

98
ACT
of 3 February 2004

on the Excise Duty on Mineral Oil

The National Council of the Slovak Republic has approved the following act:

Article 1
Subject of act

This act regulates the taxing of mineral oils by an excise duty (hereinafter „tax“) in the tax territory.

Article 2
Definition of basic terms

- (1) For the purposes of this act
- a) tax territory shall mean the territory of the Slovak Republic,
 - b) territory of the European Union (hereinafter „union“) shall mean the territory in which are applied union regulations on general arrangements, holding, movement and monitoring of products subject to excise duty,
 - c) Member State shall mean a Member State of the union,
 - d) territory of third countries shall mean a territory which is not territory of the union,
 - e) tax warehouse shall mean a place where mineral oil on the basis of an authorization for the operation of a tax warehouse under tax suspension is produced, processed, held, received or dispatched,
 - f) authorized warehouse keeper shall mean a legal person or natural person whose commercial activities include the production, processing, holding, receiving or dispatching of mineral oils on the basis of an authorization for the operation of a tax warehouse under tax suspension,
 - g) tax suspension shall mean a tax regime in which the origination of tax liability is moved to the day of releasing mineral oil into tax free circulation,
 - h) registered trader shall mean a legal person or natural person which is not an authorized warehouse keeper, whose commercial activities include repeatedly or occasionally on the basis of an authorization receiving mineral oil from another Member State under tax suspension, and which must not warehouse nor dispatch mineral oil under tax suspension,
 - i) releasing mineral oil into tax free circulation shall mean
 - 1. any departure of mineral oil from tax suspension,
 - 2. any production of mineral oil outside tax suspension,
 - 3. any importation of mineral oil not followed by tax suspension,
 - j) combined nomenclature shall mean goods nomenclature under the regulations of the union,
 - k) commercial activities shall mean activities performed in the tax territory in accordance with a special regulation¹⁾ and the same or similar activity performed in other Member States under the regulations of Member States,
 - l) property-linked persons shall mean persons one of which has directly or indirectly at least a 25 % share in the registered capital or in the voting rights in another person; if one person has such share in more persons, all of them are considered to be property-linked,
 - m) personnel-linked persons shall mean
 - 1. a natural person or a legal person, if this natural person or a person close to it²⁾ has directly or indirectly decisive influence on the management or on the control of this legal person, or
 - 2. legal persons, if on the management or control of these legal persons has directly or indirectly decisive influence the same person or persons close to it.²⁾
- (2) For the purposes of this act, transactions originating in or intended for the Principality of Monaco are treated as transactions originating in or intended for the French Republic, transactions originating in or intended for Jungholz and Mittelberg (Kleines Walsertal) are treated as transactions originating in or intended for the Federal

¹⁾ Article 2 of the Commercial Code.

²⁾ Article 116 and 117 of the Civil Code.

Republic of Germany, transactions originating in or intended for the Isle of Man are treated as transactions originating in or intended for the United Kingdom of Great Britain and Northern Ireland, and transactions originating in or intended for San Marino are treated as transactions originating in or intended for the Italian Republic.

Article 3

Tax administration

Tax administration is performed by the customs office, and its local jurisdiction is governed, in the case of a legal person, by its registered office, and in the case of a natural person, by its permanent residence; if local jurisdiction cannot be stated in this way or if it is more efficient for the performing of tax administration, it will be stated by the Customs Directorate of the Slovak Republic (hereinafter „Customs Directorate“). The Customs Directorate can for the branch of a business, another organizational unit or operational unit of a legal person or natural person also state local jurisdiction in other ways, if it is more efficient for tax administration.

Article 4

Subject of tax

(1) The subject of tax are mineral oils produced in the tax territory, delivered to the tax territory from another Member State or imported to the tax territory from the territory of a third country.

(2) For the purposes of this act, mineral oil shall mean

- a) products falling within the CN code 2706 00 00,
- b) products falling within the CN codes 2707 10, 2707 20, 2707 30, 2707 50, 2707 91 00, 2707 99 11 and 2707 99 19,
- c) products falling within the CN code 2709 00,
- d) products falling within the CN code 2710,
- e) products falling within the CN code 2711 with the exception of natural gas,
- f) products falling within the CN codes 2712 10, 2712 20, 2712 90 31, 2712 90 33, 2712 90 39, 2712 90 91 and 2712 90 99,
- g) products falling within the CN code 2715 00 00,
- h) products falling within the CN code 2901,
- i) products falling within the CN codes 2902 11 00, 2902 19 90, 2902 20, 2902 30, 2902 41 00, 2902 42 00, 2902 43 00 and 2902 44,
- j) products falling within the CN codes 3403 11 00 and 3403 19,
- k) products falling within the CN code 3811,
- l) products falling within the CN code 3817.

(3) For the purposes of this act, mineral oil is also goods not stated in Paragraph 2, if

- a) offered for use or used as motor fuel or motor fuel ingredient with the exception of natural gas,
- b) partially or completely composed of hydrocarbons and offered for use or used as fuel with the exception of natural gas, carbon, peat, oil coke falling within the CN code 2713 or other comparable solid hydrocarbons.

(4) Motor fuel is a mineral oil stated in Paragraph 2 and 3 aimed at use and offered for use, or used for the propulsion of petrol engines, oil engines, engines adjusted for the combustion of liquefied petroleum gas and aircraft turbo-jet engines.

(5) Fuel is a mineral oil stated in Paragraph 2 and 3 aimed at the use or offered for use, or used for heat production.

(6) For the purposes of this act, mineral oil is not biogenic materials not even if they are used as motor fuel or fuel. This does not apply if biogenic materials are used as motor fuel ingredients.

(7) Biogenic material is

- a) vegetable oils, also chemically modified, stated in chapter 15 of the customs rate tariff, as well as esters made from them, if the content of hydrocarbons in them does not exceed 5 % of the total content,
- b) petroleum gas (biogas) originated during the processing of biologic waste or cleaning of wastewater,
- c) ethyltertbutylether produced from ethanol falling within the CN code 2207 20 00, which is not of synthetic origin.

(8) From the mineral oils stated in Paragraph 2 subject to procedures of transporting (Article 23 and 24) are the mineral oils falling within the

- a) CN codes 2707 10, 2707 20, 2707 30, 2707 50,
 - b) CN code 2709 00 10 (gasoline),
 - c) CN codes 2710 11 11 through 2710 19 69; mineral oils falling within the CN codes 2710 11 21, 2710 11 25 and 2710 19 29 only if they are transported freely, for example in car tanks or railway tanks,
 - d) CN code 2711 with the exception of natural gas,
 - e) CN code 2901 10,
 - f) CN codes 2902 20, 2902 30, 2902 41 00, 2902 42 00, 2902 43 00 and 2902 44.
- (9) In the case of a change in the CN code which has no impact on a change of the subject of the tax or on the tax rate, valid tax rate stated in Article 6 and 7 will be used, and the transferral key between the original and the new CN code will be stated in a document issued by the Ministry of Finance of the Slovak Republic (hereinafter „ministry“) and announced in the Collection of Acts of the Slovak Republic by the publishing of its full version.

Article 5

Tax base, tax calculation

- (1) The tax base is the amount of mineral oil stated in litres at the temperature of 15 °C or in kilograms.
- (2) The tax shall be calculated as the product of the tax base and the appropriate tax rate.

Article 6

Tax rate

- (1) The tax rate is stated as follows:
 - a) petrol falling within the CN codes 2710 11 41, 2710 11 45, 2710 11 49 SKK 15 500 /1 000 l
 - b) petrol falling within the CN codes 2710 11 31, 2710 11 51 and 2710 11 59 SKK 18 000/1 000 l
 - c) medium oil falling within the CN codes 2710 19 21 and 2710 19 25 SKK 14 500/1 000 l
 - d) gas oil falling within the CN codes 2710 19 41, 2710 19 45 and 2710 19 49 with the exception under Article 7 Paragraph 1 SKK 14 500/1 000 l
 - e) heating oil falling within the CN codes 2710 19 61, 2710 19 63, 2710 19 65 and 2710 19 SKK 69 800/1 000 kg
 - f) liquefied petroleum gas falling within the CN codes 2711 12 through 2711 19 00
 - 1. aimed at use, offered for use or used as motor fuel SKK 7 800/1 000 kg
 - 2. aimed at use, offered for use or used as fuel SKK 0/1 000 kg.
- (2) For the mineral oil for which no tax rate is stated and which was used as motor fuel or fuel or if it is offered for these purposes, applied is the tax rate of that mineral oil stated in Paragraph 1 to which its purpose of use or characteristics are closest; this does not apply for petroleum gas in gaseous state. If the mineral oil stated in Paragraph 1 letter f) second point is offered for use or used as motor fuel, applied is the tax rate under Paragraph 1 letter f) first point.
- (3) For a mineral oil which is a mixture of taxed mineral oils or a mixture of taxed mineral oils and other materials, and the tax amount for this mixture is higher than the total of tax amount for the individual mixture ingredients, applied is tax which is the difference between the tax for this mixture according to the use purpose and the amount of taxes for the individual mixture ingredients.
- (4) If tax obligation arose under Article 12 Paragraph 2 letter d), for the mineral oil is applied a tax calculated as the product of the amount of mineral oil and difference between the tax rate under Paragraph 1 letter d) and the tax rate under Article 7.
- (5) For the mineral oil stated
 - a) in Article 19 Paragraph 6 letter a) is applied the tax rate under Paragraph 1 letter a) reduced by the 48/100 - percentage share of the biogenic material stated in Article 4 Paragraph 7 letter c) in the mixture, however by 7.2 % at the most,
 - b) v Article 19 Paragraph 6 letter b) is applied the tax rate under Paragraph 1 letter d) reduced by the percentage share of the biogenic material stated in Article 4 Paragraph 7 letter a) in the mixture, however by 5 % at the most.
- (6) The reduced tax rate under Paragraph 5 is rounded up to whole crowns.

Article 7

Reduced tax rate for marked gas oils

(1) The reduced tax rate is stated in the amount of SKK 6 800/1 000 l for gas oils falling within the CN codes 2710 19 41, 2710 19 45 and 2710 19 49 marked in accordance with this act, if they are aimed at use as

a) fuel,

b) motor fuel for the propulsion of

1. railway vehicles used in rail transport of people and cargo and in the operation, repair and maintenance of the railway network, performed within commercial activities,
2. machines used exclusively for works of production character or services in agricultural production³⁾ performed within commercial activities,
3. engines of stationary equipment aimed at the production of electric energy.

(2) The reduced tax rate can also be applied for marked gas oil transported from another Member State or imported from the territory of a third country to the tax territory, if it is marked under Article 8 Paragraph 1; Article 8 Paragraph 3 is not affected by this.

Article 8

Fiscal marking of gas oil

(1) For the purposes of this act, the fiscal marking of gas oil shall mean the even adding of red colour and indication material so that a mixture consisting of one part of marked and ten parts of unmarked gas oil had a clearly visible red colouring. For the fiscal marking of gas oil is used the indication material Solvent Yellow 124 (N-ethyl-N- [2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)anillin) in concentration at least 6 mg/l and colour corresponding to Solvent Red 19. This does not affect the procedure of establishing the presence of colour and indication material under the Slovak Technological Norm⁴⁾. The fiscal marking of gas oil is subject to tax supervision.

(2) In the tax territory, gas oil can only be marked in a tax warehouse equipped with an appropriate dosing and mixing equipment or another similar equipment which shall serve to mark under Paragraph 1.

(3) Prohibited is

- a) fiscal marking of other mineral oils than gas oil stated in Article 7 Paragraph 1 in the manner under Paragraph 1,
- b) diluting, removing or changing in any other way the fiscal marking of gas oil outside a tax warehouse situated in the tax territory which has an authorization to mark gas oil under Article 9,
- c) releasing into tax free circulation marked gas oil, unless it is marked under Paragraph 1,
- d) using marked gas oil without the tax exemption certificate (hereinafter „exemption certificate“),
- e) using marked gas oil for a purpose other than the stated purpose (Article 7 Paragraph 1).

Article 9

Authorization to mark gas oil

(1) An authorized warehouse keeper in the tax territory which wants to mark gas oil must ask the customs office in written form to issue an authorization to mark gas oil. The application must contain

- a) trade name and registered office of the legal person, or name and surname and permanent residence of the natural person (hereinafter „identification data“) and the address of the location of its operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) tax identification number of the applicant,
- c) estimated amount of annual production of marked gas oil.

(2) The annex to the application are data on the installed equipment and the technological documentation of the equipment for the fiscal marking of gas oil.

(3) The customs office shall verify the facts and data stated in the application and in the annex to the application, and if these facts and data are correct and the equipment under Article 8 Paragraph 2 is suitable for the fiscal marking of gas oil, it shall issue the authorization to mark gas oil.

³⁾ Decree of the Statistical Office of the Slovak Republic No. 632/2002 Coll., which issues the statistical classification of production.

⁴⁾ STN 65 6082 Statement of the content of colour materials and indication material in gas oil.

(4) The customs office

- a) shall withdraw the authorization to mark gas oil, if the equipment under Article 8 Paragraph 2 is no longer suitable for the fiscal marking of the gas oil, or on the basis of a written application of the authorized warehouse keeper,
- b) can withdraw the authorization to mark gas oil if the gas oil is not marked under Article 8 Paragraph 1.

Article 10

Tax exemption

(1) Mineral oil is exempt from tax when used

- a) for other purposes than motor fuel or fuel,
- b) as aircraft motor fuel which for the purposes of this act is the mineral oil falling within the CN codes 2710 11 31, 2710 11 70 and 2710 19 21,
 - 1. during the transport of people and cargo and other provision of services performed by aircraft technology within commercial activities, for the aircraft technology of the armed forces, armed security forces and the aircraft technology of emergency services,
 - 2. for the aircraft technology of foreign armed forces, foreign armed security forces and for the aircraft technology of foreign emergency services,
- c) as ship operation material during the transport of people and cargo on the Danube, which is part of an international waterway, performed within commercial activities; ship operation material shall for the purposes of this act mean mineral oil falling within the CN codes 2710 19 41, 2710 19 45 and 2710 19 49 used as motor fuel or fuel,
- d) as additional fuel to main fuel (coke) during a chemical reduction process in blast furnaces.

