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SCHEDULES



THE EIGHT HUNDRED AND SEVENTY-EIGHTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
EXCISE DUTY ACT, 2014

AN ACT to provide for the imposition and collection of excise duty on selected imported and locally manufactured goods and for related matters.

DATE OF ASSENT: *7th November, 2014.*

PASSED by Parliament and assented to by the President:

Imposition of excise duty

Payment of excise duty

1. Excise duty is payable on the goods specified in the First Schedule where the goods are
 - (a) manufactured in the country; or
 - (b) imported into the countryat the rates specified in the First Schedule.

Exemptions

2. Excise duty is not payable on
 - (a) goods specified in the Second Schedule;
 - (b) goods that have not been entered for home use from the warehouse of a manufacturer where the Commissioner-General

is satisfied that the goods

- (i) have been destroyed by natural causes; or
 - (ii) have deteriorated or have been damaged while stored in the warehouse of a manufacturer, and have been securely disposed of in a manner satisfactory to the Commissioner-General;
- (c) goods that are exported if the goods are
- (i) entered for re-export or re-exported in the case of imported goods;
 - (ii) removed from a warehouse and immediately entered for export in the case of goods manufactured in the country; or
 - (iii) delivered as ship stores on a ship or an aircraft proceeding to a place outside Ghana; and
- (d) goods that are removed from a warehouse of a registered manufacturer to another warehouse of the same manufacturer or to the warehouse of another registered manufacturer.

Temporary importation of goods

3. (1) The Commissioner-General may grant permission for a person to import excisable goods without payment of excise duty where the Commissioner-General is satisfied that the goods

- (a) to be imported are for purposes of further processing or exhibition, and
- (b) shall be re-exported within three months from the grant of the permission.

(2) A person granted permission under subsection (1) shall provide a bond or security to cover an amount equal to the excise duty payable on the goods as determined by the Commissioner-General.

(3) The Commissioner-General shall retain the bond or security where goods imported are not re-exported within the specified period.

(4) Where the goods are re-exported within the time specified in subsection (1), the Commissioner-General shall cancel the bond or security provided.

Goods not accounted for

4. (1) A manufacturer shall notify the Commissioner-General of a

discrepancy in goods between the actual and recorded inventory of the manufacturer within seven days of becoming aware of the discrepancy.

(2) Where a manufacturer cannot account for a quantity of goods manufactured in a warehouse to the satisfaction of the Commissioner-General, the manufacturer is liable to pay excise duty as if the manufacturer entered those goods for home use from a warehouse during the month in which the deficiency occurred.

Quantity and value of excisable goods

5. (1) Where a rate of excise duty specified in the First Schedule is payable by reference to a unit of measurement other than value and

- (a) goods are imported or removed from a warehouse in a container intended for sale of goods in a retail sale; and
- (b) the container is marked, labelled or commonly sold as containing a specific number of units of measure of the goods,

the container shall be taken to contain that specific number of units of measure.

(2) Where a rate of excise duty specified in the First Schedule is payable by reference to the value of excisable goods, the value of the goods is

- (a) where the goods are imported,
 - (i) the sum of the value of the goods determined under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) for the purpose of assessing import duty on the goods at ad valorem rates, whether or not import duty is payable on the goods; and
 - (ii) the amount of taxes, duties, fees or other charges payable on the goods at the time of entry into the country other than excise duty or value added tax not included in subparagraph (i); or
- (b) the consideration paid or payable in relation to the sale where the goods are manufactured in the country and are sold at the time they are entered for home use; or
- (c) at the time the goods are entered for home use, considered to be the open market value of the goods
 - (i) where the goods are manufactured in the country and

are not sold at the time they are entered for home use; or

- (ii) where the goods are sold but the seller, purchaser or any other person concerned in the sale are related persons.

(3) Despite subsection (2)(b) or(c), the value of the goods shall be at least the ex-factory price.

(4) The value determined in accordance with subsection (2) or (3) does not include the amount of excise duty and value added tax payable in relation to those goods.

Collection and recovery

Time for payment of excise duty

6. Excise duty becomes due and is payable to the Commissioner- General

- (a) where goods are manufactured in the country at the time when the goods are entered for home use by the manufacturer from whose warehouse the goods are removed;
- (b) where goods are imported into the country by the person who enters the goods for home use, or is required to enter the goods for home use; and
- (c) where goods are manufactured in the country without the relevant registration, by the person who manufactured the goods and at the time the goods were manufactured.

Payment of excise duty by manufacturers

7. (1) Where excise duty is payable by a manufacturer
- (a) in relation to excisable goods entered for home use from a warehouse by the manufacturer during a calendar month, the excise duty shall be paid to the Commissioner-General on or before the twenty-first day of the following calendar month; and
 - (b) in relation to excisable goods manufactured in an un-approved warehouse, the excise duty shall be paid to the Commissioner-General when the goods are manufactured.
- (2) The liability to pay excise duty under this Act does not depend on
- (a) the Commissioner-General making an assessment of the excise duty due, or

(b) the manufacturer making a return in accordance with section 9.

(3) A manufacturer shall not enter for home use excisable goods manufactured in the country from an approved warehouse unless the manufacturer has entered into a bond or lodged security with the Commissioner-General.

