

Regulation No. 436/1998, on commodity tax

CHAPTER I

Taxable goods and exemptions

Article 1

Taxable goods

- (1) A commodity tax shall be paid to the State Treasury on imported goods and goods manufactured, processed or packaged domestically.
- (2) The taxability includes goods, new as well as used, that are classified with tariff headings listed in Annex I to law No. 97/1987, on commodity tax, with subsequent amendments.
- (3) Classification with regard to taxability shall be based on the rules for classification in the Customs Law No. 55/1987^{*1)}.
- (4) Tax Commissioners and domestic manufacturers of goods can request a ruling from the Directorate of Customs on the classification of a manufactured good according to provisions of Article 142 of the Customs Law^{*2)}. A ruling of the Directorate of Customs on the classification of goods can be the subject of a complaint by the Tax Commissioner and the manufacturer to the State Customs Board, cf. Article 101 of the Customs Law^{*3)}. Rulings by customs authorities on classification are binding for the manufacturer and the tax authorities.]

^{*1)}See now the Customs Law No. 88/2005. ^{*2)}Now Article 21 of the Customs Law No. 88/2005. ^{*3)}Now Article 188 of the Customs Law No. 88/2005.

Article 2

Exemptions

- (1) Products sold out of the country are not taxable. Sale of taxable goods to the defence force at Keflavik Airport, cf. law No. 110/1951, and sale in tax-free stores, cf. Chapter VIII of the Customs Law^{*1)}, shall be deemed to be sale out of the country for the purposes of this regulation. Sale to individual members of the defence force is, however, taxable according to general rules.
- (2) Sale of raw material or components to holders of commodity tax certificates is exempt from commodity tax according to provisions of Chapter V. Also sale of goods to specially registered wholesalers, according to Article 9, paragraph 3.
- (3) Goods covered by Article 5 of the Customs Law^{*2)}, are not taxable upon customs clearance, provided that conditions of tax exemption that apply in other respects to these goods are observed. Parties referred to in Article 3 of the Customs Law^{*3)} are also exempt from taxability at importation, provided they meet conditions on tax-free import. Import by specially registered wholesalers is subject to Article 9, paragraph 3.

¹⁾Now Chapter XIII of the Customs Law No. 88/2005. ²⁾Now Article 6 of the Customs Law No. 88/2005. ³⁾Now Article 4 of the Customs Law No. 88/2005.

CHAPTER II

Tax classes and object of taxation.

Article 3

Tax classes and object of taxation

Goods classified in tariff headings listed in section A of Annex I of the Commodity Tax Law shall be subject to commodity tax for every kilogram of the good without packaging, as indicated in the Appendix. [---]¹⁾

¹⁾Cf. Article 1 of regulation No. 84/2007.

Article 4

Tax categories of ad valorem tax

Goods classified in tariff headings listed in section C of Annex I of the Commodity Tax Law shall be subject to a 15% commodity tax. Goods classified in tariff headings listed in section D of the Annex shall be subject to a 20% commodity tax. Goods classified in tariff headings listed in section E of the Annex shall be subject to a 25% commodity tax.

Article 5

Object of ad valorem tax at importation

The object of taxation for commodity tax on imported goods, classified in tariff headings listed in sections C-E of Annex I with the Customs Law, is their customs value as determined according to Articles 8-10 of the Customs Law^{*1)}, with the addition of duties assessed according to that Act.

¹⁾Now Articles 14-16 of the Customs Law No. 88/2005.

Article 6

Object of ad valorem tax of domestic manufactures

(1) The object of commodity taxation on goods manufactured, processed or packaged in this country and classifiable within the tariff headings listed in sections C-E in Annex I to the Custom Tax Law, is their factory price.

(2) Factory price is the sales price of goods from the manufacturer without deduction of any cost or service fee.

