section 3 in relation to excisable goods imported into the State must be paid to the Comptroller of Customs before the goods are entered for home use.

(2) For the purposes of subsection (1)—

- (a) a passenger who imports baggage for which no entry is required under the Customs (Control and Management) Act is deemed to have entered the baggage for home use at the time the baggage is delivered to the passenger in the State; and
- (b) the addressee of goods imported by post for which no entry is required under the Customs (Control and Management) Act is deemed to have entered the goods for home use at the time the goods are delivered to the addressee.

[Chapter 422.]

(3) Where a person who imports excisable goods is required to enter the goods for home use under the Customs (Control and Management) Act but does not do so, excise tax is payable at the time when the goods are imported.

(4) For the purposes of collecting and enforcing the payment of excise tax imposed under this Act on excisable goods imported into the State, the Customs (Control and Management) Act and any other enactment relating to the import of goods, apply as if excise tax were an import duty.

#### 16. Interest on late payments

(1) A manufacturer who fails to pay part or all of the excise tax payable by the date required under this Act, is liable to pay interest on the amount unpaid, at the rate prescribed under section 61 of the VAT Act, for each month or part of a month during which it remains unpaid.

[Chapter 445.]

(2) Interest payable under subsection (1) is recoverable under this Act as if it were excise tax payable under this Act.

#### 17. Refunds for overpayments

(1) If a person has paid excise tax and the amount paid exceeds the amount payable under this Act, the person is entitled to a refund equal to the amount of the excess.

(2) An application for a refund under this section must be made within three years from the end of the month in which the goods are entered for home use.

### **18. Refunds of excise tax paid on raw materials**

(1) A registered manufacturer who uses excisable goods as raw materials in the manufacture of other excisable goods in the State is entitled to a refund of—

- (a) the excise tax, if any, paid by the manufacturer under section 3(1)(a) or (b) in respect of an entry of the raw materials for home use; or
- (b) any excise tax that the Comptroller is satisfied was paid, by a person from whom the registered manufacturer acquired the raw materials, in respect of an entry for home use of those raw materials.

(2) An application for a refund under this section must be made within twelve months from the date on which the excisable goods were used as raw materials in the manufacture of other excisable goods.

### **19. Refunds of excise tax paid on exports**

(1) A person who imported excisable goods is entitled to a refund of the excise tax paid by the person when the goods were entered for home use if the goods are in compliance with the conditions for payment of a drawback of duties under the Customs (Control and Management) Act.

[Chapter 422.]

(2) A person who manufactured excisable goods is entitled to a refund of the excise tax paid by the person when the goods were entered for home use if the Comptroller is satisfied that the goods were exported from the State without first being used in the State.

(3) An application for a refund under this section must be made within twelve months from the date on which the goods are exported or put on board the ship or aircraft in which they are exported.

### **20. Refund procedures**

(1) An application for a refund of excise tax under this Part must be filed with the Comptroller, if the excise tax to be refunded was paid to the Comptroller, or with the Comptroller of Customs, if the excise tax to be refunded was paid to the Comptroller of Customs, and must—

- (a) be filed in the approved form and manner; and
- (b) contain the information specified in the form.

(2) If a person who is entitled to a refund under subsection (1) makes an application for the refund within the required time, the Comptroller or Comptroller of Customs (whichever is appropriate) must pay the refund or the amount, if any, remaining after the refund has been applied in accordance with subsection (3), to the applicant within two calendar months from the date on which the application is filed.

(3) If a refund is payable to a person under this Part, the Comptroller or Comptroller of Customs may apply part or all of the refund first in reduction of any excise tax, interest, or penalty payable by the person under this Act, then against any other taxes or duties

collected by the Comptroller or the Comptroller of Customs, including any repealed taxes payable by the person.

(4) For the purpose of subsection (3), the Comptroller of Customs must not pay a refund without first consulting the Comptroller to determine whether the person applying for the refund has any outstanding liabilities for amounts referred to in that subsection, and the same obligation is imposed on the Comptroller to consult the Comptroller of Customs before paying a refund under this section.

(5) Where the Comptroller or the Comptroller of Customs, as the case may be, does not pay a refund within the time required under this section, interest is payable by that Comptroller at the rate prescribed for the purposes of section 44 of the VAT Act.

[Chapter 445.]

(6) If an amount is refunded to a person in error, the person is required to repay the amount, together with interest at the rate prescribed under section 61 of the VAT Act, starting from fourteen calendar days after the person is notified by the Comptroller or the Comptroller of Customs of the error, and both the amount and the interest are recoverable from the person as excise tax payable under this Act.

## PART V

### *Offences and Penalties*

#### DIVISION 1

#### *Administrative Penalties*

#### **21. Unregistered manufacturer**

(1) A person who contravenes section 9(1)(a) by manufacturing excisable goods in the State without being registered is liable for an administrative penalty equal to double the amount of excise tax payable, if any, in relation to the entry of those excisable goods for home use.

(2) The penalty payable under subsection (1) applies from the date on which the person is required to apply for registration until the date on which the person applies for registration or is registered by the Comptroller under section 10(5).