(2) Also exempt from tax is mineral oil

- a) used for necessary operational or technological purposes in an enterprise for mineral oil production, which is a tax warehouse (Article 19 Paragraph 5), with the exception of use as motor fuel for means of transport,
- b) taken as sample for the purposes of tax supervision or other official control, official test or official determination, in a technologically justified amount,
- c) used in a tax warehouse (Article 18 Paragraph 2) for own laboratory tests or analyses in a technologically justified amount accepted by the customs office,
- d) under tax suspension in the case of establishing a missing amount related to technological losses, manipulation losses, transport losses and natural decrements [Article 40 Paragraph 3 letter g)], if these amounts are technologically justified and accepted by the customs office or tax administrator of another Member State,
- e) under tax suspension, if it was irrecoverably destroyed as the result of an accident, incident, technological defect or by force majeure and if these losses are on the basis of official finding and verification accepted by the customs office or by the tax administrator of another Member State,
- f) provably devalued, if from the day of devaluation to the time of its re-acquisition (regeneration) it cannot be used as motor fuel or fuel,
- g) transported to the tax territory from other Member States by persons stated in Article 16 Paragraph 2 or transported to the tax territory from other Member States by the armed forces any State party to the North Atlantic Treaty or by their civil employees for use in activities under an international treaty which was ratified and announced in the way stated by act (hereinafter „international treaty“);⁵⁾ the transport of mineral oil by the armed forces of Member States must be performed with an accompanying document and must be certified by an exemption certificate from excise duty drawn up according to the sample and manner stated in the Commission provisions,⁶⁾
- h) imported to the tax territory from the territory of third countries by persons stated in Article 16 Paragraph 2 or imported to the tax territory from the territory of third countries by the armed forces of other than Member states which are State party to the North Atlantic Treaty or by their civil employees for use in activities under

⁵⁾ For example the Treaty between states which are parties to the North Atlantic Treaty and other states participating in Partnership for Peace related to the status of their armed forces as amended by further additional protocols (notification No. 324/1997 Coll.).

⁶⁾ Commission Regulation (EC) No. 31/96 of 10 January 1996 on the excise duty exemption certificate (O. J. E. C., L 008, 11/1/1996, p. 11 - 15).

an international treaty,⁵⁾

- i) situated in common tanks of means of transport, work machines, air-conditioning, cooling and other similar equipment during their entry in the tax territory and which serves for their own propulsion or operation; common tanks are for the purposes of this act understood as tanks firmly built in by the producer of means of transport, machines and equipments as well as gas tanks if gas serves as a motor fuel.

Article 11

User enterprise

(1) For the purposes of this act, user enterprise shall mean

a legal person or natural person entitled to use mineral oil tax favoured. The legal person or natural person which wishes to use such mineral oil must ask the customs office in written form to issue an exemption certificate. Exemption certificate is not required in the case of supplying aircraft motor fuels to foreign air companies or supplying ship operation materials to foreign ship companies into the tanks of aircraft of ships for their own propulsion and operation and in the case of supplying mineral oil under Article 10 Paragraph 1 letter b) second point.

(2) For the purposes of this act, tax favoured is the mineral oil

- a) with reduced tax rate under Article 7,
- b) exempt from tax under Article 10 Paragraph 1,
- c) without tax rate subject to procedures of transporting (Article 4 Paragraph 8).

(3) The application for the issuing of an exemption certificate must include

- a) the identification data of the applicant and the address of the location of his operational outlets, unless they are the same as the registered office or permanent residence of the applicant,
- b) the tax identification number of the applicant; if the applicant has no tax identification number, birth identification number shall be stated,
- c) type of tax subject and trade name of tax favoured mineral oil and the appropriate CN code,
- d) the purpose of use of tax favoured mineral oil under the provisions of this act and the estimated amount of annual consumption in litres or kilograms,
- e) identification data of the supplier of tax favoured mineral oil.

(4) Attachments to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation and description of the place of use and of the place of holding of tax favoured mineral oil and description of the manner of securing it against illegal use,
- c) technological documentation of the equipment in which tax favoured mineral oil is to be used as motor fuel or fuel, which must state clearly the type of the mineral oil used and the amount of its consumption by such equipment,
- d) technological procedure and data on the consumption of tax favoured mineral oil, if the mineral oil is to be used as raw material or auxiliary material in a technological process,
- e) declaration of the applicant that it meets the conditions stated in Article 21 Paragraph 4 letters c) through f).

(5) Before issuing the exemption certificate, the customs office shall verify with the applicant the facts and data stated in the application and in its attachments. If the facts and data stated in the application and in its attachments are true, the customs office shall issue the exemption certificate to the applicant.

(6) The user enterprise is obliged to notify the customs office of each change in the data under Paragraph 3 and Paragraph 4 letters b) through e) no later than 15 days after the day of its origination with the exception of the data under Paragraph 3 letter d), when it is obliged to notify of the change in the data in advance. It is obliged to notify the customs office of a change in the data under Paragraph 4 letter a) no later than 15 days after the day of the submission of the proposal for the change in the data to the competent authority. The customs office shall supplement the original exemption certificate or issue a new exemption certificate if the data under Paragraph 3 have changed. In the case of a change in the purpose of use [Paragraph 3 letter d)], the user enterprise can use tax favoured mineral oil for the purposes it announced only after the customs office has supplemented the original exemption certificate or issued a new exemption certificate.

- (7) The customs office shall issue to the applicant an exemption certificate for each supplier stated in Paragraph 3 letter e), in which it will state the data under Paragraph 3 with the exception of the birth identification number and the tax identification number if it contains the birth identification number of the applicant, state the validity period of the exemption certificate and in the case of a limited validity period also the permitted amount of receipt of tax favoured mineral oil. Each exemption certificate shall be issued in three copies, the customs office keeping one and submitting the other two to the user enterprise, which shall keep one and submit the other to its supplier stated in the exemption certificate.
- (8) The user enterprise is obliged to submit the exemption certificate to the supplier no later than at the first receipt of tax favoured mineral oil in the tax territory or to the customs office if the user enterprise proceeds as the registered trader in the transport of mineral oil from another Member State.
- (9) The user enterprise is obliged to hold tax favoured mineral oil without undue delay after its receipt in the place of storage it stated in the attachment of the application under Paragraph 4 and use it only for the purposes stated in the exemption certificate.
- (10) Without an exemption certificate and accompanying document in the tax territory can be received or supplied mineral oil stated in Paragraph 2 letter c) and mineral oil of the CN code 2710 19 25, if they are aimed at other purposes than motor fuel or fuel and only if they are supplied in packagings out of which none has a volume greater than ten litres.
- (11) In a repeated application for the issuing of an exemption certificate, if the data under Paragraph 4 have not changed, the user enterprise shall state
- a) its identification data,
 - b) the identification data of the supplier of tax favoured mineral oil,
 - c) the tax type and trade name of tax favoured mineral oil and the appropriate CN code,
 - d) the purpose of the use of tax favoured mineral oil and the estimated amount of annual consumption in litres or kilograms.
- (12) The customs office shall withdraw the exemption certificate, if
- a) tax favoured mineral oil was repeatedly used for other purposes than those stated in the exemption certificate,
 - b) the user enterprise has ceased to meet the conditions stated in Article 21 Paragraph 4 letters. c) through e),
 - c) the exemption certificate was not used for a purchase of tax favoured mineral oil within 12 consecutive calendar months since its date of issue,
 - d) registration was performed and authorization issued for the operation of a tax warehouse,
 - e) the user enterprise has applied for deletion from the Commercial Register or a similar register, or applied for a cancellation of the trade licence, or announced termination of enterprise, or was closed down, unless it was established or founded for enterprise purposes,
 - f) the user enterprise is a natural person and this has died or the decision of a court of act on pronouncing this natural person dead has come into effect,
 - g) a decision of the court of act on announcing bankruptcy, on rejection of the proposal to announce bankruptcy because of a lack of property or on the cancellation of bankruptcy because of a lack of property has come into effect or a compulsory composition or permitted composition has been confirmed,
 - h) the user enterprise enters liquidation,
 - i) the user enterprise applies for a withdrawal of the exemption certificate.
- (13) Article 21 Paragraph 10 letter a) and Paragraph 11 apply equally to the withdrawal of the exemption certificate under Paragraph 12. The customs office shall announce the withdrawal of the exemption certificate no later than three working days after the day of the withdrawal of the exemption certificate to the supplier of tax favoured mineral oil stated in the exemption certificate.
- (14) In the case of the receipt of tax favoured mineral oil from another Member State or from the territory of a third country through the territory of the union the user enterprise proceeds under Article 25 appropriately.
- (15) If the user enterprise terminates its activity and has inventories of tax favoured mineral oil, which cannot be used for the purposes stated in the exemption certificate any more, with the approval of the customs office the tax favoured mineral oil can be supplied to a legal person or natural person which has an exemption certificate for the receipt of such mineral oil, or to a tax warehouse; in this case Article 42 Paragraph 3 shall not apply. The same process applies to the trusteeship of the user enterprise or judicial executor, or another person if during the performance of decision they release into circulation tax favoured mineral oil.

Article 12

Origination of tax liability

- (1) Unless this act states otherwise, tax liability originates with the releasing of mineral oil into tax free circulation on the day of
- a) submitting mineral oil to a legal person or natural person which is not entitled to receive mineral oil under tax suspension, or on the day of exempting mineral oil from tax suspension in another manner than the stated in letters b) through e),
 - b) own consumption of mineral oil in the tax warehouse,
 - c) receiving mineral oil transported to the tax territory under tax suspension by the registered trader or authorized tax representative,
 - d) establishing the stealing of mineral oil under tax suspension or of mineral oil exempt from tax,
 - e) establishing missing mineral oil
- 1. under tax suspension with the exception of mineral oil stated in Article 10 Paragraph 2 letters d) and e),
 - 2. exempt from tax with the exception of the amount of mineral oil related to technological losses, manipulation losses, transport losses and natural decrements, if these amounts are technologically justified and accepted by the customs office, as well of the amount of irrecoverably destroyed mineral oil as the result of an accident, incident, technological defect or by force majeure, if these losses are accepted by the customs office on the basis of an official finding,
- f) producing mineral oil outside tax suspension with the exception of processing foreign goods in the customs regime inward processing or in the customs regime processing of foreign goods under customs surveillance,
 - g) accepting the customs declaration on releasing mineral oil into the customs regime free circulation, if such releasing is not followed by tax suspension,
 - h) the incurrance of a customs debt by another manner than accepting a customs declaration
- (2) Tax liability also originates on the day of
- a) establishing a holding of mineral oil whose origin and manner of acquisition in accordance with this act cannot be proved by a legal person or natural person,
 - b) delivery or day of use of mineral oil exempt from tax for a purpose other than the stated purpose, as well as on the day of delivery or the day of use of mineral oil stated in Article 6 Paragraph 1 letter f) second point as motor fuel,
 - c) delivery of mineral oil for which no tax rate is stated under Article 6 Paragraph 1 and which is offered for use as motor fuel or fuel, or on the day of its use as motor fuel or fuel, the day of use as motor fuel meaning the day of placing it into a common tank [Article 10 Paragraph 2 letter i)] and the day of use as fuel meaning the day of placing it into a tank connected with a heating device,
 - d) delivery or day of use or marked gas oil for another purpose than stated purpose (Article 7 Paragraph 1).
- (3) The day of establishing the facts under Paragraph 1 letters d) and e) and Paragraph 2 letter a) is considered to be the day on which the customs office learns of these facts.

Article 13

Tax debtor

- (1) Unless this act states otherwise, tax debtor is a legal person or natural person
- a) which submitted mineral oil to a legal person or natural person which is not entitled to receive mineral oil under tax suspension, or mineral oil exempt from tax suspension in another manner than those stated in letters b) through e),
 - b) which is the authorized keeper of a tax warehouse in which own consumption of mineral oil took place,
 - c) which is an entitled consignee or authorized tax representative and has accepted mineral oil transported into the tax territory under tax suspension,
 - d) which has kept mineral oil under tax suspension or exempt from tax and this was stolen from it; if a tax guarantee was deposited on such mineral oils the tax debtor is the legal person or natural person which deposited this tax guarantee,
 - e) which keeps mineral oil and the mineral oil has been established missing:
- 1. under tax suspension with the exception of the mineral oil stated in Article 10 Paragraph 2 letters d) and e),
 - 2. exempt from tax with the exception of an amount of mineral oil related to technological losses, manipulation losses, transport losses and natural decrements, if these losses and decrements are technologically justified

- and accepted by the customs office, as well as amount of irrecoverably destroyed or devalued mineral oil as the result of accident, incident, technological defect or by force majeure, if these losses are accepted by the customs office on the basis of official finding,
- f) which produced mineral oil outside tax suspension,
 - g) to whose account was submitted a customs declaration on releasing mineral oil into the customs regime free circulation, if such release is not followed by tax suspension,
 - h) whose customs debt incurred in another manner than the accepting of a customs declaration.
- (2) A tax debtor in the origination of tax liability under Article 12 Paragraph 2 is a legal person or natural person which
- a) cannot prove the origin and manner of acquisition of the mineral oil it holds,
 - b) submitted for use or used mineral oil exempt from tax for a purpose other than the stated purpose, or offered for use or used mineral oil stated in Article 6 Paragraph 1 letter f) second point as motor fuel,
 - c) submitted for use or used mineral oil for which no tax rate is stated under Article 6 Paragraph 1 as motor fuel or fuel,
 - d) submitted for use or used mineral oil for another purpose than the stated purpose (Article 7 Paragraph 1).
- (3) If the mineral oil whose owner became the state under special regulation⁷⁾ was released into the tax free circulation by the customs office, the tax debtor is the legal person or natural person which acquired or used such mineral oil.

