

**Cabinet Decision No. (38) of 2017
on Excise Goods, Excise Tax Rates and the Method of Calculating the Excise Price**

The Cabinet:

- Having reviewed the Constitution;
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
- Federal Law No. (7) of 2017 on Tax Procedures;
- Federal Decree-Law No. (7) of 2017 on Excise Tax;
- Federal Decree-Law No. (32) of 2017 ratifying the Common Excise Tax Agreement of the States of the Gulf Cooperation Council (GCC),
- And pursuant to the presentation of the Minister of Finance and approved by the Cabinet,

Has decided:

Article 1

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

State: United Arab Emirates

Authority: Federal Tax Authority

Tax: Excise Tax

Decree Law: Federal Decree-Law No. (7) of 2017 on Excise Tax.

Excise Goods: Goods that will be determined as subject to Tax by this decision.

Taxable Person: Any Person registered or obligated to register for Tax purposes under the Decree-Law.

Importer: The natural or legal Person whose name appears for customs clearance purposes as the importer of the Excise Goods on the date of import.

Excise Price: The price calculated in accordance with this Decision.

Value Added Tax: Tax imposed on the import and supply of goods and services according to the Federal Decree-Law no. (8) of 2017 on Value Added Tax.

Article 2

Excise Goods

1. Pursuant to Article (2) of the Decree-Law, Tax shall be applicable on the following Excise Goods:
 - a. Tobacco and tobacco products;

- b. Carbonated drinks;
- c. Energy drinks.

Article 3

Tobacco and tobacco products

For the purposes of Article (2) of this Decision, tobacco and tobacco products shall include all items listed within Schedule 24 of the GCC Common Customs Tariff that are imported, cultivated or produced in the State.

Article 4

Carbonated drinks

1. For the purposes of Article (2) of this Decision, carbonated drinks shall mean all of the following:
 - a. any aerated beverage except unflavoured aerated water;
 - b. any concentrates, powder, gel, or extracts intended to be made into an aerated beverage.
2. For the purposes of this Article, Carbonated drinks shall not include any beverage containing alcohol, even if the product is otherwise considered an aerated beverage.
3. Where a product specified under Paragraph (b) of Clause (1) of this Article has previously been subject to Tax in the State, the aerated beverage produced by combining that product with an aerating agent at the selling place by a non-Taxable Person shall not be considered an Excise Good for the purposes of the Decree-Law and no further Tax shall be due on it, moreover, the Tax paid on the product specified under Paragraph (b) of Clause (1) of this Article cannot be considered as Deductible Tax according to Article (16) of the Decree-Law.
4. Any product which meets the definition of a carbonated drink pursuant to this Article and also meets the definition of an energy drink pursuant to Article (5) of this Decision shall be classified as an energy drink and Tax shall be due on that product at the rate applicable to energy drinks.

Article 5

Energy drinks

1. For the purposes of Article (2) of this Decision, energy drinks shall mean all of the following:
 - a. any beverages marketed or sold as an energy drink that may contain stimulant substances that provide mental and physical stimulation, which includes without limitation caffeine, taurine, ginseng and guarana. This also includes any substance that has an identical or similar effect as the aforementioned substances;

- b. any concentrates, powder, gel or extracts intended to be made into an energy drink.
2. For the purposes of this Article, Energy drinks shall not include any beverage containing alcohol, even if the product is otherwise considered an aerated beverage.
3. Where a product specified under Paragraph (b) of Clause (1) of this Article has previously been subject to Tax in the State, the energy drink produced from mixing this product with other products at the selling place by a non-Taxable Person shall not be considered as an Excise Good for the purposes of the Decree-Law and no further Tax shall be due, moreover the Tax paid on the product specified under Paragraph (b) of Clause (1) cannot be considered as Deductible Tax according to Article (16) of the Decree-Law.