#### **22. Unapproved warehouses**

(1) A person who—

- (a) contravenes section 9(1)(b) by manufacturing excisable goods at premises in the State that are not an approved warehouse;
- (b) contravenes section 9(2)(a) by storing excisable goods on which excise tax has not been paid at such premises; or
- (c) contravenes section 9(2)(b) by removing excisable goods on which excise tax has not been paid from such premises,

is liable for an administrative penalty equal to;

- (d) double the amount of excise tax payable in relation to the entry for home use of excisable goods manufactured at those premises; or

- (e) if goods have been manufactured and stored in unapproved premises but not yet entered for home use, double the amount of excise tax that will become payable when those goods are entered for home use, whether or not the premises are by that time approved.

(2) The penalty payable under subsection (1) applies from the earliest of the dates on which the person commences manufacturing, storing or removing excisable goods at or from those premises in contravention the relevant provision until the date on which the person applies to have the premises approved as a warehouse, provided that if the Comptroller refuses to approve the premises and the person continues to manufacture excisable goods, the penalty continues to apply.

### 23. Failure to complete documents

(1) A person is liable for an administrative penalty if the person contravenes section 9(2)(c) by entering excisable goods for home use without completing such records, forms, or documents as the Comptroller requires under that section.

(2) The penalty payable under subsection (1) is equal to double the amount of excise tax payable in relation to that entry for home use.

### 24. Failure to enter into bond and lodge security

(1) A person is liable for an administrative penalty if the person—

- (a) contravenes section 9(1)(c) or 14(3), or both, by manufacturing excisable goods in the State or entering such goods for home use, without having entered into a bond and lodged a security with the Comptroller in accordance with section 32; or
- (b) contravenes section 14(4) by entering for home use excisable goods manufactured in the State without complying with section 14(4) (a), (b) or (c).

(2) The penalty payable under subsection (1)(a) is equal to double the amount of tax, if any, payable on excisable goods entered for home use during a time when the person has not entered into the bond and lodged a security with the Comptroller.

(3) The penalty payable under subsection (1)(b) is equal to double the amount of tax payable by the person on each non-compliant entry of excisable goods for home use.

### 25. Failure to provide notice

A manufacturer who fails to notify the Comptroller as required by section 4(2), 10(6), 10(7) 11(2) or 11(6) or who fails to apply for cancellation of registration when required to do so, is liable for a penalty not exceeding one thousand dollars.

### 26. Failure to file return

A manufacturer who fails to file an excise tax return by the day prescribed by section 13 is liable for an administrative a penalty equal to—

- (a) one thousand dollars for the first month or part of the month during which the return is unfiled; and



- (b) two thousand dollars per month for each subsequent month or part of a month during which the return remains unfiled.

#### **27. Miscellaneous provisions relating to penalties**

(1) Where a person is liable for a penalty in relation to a contravention of this Act, under the VAT Act or an Act dealing with customs—

- (a) the minimum penalty is five per cent of the maximum penalty that may be imposed for the offence;
- (b) if the maximum penalty is less than three times the value of any goods in respect of which the contravention is committed, the maximum penalty for the contravention is increased to three times that value.

(2) Where a person is liable for more than one penalty in relation to the same entry for home use of excisable goods manufactured in the State, the total penalties imposed on the person in relation to those goods must not exceed three times the value of the goods.

(3) The Comptroller may remit all or part of a penalty imposed under this Division if in his opinion it is appropriate to do so.

(4) A penalty payable under this Part is recoverable under this Act as if it were excise tax payable under this Act.

### DIVISION 2

#### *Criminal Offences*

#### **28. Prosecution for offences**

(1) A person who is liable for a penalty under Division 1 of this Part is also guilty of an offence and is liable on summary conviction to a penalty equal to double the amount prescribed under Division 1.

(2) A person cannot be subject to a penalty under both Division 1 and Division 2 in relation to the same contravention.

#### **29. Penalty on second conviction**

Where—

- (a) a person is convicted of an offence against this Act; and
- (b) the person has previously been convicted of a similar offence against this Act,

the Court may, instead of or in addition to imposing the prescribed penalty, impose a penalty of imprisonment for a term not exceeding two years, with or without the right of release on payment of a penalty.

## PART VI

*Appeals and Reviews***30. Appeals and reviews**

The following are reviewable decisions for the purposes of Part XVIII of the VAT Act—

- (a) a decision under section 4(1) to impose excise tax on goods for which a deficiency has arisen;
- (b) a decision under section 10 to register or not register a manufacturer or to impose terms, conditions, or restrictions on the manufacturer's business of manufacturing excisable goods in the State;
- (c) a decision under section 11 to cancel or not cancel a manufacturer's registration, including a decision as to the date of effect of a cancellation;
- (d) a decision under section 12 not to approve a warehouse for the purposes of the Act or to impose terms, conditions or restrictions on the approval of the warehouse;
- (e) a decision under Part IV not to pay a refund, or a decision as to the amount of a refund payable;
- (f) a decision under Division 1 of Part V to impose a penalty;
- (g) a decision under section 27(3) not to remit part or all of a penalty;
- (h) a decision under section 32 to require security, including a decision as to the amount of the security;
- (i) a decision under section 35(5) not to remove a notice referred to under section 35(4).