Article 14

Tax period, tax return, additional tax return, tax maturity

- (1) The tax period is a calendar month, unless this act states otherwise.
- (2) If the tax debtor is an authorized warehouse keeper or if the tax debtor is a registered trader whose commercial activities include the repeated receipt of mineral oil under tax suspension from another Member State, it is obliged no later than on the 25 day of the calendar month following the month in which its tax liability originated to submit to the customs office a tax return drawn up according to the sample stated in a regulation issued under Article 43 Paragraph 2 and pay the tax before the same deadline. It is also obliged to submit the tax return for a tax period in which no tax liability originated.
- (3) The tax debtor not stated in Paragraph 2 is obliged to submit to the customs office a tax return no later than three working days after the day of the origination of the tax liability and pay the tax before the same deadline, unless this act states otherwise.
- (4) In the case of the origination of tax liability under Article 12 Paragraph 1 letters g) and h), customs debt maturity deadlines under customs regulations apply to tax maturity.
- (5) In the tax return, the authorized warehouse keeper states
 - a) the amount of mineral oil which was released from the tax warehouse, including own consumption in the tax warehouse divided according to the sample of the tax return,
 - b) the amount of mineral oil from the mineral oil stated in letter a) which was released under tax suspension, exempt from tax, and the amount of mineral oil from which tax is reimbursed,
 - c) the difference between the amount of mineral oil under letter a) and the amount of mineral oil under letter b),
 - d) the resulting tax related to the amount of mineral oil under letter c).
- (6) The tax debtor with the exception under Paragraph 5 states in the tax return the amount of mineral oil from which tax liability resulted, divided according to the sample of the tax return and the tax related to this amount.
- (7) The tax debtor is obliged to calculate the tax itself; if tax liability originates under Article 12 Paragraph 1 letters g) and h), the tax shall be calculated by the customs office. The resulting tax is rounded up to whole Slovak crowns.
- (8) If the tax debtor establishes that the submitted tax return is incorrect or incomplete and that its correction results in an increase of the tax, it is obliged to submit to the customs office an additional tax return without undue delay after establishing the incorrectness or incompleteness of the tax return, stating the period to which the additional tax return is related, and pay the tax no later than ten working days after the day of the submission

⁷⁾ For example Article 386, 435 and 436 of Act No. 238/2001 Coll. Customs Act, Article 14a of the Act of the Slovak National Council No. 511/1992 Coll. on Tax and Fee Administration and Changes in the System of Territorial Financial Bodies as amended, Civil Code, Criminal Act.

of the additional tax return. The additional tax return must be indicated as „Additional“. The additional tax return shall only contain the differences from the originally submitted tax return.

(9) The additional tax return under Paragraph 8 shall not be taken into account if the customs office has already begun the tax control leading towards the investigation of facts decisive for the correct stating of tax or for reimbursing tax for the period to which the additional tax return would be related.

(10) If the submitted tax return is incorrect or incomplete and its correction results in a decrease of the tax,

- a) the authorized warehouse keeper can perform correction by an additional tax return, however no later than three years after the end of the tax period to which the correction is related,
- b) the tax debtor not stated in letter a) shall apply tax reimbursement in the tax reimbursement application and proceed according to Article 15.

(11) The tax debtor with the exception of the tax debtor under Paragraph 2 whose tax liability for the tax period does not exceed SKK 1 000 is not obliged to submit a tax return and pay the tax; this does not apply if procedure under Paragraph 4 is applied.

Article 15

Tax reimbursement

(1) The tax from provably taxed mineral oil in the tax territory can be reimbursed to

- a) the authorized warehouse keeper if it received such mineral oil or has mineral oil taxed under this act,
- b) the user enterprise if it received such mineral oil or has mineral oil taxed under this act.

(2) The tax from mineral oil provably taxed in the tax territory can be reimbursed to a legal person or natural person if its commercial activities with such mineral oil included

- a) supplying it to the territory of another Member State to a legal person or natural person for commercial purposes and attached to the tax return application (Article 31 Paragraph 9)

1. copy 3 of the simplified accompanying document certified by the consignee (purchaser) of the mineral oil,

2. certification of the tax administrator of another Member State on the settlement of the tax in this Member State,

- b) supplying it to the territory of another Member State in the form of distant selling and if it submitted a confirmation of the tax administrator of another Member State respective for the consignee on the settlement of tax in this Member State,

- c) exporting it to the territory of a third country and proved the export with a standard customs document confirming that the mineral oil has left the territory of the union; upon request of the customs office the export of mineral oil must also be proved by another document, especially by a document on the transport of mineral oil to the territory of a third country or a document of payment.

(3) Supplying mineral oil for commercial purposes under Paragraph 2 letter a) also includes the supplying of provably taxed mineral oil to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.

(4) For the purposes of this act, provably taxed mineral oil is such mineral oil whose taxing is proved by a document proving its acquisition at a price with tax and a document proving the payment of tax in the price of the mineral oil, for example by a statement from the account in a bank or in the branch of a foreign bank (hereinafter „bank“), expenditure cash voucher, document from the cash register or document proving the payment of tax to the customs office.

(5) Tax can also be reimbursed to the tax debtor, if tax has already been paid and if the tax has been calculated

- a) by the tax debtor to the detriment of the consignee (purchaser) of mineral oil to whom it issued a credit note, it can only apply for tax reimbursement after it has paid the credit note to the consignee (purchaser) of mineral oil,

- b) by the tax debtor to its own detriment,

- c) by the customs office to the detriment of the tax debtor.

(6) The tax reimbursement shall be claimed

- a) by the authorized warehouse keeper in the tax return (Article 14 Paragraph 2) or in the additional tax return [Article 14 Paragraph 10 letter a)], if it claims tax reimbursement after the end of the tax period for which it has already submitted the tax return,

- b) by a legal person or natural person not stated in letter a) in the tax reimbursement application drawn up according to the sample stated in a generally binding declaration issued under Article 43 Paragraph 2.

(7) The tax reimbursement application for the tax period can be submitted to the customs office only after the end of that calendar month in which all conditions for the claiming of tax reimbursement were met, however no later than three years after the end of the calendar month in which the possibility of a tax reimbursement claiming originated; tax cannot be reimbursed on the basis of a tax reimbursement application submitted after the deadline.

(8) If a legal person or natural person stated in Paragraph 6 letter b) establishes that the submitted tax reimbursement application is incorrect or incomplete and that its correction results in

- a) a decrease in the claimed tax reimbursement, it is obliged to submit a tax return; in the tax return it shall state the tax in the amount of the difference between the already claimed tax reimbursement and the amount of the tax that should be reimbursed and shall pay this tax before the deadline under Article 14, if the tax has already been reimbursed,
- b) an increase in the claimed tax reimbursement, it can submit an additional tax reimbursement application, in which it shall state the difference from the originally claimed amount of tax reimbursement as well as the tax period to which the correction is related; this also applies if the customs office establishes it; the additional tax reimbursement application can be submitted no later than three years after the end of the tax period to which the correction is related, otherwise the possibility of submitting an additional tax reimbursement application expires.

(9) The customs office shall reimburse the tax no later than 30 days after the day of the submission of the tax return or additional tax return, tax reimbursement application or additional tax reimbursement application, if all conditions required for tax reimbursement are met. If the customs office starts in this period of time a tax control for establishing the justification of the tax reimbursement and establishes that the tax return or additional tax return, tax reimbursement application or additional tax reimbursement application is justified, it shall reimburse the tax no later than 15 days after the end of the tax control.

Article 16

Tax reimbursement to persons from other states who enjoy privileges and immunities under international treaties

(1) Tax can be reimbursed to persons from other states who enjoy privileges and immunities under an international treaty⁸⁾ (hereinafter „foreign representative“), from provably taxed mineral oil (Article 15 Paragraph 4) in the tax territory.

(2) For the purposes of this act, a foreign representative is

- a) a diplomatic mission and consular office with registered office in the territory of the Slovak Republic with the exception of consular office led by a honorary consul,
- b) an international organization and its regional office (hereinafter „international organization” with registered office in the territory of the Slovak Republic which is established under an international treaty⁸⁾,
- c) a diplomatic mission representative who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic,
- d) a consular official who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic with the exception of honorary consular official,
- e) a member of the administrative personnel and technological personnel of the mission who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic,
- f) a consular employee who is not a citizen of the Slovak Republic and does not have permanent residence in the territory of the Slovak Republic, with the exception of employee of consular office led by a honorary consul,
- g) an official of an international organization who is not a citizen of the Slovak Republic, does not have permanent residence in the territory of the Slovak Republic and is permanently assigned to performing official functions in the Slovak Republic.

(3) Tax shall be reimbursed to the foreign representatives of those states which reimburse tax or offer similar advantages to the citizens of the Slovak Republic who enjoy privileges and immunities under an international

⁸⁾ For example the decree of the Minister of Foreign Affairs No. 157/1964 Coll. on the Vienna Convention on Diplomatic Affairs, decree of the Minister of Foreign Affairs No. 32/1969 Coll. on the Vienna Convention on Consular Relations, decree of the Minister of Foreign Affairs No. 40/1987 Coll. on the Convention on Special Missions, decree of the Minister of Foreign Affairs No. 21/1968 Coll. on the Convention on Privileges and Immunities of International Professional Organizations.

treaty⁹⁾ (hereinafter „Slovak representative“), in the scope under Paragraph 5 through 7.

(4) If another state does not reimburse tax or offer similar advantages to Slovak representatives in the scope offered by the Slovak Republic, the foreign representatives of this state shall have tax reimbursed or be given similar advantages at most in the scope in which this state provides it to Slovak representatives. The mutuality does not concern international organizations and their officials.

(5) The foreign representative stated in Paragraph 2 letters a) and b) shall be reimbursed tax for at the most 4 000 litres annually from provably taxed mineral oil, used as motor fuel for each personal car⁹⁾ and each utility car¹⁰⁾ registered in the Slovak Republic with an assigned diplomatic registration number EE or ZZ, serving for the needs of the foreign representative.

(6) The foreign representative stated in Paragraph 2 letters a) and b) shall be reimbursed tax from provably taxed mineral oil used as fuel for heating the premises of the diplomatic mission, consular office with the exception of the consular office headed by a honorary consul and the premises of an international organization.

(7) The foreign representative stated in Paragraph 2 letters c) through g) shall be reimbursed tax for at the most 3 200 litres of provably taxed mineral oil annually, used as motor fuel for each personal car⁹⁾ registered in the Slovak Republic with an assigned diplomatic registration number EE or ZZ, serving for the needs of the foreign representative.

(8) The application for tax reimbursement to a foreign representative shall be submitted by the foreign representative to Customs Office Bratislava for the period of a calendar quarter, no later than on the 25th day after the end of this calendar quarter. The sample of the application for tax reimbursement to a foreign representative is stated in Annex No. 2.

(9) The annex to the application for tax reimbursement to a foreign representative is a document proving the acquisition of provably taxed mineral oil in the tax territory and a document proving the payment of the tax in the price of mineral oil (Article 15 Paragraph 4). The original of the document can be replaced by its copy certified by the head of the mission, head of the consular office or appointed representative. The document must contain

a) identification data of the supplier and its tax identification number

b) trade name and amount of mineral oil,

c) date of sale,

d) price including tax.

(10) Tax shall be reimbursed after a control of the justification of the application for tax reimbursement to a foreign representative no later than 30 days after the end of this control. If the control of the justification of the application for tax reimbursement to a foreign representative establishes that this application is incorrect or incomplete, an additional application for tax reimbursement to a foreign representative shall be submitted in which only the differences from the original application for tax reimbursement to a foreign representative shall be stated, the deadline under the first sentence applying equally here. If it is found out that the claimed tax reimbursement should have been lower, procedures under Article 15 Paragraph 8 letter a) are applied; the provisions of a special regulation¹¹⁾ shall not be used in this case.

(11) The foreign representative can claim tax reimbursement no later than for the calendar quarter following the calendar quarter in which he bought provably taxed mineral oil, otherwise the possibility of tax reimbursement expires.

Article 17

Return of tax on mineral oil supplied in the territory of the Slovak Republic to the armed forces of other countries, which are parties to the North Atlantic Treaty

(1) Tax can be reimbursed to the Ministry of Defence of the Slovak Republic from provably taxed mineral oil supplied in the territory of the Slovak Republic without tax to the armed forces of other states, which are

⁹⁾ Article 2 Paragraph 5 letter a) of the decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 116/1997 Coll. on the Conditions of Vehicle Traffic on Roads as amended.

¹⁰⁾ Article 2 Paragraph 7 letters a) and b) of the decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 116/1997 Coll.

¹¹⁾ Article 35b of the Act of the Slovak National Council No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

parties to the North Atlantic Treaty or their civil employees (hereinafter „armed forces of other states“), for use in personal vehicles, aircraft and ships within activities under an international treaty.⁵⁾

(2) Reimbursement of tax from provably taxed mineral oil (Article 15 Paragraph 4) after the end of activity of armed forces shall be claimed by the Ministry of Defence of the Slovak Republic with the customs office in the form of a written application. In the application it shall state the name of the activity of the armed forces, the total amount of mineral oil released without tax to the armed forces of other states divided according to sub-entries of the CN code and the tax for these amounts it asks to be reimbursed. It shall attach to the application an outline of the amounts of the supplied untaxed mineral oils to the individual armed forces of other states, which upon request of the customs office it shall prove with

- a) issue certificates confirmed by the responsible representatives of the armed forces of other states,
- b) invoices on the supplied untaxed mineral oils and documents on payment for them,
- c) documents on the acquisition of provably taxed mineral oil (Article 15 Paragraph 4).

(3) If conditions under Paragraph 1 and 2 are met, the customs office shall reimburse tax no later than 30 days after compliance with the last condition. If it is established that the submitted application for tax reimbursement is incorrect or incomplete, the Ministry of Defence of the Slovak Republic shall submit an additional tax reimbursement application, in which it shall state only the differences from the original application, the deadline under the first sentence applying equally here. If it is established that the claimed tax reimbursement should have been lower, used is procedure under Article 15 Paragraph 8 letter a); the provisions of a special regulation¹¹⁾ shall not be used in this case.