Article 6

Tax Rates

Pursuant to Article (3) of the Decree-Law, Tax shall be imposed on the Excise Goods stated in Article (2) of this Decision at the following rates:

Excise Good	Rate
Tobacco and tobacco products	100%
Carbonated drinks	50%
Energy drinks	100%

Article 7

Excise Price

1. Pursuant to Article (3) of the Decree-Law, the Excise Price shall be the higher of the following two prices:
 - a. the price published by the Authority for the Excise Good in a standard price list that it issues, if available.
 - b. the designated retail sales price for the Excise Good, less the Tax included therein.
2. In order to deduct the value of Tax included within the designated retail sales price, the following calculations should be used:
 - a. For Excise Goods taxable at a rate of (50%) of the Excise Price, the Excise Price shall be equivalent to two thirds of its designated retail sales price.
 - b. For Excise Goods taxable at a rate of (100%) of the Excise Price, the Excise Price shall be equivalent to half of its designated retail sales price.
3. As an exception to the provision of paragraph (b) of Clause (1) of this Article, the Excise Price of carbonated drinks specified in paragraph (b) of Clause (1) of Article (4) of this Decision shall be calculated in accordance with the mechanism specified by the Minister of Finance.

Article 8

Designated Retail Sales Price

1. For the purposes of Article (7) of this Decision, the designated retail sales price shall be the higher of:
 - a. the recommended selling price of the Excise Good in the course of its retail sale identified, declared and affixed to the goods by the Importer or Producer. “The recommended selling price of the Excise Good in the course of its retail sale” shall mean the price achieved when the Excise Good is sold for retail purposes and directly to the consumer, this does not include the cases where the price is increased as a result of selling the Excise Good in a hotel, restaurant or similar establishment for the purpose of consumption on the premises.
 - b. the average retail selling price of the goods in the market.
2. For the purposes of paragraph (b) of Clause (1) of this Article, the average retail selling price of the goods in the market shall be calculated by the Taxable Person as follows:
 - a. Identify the different retail selling prices of the Excise Good with reference to the previous twelve calendar months;
 - b. Deduct the value of Tax included within that retail selling price in accordance with Clause (2) of Article (7) of this Decision or, where the retail selling price relates to a period prior to the introduction of the Tax, use the full value of the retail selling price in the market;
 - c. Calculate the total amount of Excise Goods sold at each retail selling price in the market to determine a total market revenue for the twelve month period;
 - d. Divide the total market revenue by the total amount of Excise Goods sold during the twelve months period;
 - e. Multiply the figure at paragraph (d) by the Tax rate applicable to the Excise Goods to arrive at the notional Due Tax on the Excise Good;
 - f. Add the figures resulting from paragraphs (d) and (e) together to arrive at the average retail selling price of the goods in the market.
3. The average retail sales price of the goods in the market shall be re-calculated by the Taxable Person at least once in every 6 month period. Where the calculation of the average retail sales price leads to an adjustment in the designated retail sales price as per clause (1) of this article, this adjustment should be applied from the earlier of the Tax Period following the calculation of the average retail sales price, or the Tax Period following the date in which the calculation should have been made.
4. In circumstances where the Taxable Person has reasonable grounds for being unable to identify the designated retail selling price as specified in paragraphs (a) and (b) of Clause (1) of this Article, the Taxable Person must notify the Authority within a period not less than (15) calendar days before the tax return submission deadline.

5. Where the Authority is satisfied that the Taxable Person is unable to identify the price specified in paragraphs (a) and (b) of Clause (1) of this Article, the Authority may grant permission for the Taxable Person to account for Tax based on the cost of the Excise Goods.
6. The designated retail sales price shall include all other duties and taxes due in respect of the Excise Goods, except VAT.

Article 9

Contradicting Provisions

All provisions violating or conflicting with the provisions of this Decision are hereby cancelled.

Article 10

Publication and Effective Date

This Decision shall come into effect as of October 1, 2017 shall be published in the Official Gazette.

Mohammad bin Rashid Al Maktoum
Prime Minister

Issued:

On: 4 Muharram 1439 H.

Corresponding to: 24 September 2017