(4) Despite subsection (3), a manufacturer shall not enter for home use excisable goods from an approved warehouse if the amount of excise duty payable by the manufacturer on the entry exceeds the amount of security given under subsection (3), unless

(a) the Commissioner-General, on application in writing by the manufacturer, gives

(i) permission for the entry; and

(ii) approval for the manufacturer to increase the amount of security given prior to the entry; or

(b) in any other case, the manufacturer pays the excise duty payable on the goods before the excisable goods are entered for home use.

Payment of excise duty by importers

8. (1) The excise duty payable in relation to excisable goods imported into the country shall be paid to the Commissioner-General at the time the goods are entered for home use.

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

(a) a passenger who imports baggage for which an entry is not required under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) is considered to have entered the baggage for home use at the time the baggage is delivered to the passenger in the country; and

(b) the addressee of goods imported by post for which an entry is not required under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) is considered to have entered the goods for home use at the time the goods are delivered to the addressee.

(3) Where a person who imports excisable goods fails to enter the goods for home use under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330), excise duty is payable at the time when import duties become payable in relation to those goods, whether or not those goods are subject to import duties.

Excise duty returns

9. (1) A manufacturer shall file an excise duty return for each calendar month not later than the twenty-first day of the following calendar month whether or not an excise duty is payable for the month to which the return relates.

- (2) An excise duty return shall
- (a) be in a form approved by the Commissioner-General;
 - (b) be filed with the Commissioner-General;
 - (c) provide information in relation to excisable goods removed by the manufacturer during the month to which the return relates; and
 - (d) contain any other information that may be required by the Commissioner-General.

Assessment of excise duty and correction of return

10. (1) Where the commissioner-General has reason to believe that

- (a) a person shall become liable for the payment of an amount of excise duty but that person is unlikely to pay the amount;
- (b) a person, other than a manufacturer, enters for home use goods that are excisable and represents that excise duty is charged on the goods entered;
- (c) a manufacturer wrongly enters for exports or home use excisable goods or applies the excise duty rates;
- (d) a manufacturer fails to submit a tax return specified in this Act or Regulations;
- (e) a return is incorrect or that a lawful excise duty has not been paid; or
- (f) section 16 applies to a person,

the Commissioner-General, based on any information available, may make an assessment of the amount of excise duty payable by the person or of the amount of excise duty claimed by the person as payable in respect of the supply.

- (2) The person assessed
- (a) under subsection (1)(a) is the person required to account for the excise duty under this Act;
 - (b) under subsection (1) (b) or (c), is the person making the entry;
 - (c) under subsection (1) (d) or (e), is the person required to sub-

mit the return or required to pay the excise duty; or
(d) under subsection 1(f) is the person to whom section 16 applies.

(3) The Commissioner-General may make the assessment for any period when the Commissioner-General deems it necessary

(4) In the absence of a supply or return, the Commissioner-General may, based on the information available, estimate the excise duty payable by a person for the purposes of making the assessment.

(5) A person who is not satisfied with a return submitted by that person may apply to the Commissioner-General in writing for authority to make an amendment to the original return.

(6) For purposes of subsection (5), the applicant shall

(a) state in detail the grounds on which the application is made, and

(b) submit the application not more than three months after the submission of the original return.

(7) The Commissioner-General may, after considering an application under subsection (5),

(a) approve or refuse the application; and

(b) make an assessment of the amount of excise duty payable under this Act.

(8) Where an assessment has been made under this section, the Commissioner-General shall serve a notice of the assessment on the person assessed, and the notice shall state

(a) the excise duty payable;

(b) the date that the excise duty is due and payable;

(c) the place for payment of the excise duty; and

(d) the procedure for objecting to the assessment.

(9) An amount assessed under subsection (1)(b), (c) or (e) is for the purposes of this Act, an excise duty charged under this Act.

Credit and refund for excise duty paid on raw materials

11. (1) A manufacturer who uses excisable goods on which excise duty has been duly paid as raw materials in the manufacture of other excisable goods in the country, is subject to the production of evidence of payment of excise duty, entitled to a credit for

- (a) the excise duty paid by the manufacturer in respect of an entry of the raw materials for home use, or
 - (b) an excise duty that the Commissioner-General is satisfied was paid, by the person from whom the registered manufacturer acquired the raw materials or by any other person, in respect of an entry for home use of those raw materials.
- (2) The entitlement to a credit
- (a) arises when the manufacturer enters for home use or acquires the excisable goods for use as raw materials in the manufacture of other excisable goods, and
 - (b) shall be applied against the amount of excise duty payable, in accordance with section 7 (1) for the calendar month in which the entitlement to the credit arises.
- (3) Where a determination of a credit under subsection (2) results in an excess credit for the calendar month, the manufacturer shall carry that amount forward as a credit to the next calendar month, and shall continue to carry the amount forward as credit until no credit remains.
- (4) Despite subsection (3), where an excess credit is attributable to excisable goods manufactured for export, the manufacturer is entitled to a refund of that amount if
- (a) more than twenty-five percent of the excisable goods entered by the manufacturer in that calendar month were entered for export in accordance with section 2; and
 - (b) the export proceeds have been repatriated by the bank of the buyer to the authorised dealer bank of the exporter in the country.