Article 18

Tax suspension, tax warehouse

(1) Tax suspension applies to mineral oil

- a) held in a tax warehouse,
- b) transported under conditions under Article 23 and 24, or
- c) that has become state property under a special regulation⁷⁾ with the exception of provably taxed mineral oil.

(2) A tax warehouse can only be an enterprise for the production of mineral oil (Article 19 Paragraph 1) or a mineral oil warehouse (Article 20 Paragraph 1) located in the tax territory. Tax warehouse is also an enterprise for the production of mineral oil or mineral oil warehouse located in the territory of another Member State whose operation is permitted under the legislation of the given Member State.

(3) A tax warehouse can also be a part of an enterprise for the production of mineral oil or a part of a mineral oil warehouse.

(4) A tax warehouse cannot be a filling station of motor fuels.

(5) In the tax warehouse the storage tanks must be adjusted in such manner that it be possible to store in them separately the individual types of mineral oils; the technological solution of the tanks from the viewpoints of fire safety, work safety and environmental protection must be in accordance with a special regulation¹²⁾ and with the Slovak Technological Norms,¹³⁾ and the storage device must be certified and equipped with a suitable certified measure device¹⁴⁾ enabling during the receipt and issuing the measuring the amount of the flown mineral oil, its density and temperature.

(6) To a tax warehouse in which mineral oils of the CN code 2711 under tax suspension are held, received and sent, or mixed, does not apply Article 20 Paragraph 3 and the provisions on the deposition of the tax guarantee for held and transported mineral oil; Paragraph 5 applies appropriately.

(7) Mineral oil can be in the tax warehouse only under tax suspension.

¹²⁾ Decree of the Ministry of the Interior of the Slovak Republic No. 86/1999 Coll. Stating the Rules of Fire Safety during Manipulating with and Storing Combustible Liquids, Heavy Heating Oils and Vegetable and Animal Fats and Oils

¹³⁾ STN 753415 Protection of Water against Oil Materials, Objects for Manipulation with Oil Materials and their Storage. STN 650201 Combustible Liquids, Operations and Warehouses.

STN 920800 Fire Safety of Buildings Combustible Liquids.

¹⁴⁾ Act No. 142/2000 Coll. on Metrology and on Amending Certain Acts.

Article 19

Enterprise for the production of mineral oil

- (1) For the purposes of this act, an enterprise for the production of mineral oil is a specially delimited place situated in the tax territory where commercial activities include production, processing, holding, receiving or dispatching mineral oil stated in Article 4 Paragraph 2.
- (2) The production of mineral oil is not the mutual mixing of taxed mineral oils or mixing of taxed mineral oils with other materials if the produced mixture is a mineral oil and the tax amount for this mixture is not higher than the sum of the amounts of tax for the individual mixture ingredients.
- (3) Under conditions under Paragraph 4, production is not the acquisition of mineral oil
 - a) during the liquidation of ecologic accidents,
 - b) in devices for the purification and maintenance of water flows and in devices for the purification and modification of water
 - c) in devices for maintaining air purity during manipulation with mineral oils or degassing means of transport aimed at the transport of mineral oils,
 - d) during the purification of purifying materials, work clothes or old paper.
- (4) Production is not the acquisition of mineral oil in the manner under Paragraph 3, if the mineral oil acquired in this manner is not processed or used as motor fuel or fuel or if it is exported from the tax territory, or if it is liquidated.
- (5) A legal person or natural person whose commercial activities include the production of mineral oil and which wants to operate an enterprise for the production of mineral oil under tax suspension must have an authorization for the operation of a tax warehouse.
- (6) The authorized keeper of a tax warehouse, which is an enterprise for the production of mineral oil stated in Article 6 Paragraph 1 letters a) and d) is entitled on the basis of an authorization for the production of a mixture in the presence of a person authorized by the customs office to produce mineral oil as a mixture
 - a) of mineral oil of the CN code 2710 11 41, 2710 11 45 and 2710 11 49 at the most 15 % of the biogenic material stated in Article 4 Paragraph 7 letter c), if the biogenic material was produced by this authorized warehouse keeper,
 - b) of mineral oil of the CN code 2710 19 41, 2710 19 45 and 2710 19 49 and a biogenic material stated in Article 4 Paragraph 7 letter a).
- (7) An authorized warehouse keeper stated in Paragraph 6 before the beginning of the production of mineral oil under Paragraph 6 must ask the customs office in written form to issue an authorization for the production of a mixture. The application must contain
 - a) data under Article 21 Paragraph 1,
 - b) the physical and chemical specification of the biogenic material which is to be used for the production of mineral oil under Paragraph 6,
 - c) the identification data of the supplier of the input raw materials necessary for the production of a biogenic material stated in Article 4 Paragraph 7 letter c) or of the supplier of the biogenic material stated in Article 4 Paragraph 7 letter a),
 - d) data on the manner of securing the sale of mineral oil stated in Paragraph 6 and the estimated share of this mineral oil in the total production of mineral oil in the individual years,
 - e) date from which the period of time of the validity of the authorization for the production of mineral oil under Paragraph 6 is to be counted.
- (8) Annexes to the application are the data and documents under Article 21 Paragraph 2 letters a) through c).
- (9) The Customs Directorate shall verify with the applicant the facts and data under Paragraph 7 and 8, and if these facts and data are correct, the Customs Directorate shall issue an authorization for the production of a mixture under Paragraph 6 for a definite period of time not longer than six years. The validity of the authorization for the production of a mixture under Paragraph 6 can be prolonged by no more than six years on the basis of an application submitted no later than six calendar months before the expiry of the validity of the authorization for the production of a mixture under Paragraph 6; the validity of the authorization of the mixture under Paragraph 6 shall be prolonged if no fundamental change has occurred in the facts decisive for the issuing of this authorization in comparison with the state during the issuing of the authorization for the production of a mixture.
- (10) The Customs Directorate shall withdraw the authorization for the production of a mixture under Paragraph 6

if the facts are not met which were decisive during the issuing of this authorization.

(11) The authorization for the production of a mixture under Paragraph 6 expires with the expiry of the time of validity of this authorization or the termination of the authorization for the operation of a tax warehouse.

Article 20

Mineral oil warehouse

(1) For the purposes of this act, a mineral oil warehouse is a specially delimited place situated in the tax territory where commercial activities include receiving, holding, dispatching or processing mineral oil.

(2) A legal person or natural person which wants to operate a warehouse of mineral oil under tax suspension must have an authorization for the operation of a tax warehouse.

(3) A mineral oil warehouse must meet the following conditions:

- a) storage capacity of at least 1 000 000 litres of mineral oil with the exception of a warehouse of aircraft motor fuels on the premises of an airport and tank ship stated in letter b),
- b) the storage device is firmly built in with the exception of a tank ship for which the port administrator issued an authorization for permanent standing in the water part of the port and from which is released mineral oil as ship operation material [Article 10 Paragraph 1 letter c)].

(4) A mineral oil warehouse is also an enterprise operated by a legal person not established or founded for enterprise purposes, but which has in the subject of activities

- a) storage of mineral oil of special destination owned by the state¹⁵⁾ or
- b) storage and sale of aircraft motor fuels on the premises of airports.

Article 21

Authorization for the operation of a tax warehouse

(1) A legal person or natural person which wants to operate a tax warehouse must ask in written form the customs office for registration and issuing of an authorization for the operation of a tax warehouse. The application must contain

- a) identification data of the applicant and the address of the location of its operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) tax identification number of the applicant,
- c) identification number for value added tax, if assigned to the applicant,
- d) type of tax subject, trade name of the mineral oil and the appropriate CN code of the produced, processed, received, held and dispatched mineral oils,
- e) estimated annual volume of the production in litres or kilograms, in the case of an enterprise for the production of mineral oil, or estimated annual volume of the holding of mineral oil in litres or kilograms, in the case of a mineral oil warehouse.

(2) Annexes to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation, brief description of activity and description of production and storage facilities with attached sketch, manner of securing mineral oil against unauthorized use, number of devices for measuring the flow, temperature, weight, density of mineral oil and a document of the certification of the storage and measure devices as stated in Article 18 Paragraph 5,
- c) technological description of the production procedures, list of processed raw materials, products to be produced, collateral products, or waste,
- d) closing summary accounts for the previous tax period, if the applicant was obliged to compile closing summary accounts; and if the applicant is subject to the obligation to have his closing summary accounts verified by an auditor, closing summary accounts verified by an auditor under a special regulation,¹⁶⁾ as well

¹⁵⁾ Act of the National Council of the Slovak Republic No. 82/1994 Coll. on State Material Reserves as amended.

¹⁶⁾ Article 19 of Act No. 431/2002 Coll. on Accounting.

Article 39 of the Commercial Code.

- as the form of account keeping,
- e) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter c) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter d),
 - f) list of Member States to which the applicant expects to supply (dispatch) mineral oil under tax suspension; this list can be submitted to these Member States upon request.
- (3) Upon request of the customs office, the applicant is obliged to specify the data stated in the application and in its annexes.
- (4) The applicant must also meet these conditions:
- a) keeps accounts under a special regulation,¹⁷⁾
 - b) has deposited a tax guarantee under Article 22,
 - c) neither the customs office nor the tax authority
 - 1. have receivables after pay date towards it,
 - 2. have receivables after pay date towards a person personnel-linked or property-linked to it, nor did they have in the period of ten years before the day of the submission of the application towards a person which has been extinguished and which would be considered personnel-linked or property-linked to the applicant tax receivables which would not have been settled before this person was extinguished; this also applies to tax receivables which were transferred to a third person under special regulations¹⁸⁾
 - d) has no unpaid amounts in compulsory insurance levies under special regulations,¹⁹⁾
 - e) has not been actfully sentenced for an intentional criminal act; this also applies to the responsible representative and natural persons which are members of managing or control bodies of the applicant,
 - f) is not in liquidation, nor is subject to a actfully announced bankruptcy, permitted composition or confirmed compulsory composition.
- (5) The customs office shall verify with the applicant the facts and data under Paragraph 1 through 4, and if the facts and data stated in the application and in annexes are correct and the applicant meets conditions under Article 18 and 20, the customs office shall assign it a registration number, issue a certificate of registration and authorization for the operation of a tax warehouse no later than 60 days after the day of the submission of the application for registering and issuing of the authorization for the operation of a tax warehouse. If the applicant does not prove the correctness of all the data and compliance with all the conditions, the customs office shall assign it registration number, a certificate of registration and authorization for the operation of a tax warehouse no later than 15 days after the proving of the correctness of all the data and compliance with the last of the conditions.
- (6) The authorized warehouse keeper is obliged to announce every change of the facts and data under Paragraph 1, Paragraph 2 letters b) and c), and Paragraph 4 letters d) through f) to the customs office no later than 15 days after the day of their origination. It must announce each change of the data under Paragraph 2 letter a) to the customs office no later than 15 days after the day of the submission of the proposal for change of data to the appropriate body. The customs office shall verify with the authorized warehouse keeper the data stated in the notification and, taking into account the scope and seriousness of those changes shall complement the original authorization for the operation of a tax warehouse or issue a new authorization for the operation of a tax warehouse. In the case of the issuing of a new authorization for the operation of a tax warehouse for the same authorized warehouse keeper, the original registration number under Paragraph 5 remains valid.
- (7) The authorization for the operation of a tax warehouse expires
- a) on the day of the submission of an application for the deletion from the Commercial Register or a similar register, or on the day of the submission of an application for the cancellation of the trade licence, or on the day of the submission of an notification on the termination of enterprise, or on the day of cancellation, unless

¹⁷⁾ Act No. 431/2002 Coll.

¹⁸⁾ Article 459a of Act No. 238/2001 Coll. as amended by Act No. 464/2003 Coll.

Article 65b of the Act of the Slovak National Council No. 511/1992 Coll. as amended by Act No. 609/2003 Coll.

¹⁹⁾ Act No. 461/2003 Coll. on Social Insurance as amended.

Act of the National Council of the Slovak Republic No. 273/1994 Coll. on Health Insurance, the Financing of Health Insurance, Establishment of the General Health Insurance Company and the Establishment of Ministry, Branch, Company and Civil Health Insurance Companies as amended.

- the authorized warehouse keeper was established or founded for enterprise purposes,
- b) on the day of the death of the authorized warehouse keeper or on the day of the entry into effects of a decision of a court of act to pronounce the authorized warehouse keeper dead, if the authorized warehouse keeper is a natural person,
 - c) on the day of the entry into effect of a decision of a court of act on the notification of bankruptcy, on rejection of a proposal to announce bankruptcy because of a lack of property or on a cancellation of bankruptcy because of a lack of property, or if a compulsory composition or permitted composition was confirmed,
 - d) on the tenth day after the deadline for
 - 1. complementing the tax guarantee under Article 22 Paragraph 6 letter a) second point, if tax guarantee was not complemented,
 - 2. depositing and complementing the tax guarantee under Article 22 Paragraph 9 stated by the customs office, if the tax guarantee was not deposited or complemented,
 - e) on the day of the withdrawal of the authorization for the operation of a tax warehouse by the customs office.
- (8) The customs office shall withdraw the authorization for the operation of a tax warehouse if
- a) the authorized warehouse keeper enters liquidation,
 - b) the authorized warehouse keeper has ceased to meet the conditions stated in Paragraph 4 letters a) through e),
 - c) the authorized warehouse keeper breaches obligations under this act and the imposition of a penalty and appeals of the customs office have not led to a correction,
 - d) the authorized warehouse keeper applies for the withdrawal of the authorization for the operation of a tax warehouse.
- (9) The customs office can withdraw the authorization for the operation of a tax warehouse if the authorized warehouse keeper during a period exceeding 12 consecutive calendar months does not produce, process, hold, receive or dispatch mineral oil, taken into account the seriousness of the reasons.
- (10) In the case of a cancellation of the authorization for the operation of a tax warehouse
- a) the authorized warehouse keeper during the presence of the customs office performs a stock-taking of mineral oil inventories as of the day of the cancellation of the authorization for the operation of a tax warehouse and during a period of time stated by the customs office which must not be shorter than ten days submits a tax return and pays the tax,
 - b) the customs office shall use the deposited tax guarantee under Article 22 for the payment of tax and tax-related receivables and shall return the contingent remainder of the tax guarantee without undue delay to the legal person or natural person whose authorization for the operation of a tax warehouse has expired,
 - c) the customs office shall demand a payment of the tax and of the tax-related receivables from a bank, if the tax is secured by a bank guaranty,²⁰⁾
 - d) the customs office shall withdraw the certificate of registration and cancel the registration number.
- (11) An authorized warehouse keeper who has had its authorization for the operation of a tax warehouse withdrawn under Paragraph 8 letter c) can have a new authorization for the operation of a tax warehouse issued no sooner than five years after the entry into force of the decision on the withdrawal of the authorization for the operation of a tax warehouse; in the case of a person personnel-linked or property-linked with it, it can be issued an authorization for the operation of a tax warehouse no sooner than five years after the entry into force of the decision issued to the authorized warehouse keeper on the withdrawal of the authorization for the operation of a tax warehouse. In the case of a withdrawal of the authorization for the operation of a tax warehouse under Paragraph 9 a new authorization for the operation of a tax warehouse can be issued no sooner than one year after the entry into force of the decision on the withdrawal of the authorization for the operation of a tax warehouse.