[Chapter 445.]

## PART VII

*Administration***31. Administration**

(1) The Comptroller has the responsibility for the general administration and enforcement of this Act and for carrying out the provisions of this Act in relation to goods manufactured in the State.

(2) The Comptroller has the responsibility for the general administration and enforcement of this Act and for carrying out the provisions of this Act in respect of excisable goods imported into this Act.

(3) The Comptroller of Customs must provide the Comptroller with such information as the Comptroller reasonably requests in order to assist the Comptroller in the performance of the responsibility imposed under subsection (1), including but not limited to information relating to—

- (a) an import by a manufacturer of excisable goods to be used in the manufacture of other excisable goods;

- (b) an import by a manufacturer of goods, other than excisable goods, to be used in the manufacture of excisable goods;
- (c) an export by a manufacturer of excisable goods,

and the information provided must be sufficient to enable the Comptroller to identify at least—

- (d) the person making the import or export;
- (e) the date and place of import or export;
- (f) the quantity, and if relevant quality, of the goods imported or exported;
- (g) the Tariff classification of the goods;
- (h) the value of the goods; and
- (i) in relation to an import, the amount of excise tax, if any, paid on the import.

(4) For the purposes of subsection (3), and more generally for the purposes of this Act, the Comptroller and the Comptroller of Customs may enter into a Memorandum of Understanding to govern, amongst other matters—

- (a) the exchange of information relevant to the administration of this Act;
- (b) procedures to be followed in exchanging such information;
- (c) procedures for requesting and providing additional information;
- (d) in relation to an import or export of excisable goods, the recording, by the Comptroller of Customs, of a TIN, if any, used by the Comptroller to identify the person making the import or export;
- (e) the quantity, quality, value, and amount of excise tax paid by a person on an import of excisable goods; and
- (f) any other matter required by the Comptroller or the Comptroller of Customs in order to fulfil the responsibilities imposed under subsections (1) and (2).

(5) Unless a contrary intention appears, in relation to excisable goods imported into the State, the provisions of the Customs (Control and Management) Act, the Customs Duties Act, and any enactments amending those Acts, apply, so far as they are relevant, and with such exceptions, modifications, and adaptations as are necessary, as if excise tax were an import duty.

(6) The Comptroller of Customs may exercise any power conferred on the Comptroller of Customs by the customs legislation as if a reference to duty in that legislation included a reference to excise tax charged under this Act.

(7) Except to the extent that subsection (5) applies, and unless a contrary intention appears, so far as they are relevant and with such exceptions, modifications and adaptations as are necessary for the purpose of administering this Act, the provisions of the VAT Act, including the provisions of Part XVI imposing any relevant administrative penalties or prescribing any relevant offences, apply in relation to excise payable under this Act as if that excise tax were VAT and any references to interest or penalties payable under that Act are references to interest or penalties payable under this Act.

(8) The Comptroller may exercise any power conferred by the VAT Act as if a reference to VAT in that Act included a reference to excise tax charged under this Act.

### 32. Security

(1) The Comptroller must require a registered manufacturer to enter into a general bond, to continue in force while the manufacturer remains registered, and to lodge a security with the Comptroller for the purposes of this Act.

(2) A security may be given by cash deposit, bond, guarantee, or a combination of these methods or any other method approved by the Comptroller.

(3) The Comptroller must specify the manner and amount in which security must be given.

### 33. Delegation

(1) The Comptroller may delegate in writing a duty, power, or function conferred on the Comptroller under this Act other than the power of delegation conferred by this subsection.

(2) A delegation under this section does not prevent the exercise of such power, duty, or function by the Comptroller and does not relieve the Comptroller from responsibility for the actions of the person to whom the delegation is made.

(3) The Comptroller may, at any time, revoke in writing a delegation under this section.

### 34. Debt due to the Crown

(1) Any excise tax, interest, or penalty imposed on any person under this Act—

- (a) is, when it becomes payable, recoverable as a debt owing to the Crown; and
- (b) may be sued for and recovered in a court of competent jurisdiction by the Crown.

(2) In any suit under subsection (1), the production of a certificate signed by the Comptroller or the Comptroller of Customs stating—

- (a) the name and address of the person who is the defendant in the suit; and
- (b) the amount of excise tax, interest, or penalty, as the case may be, due and payable by the person,

shall be conclusive evidence that that amount is payable by and due from the person.

### 35. Temporary closure of business premises

(1) Where a registered manufacturer repeatedly fails—

- (a) to file excise tax returns as required by section 13; or
- (b) to pay excise tax on or before the due date,

the Comptroller may, after obtaining an order of a court having jurisdiction in respect of the manufacturer, forcibly close one or more business premises of the manufacturer for a period of between three and thirty days.

(2) The Comptroller may not execute a court order granted for the purposes of subsection (1) before the expiry of seven calendar days after the date on which the Comptroller gives the person notice in writing, which notice must include at least the following information—

- (a) a statement that the Comptroller intends to close the specified premises of the manufacturer under this section;
- (b) the months in relation to which the person has failed to file excise returns or pay excise tax (including excise tax payable during the month because of section 14(4)(c));
- (c) if known to the Comptroller, the amounts payable by the person; and
- (d) a demand for the lodgement of all outstanding returns and the payment of all outstanding amounts within seven days.