Refund of excise duty paid on imported excisable goods

12. (1) A person is entitled to a refund of excise duty paid on imported excisable goods entered for home use if the goods are in compliance with the conditions for drawback of import duties under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330)

(2) A person is entitled to a refund of the excise duty paid on manufactured excisable goods entered for home use and subsequently exported if the Commissioner-General is satisfied that the goods were exported from the country in the state in which they were entered for home use.

(3) An application for a refund under this section shall 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.

Application for refund of excise duty

13. (1) An application for a refund of excise duty shall be made to the Commissioner-General in the prescribed form within twelve months after the month to which the refund relates and shall contain any other information that the Commissioner-General may require.

(2) Where a refund is payable to a person, the Commissioner-General may apply part or all of the refund

- (a) firstly, in reduction of an excise duty, interest or penalty payable by the person under this Act; and
- (b) subsequently, against any other taxes or duties that may be collected by the Commissioner-General.

(3) Where a person who is entitled to a refund makes an application for the refund within the required time, the Commissioner-General shall, subject to subsection (2), pay the refund or the amount remaining within sixty days from the date on which the application is filed.

(4) Where a refund is paid to a person in error, the person shall repay the amount, within thirty days after the person is notified by the Commissioner-General of the error.

(5) The amount recoverable from a person under subsection (4) shall be considered as excise duty payable under this Act.

(6) Where a person is not entitled to a refund but makes a claim and receives the refund, that person shall repay the amount within fourteen days and is liable to an administrative penalty of twice the amount of the refund.

Manufacturers and approved warehouses

Registration of manufacturers

14. A person shall not carry on a business of manufacturing excisable goods in the country unless

- (a) that person is registered under this Act;
- (b) the excisable goods are manufactured in a warehouse; and
- (c) that person has entered into a general bond or lodged a form of security with the Commissioner-General.

Application for registration

15. (1) A person who intends to carry on a business of manufacturing

excisable goods in the country shall, not later than thirty days before commencement of the business, apply to the Commissioner-General to be registered under this Act.

(2) On receipt of an application, the Commissioner-General shall notify the applicant in writing of the decision of the Commissioner-General within thirty days.

(3) The Commissioner-General

- (a) shall register the applicant if the Commissioner-General is satisfied that the applicant will be carrying on the business of manufacturing excisable goods in the country;
- (b) shall issue the applicant with a certificate of registration; and
- (c) may impose the terms, conditions or restrictions that the Commissioner-General considers appropriate.

(4) Where the Commissioner-General refuses to register an applicant the Commissioner-General shall give reasons for the refusal.

(5) An applicant who is dissatisfied with a decision of the Commissioner-General under subsection (4) may submit a petition in writing to the Commissioner-General for a review of the decision within thirty-days from the date of receipt of the decision and shall state the grounds for review of the decision

(6) Despite subsection (5), an applicant may in writing request for extension of time to submit a petition and state the reasons for the request.

(7) Where the commissioner-General is satisfied that there are reasonable grounds for the grant of extension of time to submit a petition the Commissioner-General shall within thirty days of the receipt of the application notify the applicant in writing of the approval.

(8) An applicant who is dissatisfied with the outcome of a petition may within thirty days from the date of receipt of the decision apply to the Minister for a further review.

(9) The Minister shall on receipt of the petition

- (a) take a decision on the matter within thirty days; and
- (b) notify the applicant in writing of the decision within fourteen days from arriving at the decision.

Compulsory registration

16. Where the Commissioner-General believes that a person is required to be registered under this Act but has failed to apply for registration, the Commissioner-General may register the person and issue the person with a certificate of registration after the Commissioner-General

- (a) notifies the person in writing; and
- (b) gives the person an opportunity to object to the registration within thirty days.

Effective date of registration

17. Registration under this Act takes effect from the date specified on the certificate of registration issued by the Commissioner-General.

Change in relevant events or goods

18. A registered manufacturer shall, notify the Commissioner-General in writing of

- (a) the date and details of a change in the name, address, place of business, constitution, or nature of the principal activity of the manufacturer not later than fourteen days after the occurrence of the change; and
- (b) a change in the nature or quantity of excisable goods manufactured in the country not later than fourteen days before making the change.

Disqualification for certificate of registration

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

- (a) who has been convicted of an offence under this Act;
- (b) who is less than eighteen years of age; or
- (c) whose certificate of registration has been cancelled under this Act.

Death of a holder of a certificate of registration

20. Where a holder of a certificate of registration dies, the Commissioner-General may, subject to section 19, transfer the certificate of registration to

- (a) the personal representative of the holder of the certificate of registration;
- (b) the person beneficially entitled to the business;
- (c) the Administrator-General or Public Trustee; or

- (d) the appointee of the Administrator-General or Public Trustee.

Cancellation of registration

21. (1) The Commissioner-General may, after giving notice in writing to a manufacturer, cancel the registration of the manufacturer where

- (a) the manufacturer does not comply with the terms, conditions or restrictions imposed on the registration;
- (b) the manufacturer is convicted of an offence under this Act or the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330); or
- (c) the person is less than eighteen years.