Article 22

Tax guarantee

- (1) A legal person or natural person which wants to operate a tax warehouse is before the issuing of the authorization for the operation of a tax warehouse obliged to deposit a tax guarantee in the amount of the tax for the average one-month amount of mineral oil which it released into tax free circulation in the preceding calendar year, including in the amount of the tax guarantee also the tax for the amount of mineral oil which it released

²⁰⁾ Article 2 Paragraph 2 letter f) of Act No. 483/2001 Coll. on Banks and on Amending Certain Acts. Article 313 through 322 of the Commercial Code.

into tax free circulation for the purposes of exemption from tax. If the tax guarantee cannot be stated in this way, the applicant shall deposit a tax guarantee in the amount of the tax for the estimated average month amount of mineral oil which it enters into tax free circulation in a common year.

(2) The tax guarantee does not apply to mineral oil of special destination owned by the state.¹⁵⁾

(3) The applicant is obliged to deposit the tax guarantee for all tax warehouses it wants to operate; this does not affect the provisions of Article 23 and 24.

(4) If the customs office does not issue an authorization for the operation of a tax warehouse, it shall without undue delay return to the applicant the deposited tax guarantee.

(5) The deposition of the tax guarantee shall mean

a) the deposit of financial means in the account of the customs office, with which no obligation of the customs office to pay interest to the applicant arises,

b) bank guaranty²⁰⁾ drafted for the benefit of the customs office; the customs office shall not accept the bank guaranty if the guaranty certificate contains objections of the bank.

(6) The authorized warehouse keeper

a) is obliged to modify the deposited tax guarantee, if conditions which served as the basis for its establishment have changed, namely

1. to increase the deposited tax guarantee, if the tax for the amount of mineral oil released into tax free circulation for the preceding calendar month is 20% higher than the deposited tax guarantee, no later than on the 25th day of the calendar month following the month in which tax exceeded the deposited tax guarantee,

2. to complement the guarantee to include the sum which the customs office used to pay the tax and tax-related receivables, no later than 15 days after the day of the notification under Paragraph 7,

b) can ask the customs office in written form or with the written approval of the customs office can ask the bank for a decrease in the deposited tax guarantee, if the deposited tax guarantee is more than 20% higher than the tax for the amount of mineral oil released into tax free circulation for preceding calendar month if this state lasts for at least two consecutive calendar months; the customs office shall return the appropriate difference no later than 15 days after the submission of this application.

(7) If the tax is not paid before the maturity date stated in this act, the customs office shall use the tax guarantee to pay the tax and tax-related receivables and inform the tax debtor of this fact.

(8) If the applicant for the authorization for the operation of a tax warehouse is an enterprise for mineral oil production and the enforceability or collection of tax is not jeopardized, the customs office on the basis of an application for waiving the deposition of tax guarantee shall waive the obligation to deposit a tax guarantee

a) completely, if the applicant has been tax-reliable during a period of at least 24 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse; under the same conditions the application for waiving the deposition of tax guarantee can also be submitted by the authorized keeper of a tax warehouse which is an enterprise for mineral oil production,

b) partially in the amount of 50 %, if the applicant has been tax-reliable during a period of at least 12 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse; under the same conditions the application for waiving the deposition of tax guarantee can also be submitted by the authorized keeper of a tax warehouse which is an enterprise for mineral oil production.

(9) The customs office shall ask in written form the authorized warehouse keeper to whom it partially or completely waived the deposition of tax guarantee under Paragraph 8 to deposit the tax guarantee or complement it in the stated period of time, which must not be shorter than 15 days nor longer than 30 days, if it established that

a) the authorized warehouse keeper is during a period of more than five days late with the fulfillment of its financial obligations under this act or other tax regulations or customs regulations,

b) the authorized warehouse keeper is during a period of more than 20 days late with the fulfillment of its financial obligations not stated in letter a),

c) other circumstances arose on the basis of which it is possibly to reasonably expect that the authorized warehouse keeper will not meet properly and in time its obligation to pay the tax under this act.

(10) If the customs office stated a deadline for depositing or complementing the tax guarantee, the authorized warehouse keeper is obliged to deposit or complement the tax guarantee before this deadline.

(11) For the purposes of this act, a tax-reliable person is

- a) a legal person or natural person, if it meets the conditions under Article 21 Paragraph 4 letters a), c) through f),
- b) the authorized keeper of a tax warehouse which is an enterprise for mineral oil production if it meets the conditions under Article 21 Paragraph 4.

Article 23
Procedures for movement of mineral oil
under tax suspension and mineral oil
exempt from tax in the tax territory

- (1) Mineral oil under tax suspension can only be transported in the tax territory
 - a) from one tax warehouse to another tax warehouse,
 - b) during import or export performed by the authorized warehouse keeper,
 - c) to the tax warehouse, in the case of a transport of mineral oil whose owner has become the state under a special regulation.⁷⁾
- (2) Mineral oil exempt from tax under Article 10 Paragraph 1 can only be transported in the tax territory from a tax warehouse into a user enterprise.
- (3) For mineral oil which is to be transported under tax suspension (Article 10 Paragraph 1) must always be deposited a tax guarantee with an exception if the mineral oil is to be transported by the means of pipelines or is to be directly filled in the common tanks or aircraft or ships for purposes exempt from tax under Article 10 Paragraph 1. The tax guarantee shall be deposited at the least in the amount of the tax for the amount of the transported mineral oil. The deposition of the tax guarantee for mineral oil which is to be transported under tax suspension is not required if the tax guarantee under Article 22 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for mineral oil which is to be transported under tax suspension.
- (4) For the transport of mineral oil
 - a) under tax suspension the tax guarantee shall be deposited by
 - 1. authorized warehouse keeper which is the
 - 1a. consignor (supplier) in the tax territory,
 - 1b. consignee (importer) in the import to the tax territory,
 - 1c. consignor (exporter) in the export from the tax territory, or
 - 1d. consignee of mineral oil whose owner has become the state under a special regulation,⁷⁾
 - 1e. consignee (purchaser) in the tax territory, if mineral oil transported under tax suspension [Paragraph 1 letter a)] is in its ownership,
 - 2. transporter instead of the consignor, if they have agreed so and the customs office approves of it,
 - b) exempt from tax the tax guarantee shall be deposited by the user enterprise which is the consignee in the tax territory, during the import by the consignee (importer) to the tax territory.
- (5) Mineral oil under tax suspension, mineral oil exempt from tax and mineral oil without tax rate (Article 4 Paragraph 8) can only be transported with an accompanying document (Article 27 Paragraph 1). The consignor (supplier) of mineral oil shall keep copy 1 of the accompanying document. Copies 2 through 4 of the accompanying document shall accompany the transported mineral oil. The consignee (purchaser) shall keep copy 2, confirm the receipt of mineral oil in copies 3 and 4 and submit both copies to the customs office. It shall dispatch copy 3 certified by the customs office to the consignor (supplier) no later than on the 15th day of the month following the calendar month in which it received the mineral oil. The customs office of the consignee (purchaser) shall keep copy 4. If during the transport of mineral oil under tax suspension from a tax warehouse in the tax territory to a tax warehouse in the tax territory the consignee or place of delivery changes, the supplier is obliged to notify the customs office without undue delay of these changes and indicate the new consignee or new place of delivery on the back side of the accompanying document; Article 27 Paragraph 4 applies equally. The transport of mineral oil is considered finished when the consignor (supplier) receives copy 3 of the accompanying document certified by the customs office.
- (6) Mineral oil which was transported under tax suspension or exempt from tax must be without undue delay after its delivery placed in the warehouse of the consignee (purchaser).
- (7) The deposited tax guarantee under Paragraph 3 can be returned upon request if the finishing of the transport of mineral oil is certified by the customs office of the consignee (purchaser).

Article 24
Procedures for movement of mineral oil under tax suspension
to the territory of the union

- (1) Mineral oil under tax suspension can be transported
 - a) from a tax warehouse in the territory to a tax warehouse or registered trader or authorized tax representative in another Member State,
 - b) from a tax warehouse in the tax territory to a tax warehouse in the territory through the territory of another Member State,
 - c) from a tax warehouse in another Member State to a tax warehouse or registered trader or authorized tax representative in the tax territory,
 - d) from a tax warehouse in another Member State to a tax warehouse or registered trader or authorized tax representative in another Member State through the tax territory.
- (2) If mineral oil is to be transported under tax suspension from the tax territory to the territory of another Member State, the consignor (supplier) must draw up the accompanying document stated in Article 27 Paragraph 1.
- (3) The accompanying document comprises of four copies. The consignor (supplier) shall keep copy 1 of the accompanying document, copies 2 through 4 shall accompany the transported mineral oil. The transport of mineral oil is considered finished if the consignor (supplier) receives copy 3 of the accompanying document certified by
 - a) the consignee (purchaser) that it has received the mineral oil, and
 - b) the tax administrator of another Member State of the consignee (purchaser).
- (4) If during the transport of mineral oil under tax suspension from a tax warehouse in the tax territory to another Member State the consignee or place of delivery changes, the supplier or its authorized tax representative is obliged to notify the customs office without undue delay of these changes and indicate the new consignee or new place of delivery on the back side of the accompanying document.
- (5) If mineral oil under tax suspension is transported from another Member State to the tax territory, this mineral oil must be accompanied by copies 2 through 4 of the accompanying document. The consignee (purchaser) shall keep copy 2 of the accompanying document. It shall certify the receipt of mineral oil in copies 3 and 4 and submit both copies to the customs office. It shall return copy 3 certified by the customs office to the consignor (supplier) no later than on the 15th day of the month following the calendar month in which it received the mineral oil. The customs office of the consignee (purchaser) shall keep copy 4. The provision of Article 27 Paragraph 4 applies equally here.
- (6) For mineral oil which is to be transported under Paragraph 1 letters a) and b) under tax suspension must always be deposited a tax guarantee with the exception if the mineral oil is to be transported by the means of pipelines. The tax guarantee shall be deposited by the consignor (supplier) in the amount of the tax for the amount of the transported mineral oil. The deposition of the tax guarantee for mineral oil which is to be transported under tax suspension is not required if the tax guarantee under Article 22 Paragraph 1 is deposited in such amount that it also covers the tax guarantee for the mineral oil which is to be transported under tax suspension. A tax guarantee deposited in another Member State is valid in the tax territory. Upon request, the customs office shall permit the deposition of the tax guarantee by the transporter or consignee (purchaser) instead of the consignor (supplier), if the consignor (supplier) and the transporter or consignee (purchaser) agreed so. The customs office shall return the deposited tax guarantee if the finishing of the transport is certified by the tax administrator of another Member State.
- (7) Mineral oil under tax suspension and mineral oil without tax rate which is subject to procedures of transporting (Article 4 Paragraph 8), as well as mineral oil with zero tax rate, unless it was released into tax free circulation, can only be transported with an accompanying document.
- (8) Mineral oil which was transported tax suspension must be without undue delay after its delivery stored in the warehouse of the consignee (purchaser).
- (9) The transport of mineral oil under tax suspension from a tax warehouse in the tax territory to a registered trader in another Member State which has an authorization to receive mineral oil under tax suspension occasionally must be certified by a document proving the tax has been paid in another Member State.

Article 25

Registered trader

(1) The registered trader in the tax territory is a legal person or natural person which has an authorization to receive mineral oil from another Member State under tax suspension.

The registered trader is also a legal person or natural person in the territory of another Member State authorized under the legislation of the given Member State to receive mineral oil from another Member State under tax suspension. A legal person or natural person which wants to be a registered trader in the tax territory must ask in written form the customs office for registration and issuing of an authorization to receive mineral oil from another Member State under tax suspension.

The application must contain

- a) identification data of the applicant and the address of the location of its operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) tax identification number of the applicant,
- c) identification number for value added tax, if assigned to the applicant,
- d) type of tax subject, trade name of the mineral oil and the appropriate CN code,
- e) estimated annual volume of the mineral oil received under tax suspension expressed in litres or kilograms.

(2) Annexes to the application are

- a) a copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy,
- b) declaration of the applicant that it meets the conditions stated in Article 18 Paragraph 5 and 6 and Article 21 Paragraph 4.

(3) Before registration, the customs office shall verify with the applicant the facts and data stated in the application and in the annexes and if these facts and data are correct and the applicant meets the conditions stated in Article 18 Paragraph 5 and 6 (if the applicant has a storage device) and Article 21 Paragraph 4, the customs office shall assign it a registration number, issue a confirmation of registration and authorization to receive mineral oil from another Member State under tax suspension no later than 60 days after the submission of this application. If the applicant in this period of time does not prove the correctness of all the data and compliance with all the conditions, the customs office shall assign it a registration number, issue a certificate of registration and authorization to receive mineral oil from another Member State under tax suspension no later than 15 days after the day of the proving of the correctness of the data and complying with the last of the conditions.