(3) For the purposes of executing an order issued for the purposes of subsection (1), the Comptroller may—

- (a) at any time, enter any premises described in the order; and
- (b) bar access to the premises with locks, fencing, boarding, or other appropriate methods,

and, if the Comptroller thinks it appropriate, he may require a police officer to be present while the order is being executed.

(4) The Comptroller must affix a notice in the following words in a conspicuous place on the front of premises that have been closed under an order issued for the purposes of this section: “CLOSED TEMPORARILY FOR NOT COMPLYING WITH EXCISE TAX OBLIGATIONS”.

(5) If all outstanding excise tax returns, if any, are filed and the overdue amounts of excise tax, if any, including any interest and penalties, are paid during the period of closure, the Comptroller must immediately arrange for the removal of the notice referred to in subsection (4).

## PART VIII

### *Miscellaneous*

#### **36. Transition**

(1) This Act applies to excisable goods imported into, or manufactured, in the State only if—

- (a) the goods are imported or manufactured on or after the commencement date;
- (b) the goods were imported or manufactured before the commencement date but are entered for home use on or after the commencement date.

(2) A person who is carrying on a business of manufacturing excisable goods before the commencement of this Act and will be carrying on that business at that date, or who

intends to commence carrying on such a business within fourteen days of the commencement date, must apply for registration no later than the commencement date and the Comptroller must process the application and notify the applicant of his decision within one month of receiving the application.

(3) Where a person is required to be registered under section 9 and to manufacture excisable goods only from an approved warehouse—

- (a) at the commencement of this Act;
- (b) because an amendment to this Act has the effect of imposing excise tax on excisable goods that were previously not subject to excise tax; or
- (c) because, after the commencement of this Act, the person becomes required to be registered under this Act,

the person is allowed a period of two calendar months from the commencement date of this Act, the commencement date of the amendment, or the date on which the person becomes required to apply for registration, whichever is applicable, to comply with the provisions of this Act relating to registration and approved warehouses.

(4) During the period referred to in subsection (2)—

- (a) an unregistered person who manufactures excisable goods must comply with this Act as if the person were registered; and
- (b) the premises on which the person manufactures the goods are deemed to be an approved warehouse.

### 37. Regulations

(1) The Minister may make Regulations—

- (a) for any matter that this Act requires or allows to be prescribed by Regulations; and
- (b) for any matter that is necessary or convenient to be prescribed in order to better carry out or give effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Regulations may provide for—

- (a) transitional or saving provisions consequent on the coming into operation of this Act;
- (b) the remedy (in manner or form or both) of any deficiency in this Act arising from the absence or insufficiency of provisions to deal with any thing that is necessary to give effect to this Act;
- (c) the duties and functions of officers and other persons appointed or employed under this Act;
- (d) the form of returns to be made, the particulars to be included in the returns, the persons by whom, and the time when or within which such returns are to be made.

(3) Regulations made under this Act may include Regulations prescribing penalties for contravention of the Regulations.

(4) The Minister may, by order published in the *Gazette* and approved by affirmative resolution of the Parliament, amend the First and Second Schedules.

### 38. Repeal

The Excise Act and the Excise Equalisation Duty Act are repealed.

#### FIRST SCHEDULE

[First Schedule amended by SRO 41 of 2007, Act No. 1 of 2008, SRO 63 of 2008 and SRO 2 of 2009.]

<i>Heading</i>	<i>Description of Goods</i>	<i>Rates</i>
22.02	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages.	
2202.10.00	Waters, including mineral waters and aerated water, containing added sugar and other sweetening matter or flavoured:	
2202.10.90	Other	10%
2202.90	Other	
2202.90.10	Beverages containing cocoa	10%
2202.90.90	Other	10%
2202.101	Aerated beverages	5%
22.03	Beer made from malt	
2203.001	Beer	\$0.55 per litre
2203.002	Stout	\$0.55 per litre
2203.009	Other	\$0.55 per litre
22.04	Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09.	\$3.30 per litre
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.	\$3.30 per litre
22.06	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.	\$0.50 per litre
Ex 2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% or higher.	\$12.00 per proof gallon

## FIRST SCHEDULE—continued

Heading	Description of Goods	Rates
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol, spirits, liqueurs and other spirituous beverages.	
2208.20	Brandy	\$3.30 per litre
2208.30	Whiskies	\$3.30 per litre
2208.40	Rum and tafia:	
2208.401	In bottles of a strength not exceeding 46% vol	\$3.30 per litre
2208.409	Other	\$12.00 per proof gallon.
2208.50	Gin Geneva	\$3.30 per litre
2208.60	Vodka	\$3.30 per litre
2208.70	Cordials and Liqueurs	\$3.30 per litre
2208.909	Other spirituous beverages	\$3.30 per litre
24.01	Unmanufactured tobacco; tobacco refuse	5%
24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	
2402.10.00	Cigars, cheroots and cigarillos, containing tobacco	12%
2402.20.00	Cigarettes containing tobacco	\$0.45 per 100 piece
2402.90.00	Other	10%
24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences.	5%
2710.10	Motor spirit (gasoline) and other light oils and preparations:	
2710.11	Aviation Spirit of 100 octane and over	\$1.40 per liquid gallon
2710.12	Aviation Spirit under 100 octane	\$1.40 per liquid gallon
2710.13	Motor spirit (gasoline)	\$2.00 per liquid gallon
2710.14	Spirit type (gasoline type) jet fuel	\$1.40 per liquid gallon
2710.19	Other	\$1.40 per liquid gallon
2710.20	Kerosene and other medium oils (not including gas oils):	



