

Simplifying Excise Tax Related Procedures

During the current economic environment, it is crucial for businesses to manage their cash-flows. Cash-rich or cash-sufficient businesses need to survive to embrace the future which could be uncertain for few sectors.

Having said this, businesses which import or produce excisable products would have felt the impact on the cash-flows due to high tax rates of tax and long credit period for recovery from the customers. There is an opportunity for businesses to manage their cash-flows further by setting up operations in an Excise Designated Zone (i.e. excise warehouse) and manage the cash-flows. This Article deals with the intricacies for setting up operations in Excise Designated Zones.

What is Excise Tax?

Excise tax is an indirect tax which is levied on specific goods (as specified below) which are considered harmful to the health of the general public.

Type of Goods	Rate of Excise Tax
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%

When is Excise Tax Payable?

Excise tax applies where excise products are either imported or produced or stockpiled. This contrasts with other types of indirect taxes such as VAT which are general levied on sale within the UAE. VAT is a tax which is levied on value addition in the entire supply chain.

It is critical for businesses to evaluate whether the products they deal with can be classified in any of the aforesaid categories. Recently, we have seen many issues around classification of products during the Audits conducted by the tax authorities leading to demand of Excise tax along with consequent penalties for the delay in declaring goods. In case of any ambiguity regarding classification, a prudent approach would be to seek ruling from the tax authorities.

Once the incidence of tax has arisen, the taxpayers would be required to make the payment of Excise to the FTA monthly. This would mean that in majority of the cases, taxpayers would be required to make payment of Excise (on account of goods imported or produced) without collecting the component from the customer (due to goods being unsold/ credit period more than a month, etc).

As the levy of Excise tax is 50% or 100% of the listed price or average RSP; it is likely that the value would have a huge impact on cash-flows depending upon the volume of imports / production during the month.



What are the Benefits of Setting Up an Excise Warehouse?



Under the UAE Excise regulations, there is an option available to the importer, under which the liability to pay Excise tax can be deferred. This is possible if the goods are directly moved to an approved Excise warehouse (also known as Excise Designated zones) post imports from outside UAE (i.e. goods are not cleared for consumption within the UAE). Excise warehouses are not treated as being within the UAE for the levy of Excise tax. Consequently, an importer would not be required to pay Excise tax on goods stored in the Excise warehouse and the liability to pay Excise tax would arise only on the removal and clearance of goods from the warehouse for domestic consumption within the UAE.

Apart from deferring the excise tax payments, storing goods in the warehouse becomes more relevant in case of exports. If the goods were not stored in the Excise warehouse, then the importer would have paid the Excise tax and later would be required to apply for a refund in case of exports (leading to blockage of cash). Please note here that the Excise warehouses (Designated zones) are different from the Designated zones under VAT.

Another potential benefit which the businesses can claim is the waiver of Excise tax if the goods are lost / damaged within the Designated zone (subject to tax authorities' approval). It may be noted that similar provisions allowing Excise tax waiver are not available if the goods are stored in non-designated Excise warehouse. It would be important to see what constitutes 'damaged' and whether Excise tax waiver (in Designated zone) can be extended to perishable goods (i.e. goods which are unfit for consumption after certain period) including sales return (i.e. goods which return to the Designated zone on expiry).

How to Set Up an Excise Warehouse?

Now the question which may arise is what are the different ways under which a business can set-up an excise warehouse? An Excise warehouse can be set-up in a fenced free zone which is a free zone under the control of Customs or in any place approved by the FTA which has adequate security measures to restrict entry and exit of goods and people. Appointment of warehouse-keeper is mandatory who would oversee the operations in the Excise warehouse.



There is also the option for an existing warehouse to be converted into an Excise warehouse. This would mean that the business may not shift its operation or a warehouse from one location to another. While the businesses may have to apply for a Designated zone and warehouse keeper registration, it is important that prior to filing the registration application following key aspects are considered:



Whether there are adequate physical controls in place to check entry and exit of goods



Which details are captured in the accounting / operating system to allow filing of required declaration forms?



Whether there are appropriate systems to check movement of goods at the warehouse.



What would be the value of financial guarantee that needs to be executed while applying for registration?

Next Steps for the Business

A detailed evaluation needs to be undertaken by the businesses considering the controls in their existing / new warehouse and ensure that the controls criteria are fulfilled before filing an application for Excise warehouse with the authorities. Another challenge could be that if the business has multiple warehouses located next to each other than; whether single excise warehouse registration would suffice or registration for each warehouse needs to be obtained separately.

There have been instances wherein the tax authorities have levied penalties for storing excise goods without the payment of Excise tax as the Excise warehouse application was not approved / under process. Large businesses operating through multiple warehouses (Designated and non-designated) should take due precaution to ensure that goods are stored in the appropriate designated Excise warehouse and due Excise tax is paid in case the goods are moved or stored in non-designated Excise warehouse.

Considering the deferment benefits available on setting up an Excise warehouse, businesses may cautiously consider the option to manage the cash-flows. Also, due importance should be given to the compliance as there are certain declaration forms which needs to be filled to capture the movement of goods to / from Excise warehouse.



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For more details with respect to this alert or queries on other Tax issues, please contact the following in country GT Tax leaders, whose details are given below.



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