(4) A legal person or natural person which wants to receive mineral oil from another Member State under tax suspension repeatedly is obliged before the issuing of the authorization to receive mineral oil from another Member State under tax suspension to deposit the tax guarantee in the amount of the tax for the amount of mineral oil it expects to receive during one consecutive calendar month.

(5) A legal person or natural person which wants to receive mineral oil from another Member State under tax suspension occasionally must have for each occasional receipt an issued authorization to receive mineral oil from another Member State under tax suspension and a deposited tax guarantee or paid tax in the amount of the tax for the amount of mineral oil it is to receive in that case. The customs office shall issue a confirmation of the deposition of the tax guarantee or of the payment of tax.

(6) Article 22 applies equally to the tax guarantee under Paragraph 4 and 5.

(7) The registered trader is obliged to notify the customs office of every change of the data under Paragraph 1 and 2 letter b) or Paragraph 9 and 10 letter b) no later than 15 days after the day of its origination. It is obliged to notify the the customs office of a change of the data under Paragraph 2 letter a) no later than 15 days after the day of the submission of the proposal for a change of data to the competent authority. The customs office shall complement the original exemption certificate or issue a new one, if the data under Paragraph 1 or 9 have changed.

(8) Article 21 Paragraph 7 through 10 apply appropriately to the termination of the authorization to receive mineral oil from another Member State under tax suspension.

(9) A legal person or natural person which wants to include in its commercial activities the purchase and sale in the tax territory of tax favoured mineral oil stated in Article 11 Paragraph 2 letters a) and c) must ask in written form the customs office to issue an exemption certificate. The application must contain

- a) identification data of the applicant and the address of the location of its operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) tax identification number of the applicant,
- c) identification number for value added tax, if assigned to the applicant,
- d) type of tax subject, trade name of the mineral oil and the appropriate CN code,
- e) estimated annual volume of the mineral oil received under tax suspension expressed in litres or kilograms.
- f) identification data of the supplier of mineral oil.

(10) Annexes to the application are

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy,
- b) technological documentation and description of the place of storage of tax favoured mineral oil and the manner of securing it against unauthorized use, the storage device having to meet the conditions under Article 18 Paragraph 5, if the applicant has a storage device.

(11) Article 11 Paragraph 5, 7 through 9, 11 through 13 apply appropriately to the issuing of the exemption certificate, its use and withdrawal, as well as dealing with tax favoured mineral oil.

Article 26

Authorized tax representative

(1) For the purposes of this act, an authorized tax representative is a legal person or natural person with registered office or permanent residence in the tax territory authorized by the authorized warehouse keeper with registered office in another Member State to provide in its name mineral oil supplies in the tax territory to persons which are not authorized warehouse keepers and registered by the customs office on the basis of an application of the authorized warehouse keeper with registered office in another Member State as an authorized tax representative in the tax territory. The authorized tax representative must not be the same person as the purchaser.

(2) The application for the registration of an authorized tax representative is submitted to the Customs Directorate which shall assign the customs office that shall perform the registration. The application for the registration of an authorized tax representative must be accompanied with a power of attorney granted in written form with an officially verified signature and a declaration of the authorized tax representative with an officially verified signature that it agrees with representing the consignor (supplier). Article 25 applies appropriately to the submission of this application, registration of the authorized tax representative and deposition of the tax guarantee.

Article 27

Accompanying document

(1) Mineral oil under tax suspension can only be transported with an accompanying document drawn up according to the sample and manner stated in a regulation of the union.²¹⁾ Another document is also considered as accompanying document if it contains the same details as the accompanying document stated in the first sentence.

(2) If mineral oil is to be transported through the territories of the states of the European Free Trade Association²²⁾ or to the territory of the states of the European Free Trade Association, instead of the accompanying document stated in Paragraph 1 shall be used the standard customs document.

²¹⁾ Commission Regulation (EEC) No. 2719/92 of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty (O. J. E. C., L 276, 19/09/1992, p. 1 - 10) as amended.

²²⁾ Agreement of Free Trade between the Czech and Slovak Federative Republic and the European Association of Free Trade (notification No. 235/2003 Coll.).

(3) If mineral oil is to be transported through the territory of one or more third countries which are not states of the European Free Trade Association, instead of the accompanying document stated in Paragraph 1 shall be used a TIR carnet²³⁾ or an A.T.A carnet.²⁴⁾

(4) If the consignor (supplier) demands for the purposes of the reimbursing of the tax guarantee a faster certification of the receipt of mineral oil, the consignee (purchaser) shall dispatch by fax or electronically a copy of copy 3 of the accompanying document certifying that the transport has been finished; this does not affect the obligation to return copy 3 of the accompanying document.

Article 28

Irregularities or offences with the transport of mineral oil under tax suspension

(1) If an irregularity or offence arises during the transport of mineral oil under tax suspension in the tax territory, tax obligation originates in the tax territory on the day of the origination of the irregularity or offence. The following facts constitute an irregularity or offence:

- a) the mineral oil was not transported to the legal person or natural person authorized to receive mineral oil under tax suspension,
- b) the transport of mineral oil has not finished,
- c) a loss or stealing of mineral oil has occurred,
- d) the mineral oil has not been exported,

(2) Tax obligation under Paragraph 1 arises if the consignor in the period of four months after the day of the dispatching of mineral oil does not receive a verified copy 3 of the accompanying document on the delivery of mineral oil to the place of delivery or if an irregularity or offence took place and the place of the irregularity or offence is not possible to determine.

(3) If the consignor of mineral oil does not receive in 60 days after the day of the dispatching of mineral oil copy 3 of the accompanying document certified by the consignee (purchaser) and tax administrator of the consignee or if the received copy 3 of the accompanying document certified smaller or greater amount of mineral oil, it is obliged to without undue delay notify the customs office of this in written form.

(4) If during the transport of mineral oil under tax suspension this mineral oil is lost or if differences in the amount of the transported or received mineral oil in the tax territory are established, the customs office shall on the basis of an official finding and certification indicate these facts in copy 3 of the accompanying document and shall also state what amount of mineral oil can be accepted for the purposes of exemption from tax.

(5) A tax debtor is the consignor of mineral oil or a legal person or natural person which deposited the tax guarantee for mineral oil transported under tax suspension. Immediately after detecting an irregularity or offence, the tax debtor is obliged to submit a tax return, calculate the tax under the tax rates valid on the day of the dispatching of mineral oil and pay the tax

- a) to the customs office, if the tax debtor has registered office or permanent residence in the tax territory,
- b) to the Customs Office Bratislava, if the tax debtor does not have registered office or permanent residence in the tax territory.

(6) The customs office shall provide information on the obligation to admit and pay the tax in the tax territory to the tax administrator of another Member State in which the dispatching tax warehouse is located.

(7) If it is established before the passing of three years since the day the accompanying document was drawn up that the irregularity or offence in the transport of mineral oil under tax suspension occurred

- a) in another Member State and the tax was paid in this Member State, the tax paid in the tax territory can be reimbursed to the tax debtor no later than 30 days after the day of the submission of the document on the payment of tax in another Member State,
- b) in the tax territory during the transport of mineral oil from a tax warehouse in the tax territory to a tax warehouse in the tax territory which resulted in the origination of tax liability and the tax was paid, the tax can be reimbursed to the tax debtor no later than 30 days after the day of submission of a document confirming that the irregularity or offence has been removed.

²³⁾ Decree of the Minister of Foreign Affairs No. 144/1982 Coll. on the Customs Convention on International Transport of Goods on the basis of TIR carnets (TIR convention) as amended by the Amendment Proposals of the TIR convention (notification No. 132/1999 Coll.).

²⁴⁾ Decree of the Minister of Foreign Affairs No. 89/1963 Coll. on the Customs Convention on E.C.S. Carnets for Commercial Samples and on the Customs Convention on the A.T.A. carnet for the Import Customs Registration of Goods.

Article 29

Import of mineral oil from the territory of third countries

(1) Import of mineral oil shall mean a transport of mineral oil from the territory of a third country to the tax territory. If during the import mineral oil is situated in the customs regime exterior transit or in the customs regime warehousing in customs warehouse, or in the customs regime inward processing, or in the customs regime processing under customs surveillance, or in the customs regime temporary use, or is placed in a free customs area or in a free customs warehouse, such mineral oil is considered as mineral oil under tax suspension. Customs regulations apply to the tax and to tax administration during the import of mineral oil, unless this act or a special regulation²⁵⁾ states otherwise.

(2) Mineral oil after release into the customs regime free circulation can be entered into tax regime tax suspension. In this case, procedure during the transport of mineral oil under tax suspension is applied.

(3) Mineral oil which is after release into the customs regime free circulation entered into tax regime tax suspension must be without undue delay placed in a tax warehouse or in the warehouse of a registered trader which under this act is entitled to use mineral oil for purposes exempt from tax in the tax territory. The authorized warehouse keeper or registered trader under the first sentence is obliged to demonstrate to the customs office which releases mineral oil into the customs regime free circulation the authorization for the operation of a tax warehouse or authorization to receive mineral oil from another Member State under tax suspension and the confirmation of the customs office on the amount of the deposited tax guarantee for the transported amount of mineral oil. The deposition of the tax guarantee is not required if the tax guarantee under Article 22 Paragraph 1 also covers the tax guarantee for mineral oil which is to be transported under tax suspension.

(4) The user enterprise during the import of mineral oil for purposes exempt from tax, unless it is transported through the territory of the union, is obliged to demonstrate to the customs office which release mineral oil into the customs regime free circulation the exemption certificate and confirmation of the customs office on the amount of the deposited tax guarantee for the transported amount of mineral oil. The mineral oil after its receipt must be without undue delay placed in the warehouse of the user enterprise.

Article 30

Export of mineral oil under tax suspension

(1) Export of mineral oil under tax suspension shall mean the transport of mineral oil from a tax warehouse in the tax territory to the territory of a third country.

(2) During the export of mineral oil to the territory of a third country shall be applied the process applied in the transport of mineral oil under tax suspension, even if it is transported through one Member State or more Member States, and the customs office of exit shall be stated in the accompanying document instead of the consignee. The transport of mineral oil under tax suspension is finished if the dispatching mineral oil warehouse receives copy 3 of the accompanying document in which the customs office of exit certified that the mineral oil has left the territory of the union. If the standard customs document is used as the accompanying document, the transport of mineral oil under tax suspension is finished if the dispatching tax warehouse receives copy 5 of this document in which the customs office of exit certified that the mineral oil has left the territory of the union. Article 24 Paragraph 6 and 7 shall be used for the transport of mineral oil under tax suspension.

Article 31

Transport of mineral oil outside tax suspension for commercial purposes

(1) If mineral oil released into tax free circulation in another Member State is transported to the tax territory for commercial purposes, tax obligation originates in the tax territory on the day of the receipt of the mineral oil in the tax territory. The tax debtor is a legal person or natural person which is the mineral oil purchaser.

(2) Before the receipt of mineral oil, the purchaser is obliged

- a) to announce to the customs office in written form its identification data, amount, type of tax subject, trade name and the appropriate CN code of the mineral oil which it wants to receive, the identification data of the supplier,

²⁵⁾ Act of the Slovak National Council No. 511/1992 Coll. as amended.

- b) to deposit the tax guarantee in the amount of tax for the amount of received mineral oil; Article 22 applies appropriately to the tax guarantee.
- (3) With the origination of tax obligation, the tax debtor is obliged to submit without undue delay a tax return to the customs office and pay the tax no later than on the 25th day of the calendar month following the month in which its tax obligation originated. Article 14 is applied appropriately to the tax return and tax maturity.
- (4) If mineral oil is transported to the tax territory or received in the tax territory repeatedly, upon request of the purchaser the customs office can authorize the supplies carried out in one tax period to be included in one tax return.
- (5) After agreement with the customs office, for the payment of tax can be used a deposited tax guarantee; this does not affect the obligation to set off the contingent differences from the use of the tax guarantee.
- (6) The provisions of the Paragraph 1 through 5 shall also be used if the mineral oil purchaser is a legal person which is not established or founded for enterprise purposes.
- (7) If mineral oil is transported to the tax territory or received in the tax territory in another manner than under Paragraph 1, the tax debtor is a person which during the transport of mineral oil to the tax territory is the first to hold or use the mineral oil. The tax debtor is obliged without undue delay after the origination of the tax obligation to submit the tax return and pay the tax calculated under tax rates valid on the day of the dispatching of mineral oil, to
- a) the customs office, if the tax debtor has registered office or permanent residence in the tax territory,
- b) the Customs Office Bratislava, if the tax debtor does not have registered office or permanent residence in the tax territory.
- (8) If mineral oil released into tax free circulation in the tax territory is to be transported to another Member State for commercial purposes, the consignor (supplier) must make a simplified accompanying document and proceed under Article 32. The supply of mineral oil for commercial purposes is also a supply of mineral oil to a legal person with registered office in another Member State which under the legislation of this Member State is governed under public act.
- (9) Before carrying out the supply, the consignor (supplier) is obliged to submit to the customs office a written notification in which it shall state its identification data, amount, type of tax subject and trade name of the mineral oil it wants to supply and the identification data of the purchaser as well as submit to the customs office a tax reimbursement application.