(2) The cancellation of the registration of a manufacturer does not affect an obligation or liability of the manufacturer under this Act in respect of acts done by the manufacturer or omissions by the manufacturer including the obligation to

- (a) pay excise duty; and
- (b) file excise duty returns.

while the manufacturer was registered.

Notice to Commissioner-General

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

- (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 warehouse of the manufacturer; and
- (c) whether or not the manufacturer intends to recommence manufacturing excisable goods within twelve months from the date provided under paragraph (b).

(2) Where the Commissioner-General receives a notification, the Commissioner-General

- (a) shall carry out an audit of the warehouse of the manufacturer; and
- (b) shall, by notice in writing, cancel the registration of the man-

manufacturer with effect from the first day on which excisable goods no longer remains in the warehouse of the manufacturer, unless the Commissioner-General has reasonable grounds to believe that the manufacturer will recommence manufacturing excisable goods within twelve months from that date.

(3) Where excisable goods remain in the warehouse of a manufacturer immediately after the cancellation of the registration of the manufacturer, the goods in the warehouse will be considered to have been entered for home use on the preceding day.

(4) A manufacturer who sells, as a going concern, a business of manufacturing excisable goods for which the person is registered, shall notify the Commissioner-General, in writing, not later than fourteen days before the earliest of the dates on which

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

(5) Where subsection (4) applies and the seller has transferred the entire business for which the seller is registered, the Commissioner-General shall cancel the registration of the seller.

Prohibition on warehousing of excisable goods

23. A manufacturer who is registered or required to be registered under this Act shall

- (a) store excisable goods on which excise duty has not yet been paid only in an approved warehouse;
- (b) enter excisable goods for home use only from an approved warehouse; and
- (c) complete, at the time of entry for home use, the relevant records, forms, or documents required by the Commissioner-General in relation to the entry.

Approval of premises as warehouse

24. (1) A manufacturer shall apply to the Commissioner-General in a form determined by the Commissioner-General for approval of prem-

ises as a warehouse for the purpose of

- (a) depositing,
- (b) keeping,
- (c) manufacturing, or
- (d) securing

excisable goods.

(2) Where the Commissioner-General is satisfied that the premises meet the requirements set out in Regulations, the Commissioner-General shall approve the application subject to such terms, conditions or restrictions.

(3) The Commissioner-General may station an officer in a warehouse to ensure compliance with this Act.

(4) The manufacturer shall provide the officer with appropriate office accommodation at or within the warehouse to the satisfaction of the Commissioner-General.

Offences and penalties

Common provisions relating to offences and penalties

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

(2) A penalty payable under this Act is recoverable as if it were excise duty payable under this Act.

(3) Where a person is convicted of an offence under this Act after having been previously convicted of a similar offence under this Act, the Court may, instead of or in addition to imposing the prescribed fine, impose a term of imprisonment of not more than two years, with or without the right of release on payment of a fine.

Failure to register

26. (1) A person who carries on a business of manufacturing excisable goods in the country without registering as a manufacturer commits an offence and is liable on summary conviction to excise duty payable in

relation to the excisable goods or to a term of imprisonment of not more than one year or to both.

- (2) In addition to the penalty provided under subsection (1)
- (a) the person shall pay a penalty of not more than two times the amount of excise duty payable in relation to the excisable goods; or an amount of not less than five hundred currency points and not more than one thousand currency points, whichever is higher; and
 - (b) the Commissioner-General may authorise the forfeiture of goods, raw materials, apparatus, utensils and other materials which in the opinion of the Commissioner-General can be used in the manufacture of excisable goods.

Manufacture outside a warehouse

27. A person who

- (a) manufactures excisable goods in the country in premises that is not a warehouse,
- (b) stores excisable goods on which excise duty has not been paid in premises that is not a warehouse, or
- (c) removes excisable goods on which excise duty has not been paid from premises that is not a warehouse,

shall pay an administrative penalty equal to two times the amount of duty payable in relation to the excisable goods to the Commissioner-General; and in addition commits an offence and is liable on summary conviction to a fine of not more than three times the amount of excise duty payable in relation to those excisable goods or to a term of imprisonment of not more than one year or to both.

Failure to enter into bond or lodge security

28. (1) A person who

- (a) manufactures excisable goods in the country or enters excisable goods for home use without having entered into a bond or lodged a security with the Commissioner-General; or
- (b) enters for home use excisable goods manufactured in the country without complying with section 7 (4),

commits an offence and is liable on summary conviction to a fine of not more than two times the amount of excise duty referred to in paragraph (a) or (b) or to a term of imprisonment of not more than one year or to both.

(2) In addition to the penalty provided under subsection (1) the person shall pay a penalty equal to

- (a) two times the amount of excise duty payable on the excisable goods entered for home use during the time when the person did not enter into the bond or lodged a security as required; or
- (b) two times the amount of excise duty payable by the person on each non-compliant entry of excisable goods for home use when paragraph (1) (b) applies.

Failure to give notice

29. (1) A manufacturer who fails to give notice to the Commissioner-General as required under this Act commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units for each failure or to a term of imprisonment of not more than six months or to both.

(2) In addition to the penalty provided under subsection (1) the manufacturer shall pay a penalty of not more than five hundred currency points for each failure.