(3) When the factory price does not equal the total value of a product, for example because the buyer or another manufacturer supplies raw materials, components or other items of value on which commodity tax has not already been paid, the total value of the product shall be the object of commodity taxation.

(4) If a manufacturer is also the wholesaler or retailer of a product, or if the factory price of a good is not available for other reasons, the object of taxation shall be the general market value for an identical or similar product when sold from manufacturers. If such a general market price is not available, the object of taxation shall be the factory price from a manufacturer of an identical or similar product in comparable trade between unrelated parties.

(5) If a manufacturer and a buyer are related within the meaning of Article 8, paragraph 2, of the Customs Law^{*1)}, the tax authorities are authorised to assess the object of taxation according to the provisions of paragraph 4.

^{*1)}*Now Article 14, paragraph 2 of the Customs Law No. 88/2005.*

CHAPTER III

Taxable parties and registration

Article 7

Taxable parties

Liability to pay commodity tax rests with the following parties:

1. Importers, i.e. all those importing to the country goods subject to commodity tax, regardless of whether the goods are for own use, manufacture or for resale.
2. Taxable manufacturers, i.e. all those manufacturing, processing or packaging, goods subject to commodity tax domestically.
3. Specially registered wholesalers, i.e. those importing or buying domestically taxable^{*1)} goods for wholesale and specially registered at the Tax Commissioner, cf. Article 9.

^{*1)}*Translator note: This note presents a correction of the Icelandic term for "subject to commodity tax", which had a spelling error in the publication in the Legal Gazette.*

Article 8

Obligation of notification and registration

(1) Taxable parties according to Article 7, other than those importing goods to the country for their own use, must submit a notification of the operation or enterprise for registration, spontaneously and no later than 15 days prior to commencing an operation subject to commodity tax, to the Tax Commissioner for Reykjavik who is in charge of registering taxable parties.

(2) Changes in an operation occurring subsequent to registration, must be notified of no later than 15 days after the change took place.

Article 9

Special registration of wholesalers

(1) Parties importing or purchasing domestically taxable goods for wholesale, can apply for a special registration to the Tax Commissioner for Reykjavik. Such a registration authorises parties to settle the commodity tax based on changes in inventory in the settlement period.

(2) The conditions for registration according to paragraph 1 are:

1. That the party be in possession of a wholesale license.
2. That the party keep special stock accounts for the goods subject to special rules on commodity tax settlement due to the registration, in conformity with regulations issued by the Directorate of Internal Revenue.^{a)}

(3) Specially registered wholesalers may import taxable goods and buy taxable goods domestically from taxable parties according to Article 7, points 2 and 3, without an obligation being established to pay commodity tax at that point in time, provided they present a certificate in confirmation thereof.

a) Rules No. 358/1996 on stock accounting and more due to special registration according to Article 11 of commodity tax regulation No. 356/1996 (now according to Article 9 of regulation No. 436/1998, on commodity tax).

CHAPTER IV

Period of settlement, date of payment, assessment, surcharges and more

Article 10

Period of settlement and dates of payment

(1) Each period of settlement for registered parties, cf. Chapter III, is two months; January and February, March and April, May and June, July and August, September and October, November and December.

(2) The date of payment for each period of settlement is the 28th day of the second month after the end of period.

Article 11

Assessment of commodity tax at importation.

The Directorate of Customs shall levy commodity tax upon customs clearance of imported goods.

Article 12

Assessment of commodity tax domestically

(1) Commodity tax domestically, cf. Article 7, points 2 and 3, is calculated upon the sale or delivery of taxable goods, irrespective of when or how the buyer's payment takes place.

(2) Taxable parties according to Article 7, points 2 and 3 shall, no later than on the date of payment of each settlement period, hand in a commodity tax declaration for sale or delivery in that period. Those selling taxable goods without commodity tax

according to Article 2, paragraphs 1 and 2 shall inform of those sales in a commodity tax declaration. A commodity tax declaration shall in other respects be of a form decided by the Directorate of Internal Revenue. The Directorate of Internal Revenue can decide to have different commodity tax declarations for taxable manufacturers and specially registered wholesalers.