Article 32

Simplified accompanying document

- (1) A legal person or natural person whose commercial activities include the supply of mineral oil released into tax free circulation in the tax territory to another Member State for commercial purposes, is obliged to draw up a simplified accompanying document according to the sample and manner stated in a regulation of the union.²⁶⁾ The simplified accompanying document comprises of three copies. The consignor (supplier) keeps copy 1, copies 2 and 3 accompany the transported mineral oil. If the consignor (supplier) demands a certification of the receipt of mineral oil by the purchaser for the purposes of tax reimbursement, it shall state this demand in the appropriate copy of the simplified accompanying document and at the same time apply for a certification by the tax administrator of another Member State of tax settlement by the purchaser.
- (2) If mineral oil released into tax free circulation in another Member State is transported to the tax territory for commercial purposes, it must be transported together with copies 2 and 3 of the simplified accompanying document. The purchaser shall keep copy 2. The purchaser shall certify the receipt of mineral oil in the appropriate section of copy 3 of the simplified accompanying document, which it shall return to the consignor (supplier) without undue delay. If the consignor (supplier) demands it, the purchaser shall dispatch to the consignor (supplier) also a confirmation on tax settlement, which must contain the address of the customs office, the date and manner of tax settlement by the deposition of the tax guarantee or by the payment of tax.
- (3) Another document shall also be considered a simplified accompanying document if it contains the same details as the simplified accompanying document; such document must bear the heading „Simplified

²⁶⁾ Commission Regulation (EEC) No. 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (O. J. E. C. L 369, 18/12/1992, p. 17-24).

accompanying document (goods subject to excise duty) for the purposes of excise duty control“.

(4) The simplified accompanying document shall also be used with the transport of mineral oil released into tax free circulation from one place in the tax territory to another place in the tax territory, if the transport of mineral oil is performed through the territory of one or more Member States.

Article 33

Transport of mineral oil outside tax suspension to the tax territory for private purposes

(1) If a natural person for his own consumption (hereinafter „private purposes“) transports on his own to the tax territory mineral oil released into tax free circulation in another Member State, no tax obligation in the tax territory arises from mineral oil acquired in this way.

(2) Paragraph 1 does not apply if a natural person transports to the tax territory for private purposes

a) fuels,

b) motor fuels in other than common tanks of means of transport [Article 10 Paragraph 2 letter i)] or in other than portable tanks aimed at this purpose.

(3) In the cases stated in Paragraph 2 tax liability originates on the day of transporting mineral oil to the tax territory. The tax debtor is the natural person who transported mineral oil to the tax territory, which is obliged to submit a tax return and pay the tax without undue delay; Article 14 applies appropriately to tax return.

Article 34

Distant selling

(1) For the purposes of this act, distant selling shall mean the delivery of mineral oil by a person whose commercial activities include the supplying by this person or through another person of mineral oil released into tax free circulation in another Member State in which that registered office or permanent residence and place of business to the tax territory for private purposes to a purchaser, who is not

a) an authorized warehouse keeper under this act,

b) a registered trader under this act.

(2) Tax obligations arise in the tax territory to the consignor (supplier) by the supply of mineral oil to the tax territory, supply meaning the day of receipt of mineral oil by the purchaser. The tax debtor is the consignor (supplier).

(3) Distant selling can be carried out if the consignor (supplier) to the customs office of the purchaser stated in Paragraph 1 before the carrying out of the supply

a) submits its identification data in written form,

b) submits in written form the identification data of the purchaser, trade name, CN code of the mineral oil and the amount of mineral oil in litres or kilograms which is to be dispatched (supplied),

c) deposits a tax guarantee in the amount of tax for the amount of mineral oil which is to be sent (supplied).

(4) The tax debtor stated in Paragraph 2 is obliged with the origination of tax obligation without undue delay to submit a tax return to the customs office of the purchaser and pay the tax no later than on the 25th day of the calendar month following the month in which tax obligation originated; Article 14 applies appropriately to the tax return and tax maturity.

(5) The deposited tax guarantee can be used for the payment of tax under Paragraph 4 after agreement with the customs office; this does not affect the obligation to set off the contingent differences from the use of the tax guarantee.

(6) Upon request of the consignor (supplier) the customs office can authorize the obligations related to the customs office to be fulfilled by an authorized representative for distant selling. An authorized representative for distant selling can only be a legal person or natural person with registered office or permanent residence in the tax territory which must not be the same as the purchaser and which is tax-reliable under Article 22 Paragraph 11.

(7) The application for the authorization of representation by an authorized representative for distant selling is submitted to the customs office of the authorized representative for distant selling. The application must contain the identification data of the consignor (supplier), the identification data of the authorized representative for distant selling, the trade name and quantity of supplied mineral oil. The annex to the application are the documents confirming the authenticity of the data stated in the application for authorized representation with an

officially verified signature and a declaration of the authorized representative for distant selling with an officially verified signature that it agrees with representing the consignor (supplier).

(8) If distant selling is performed repeatedly, upon request of the consignor (supplier) or the authorized representative for distant selling the customs office can authorize the supplies carried out in one tax period to be included in one tax return.

(9) Upon request of the consignor (supplier) or its authorized representative for distant selling the customs office shall issue a confirmation of the payment of the tax for the purposes of the claiming of tax reimbursement to the consignor (supplier).

(10) If a legal person or natural person with registered office in the tax territory wants to dispatch mineral oil released in the tax territory into tax free circulation to another Member State, it is obliged to notify the Customs Office of this fact in written form. In the notification it shall state the trade name and quantity of the mineral oil it wants to dispatch, the name, surname and address of the purchaser and the day on which the mineral oil is to be sent. If tax reimbursement is to be performed, the tax reimbursement application is certified by a document proving the tax settlement in the Member State of destination.

Record keeping

Article 35

(1) The authorized keeper of a tax warehouse which is an enterprise for mineral oil production (Article 19 Paragraph 1) is obliged to keep records documenting

- a) produced mineral oil,
- b) received mineral oil,
- c) used mineral oil for own consumption,
- d) released mineral oil,
- e) other materials used during mineral oil production,
- f) state of the inventories of mineral oil and other materials used during mineral oil production.

(2) In the records stated in Paragraph 1 must be according to the CN codes stated the type of tax subject, trade name, amount and date of

- a) mineral oil production,
- b) the receipt of mineral oil and the identification data of the supplier; in the case of the import of mineral oil also the date of its release into the customs regime free circulation, place where customs proceedings took place and the identification data of the declarant,
- c) use of mineral oil for own consumption divided according to the purpose of use,
- d) issuing of mineral oil and the identification data of the purchaser; if mineral oil was received by a transporter to whose account mineral oil was not released, also included must be the identification data of the transporter,
- e) the export of mineral oil, the place where customs proceeding took place and the identification data of the declarant.

(3) The issuing of tax favoured mineral oil must be documented with an exemption certificate of the purchaser.

(4) Entries in the records under Paragraph 2 must be performed daily, no later than on the following working day after the origination of an event.

Article 36

(1) The authorized keeper of a mineral oil warehouse which is a tax warehouse is obliged to keep records documenting

- a) received mineral oil,
- b) mineral oil mixed or marked under Article 7 Paragraph 1,
- c) mineral oil used for own consumption divided according to the purpose of use,
- d) released mineral oil,
- e) state of mineral oil inventories.

(2) Article 35 Paragraph 3 and 4 apply equally and Article 35 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 37

- (1) The user enterprise is obliged to keep records documenting
- a) received mineral oil,
 - b) mineral oil used according to the purposes of use,
 - c) goods it produced from mineral oil,
 - d) state of the inventories of mineral oil and goods it produced from mineral oil.
- (2) Article 35 Paragraph 4 applies equally and Article 35 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 38

- (1) The registered trader, if not obliged to keep records under Article 37, is obliged to keep records documenting
- a) received mineral oil divided in mineral oil received
 - 1. outside tax suspension,
 - 2. under tax suspension from other Member States,
 - b) released mineral oil,
 - c) state of mineral oil inventories if it has a storage device.
- (2) Article 35 Paragraph 3 and 4 apply equally and Article 35 Paragraph 2 applies appropriately to record keeping under Paragraph 1.

Article 39

- (1) The authorized tax representative is obliged to keep records documenting
- a) received mineral oil under tax suspension,
 - b) released mineral oil,
 - c) purchasers.
- (2) The consignor (supplier) which performs distant selling is obliged to keep records documenting mineral oil dispatched to another Member State.
- (3) The authorized representative for distant selling is obliged to keep records documenting
- a) received mineral oil,
 - b) released mineral oil.
- (4) Article 35 Paragraph 4 applies equally and Article 35 Paragraph 2 and 3 apply appropriately to record keeping under Paragraph 1 through 3.

Article 40

Tax supervision and tax control

- (1) The customs office performs tax supervision, which is the performance of supervision of holding and moving mineral oil, as well as tax control.²⁷⁾
- (2) Tax supervision and tax control are performed by the customs office in whose jurisdiction the controlled subject has registered office or permanent residence or in whose jurisdiction is situated the controlled means of transport or transport storage tank, or controlled mineral oil.
- (3) During tax supervision and tax control, the customs office is entitled to
- a) enter each operational building, room, habitation, or non-residential premises used by the controlled subject for mineral oil-related commercial activities, as well as enter areas which are known or can be expected to contain or possibly contain mineral oil,
 - b) establish the state of inventories of mineral oil and goods which are aimed at mineral oil production or can be used during mineral oil production, and order the performance of the appropriate stock-taking,
 - c) control storage tanks, containers, tanks and other packagings which contain or could contain mineral oil, control the filling of aircraft motor fuels into the tanks of the aircraft of air companies and ship operation materials into the tanks of ships of ship companies,
 - d) stop vehicles, establish the amount of mineral oil transported in them, control transport documents and indicate the control in these documents, control mineral oil in common tanks of means of transport, vehicles, machines and engines, as well as enter areas which are known or can be expected to contain means of

²⁷⁾ Article 15 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

transport, vehicles, machines and engines propelled by mineral oil or such which can be used to transport mineral oil,

e) immediately take samples in the cases under letters

a) through d) in technologically justified amounts,

f) demand the submission of documents and data related to the activities of the controlled subject, submission of documents proving the declarations of the controlled subject and all documents stated in this act,

g) establish natural mineral oil decrements with production, holding and transport related to its physical and chemical characteristics and on the basis of long- term monitoring of at least 12 consecutive months state with the approval of the Customs Directorate the maximum acceptable level of mineral oil losses in tax warehouses and user enterprises which use mineral oil exempt from tax for purposes under Article 10 Paragraph 1 letter a).

(4) During the performance of tax supervision and tax control the legal person or natural person is obliged to undergo the performance of the rights of the customs office under Paragraph 3.

(5) In tax warehouses, user enterprises which use mineral oil for purposes exempt from tax, the customs office shall perform tax control once a month; in registered traders, distant sellings, authorized tax representatives and representatives for distant selling it shall perform tax control depending on the need, however at least once before the day of the termination of the right to set a tax.²⁸⁾ The provision of a special regulation does not apply to the beginning of a tax control.²⁹⁾

(6) According to the character of the facts established during tax supervision the customs office shall compile a minute book or an official record or perform tax control.

(7) If the customs office establishes that the controlled subject when taxing mineral oil or claiming tax reimbursement acts in the detriment of the purchaser or in its own detriment, it shall inform the controlled subject of this fact.

(8) Tax supervision can also be performed by the Customs Directorate. In such, the provision of Paragraph 2 through 4, 6 and 7 apply appropriately to the Customs Directorate.

Article 41

Record keeping by the customs office and the Customs Directorate

(1) The customs office is obliged to operate an electronic database containing a register of authorized warehouse keepers, authorized warehouse keepers with an authorization to mark gas oil, registered traders, authorized tax representatives, tax warehouses, as well as records of authorized representatives for distant selling and records of user enterprises.

(2) The electronic database under Paragraph 1 contains especially

a) the identification data of the authorized warehouse keeper and the registered office of tax warehouses if they are not the same as the registered office or permanent residence of the authorized warehouse keeper, the registration number of the tax warehouse, the date of the assignment and the date of the cancellation of the registration number,

b) the identification data of the registered trader, its registration number, the date of the assignment and the date of the cancellation of the registration number,

c) the identification data of the authorized tax representative, its registration number, the date of the assignment and the date of the cancellation of the registration number,

d) the identification data of the user enterprise, the number of its exemption certificate, the date of the assignment and the date of the cancellation of the exemption certificate,

e) the identification data of the authorized representative for distant selling,

f) the type of tax subject and the trade name of the received and held mineral oils.

(3) The Customs Directorate or the customs office authorized by it is obliged to operate a central electronic database containing the data under Paragraph 2, and entitled to process these data even without the approval of the appropriate persons; the data under Paragraph 2 letters a) and b) must upon request be submitted to the authorized bodies of the Member States. These data can be provided exclusively for the purposes of the verification of the registration of authorized warehouse keepers, placement of tax warehouses and registration of

²⁸⁾ Article 45 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

²⁹⁾ Article 15 Paragraph 2 of the Act of the Slovak National Council No. 511/1992 Coll. as amended.

registered traders. The provisions of special regulations³⁰⁾ are not affected by this.

(4) The Customs Directorate or the customs office authorized by it which operates the central electronic database is obliged to provide access to its contact data for purposes under Paragraph 3, for example the contact person, telephone number, fax number, address of electronic mail.

(5) The Customs Directorate or the customs office authorized by it which operates the central electronic database is entitled to confirm to each legal person or natural person which trades mineral oil within the union, upon its request, the validity of the registration of authorized warehouse keepers, registered traders and the placement of tax warehouses.

Article 42

Penalties

(1) A legal person or natural person which breaches the provisions of Article 8 Paragraph 3 shall be imposed a penalty by the customs office in the amount of SKK 500 000.

(2) A legal person or natural person which releases

a) mineral oil to a purchaser which has not submitted a tax exemption certificate shall be imposed a penalty by the customs office in the amount of tax for the amount of released mineral oil, however at least SKK 100 000.

b) mineral oil to a purchaser which has not submitted an exemption certificate for the receipt of mineral oil with a reduced tax rate shall be imposed a penalty by the customs office calculated under the tax rate stated in Article 6 for the amount of released mineral oil, however at least SKK 100 000,

c) mineral oil to a purchaser which has not submitted an exemption certificate for the receipt of mineral oil stated under Article 11 Paragraph 2 letter c) shall be imposed a penalty by the customs office in the amount of SKK 12 for each released litre of mineral oil, however at least SKK 100 000.

