

## CHANGES IN EXCISE DUTY

The Excise Duty Act of 6 December 2008 entered into force on 1 March 2009. The new Act was developed in order to harmonize Polish excise regulations with EU law. As indicated in the bill, the changes were also designed to introduce new solutions drawing on the experience gained during the time when the previous act was in force. The new Act also reflects recommendations from the business community. The new Act retains to a large extent the solutions applied under the prior act (Excise Duty Act of 23 January 2004). We present below some of the most significant changes.

### **Departure from charging excise duty on non-harmonized excise goods**

Because the new Act abandons imposition of excise duty on non-harmonized excise goods (with the exception of passenger cars), it no longer distinguishes between harmonized and non-harmonized products. Thus the definition of excise goods has been amended. Pursuant to the new definition, excise goods include energy goods, electricity, alcoholic beverages and tobacco products, as identified in Exhibit 1 to the Act.

### **Changes in the scope of taxable events**

Export of excise goods and intra-community delivery have been deleted from the previous catalogue of taxable events, which results from the fact that the tax obligation in those cases arises much earlier, at the stage of production or upon release of the excise goods from a bonded warehouse. And with certain exceptions, the new Act also abandons taxation of the sale of excise goods. Rather, the taxable event is release of excise goods from a bonded

warehouse (except where collection of excise duty is suspended for excise goods not owned by the operator of the bonded warehouse – other than goods that are exempt from excise duty due to the purpose of the goods).

An important change in taxable events is addition of a new operation subject to excise duty: 'introduction into a bonded warehouse'. The purpose of this change was to maintain a smooth transfer of responsibility for the excise goods and of the excise obligation, from the taxpayer sending the excise goods under the procedure of suspension of collection of the excise duty, to the taxpayer who accepts the goods at the bonded warehouse.

### **Actual excise duty rates and mandatory exemptions spelled out**

The new Act itself sets forth the actual excise duty rates, not just the maximum rates as before. The new Act also has a more extensive chapter on exemptions, carrying over into the Act all mandatory exemptions from excise duty as required by EU regulations. Under the prior act, exemptions were listed in a separate Regulation of the Minister of Finance on Exemptions from Excise Duty. Now the separate regulation lists only optional exemptions.

### **Other changes**

The new Act introduces new rules for excise on electricity. Now excise duty is charged at the stage of delivery of electricity from the distributor to the final customer, and not, as before, at the stage of delivery of the electricity from the producer to the distributor. The Act also imposes excise duty on coal and coke used for heating, as required by EU regulations. At the same time, the Act also exempts these goods from excise duty completely until 1 January 2012, that is, through the transition period Po-

land was granted before it joined the EU. The Act also brings the excise duty rate for cigarettes up to the EU level, i.e. 57% of the retail price of cigarettes in the most popular price category. Another change is abandoning use of the Polish Classification of Goods and Services (PKWiU) to identify items in domestic trade, in favour of the Combined Nomenclature (CN) classification. Under previous practice, there was a double classification of excise goods; PKWiU was used for domestic trade and CN was used in trade with other EU countries and for imports. Because PKWiU will no longer be used to classify excise goods, taxpayers who previously used only PKWiU are now required to assign the relevant CN codes to excise goods.

Should you wish to obtain additional information on this topic, please contact Agnieszka Koccon ([agnieszka.koccon@laszczuk.pl](mailto:agnieszka.koccon@laszczuk.pl)).

## COMMERCIAL LEASE FOR 30 YEARS

The Act of 23 October 2008 on Amendment of the Civil Code entered into force on 1 January 2009, introducing changes to the provisions on lease periods. This amendment makes it possible for business entities to enter into lease agreements for a definite period of up to thirty years. For leases that are not between two business entities, the provision remains in effect under which if a lease is entered into for a period longer than ten years, after ten years the lease is deemed to be for an indefinite period. It is not clear under the amendment what will happen to a lease agreement entered into between two business entities for a period of more than ten years if one of the parties loses the status of a business entity sometime during the lease term.

Should you wish to obtain additional information on this topic, please contact Marta Bzowska-Warsza ([marta.bzowska@laszczuk.pl](mailto:marta.bzowska@laszczuk.pl)).

## NEW OBLIGATIONS FOR ENTITIES PLACING ELECTRICAL AND ELECTRONIC EQUIPMENT ON THE MARKET

The amendment to the Act on Used Electrical and Electronic Equipment entered into force on 1 January 2009.

Pursuant to the new wording of the Act, entities placing electrical and electronic equipment on the market are obliged to carry out public educational campaigns aimed at raising the level of environmental awareness with respect to appropriate handling of used electrical and electronic equipment. This obligation may be fulfilled by the equipment sellers themselves or through electrical and electronic equipment recycling organizations.

The second significant change in the Act is introduction of minimum annual levels of collection of used equipment from households. These levels have been set in an executive regulation to the Act at 24%-40% of the weight of the equipment sold by a business entity in Poland in the preceding calendar year. The obligation has been imposed solely on entities placing on the market of household equipment. Failure to achieve the minimum equipment collection level will result in an obligation to pay a product fee.

Should you wish to obtain additional information on this topic, please contact Konrad Raszkievicz ([konrad.raszkievicz@laszczuk.pl](mailto:konrad.raszkievicz@laszczuk.pl)).