(3) The Tax Commissioner assesses commodity tax according to this Article. The Tax Director assesses commodity tax on the trade of those who do not submit a declaration within the date of payment, submit no declaration, or if a declaration or accompanying data are incomplete. The Tax Commissioner shall notify the collector and the party liable for the tax about assessments and corrections made.

Article 13

Collection of commodity tax

(1) The Directorate of Customs collects commodity tax upon customs clearance of the import of parties importing goods for their own use.

(2) Registered importers according to Article 8, paragraph 1 shall, no later than on the date of payment for any settlement period, pay the collector of the State Treasury, spontaneously, a commodity tax on goods that have cleared customs during the period in accordance with assessment according to Article 11.

(3) Taxable manufacturers according to Article 7, paragraph 2, shall no later than on the date of payment for each period of settlement pay, spontaneously, to the collector of the State Treasury, commodity tax on taxable goods which were sold or delivered during that period.

(4) Specially registered wholesalers according to Article 7, point 3 shall, no later than on the date of payment for each period of settlement, pay, spontaneously, to the collector of the State Treasury a commodity tax on goods which they have purchased or cleared through customs during the period or were kept in stock in the beginning of the period of settlement but are not in stock at the end of the period according to stock accounts.

Article 14

Surcharge and penal interest

(1) If commodity tax is not paid on the due date, the party shall be subject to the payment of a surcharge in addition to the commodity tax the party is liable to pay. The same applies if a commodity tax declaration has not been submitted or is incomplete, and the commodity tax has therefore been assessed, unless the party has prior to the due date, paid an amount equal to the assessment, or has submitted a satisfactory explanation on uncertain items within the time limit for complaints. A commodity tax is considered paid at the time required if payment has verifiably been posted on the due date.

(2) A surcharge according to paragraph 1 shall be 1% of the unpaid amount, for each day or part of a day after the due date, however, not exceeding 10%.

(3) If commodity tax has not been paid within one month from the due date, penal interest must be paid to the State Treasury on the amount due.

CHAPTER V

Commodity tax certificates and refunds

Article 15

Certificates of manufacturers using raw material or components subject to commodity tax

(1) Manufacturers of goods using in their manufacture, raw material or components subject to commodity tax, can get a permission from the Tax Commissioner for Reykjavik to purchase such raw material or components without commodity tax, cf. Article 2, paragraph 2, point 1.

(2) A manufacturer requesting an authorisation according to paragraph 1 shall apply to the Tax Commissioner for Reykjavik in a format decided by the Directorate of Internal Revenue. The application shall, among other things indicate name and classification of raw material or components for the manufacture.

(3) If the Tax Commissioner for Reykjavik deems that adequate information has been presented, the Commissioner issues a special certificate to the manufacturer. The certificate authorises the respective manufacturer to purchase domestically without commodity tax, raw material or components for use in own manufacture. The certificate authorises the manufacturer also to have waived or refunded the commodity tax on import of raw material or components for use in own manufacture. The certificate shall indicate which products it covers.

(4) The authorisation for exemption and the right to refunding provided for in this Article covers solely raw materials or components which become a part of the final manufactured product. However, the authorisation covers neither the purchase or importation of materials for constructions or for the maintenance of real estate nor new construction or repairs of vehicles.

Article 16

Waiving or refunding of commodity tax on imported raw material or components

(1) An importer can on the due date of each settlement period have waived or refunded the commodity tax on products that the importer has imported to this country and which are subject to commodity tax at importation, if the importer has sold the product as raw material or component, during the settlement period, to a holder of a commodity tax certificate according to Article 15. The same applies to the importation by a holder of a commodity tax certificate according to Article 15 of raw material or components for use in own manufacture.