Failure to provide office accommodation

30. A manufacturer who fails to provide office accommodation to an officer as required under section 24 (4) shall pay an administrative penalty of not more than five hundred currency points for each day that the manufacturer fails to provide the accommodation.

Failure to submit a return

31. A manufacturer who fails to submit to the Commissioner-General an excise duty return by the due date is liable to a penalty of five hundred currency points and a further penalty of ten currency points for each day that the failure continues.

Failure to pay tax on due date

32. A manufacturer who fails to make a payment required under this Act to the Commissioner-General by the due date is liable to pay a penalty of fifteen percent of the amount due and an interest of five percent of the amount due for each day that the failure continues.

Administrative and miscellaneous provisions

Application of other laws

33. (1) Unless a contrary intention appears, in relation to excisable goods imported into the country, the provisions of the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) apply, so far as they are relevant, and with the necessary exceptions, modifications and adaptations as if excise duty were an import duty.

(2) The Commissioner-General may exercise a power conferred on the Commissioner-General by the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) as if a reference to import duty in that Act includes a reference to excise duty imposed under this Act on imported goods.

(3) The Commissioner-General may exercise a power conferred by the Value Added Tax Act, 2013 (Act 870) as if a reference to Value Added Tax in that Act includes a reference to excise duty charged under this Act.

Security

34. For purposes of this Act, the Commissioner-General may require a manufacturer to enter into a general bond or lodge a security with the Commissioner-General to continue in force while the manufacturer remains registered.

Liquor

35. For purposes of this Act, liquor

- (a) containing more than twenty-four and half percent of pure alcohol by volume shall not be considered as wine, and liquor other than wine, containing more than ten percent of pure alcohol by volume shall not be considered as ale, beer, cider perry or stout; and
- (b) containing more than twenty-four and half per centum of pure alcohol by volume, liquor other than wine, containing more than ten percent of pure alcohol by volume, and liquor other than wine, ale, beer, cider, perry or stout containing more than one per centum of pure alcohol by volume shall be considered as spirits.

Regulations

36. The Minister may, by legislative instrument, make Regulations to provide

- (a) for administrative matters;
- (b) for matters relating to excise duty returns; and
- (c) generally for carrying into effect this Act.

Interpretation

37. In this Act, unless the context otherwise requires,

“aircraft” means any apparatus, whether or not mechanically propelled, which is used for the transport by air of human beings or goods;

“Commissioner-General” means the Commissioner-General of the Ghana Revenue Authority appointed under the Ghana Revenue Authority Act, 2009 (Act 791);

“constitution” means ownership and management structure;

“entered” means,

(a) in relation to excisable goods, goods imported, warehoused, put on board an aircraft or shipped as stores or excisable goods exported

(i) that the prescribed declaration has been filed and accepted by the proper officer; or

(ii) that the filing has been electronically validated and any duties, taxes, levies, fees and charges due have been paid or security for any duties, taxes, levies, fees and charges due has been deposited; and

(b) in relation to a removal of goods manufactured in the country, the removal of the excisable goods under security

“entered for export” means entered for export in accordance with the requirements of the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330)

“entered for home use” means

(a) in relation to excisable goods imported into the country,

(i) an entry of the goods for home use under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330); or

(ii) if no entry of the goods for home use under the Customs, Excise and Preventive Ser-

vice (Management) Act, 1993 (P.N.D.C.L. 330) is made, an import of goods that are considered, under this Act or the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) to have been entered for home use; and

(b) in relation to excisable goods manufactured in the country, the first removal, other than a removal of those goods from a warehouse;

“excisable goods” means the goods specified in the First Schedule to this Act;

“excise duty” means

(a) the excise duty imposed under this Act; and

(b) any amount required to be brought to account under this Act as excise duty or otherwise considered to be excise duty under this Act;

“exempt goods” means goods that

(a) are specified in the Second Schedule to this Act; or

(b) are exempted by this Act ;

“ex factory price”, in relation to goods, means the sum of

(a) all costs to manufacture those goods, and

(b) all profits that a manufacturer takes or is expected to take in relation to those goods if and when they are sold in comparable circumstances between unrelated parties in the open market, as is considered appropriate by the Commissioner-General;

“export” means the act of taking out or causing to be taken out any goods from Ghana;

“fair market value” means the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at that date in Ghana, being a supply freely offered and made between persons who are not associates;

“goods” means excisable goods;

“home use” means consumption, use, or application of goods in the country;

“import” means to bring or cause goods to be brought into the

country;

“import duty” means a duty of customs charged on imported goods as prescribed by law;

“manufacture” means make or produce excisable goods, and may be in the nature of

- (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” means a person who manufactures excisable goods or causes them to be manufactured in the country and is registered under this Act;

“Minister” means the Minister responsible for Finance;

“officer” means a person who is authorised by the Commissioner-General to carry out the functions or duties of an officer under this Act;

“open market value” means the fair market value as determined by the Commissioner-General;

“person” includes an individual, a partnership, a company, a trust, the estate of a deceased individual, a government or a body that is a society, a union, a club, an association, a commission or another organisation of any kind;

“premises” includes

- (a) a place, whether or not that place is enclosed or built on; and
- (b) a structure, vehicle, vessel, or aircraft;