## FIRST SCHEDULE—continued

<i>Heading</i>	<i>Description of Goods</i>	<i>Rates</i>
2710.21	Kerosene type jet fuel	\$0.50 per liquid gallon
2710.22	Illuminating kerosene	\$0.50 per liquid gallon
2710.23	Vapourising oil or white spirit	\$0.50 per liquid gallon
2710.29	Other	\$0.50 per liquid gallon
2710.30	Gas oils:	
2710.31	Diesel oil	\$0.70 per liquid gallon
2710.39	Other Gas oils	\$0.70 per liquid gallon
2710.40	Fuel oils, not elsewhere specified or included:	
2710.41	Partly refined petroleum, including topped crudes:	\$0.70 per liquid gallon
2710.42	Bunker 'C' grade fuel oil:	\$0.70 per liquid gallon
2710.49	Other	\$0.70 per liquid gallon
27.11	Petroleum gases other gaseous hydrocarbons	
2711.10	Liquified:	\$3.00 per 100 lb
2711.11	Natural gas	\$3.00 per 100 lb
2711.12	Propane	\$3.00 per 100 lb
2711.13	Butanes	\$3.00 per 100 lb
2711.20	In gaseous state:	
2711.21	Natural gas	\$3.00 per 100 lb
2711.29	Other	\$3.00 per 100 lb
40.12	Retreated or used pneumatic tyres of rubber; solid or cushion tyres, inter-changeable tyre treads and tyre flaps of rubber.	10%
Ex 85.39	Incandescent bulbs	100%
8710.20	Road tractors for semi-trailers	55%
87.02	Motor vehicles for the transport of ten (10) or more persons including the driver.	45%
8703.10	Vehicles specially designed for travelling on snow; golf cars and similar vehicles	45%
8703.20	Other vehicles, with spark-ignition internal combustion reciprocating piston engine:	
8703.21	Of a cylinder capacity not exceeding 1,000 cc:	35%
8703.22	Of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc:	35%

FIRST SCHEDULE—*continued*

<i>Heading</i>	<i>Description of Goods</i>	<i>Rates</i>
8703.23	Of a cylinder capacity exceeding 1,500 cc but not exceeding 3000 cc	
8703.231	Completely knocked down for assembly in plants approved for the purpose by the Competent Authority	40%
8703.232	Of a cylinder capacity exceeding 1,500 cc but not exceeding 1,800 cc	40%
8703.233	Of a cylinder capacity exceeding 1,800 cc but not exceeding 2,000 cc	40%
8703.234	Of a cylinder capacity exceeding 2,000 cc but not exceeding 3,000 cc	40%
8703.24	Of a cylinder capacity exceeding 3,000 cc:	
8703.241	Completely knocked down for assembly in plants approved for the purpose by the Competent Authority	40%
8703.249	Other	40%
8703.30	Other vehicles, with compression-ignition internal combustion piston engine (diesel or semi-diesel):	
8703.31	Of a cylinder capacity not exceeding 1,500 cc:	30%
8703.32	Of a cylinder capacity exceeding 1,500 cc but not exceeding 2,500 cc:	30%
8703.33	Of a cylinder capacity exceeding 2,500 cc:	30%
8703.90	Other Types of Vehicles	30%
87.04	Motor vehicles for the transport of goods	55%
87.06	Chassis fitted with engines, for the motor vehicles of headings Nos. 87.01 to 87.05	
8706.001	For the assembly of coaches and buses	35%
8706.002	For the motor vehicles of heading No. 87.01,87.04 or 87.05	50%
8706.009	Other	50%
87.07	Bodies (including cabs), for the motor vehicles of headings Nos. 87.01 to 87.05	40%

## SECOND SCHEDULE

[Second Schedule amended by SRO 63 of 2008 and SRO 2 of 2009.]