(2) A condition for waiving or refunding according to paragraph 1, sentence 1, is that the buyer present a commodity tax certificate according to Article 15 upon purchase and that the importer record its number and time of validation on the sales invoice.

(3) Waiving or refunding shall be applied for according to paragraph 1 in a special declaration to the Tax Commissioner for Reykjavik, which shall be in a form determined by the Directorate of Internal Revenue. A refunding declaration shall include information on the sale and use of raw material or components concerned by the refunding request, including the names of buyers, name of product, its total quantity, the requested refund amount of commodity tax. The importer may provide the Tax Commissioner with a list of customers buying raw material or components from him without commodity tax on the basis of a commodity tax certificate according to Article 15, and the importer then no longer needs to indicate the names of buyers on declarations every time. This declaration shall be submitted no later than 15 days prior to the due date for the period of settlement.

(4) If the Tax Commissioner for Reykjavik accepts the declaration without further explanations the waiving or refunding shall take place at the due date. If the refund declaration is not handed in until after the period indicated, refunding shall take place 15 days after it is handed in.

(5) If the holder of a commodity tax certificate according to Article 15 imports raw material or components only for use in own manufacture, the holder can obtain automatic waiving according to this Article, i.e. without an application according to paragraph 3, provided the holder requests this of the Tax Commissioner for Reykjavik.

(6) Waiving or refunding of commodity tax according to this Article may be complained of according to Article 23. The complaint shall, however, be directed to the Tax Commissioner for Reykjavik.

Article 17

Wholesaler certificate

If a wholesaler obtains a special registration according to Article 9, the Tax Commissioner issues an appropriate certificate for the wholesaler, cf. Article 9, paragraph 3.

Article 18

Commodity certificate expiry date and more

(1) Certificates shall be valid according to Articles 15 and 17 [maximum 24 months each time]¹⁾.

(2) If a certificate holder, according to Article 15, uses a product that has been bought against the certificate, in a manner other than in manufacture, the holder shall collect and pay a commodity tax of the product's total value upon delivery of that product to another party or when it is taken for own use. The Tax Commissioner can then also revoke a consent to automatic refunding according to Article 16, paragraph 5.

(3) If a specially registered wholesaler violates rules set by the Directorate of Internal Revenue^{*1)}, the Tax Commissioner can revoke the certificate according to Article 17 and, as the case may be, reassess the commodity tax as of the time the party is assumed to have violated the rules.

¹⁾According to Article 1 of regulation No. 52/2000. ^{*1)}Translator note: This footnote presents a correction of the Icelandic term for "Directorate of Internal Revenue", which had a spelling error as published in the Legal Gazette.

CHAPTER VI

Accounting and more

Article 19

Commodity tax as object for value added tax

Commodity tax forms the object for value added tax whether a product is imported or bought domestically.

Article 20

Accounting

(1) Taxable parties, according to Article 7, other than those importing taxable products for own use, shall keep accounts in a manner that allows tax authorities at any given time to ascertain the validity of commodity tax declarations.

(2) Sale and other delivery of taxable products by taxable parties according to Article 7, points 2 and 3, is taxable to the extent that they cannot demonstrate in accounts or data that it is exempt. If a party neglects to levy a commodity tax on a taxable product that party must, nevertheless, pay the tax.

(3) The accounts of taxable parties according to Article 7, points 2 and 3, shall have separate accounts for purchase and sale of taxable products. Entries to these accounts may be made at the end of each settlement period, provided that the amounts of commodity tax can be calculated directly on their base. Those selling both taxable and tax exempt products shall keep the sale of taxable products clearly separate in their accounts. Taxable sale must also be separate from exempt sale according to Article 2, paragraphs 1 and 2. Finally, sales and purchases of taxable operations shall be kept separate by tax types and categories, cf. Articles 3 and 4. In addition to the above, specially registered wholesalers shall keep accounts according to rules set by the Directorate of Internal Revenue.