“proper officer” means an officer whose rights or duty it is to exact the performance of or to perform the act referred to;

“registered manufacturer” means a person who is registered under this Act;

“related persons” means

- (a) a natural person and a relative of that natural person;
- (b) a trust and a person who is or may be a beneficiary in respect of that trust or whose relative is or may be a beneficiary;
- (c) a partnership or company other than a stock company and a member of that partnership or company who, on account of shares personally held together with shares or other membership interests held by persons who are related to that member or capital of the partnership or company; or
- (d) a shareholder in a stock company and the stock company if the shareholder on account of shares personally held together with shares held by persons who are related to the shareholder under a provision of this definition and the shareholder
 - (i) controls twenty five percent or more of the voting power in the stock company; or
 - (ii) owns twenty five percent or more of the rights to dividends or of the rights to capital; or
- (e) two companies, if a person, either alone or together with a person who is related to that person under another provision of this definition
 - (i) controls twenty five percent or more of the voting power in both companies; or
 - (ii) owns twenty five percent or more of the rights to dividends or of the rights to capital in both companies; and, for purposes of paragraphs (c), (d), and (e), a person is treated as owning, on a pro rata basis, shares or other membership interests which are owned or controlled by the person indirectly through one or more interposed persons;

“removal”, in relation to excisable goods manufactured in the country, refers to the movement of those goods from a warehouse to another place in the country; and excisable

goods that are loaded onto a conveyance are considered to be removed;

“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;

“ship” means floating craft of every description but does not include aircraft;

“similar supply” in relation to a taxable supply, means a supply that is identical to, or closely or substantially resembles, the taxable supply, having regard to the characteristics, quality, quantity supplied, functional components, reputation of, and materials comprising the goods and services which are the subject of the taxable supply;

“spirits” means spirits of any description and include all liquors mixed with spirits and all mixtures, compounds or preparations made with spirits; and

“warehouse” means a place approved by the Commissioner-General for the deposit, keeping, manufacture or securing of excisable goods.

Transitional provisions

38. (1) This Act applies to excisable goods imported into or manufactured, in the country only if

- (a) the goods are imported or manufactured on or after the commencement date of this Act; or
- (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 carries on a business of manufacturing excisable goods before the commencement of this Act and continues to carry on that business but has not been registered under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) shall within fourteen days of the commencement of this Act apply for registration and the Commissioner-General shall process the application and notify the applicant of the decision within one month of receiving the application.

(3) A person who is licensed to manufacture excisable goods under the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L.330) before the commencement of this Act is deemed to have been registered.

(4) Where a person is required to be registered under this Act to manufacture excisable goods only from an approved warehouse, the person shall within a period of two months from the commencement of this Act comply with the provisions of this Act relating to registration and approved warehouses.

(5) During the period referred to in subsection (4)

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

FIRST SCHEDULE

(Sections 1, 5 and 37)

GOODS LIABLE TO EXCISE DUTY

Tariff No.	Commodity Description	Rate of Duty
	<p>(a) Waters, including mineral water of all description</p> <p>(b) Distilled, bottled water</p> <p>(c) Sachet water</p>	<p>17.5 per centum of the ex-factory price</p> <p>17.5 per centum of the ex-factory price</p> <p>0 per centum</p>
	<p>Malt drink; Percentage use of local raw material</p> <p>0 per centum of local raw material</p> <p>30 per centum of local raw material</p> <p>50 per centum of local raw material</p> <p>70 per centum of local raw material</p>	<p>17.5 per centum of the ex-factory price</p> <p>12.5 per centum of the ex-factory price</p> <p>7.5 per centum of the ex-factory price</p> <p>2.5 per centum of the ex-factory price</p>
	<p>Beer, stout other than indigenous beer: Percentage use of local raw materials</p> <p>0 per centum of local raw material</p> <p>30 per centum of local raw material</p> <p>50 per centum of local raw material</p> <p>70 per centum of local raw material</p>	<p>47.5 per centum of the ex-factory price</p> <p>30 per centum of ex-factory price</p> <p>20 per centum of ex-factory price</p> <p>10 per centum of ex-factory price</p>
	Wines including sparkling wine	22.5 per centum of ex-factory price

Tariff No.	Commodity Description	Rate of Duty
	Spirits, including "Akpateshie":	
	(a) Distilled or rectified	25 per centum of the ex-factory price
	(b) Blended or compounded	25 per centum of the ex-factory price
	(c) Other :	
	(i) For use solely in laboratories or in the compounding of drugs.	0 per centum
	(ii) Denatured to the satisfaction of the Commissioner-General	10 per centum of the ex-factory price
	(iii) "Akpateshie"	20 per centum of the ex-factory price
	Tobacco Products :	150 per centum of the ex-factory price
	(a) Cigarette	150 per centum of the ex-factory price
	(b) Cigars	ϕ12.00 per kg
	(c) Negrohead	170.65 per centum of the ex-factory price
	(d) Snuff and other tobacco	170.65 per centum of the ex-factory price
	Plastic and Plastic products listed under Chapters 39 and 63 of the Harmonised System and Custom Tariff Schedules, 2012	10 per centum of the ex-factory price
	Other Products:	
	(a) Textiles	0 per centum
	(b) Pharmaceuticals	0 per centum

- The excise duty indicated in the third column in relation to the goods listed under Commodity Description for Tariff No.7 shall be
 - computed on the Cost, Insurance and Freight (CIF) value of the goods listed in the second
 - paid at the point of entry
- Not less than fifty percent of the revenue accruing under Tariff No. 7 shall be paid into a fund designated as "Plastic Waste Recycling Fund".
- For the avoidance of doubt, excise duty is computed on the Cost, Insurance and Freight at the point of entry.