The following goods are not excisable goods and the import or removal of such goods is therefore exempt from excise tax—

- (a) Non-alcoholic beverages, including malt described under Customs Tariff headings 22.01, 22.09 and subheadings 2202.10.10 and 2202.90.20.
  - (b) Ethyl alcohol and other spirits, denatured, of any strength described under Customs tariff heading 2207.20.
  - (c) Aromatic bitters described under Customs tariff subheadings 2208.901 and 2208.902.
  - (d) Lubricating oils and greases described under Customs tariff subheading number 2710.90.
  - (e) New pneumatic tyres described under Customs tariff heading 40.11.
  - (f) Tractors described under Customs tariff subheadings 8701.10, 8701.30 and 8701.90.
  - (g) Special purpose motor vehicles described under Customs tariff subheading 87.05.
  - (h) Bulbs, excluding incandescent bulbs, described under Customs tariff subheading number 85.39.
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**CHAPTER 430**  
**EXCISE TAX ACT**  
**SUBSIDIARY LEGISLATION**

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*List of Subsidiary Legislation*

	<i>Page</i>
1. Excise Tax Regulations .....	31

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LAWS OF SAINT VINCENT AND THE GRENADINES  
REVISED EDITION

**EXCISE TAX REGULATIONS**

**SRO 22 of 2007**

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Government of Saint Vincent and the Grenadines

**EXCISE TAX REGULATIONS**

## ARRANGEMENT OF REGULATIONS

## PART I

*Preliminary*

## REGULATION

1. Short title and commencement.
2. Interpretation.

## PART II

*Registration of Manufacturers and Approval of Warehouses*

3. Applications for registration under the Act.
4. Applications for approval of warehouses.
5. Requirements for approval of warehouses.
6. Operating an approved warehouse.

## PART III

*Manufacture and Removal of Excisable Goods from Approved Warehouses*

7. Records of excisable goods removed from a warehouse.
8. Permission to remove goods to an offsite warehouse.

## PART IV

*Offences and Penalties*

9. Prohibition on dilution of alcoholic beverages.
10. Offences in relation to warehouses.
11. Penalty for failing to maintain weights, scales, etc.

## PART V

*Objections and Appeals*

12. Reviewable decisions.

## PART VI

*Records and Returns*

13. Books and records to be kept.

## PART VII

*Refunds*

14. Diplomatic Missions and International Organisations.
-

**EXCISE TAX REGULATIONS**

**In exercise of the powers conferred upon him by section 37 of the Excise Tax Act, the Minister makes the following Regulations.**

[SRO 22 of 2007.]

[Date of commencement: 1st May, 2007.]

**PART I***Preliminary***1. Short title and commencement**

- (1) These Regulations may be cited as the Excise Tax Regulations, 2007.
- (2) These Regulations come into operation on the 1st day of May, 2007.

**2. Interpretation**

- (1) In these Regulations, unless the context otherwise requires—

“**Act**” means the Excise Tax Act, 2007;

[Chapter 430.]

“**tax-paid excisable goods**” means—

- (a) excisable goods in respect of which excise tax has been paid; and
- (b) excisable goods manufactured in the State that have been entered for home use but for which excise tax has not yet been paid because the due date for payment under section 14(1) of the Act has not arrived;

“**tax-unpaid excisable goods**” means excisable goods that are not tax-paid excisable goods.

- (2) A word or phrase not specifically defined in these Regulations but defined in the Act has the meaning assigned to it in the Act, whether that meaning applies for the purposes of the entire Act or only for part of the Act.

**PART II***Registration of Manufacturers and Approval of Warehouses***3. Applications for registration under the Act**

For the purposes of an application by a manufacturer for registration under section 10 of the Act, in addition to any information required by the Comptroller, the application must be accompanied by the following—

- (a) documents evidencing the manufacturer’s intention to operate a genuine manufacturing facility, which may include—
  - (i) copies of the articles of incorporation or similar founding documents,
  - (ii) the names, addresses, qualifications, and other identifying information in relation to the directors and senior employees of the manufacturer,

- (iii) names and identifying details of the accountants, lawyers, and agents, if any, of the manufacturer;
- (b) evidence of the manufacturer's ability to maintain the accounts and records required under section 96 of the Value Added Tax Act;  
[Chapter 445.]
- (c) an application for approval of the manufacturing facility as an approved warehouse; and
- (d) a procedures statement or manual, acceptable to the Comptroller, setting out how tax-unpaid excisable goods will be handled, secured, tracked, and monitored while in the warehouse, and specifying the persons, or classes of person, who will have access to the goods, and under what conditions.

#### 4. Applications for approval of warehouses

An application for approval of a warehouse under section 12(2) of the Act must be supported by a site plan of the premises clearly showing details of—

- (a) the configuration and secure perimeters of the manufacturing facility;
- (b) the location and physical details (size, materials of construction, etc.) of the area to be designated as the warehouse; and
- (c) the warehouse's external security (fences, etc.) and internal security (entries, exits, alarms, lights, etc.).

#### 5. Requirements for approval of warehouses

(1) For the purposes of section 12(2) of the Act, the following requirements must be met in order for a warehouse of a registered manufacturer to be approved—

- (a) the warehouse must be controlled or operated by the manufacturer;
- (b) the manufacturer must be able to specify at any time—
  - (i) the nature of the goods manufactured or stored in the warehouse,
  - (ii) the estimated value of those goods, and the manufacturer's estimated excise tax liability in respect of a subsequent removal of those goods from the warehouse, and
  - (iii) the expected method of disposal of the goods by way of local sales, export sales, use in the manufacture of other excisable goods, or other means of disposal, including an estimate of the anticipated percentages of each type of disposal;
- (c) the Comptroller must be satisfied that the warehouse is secured in a manner that prevents unauthorised access to tax-unpaid excisable goods and enables all movements of excisable goods into or out of the warehouse to be monitored.