(4) The Directorate of Internal Revenue can set further rules on accounting entries according to this Article.^{a)}

^{a)}Rules No. 358/1996 on stock accounting and more due to special registration according to Article 11 of commodity tax regulation No. 356/1996 (now Article 9 of regulation No. 436/1998).

Article 21

Issue of sales invoices

(1) A taxable party according to Article 7, points 2 and 3 shall enter sales and other delivery on sales invoices stating quantity, type and total price of product along with the amount of the commodity tax.

(2) If collection of commodity tax is waived due to exemption according to Article 2, paragraph 2, cf. Articles 15 or 17, the expiry date and number of the commodity tax certificate shall appear on the sales invoice presented by the buyer.

(3) For verification of an exemption for export sales, the seller shall safeguard export reports or comparable export documents with the respective sales invoice. For verification of an exemption due to sales to the defence force, order slips or other similar documents from the defence force shall be safeguarded with the respective sales invoice.

(4) When a wholesaler who has obtained a special registration according to Article 9, purchases taxable goods without commodity tax the wholesaler shall specify in the sales invoice the quantity or the price comprising the object of taxation for commodity tax.

(5) Sellers of non-taxable products, may not indicate a commodity tax on sales invoices. If they do so they must return the tax to the State Treasury, unless a correction can be applied with respect to the product buyer. The same applies to taxable parties, according to Article 7, whose invoices indicate too high a commodity tax or commodity tax on transactions that are not taxable. For verification of a correction a credit invoice shall be issued to the buyer.

CHAPTER VII

Complaints, procedure and more

Article 22

Complaints

(1) A commodity tax assessment can be the source of complaint within 30 days of assessment. The time limit to send a complaint begins when the notice of assessment is posted. When commodity tax is assessed without a special notice to the complainant, the time for complaint begins, however, at the due date for the settlement period. A complaint shall be submitted to the Directorate of Customs or to the Tax Commissioner who assessed the tax. If a complaint concerns only a party's registration according to Articles 8 or 9, the complaint shall be directed to the Tax Commissioner for Reykjavik. Complaints shall include written arguments. A submitted satisfactory commodity tax declaration shall be handled as a complaint in the case of the assessments provided for in Article 12, paragraph 3. The Directorate of Customs or the Tax Commissioner must issue a written ruling on the complaint, supported by arguments, and notify thereof by registered mail within thirty days from the end of the time limit for complaint.

(2) A party liable for the tax and the State Directorate of Customs^{*1)} can complain of a ruling of the Directorate of Customs, cf. paragraph 1, to the State Customs Board which issues a final ruling.

(3) A party liable for the tax and the Director of Internal Revenue can complain of ruling of the Tax Commissioner, cf. paragraph 1 to the State Internal Revenue Board which issues a final ruling.

**1) Legislation No. 155/2000, on amendments of the Customs Law No. 55/1987, as subsequently amended and more, decommissioned the office of the State Directorate of Customs, cf. Article 25 of that Act. The Minister of Finance and the Tax Commissioner for Reykjavik take over general rights and obligations of the office of the State Directorate of Customs.*

Article 23

Scope of application with respect to the Customs Law and on Value Added Tax Law

To the extent that this regulation does not include provisions on taxability, levy, accounting arrangements, control, penalties, procedure, complaints, collection, stopping of customs clearance or an enterprise and other execution relevant to commodity tax, provisions of the Customs Law on commodity tax on import shall apply, as applicable, as well as regulations and other instructions based thereon, and the VAT Law on commodity tax domestically, shall apply, as well as regulations and other instructions based thereon.

Article 24

Provisions on entry into force

This regulation, is set according to authorisation in Article 13, paragraph 1, cf. Article 8 of law No. 97/1987, on commodity tax, as subsequently amended and enters into force immediately. As of the same time the regulation No. 356/1996 on commodity tax, as subsequently amended, expires.