SECOND SCHEDULE

(Sections 2 and 37)

EXEMPT GOODS

Tariff No.	Commodity Description	Rate of Duty
2.1	The President of the Republic of Ghana: All goods purchased from a manufacturer for the use of the President of Ghana.	0%
2.2	Government of Ghana contracts where the contract is duly approved by Parliament: All goods purchased from a manufacturer by a person under contract to the government where such exemption from excise duty forms part of the terms of the contract.	0%
2.3	Licensed manufacturers: All goods purchased by a manufacturer licensed under this Act for the purpose of manufacturing excisable goods.	0%
2.4	Diplomatic Missions : (a) All goods purchased for the official use of any Commonwealth or Foreign Embassy, Mission or Consulate. (b) All goods purchased for the use of a permanent member of a Diplomatic Service of any Commonwealth or Foreign country, exempted by the Minister responsible for Foreign Affairs. Where with reference to (a) and (b) above a similar privilege is accorded by the Commonwealth or Foreign country to the Ghana representative in that country. (c) All goods purchased by personnel engaged by an International Agency or in a Technical Assistance Scheme where the terms of the Agreement made with the Government of Ghana include exemption from excise duty and duly approved by Parliament.	0% 0% 0%
2.5	N o n - d o m e s t i c goods: All goods re-	0%
	exported	

Date of *Gazette* notification: 12th November, 2014.

Excise Duty Bill, 2013

MEMORANDUM

The object of this Bill is to revise and consolidate existing provisions for the imposition and collection of excise duty on selected imported and locally manufactured goods and for related matters.

With the coming into force of the Ghana Revenue Authority Act, 2009 (Act 791) which integrated the three main revenue collecting agencies as Divisions of the Authority, it has become necessary to harmonize and consolidate the administrative provisions in the existing tax laws into one legislation to be known as the Revenue Administration Bill and to reorganise and streamline the other residual operational and charging provisions into other separate legislation. Thus this Bill seeks to provide a separate legislation in respect of excise matters.

Currently, the provisions on excise operations are scattered in the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L.330).

Clause 1 of the Bill provides for the payment of excise duty. Excise duty is payable on the goods specified in the First Schedule where the goods are manufactured in the country or imported into the country at the rates specified in the First Schedule.

Clause 2 deals with exemptions and specifies goods on which excise duty is not payable.

Clause 3 provides for the temporary importation of goods. The Commissioner-General may grant permission for the importation of excisable goods without payment of excise duty if the Commissioner-General is satisfied that the goods are imported for purposes of further processing or exhibition and shall be re-exported within three months from the grant of the permission or within a further period determined by the Commissioner-General. A person who is permitted to import excisable goods by the Commissioner-General is required to provide a bond or security to cover an amount equal to the excise duty payable on the goods as determined by the Commissioner-General.

Clause 4 deals with goods not accounted for whilst *clause 5* provides for the quality, quantity and value of excisable goods. A manufacturer is required to notify the Commissioner-General of a discrepancy in goods

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between the actual and recorded inventory of the manufacturer within seven days of becoming aware of the discrepancy.

Under *clause 5* where a rate of excise duty specified in the First Schedule is payable by reference to a unit of measurement other than value and goods are imported or removed from a warehouse in a container intended for sale of goods in a retail sale and the container is marked, labelled or commonly sold as containing a specific number of units of measure of the goods, the container shall be taken to contain that specific number of units of measure.

Clause 6 to 12 is on collection and recovery of excise duty. The time for payment of excise duty is specified under *clause 6*.

Where excise duty is payable by a manufacturer in relation to excisable goods entered for home use from a warehouse by the manufacturer during a calendar month, the excise duty shall be paid to the Commissioner-General on or before the twenty-first day of the following calendar month. The clause also provides, among others, that the liability of the payment of excise duty is not dependent on the Commissioner-General making an assessment of the excise duty due or on the manufacturer making a return, *clause 7*.

Clause 8 deals with payment of excise duty by importers. An importer is required to pay excise duty in relation to excisable goods imported into the country to the Commissioner-General at the time the goods are entered for home use.

Under *clause 9* a registered manufacturer of excisable goods is mandated to file an excise duty return for each calendar month not later than the twenty-first day of the following calendar month whether or not an excise duty is payable for the month to which the return relates.

Clause 10 deals with credit and refund for excise duty paid on raw materials. A manufacturer who uses excisable goods on which excise duty has been duly paid as raw materials in the manufacture of other excisable goods in the country, is subject to the production of evidence of payment of excise duty, entitled to a credit for the excise duty paid by the manufacturer.