(2) The registered manufacturer must provide proof that tax-paid excisable goods will not be stored in the warehouse except as allowed under regulation 6(2).

(3) Subregulation (2) does not prevent the Comptroller from approving only part of particular premises as an approved warehouse if that part of the premises is clearly delineated and secured to the satisfaction of the Comptroller.



**6. Operating an approved warehouse**

(1) Only the following persons may enter a warehouse at which tax-unpaid excisable goods are stored—

- (a) if the manufacturer is an individual, the manufacturer;
- (b) an officer or employee of the manufacturer, or of a carrier delivering or removing goods from the warehouse;
- (c) the Comptroller, or an officer to whom the Comptroller has delegated such powers under the Act;
- (d) subject to written approval of the Comptroller given to the registered manufacturer, whether on a one-off or ongoing basis, a person (if the person is an individual), or an officer or employee of the person, if the person has been subcontracted by the registered manufacturer to provide maintenance, cleaning, installation, or other services in respect of the business carried on by the registered manufacturer; and
- (e) other persons to whom the Comptroller has given written approval to enter such premises.

(2) Tax-paid excisable goods may not be stored in an approved warehouse unless—

- (a) the warehouse is a manufacturing facility and the goods are to be used as raw materials in manufacturing other excisable goods; and
- (b) the tax-paid excisable goods to be used as raw materials are separately stored and secured away from the place where tax-unpaid excisable goods are stored.

(3) A registered manufacturer must provide and maintain at each of the manufacturer's approved warehouses—

- (a) adequate lighting;
- (b) correct weights and scales; and
- (c) all labour,

necessary for—

- (d) weighing excisable goods received into, excisable goods manufactured in, and excisable goods removed from the approved warehouse; and
- (e) taking stock of all excisable goods in the warehouse.

(4) The manufacturer must prepare and retain any records and documentation required by Comptroller in relation to the deposit, keeping, manufacture or, securing of excisable goods or removal of excisable goods from the warehouse.

(5) The warehouse, and any records the registered manufacturer is required to keep, are subject to inspection by the Comptroller at any time and without prior notice.

## PART III

*Manufacture and Removal of Excisable Goods from Approved Warehouses***7. Records of excisable goods removed from a warehouse**

(1) Tax-unpaid excisable goods may only be removed from a warehouse with authorisation from the Comptroller and in accordance with the terms and conditions imposed by the Comptroller on the registered manufacturer from whose warehouse the goods are to be removed.

(2) For the purposes of section 9(2)(c) of the Act, in addition to any documents or forms required by the Comptroller under that section, a registered manufacturer must prepare and retain the following records—

- (a) in relation to all excisable goods manufactured in the State by the registered manufacturer—
  - (i) documentation which evidences the quantities of raw materials and packaging materials used, brought into or removed from the warehouse of the registered manufacturer,
  - (ii) the quantity and type of excisable goods produced, transferred or disposed of from the warehouse of the registered manufacturer,
  - (iii) the quantity and type of excisable goods which are packaged in the warehouse of the registered manufacturer,
  - (iv) details of the disposition of, including invoices and bills of lading, the packaged excisable goods from an approved warehouse and the quantity upon which excise tax was paid,
  - (v) documentation of the quantity and type of excisable goods exported from the State,
  - (vi) particulars of any claim for refund of excise tax under section 17, 18 or 19 of the Act;
- (b) in relation to all imported excisable goods used by the registered manufacturer in the manufacture of other excisable goods—
  - (i) documentation which evidences the quantities of raw materials and packaging materials used, brought into or removed from the warehouse of the registered manufacturer,
  - (ii) the quantity and type of excisable goods produced, transferred or disposed of from the warehouse of the registered manufacturer,
  - (iii) the quantity and type of excisable goods which are packaged in the warehouse of the registered manufacturer,
  - (iv) details of the disposition of, including invoices and bills of lading, the packaged excisable goods from an approved warehouse and the quantity upon which excise tax was paid,
  - (v) documentation of the quantity and type of excisable goods exported from the State,
  - (vi) particulars of any claim for refund of excise tax under section 17, 18 or 19 of the Act.

(3) The Comptroller may specify that a manufacturer may remove tax-unpaid excisable goods from a warehouse only in the physical presence of, and under the supervision of, an officer of the Comptroller.

(4) Requirements relating to the removal of tax-unpaid excisable goods under subregulation (3) may include a “two-key” system under which the officer and the registered manufacturer each hold keys to the area of the warehouse in which the tax-unpaid excisable goods to be removed are held, and both keys are required to open any lock that secures entry into that area.

#### **8. Permission to remove goods to an offsite warehouse**

(1) A registered manufacturer may apply to the Comptroller to remove tax-unpaid excisable goods from an approved warehouse to another approved warehouse.

(2) The Comptroller may approve an application under subregulation (1), subject to such terms and conditions as the Comptroller may specify, if—

- (a) both approved warehouses are operated and controlled by the registered manufacturer; and
- (b) the registered manufacturer enters into an agreement with the Comptroller regarding the means by which the goods will be transported between the approved warehouses, and specifying the security arrangements for ensuring that the goods reach their destination.

(3) An approval to remove tax-unpaid excisable goods from one approved warehouse to another may be a continuing approval or a one-off approval.

(4) Except in situations covered by regulation 6(2), permission may not be given under this regulation to remove tax-unpaid excisable goods to a warehouse at which tax-paid excisable goods are stored.

(5) Where a registered manufacturer removes tax-unpaid excisable goods from an approved warehouse (“the first warehouse”) to another approved warehouse (“the second warehouse”) in accordance with an approval given under this regulation, and in compliance with the conditions set out in the agreement referred to in subregulation (2)(b)—

- (a) for the purpose of determining if and when the goods are entered for home use, the removal from the first warehouse is treated as if it did occur and the removal (if any) from the second warehouse is treated as if it were the first removal of those goods from a warehouse; and
- (b) if the registered manufacturer is unable to prove to the satisfaction of the Comptroller that the goods which left the first warehouse were the same goods, if any, that were delivered to the second warehouse, subregulation (a) does not apply.

## PART IV

*Offences and Penalties***9. Prohibition on dilution of alcoholic beverages**

(1) A manufacturer who, otherwise than in the process of manufacturing other excisable goods in an approved warehouse, dilutes alcoholic beverages falling under Customs Tariff Heading 2207 and 2208 after recording or declaring the quantity manufactured for the purposes of determining the manufacturer's excise tax liability, commits an offence under these regulations and is liable to—

- (a) an administrative penalty not exceeding ten thousand dollars; or
- (b) on summary conviction, a fine of twenty-five thousand dollars or imprisonment for one year, or both.

(2) For the avoidance of doubt—

- (a) diluting alcoholic beverages falling under Customs Tariff Heading 2207 and 2208 and then repackaging, or re-sealing, the beverages constitutes the manufacture of other excisable goods; and
- (b) diluting alcoholic beverages when they are served in glasses or other containers in which they are sold for consumption at the time and place where they are served, for example, by mixing spirits with carbonated drinks or fruit juices, or mixing wine with fruit juices, does not constitute manufacture and is not a contravention of this regulation.

**10. Offences in relation to warehouses**

(1) A manufacturer who stores tax-paid excisable goods in an approved warehouse in contravention of regulation 6(2), or who fails to keep tax-paid excisable goods that are raw materials separated from tax-unpaid excisable goods as required by regulation 6(2)(b), is guilty of an offence under these Regulations.

(2) A registered manufacturer who fails to adequately maintain security at an approved warehouse so as to prevent access by unauthorised persons to excisable goods stored in warehouse is guilty of an offence under these Regulations.

(3) A person who is liable to an offence prescribed under this regulation is liable to—

- (a) an administrative penalty not exceeding five thousand dollars; or
- (b) on summary conviction, a fine not exceeding ten thousand dollars.

**11. Penalty for failing to maintain weights, scales, etc.**

A registered manufacturer who fails to maintain adequate lighting, weights and scales, etc, as required by regulation 6(3) is guilty of an offence and is liable to—

- (a) an administrative penalty of five thousand dollars; or
- (b) on summary conviction, a fine not exceeding ten thousand dollars.

## PART V

*Objections and Appeals***12. Reviewable decisions**

The following decisions made under these regulations are reviewable decisions for the purposes of section 94 of the VAT Act, and are subject to the objection and appeal provisions of Part XVIII of that Act—

- (a) a decision under regulation 7 not to authorise the removal of tax-unpaid excisable goods from an approved warehouse, or to impose terms and conditions on the removal;
- (b) a decision under regulation 8 not to authorise the removal of tax-unpaid excisable goods from one approved warehouse to another, or to impose terms and conditions in relation to the removal;
- (c) a decision to impose an administrative penalty under Part IV.

## PART VI

*Records and Returns***13. Books and records to be kept**

(1) For the purposes of the Act and in accordance with section 96 of the VAT Act, a registered manufacturer is required to keep such accurate books and records as are necessary and relevant to explaining the manufacturer's excise tax and returns and supporting the manufacturer's determination of its excise tax liabilities under the Act.

(2) Without limiting subregulation (1), a registered manufacturer must maintain, and be able to produce on demand, such records as are required to evidence at any time—

- (a) all excisable goods that have entered each approved warehouse of the manufacturer;
- (b) all excisable goods that have been removed from the warehouse;
- (c) all other goods that have entered and been removed from the warehouse, if those goods are raw materials used in the manufacture of excisable goods at the warehouse, or are used to contain, store, label, or measure excisable goods held or manufactured at the warehouse;
- (d) all excisable goods stored in the warehouse (including the physical location of the goods within the warehouse).

(3) The records referred to in subregulation (2) must include appropriate, relevant, and accurate links to production and sales records, and to excise tax returns.

## PART VII

*Refunds***14. Diplomatic Missions and International Organisations**

(1) Applications for refunds of excise tax to diplomatic missions and international organisations may be made at the same time and place, and in the same manner as applications for VAT.

(2) The Comptroller must pay a refund applied for under subregulation (1) if the application meets the requirements set out in the VAT law and the Comptroller is satisfied that the excise tax was paid by the mission or international organisation.

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