Clause 11 provides for a refund of excise duty paid on imported excisable goods as well as manufactured excisable goods entered for home

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use. A person is entitled to a refund of excise duty paid on imported excisable goods entered for home use if the goods are in compliance with the conditions for drawback of import duties. In the case of excise duty paid on manufactured excisable goods entered for home use and subsequently exported a person is entitled to a refund if the Commissioner-General is satisfied that the goods were exported from the country in the state in which they were entered for home use.

Clause 12 deals with the application for a refund of excise duty. It provides that an application for a refund of excise duty shall be submitted to the Commissioner-General in the prescribed form and must contain the relevant information that the Commissioner-General may require.

Provision is made under *clause 13* to *23* for the registration of manufacturers and the approval of warehouses by the Commissioner General.

Under *clause 13* a person is prohibited from carrying on a business of manufacturing excisable goods in the country unless that person is registered by the Commissioner-General and the excisable goods are manufactured in a warehouse approved by the Commissioner-General.

Clause 14 mandates a person who intends to carry on a business of manufacturing excisable goods in the country to apply to the Commissioner-General for registration not later than thirty days before the commencement of the business. The Commissioner-General is required to notify the applicant in writing of the decision of the Commissioner-General within thirty days of receipt of the application.

Where the Commissioner-General believes that a person is required to be registered but has failed to apply for registration, the Commissioner-General may register the person and issue the person with a certificate of registration after the Commissioner-General notifies the person in writing and gives the person an opportunity to object to the registration, *clause 15*.

The effective date of registration is provided for in *clause 16*. Registration is to take effect from the date mentioned on the certificate of registration issued by the Commissioner-General.

Clause 17 deals with a change in relevant events or goods. A manufacturer registered by the Commissioner-General is required to

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notify the Commissioner-General in writing of a change in name, address, place of business, constitution or principal activity of the manufacturer within fourteen days of the occurrence of the change. A manufacturer is also required to notify the Commissioner-General in writing not later than fourteen days before making a change in the nature or quantity of excisable goods manufactured in the country.

Clause 18 provides for disqualification for the grant or transfer of a certificate of registration whilst *clause 19* deals with the death of a holder of a certificate of registration. Where a holder of a certificate of registration dies, the Commissioner-General may transfer the certificate of registration to the personal representative of the holder of the certificate of registration, the person beneficially entitled to the business, the Administrator-General or Public Trustee or the appointee of the Administrator-General or Public Trustee.

The process for the cancellation of registration is catered for under *clause 20*. The Commissioner-General may, cancel the registration of a manufacturer if the manufacturer does not comply with the terms, conditions or restrictions imposed on the registration after giving notice to the manufacturer.

Clause 21 provides for notice to the Commissioner-General. A manufacturer who ceases to manufacture excisable goods is required to, within fourteen days of the date of the cessation, notify the Commissioner-General in writing of the date on which the manufacturer ceased to manufacture excisable goods, the date on which the manufacturer expects that no excisable goods will remain in the warehouse of the manufacturer and whether or not the manufacturer intends to recommence manufacturing excisable goods within twelve months from the date of giving notice to the Commissioner-General.

Clause 22 deals with warehousing of excisable goods. A manufacturer who is registered or required to be registered by the Commissioner-General is required to store excisable goods on which excise duty has not yet been paid only in an approved warehouse, to enter excisable goods for home use only from an approved warehouse and complete, at the time of entry for home use, the relevant records, forms or documents required by the

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Commissioner-General in relation to the entry.

Clause 23 is on approved warehouses. A manufacturer is required to apply to the Commissioner-General in a form determined by the Commissioner-General for the approval of a warehouse for the purpose of depositing, keeping, manufacturing or securing excisable goods.

Clause 24 to 29 deals with offences and penalties. Where a person is liable to more than one penalty or fine in relation to the same entry for home use of excisable goods manufactured in the country, the total penalty or fine to be imposed in relation to those goods shall not exceed three times the value of the goods.

Clause 25, 26 and 27 provide for penalties for failure to register can be used by the person in the manufacture of excisable goods manufacture of excisable goods outside an approved warehouse and failure to enter into a bond or to lodge a security. The failure to provide notice is dealt with in *clause 28*, whilst *clause 29* deals with failure to provide accommodation. A manufacturer who fails to provide accommodation to an officer is liable to an administrative penalty of not more than one hundred penalty units for each day that the manufacturer fails to provide the accommodation.

Clause 30 to 35 provides for administrative and miscellaneous provisions. Unless a contrary intention appears, in relation to excisable goods imported into the country, the provisions of the Customs Act, 2013 (Act ...) apply so far as they are relevant and with the necessary exceptions, modifications and adaptations, as if excise duty were an import duty, *clause 30*.

Clause 31 deals with security. The Commissioner-General may require a registered manufacturer to enter into a general bond or lodge a security with the Commissioner-General to continue in force while the manufacturer remains registered.

Clause 32 provides for excise duty in relation to liquor. The enabling power of the Minister responsible for Finance to make Regulations is provided for under *clause 33*. *Clause 34* is on interpretation whilst *clause 35* deals with transitional provisions. The First and Second Schedules specify

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goods that are liable to excise duty as well as exempt goods.

SETH E. TERKPER

Minister responsible for Finance

Date: 22nd November, 2013.