(3) A legal person or natural person which uses mineral oil for purposes not stated in the exemption certificate if it is not a breach of Article 8 Paragraph 3, shall be imposed a penalty by the customs office in the amount of 20 % of the tax for the amount of mineral oil used in this way, however at least SKK 10 000.

(4) A legal person or natural person which use mineral oil stated in Article 6 Paragraph 1 letter e) or in Article 6 Paragraph 1 letter f) second point as motor fuel shall be imposed by the customs office a penalty in the amount of the tax for the amount of mineral oil used in this way, however at least SKK 100 000.

(5) A legal person or natural person which holds mineral oil whose manner of acquisition it cannot prove shall be imposed a penalty by the customs office in the amount of

a) the tax for the amount of mineral oil it holds, if a tax rate is stated for this mineral oil.

b) the product of the tax rate under Article 6 Paragraph 1 letter d) and the amount of mineral oil it holds, if a tax rates is not stated for this mineral oil.

Common, transitory and final provisions

Article 43

(1) This act approximates the legal acts of the European Community and the European Union stated in Annex No. 1.

(2) The samples of tax return, additional tax return, tax reimbursement application and additional tax reimbursement application shall be stated in a generally binding regulation issued by the ministry.

Article 44

(1) The administration of mineral oil which has become state property under a special regulation⁷⁾ is performed by the customs office.

(2) When dealing with state property stated in Paragraph 1 the customs office proceeds under a special regulation;³¹⁾ this does not affect the provisions of this act.

³⁰⁾ For example Act No. 472/2002 Coll. on International Aid and Cooperation in the Area of Tax Administration and on Amending Act No. 366/1999 Coll. on Income Taxes as amended.

³¹⁾ Act of the National Council of the Slovak Republic No. 278/1993 Coll. on the Administration of State Property as amended.

(3) A special regulation²⁵⁾ shall be used for tax administration unless this act states otherwise.

Article 45

(1) Unless this act states otherwise, tax under this act applies to mineral oil released into tax free circulation or imported or exported after 1 May 2004.

(2) Under current regulations are assessed all rights and obligations stated in them, which originated before 30 April 2004, as well as all periods of time which started before 1 May 2004 as well as periods of time subsequent to them.

Article 46

(1) A legal person or natural person which from 1 May 2004 wants to operate a tax warehouse under this act (Article 18) with the exception of Paragraph 12 must ask the customs office in written form for registration and issuing of an authorization for the operation of a tax warehouse and submit the application for registration and issuing of this authorization to the customs office no later than 31 March 2004. The application must contain

- a) the identification data of the applicant and the address of the location of its operational units, if they are not the same as the registered office or permanent residence of the applicant,
- b) tax identification number of the applicant,
- c) identification number for value added tax, if assigned to the applicant,
- d) the trade name of mineral oil and the appropriate CN code of the produced, processed, received, held and dispatched mineral oils,
- e) estimated annual volume of mineral oil production in litres or kilograms, in the case of an enterprise for the production of mineral oil, or the estimated annual volume of the holding of mineral oil in litres or kilograms, in the case of a mineral oil warehouse.

(2) Annexes to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation, brief description of activity and description of production and storage facilities with attached sketch, manner of securing mineral oil against unauthorized use, number of devices for measuring the flow, temperature, weight, density of mineral oil and a document of the certification of the storage and measure devices under a special regulation¹⁴⁾ (Article 18 Paragraph 5),
- c) technological description of the production procedures, list of processed raw materials, products to be produced, collateral products, or waste,
- d) closing summary accounts for the previous tax period, if the applicant was obliged to compile closing summary accounts and if the applicant is subject to the obligation to have its closing summary accounts verified by an auditor, closing summary accounts verified by an auditor under a special regulation,¹⁶⁾ as well as the form of account keeping,
- e) confirmation of the tax authority on meeting the conditions stated in Paragraph 4 letter b) and a confirmation by the Social Insurance Agency and health insurance agency on meeting the conditions stated in Paragraph 4 letter c),
- f) list of Member States to which the applicant expects to supply (dispatch) mineral oil under tax suspension; this list can be submitted to these Member States upon request.

(3) Upon request of the customs office, the applicant is obliged to specify the data stated in the application and in its annexes.

(4) The applicant must also meet these conditions:

- a) keeps accounts under a special regulation,¹⁷⁾
- b) neither the customs office nor the tax authority
 - 1. have receivables after pay date towards it,
 - 2. have receivables after pay date towards a person personnel-linked or property-linked to it, nor did they have in the period of ten years before the day of the submission of the application towards a person which has been extinguished and which would be considered personnel-linked or property-linked to the applicant tax receivables which would not have been settled before this person was extinguished; this also applies to tax

- receivables which were transferred to a third person under special regulations,¹⁸⁾
- c) has no unpaid amounts in compulsory insurance levies under special regulations,¹⁹⁾
- d) has not been actfully sentenced for an intentional criminal act; this also applies to the responsible representative and natural persons which are members of managing or control bodies of the applicant,
- e) is not in liquidation, nor is subject to a lawfully announced bankruptcy, permitted composition or confirmed compulsory composition.
- (5) Before the issuing of an authorization for the operation of a tax warehouse, the applicant is obliged to deposit a tax guarantee(Article 22). If the applicant for the authorization for the operation of a tax warehouse is an enterprise for mineral oil production and if the enforceability or collection of tax are not jeopardized, it can ask the customs office in written form to waive the deposition of a tax guarantee
- a) completely, if the applicant meets the conditions stated in Paragraph 4 during at least 24 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse,
- b) partially in the amount of 50 %, if the applicant meets the conditions stated in Paragraph 4 during at least 12 preceding consecutive calendar months before the submission of the application for the authorization for the operation of a tax warehouse.
- (6) The customs office shall verify with the applicant the facts and data under Paragraph 1 through 5, and if the facts and data stated in the application and in annexes are correct and the applicant meets conditions for the issuing of an authorization for the operation of a tax warehouse (Article 18 and 20), the customs office shall assign it a registration number, issue a certificate of registration and an authorization for the operation of a tax warehouse, and decide on tax guarantee.
- (7) A legal person or natural person stated in Paragraph 1 which has been issued by the customs office an authorization for the operation of a tax warehouse with validity after 1 May 2004 is obliged in the presence of the tax authority and the customs office to perform under a special regulation³²⁾ stock-taking of mineral oil inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 7 and 8 of Act No. 239/2001 Coll. of the National Council of Slovak Republic on Excise duty on Mineral Oil as amended as of 30 April 2004, separately from the inventories of mineral oil which it has in accordance with current regulations
- a) with tax,
- b) without tax.
- (8) From the inventories under Paragraph 7 letter a) the authorized warehouse keeper can claim tax reimbursement only in a separate tax return which it shall submit to the customs office by 25 May 2004, if it has documents confirming the amount of the paid tax. The annex of the separate tax return is minutes from the stock-taking. The customs office shall reimburse tax no later than 30 days after the day of the submission of the separate tax return. If in the separate tax return the claimed tax reimbursement is in an incorrect amount, sanctions under the current regulation shall be used. If an authorized warehouse keeper stated in Paragraph 7 had as of 30 April 2004 mineral oil inventories under Paragraph 7 letter a) and did not submit a separate tax return by 25 May 2004, these inventories are as of 1 May 2004 considered as mineral oil under tax suspension.
- (9) An authorized warehouse keeper which wants from 1 May 2004 to mark gas oil under this act must ask the customs office in written form to issue an authorization to mark gas oil. The application must contain
- a) the identification data of the applicant and the address of the location of its operational units, if they are not the same as the registered office or permanent residence of the applicant
- b) the tax identification number of the applicant,
- c) the estimated amount of annual production of the marked gas oil.
- (10) The annex to the application are the data on installed equipment and the technological documentation of the equipment for the fiscal marking of gas oil.
- (11) The customs office shall verify the facts and data stated in the application and in the annex to the application, and if these facts and data are correct and the equipment is suitable for the fiscal marking of gas oil (Article 8 Paragraph 2), it shall issue the authorization to mark gas oil.

³²⁾ Article 29 of Act No. 431/2002 Coll.

(12) A legal person or natural person which is an authorized warehouse keeper under current regulations and wants to be a registered trader under this act must ask the customs office before 31 March 2004 in written form for the issuing of an authorization for the operation of a tax warehouse under this act. In the application it shall only state the data under Paragraph 1. The provisions of Paragraph 5 apply equally here. If to such legal person or natural person was issued authorization to mark gas oil under current regulations and it wants to mark gas oil under this act, it must ask the customs office in written form to issue an authorization to mark gas oil under this act. In the application in shall state data under Paragraph 9 only.

(13) A legal person or natural person which wants from 1 May 2004 to be a user enterprise under this act must ask in written form the customs office for the issuing of an exemption certificate and have the application delivered to the customs office no later than on 31 March 2004. The application for the issuing of an exemption certificate must include

- a) the identification data of the applicant and the address of the location of its operational units, unless they are the same as the registered office or permanent residence of the applicant,
- b) the tax identification number of the applicant; if the applicant has no tax identification number, birth identification number shall be stated,
- c) type of tax subject and trade name of tax favoured mineral oil and the appropriate CN code,
- d) purpose of use of tax favoured mineral oil under the provisions of this act and estimated amount of annual consumption in litres or kilograms,
- e) identification data of the supplier of tax favoured mineral oil.

(14) Attachments to the application are:

- a) copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy, or a document proving that the legal person is not established or founded for enterprise purposes, no older than 30 days or its verified copy,
- b) technological documentation and description of the place of use and of the place of storage of tax favoured mineral oil and description of the manner of securing it against illegal use,
- c) technological documentation of the device in which tax favoured mineral oil is to be used as a motor fuel or fuel, from which must be clear the type of the used mineral oil and the amount of its consumption by such device,
- d) technological procedure and data on the consumption of tax favoured mineral oil, if the mineral oil is to be used as raw material or auxiliary material in a technological process,
- e) affirmation of the applicant that it meets the conditions stated in Paragraph 4 letters b) through e).

(15) Before issuing the exemption certificate, the customs office shall verify with the applicant the facts and data stated in the application and in its attachments. If the facts and data stated in the application and in its attachments are true, the customs office will issue the exemption certificate to the applicant.

(16) A legal person or natural person stated in Paragraph 13 to which the customs office issued an exemption certificate with validity from 1 May 2004 and which has mineral oil inventories is obliged to perform under a special regulation³²⁾ the stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 7 and 8 of Act No. 239/2001 Coll. on Excise Duty on Mineral Oil as amended as of 30 April 2004, separately for inventories of mineral oil which it has in accordance with current regulations

- a) with tax,
- b) without tax.

(17) If a user enterprise has in its exemption certificate stated the use of mineral oil exempt from tax, it can claim tax reimbursement from inventories under Paragraph 16 letter a) in the amount of tax under the regulation valid as of 30 April 2004 in a separate tax reimbursement application. It shall submit the separate tax reimbursement application to the customs office before 25 May 2004 if it has document proving the amount of the paid tax.

(18) A legal person or natural person which is a user enterprise under current regulations and wants to be a user enterprise under this act must before 31 March 2004 ask in written form the custom office for the issuing of an exemption certificate under this act. In the application it shall only state data under Paragraph 13 letters a), c) through e).

(19) A legal person or natural person which wants to be from 1 May 2004 a registered trader under this act (Article 25 Paragraph 1) must ask the customs office in written form for registration and the issuing of an

authorization to receive mineral oil from another Member State under tax suspension and submit the application for the registration and issuing of this authorization to the customs office no later than on 31 March 2004. Paragraph 1 applies appropriately to the content of the application. The annexes to the application are a copy of the entry in the Commercial Register or in the Trade Licence Register no older than 30 days or its verified copy, or another document proving entitlement to enterprise no older than 30 days or its verified copy and a declaration of the applicant that it meets the conditions stated in Paragraph 4.

(20) The applicant stated in Paragraph 19 before the issuing of an authorization to receive mineral oil from another Member State under tax suspension repeatedly is obliged to deposit a tax guarantee (Article 2).

(21) Before performing registration, the customs office shall verify with the applicant stated in Paragraph 19 the facts and data stated in the application and in annexes and if these facts and data are correct, the customs office shall assign it a registration number, issue a certificate of registration and an authorization to receive mineral oil from another Member State under tax suspension.

(22) A legal person or natural person which wants from 1 May 2004 to include in its commercial activities the purchase and sale in the tax territory of tax favoured mineral oil stated in Article 11 Paragraph 2 letters a) and c) must ask in written form the customs office to issue an exemption certificate and submit the application to the customs office no later than on 31 March 2004. The application must contain the identification data of the supplier of tax favoured mineral oil and appropriate data stated in Paragraph 1. In annexes to the application shall be appropriately stated the documents and data under Paragraph 2 letters a) and b).

(23) The customs office shall verify with the applicant stated in Paragraph 22 the facts and data stated in the application and in annexes, and if these facts and data are correct, the customs office shall issue it an exemption certificate.

(24) A legal person or natural person stated in Paragraph 19 and 22 to which the customs office issued an authorization to receive mineral oil from another Member State under tax suspension or exemption certificate with validity from 1 May 2004 and which has mineral oil inventories is obliged to perform under a special regulation³²⁾ the stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 7 and 8 of Act No. 239/2001 Coll. on Excise Duty on Mineral oil as amended as of 30 April 2004, separately for inventories of mineral oil which it has in accordance with current regulations

a) with tax,

b) without tax.

(25) A registered trader from inventories under Paragraph 24 letter b) is obliged to submit to the customs office a separate tax return before 25 May 2004, admit tax according to the tax rate valid from 1 May 2004 and pay the tax before the same deadline.

(26) A legal person or natural person to which as of 1 May 2004 an authorization for the operation of a tax warehouse or an authorization to receive mineral oil from another Member State under tax suspension or exemption certificate was not issued and which has mineral oil inventories is obliged to perform under a special regulation³²⁾ the stock-taking of these inventories before 30 April 2004 according to the state as of 30 April 2004 divided according to Article 7 and 8 of Act No. 239/2001 Coll. on Excise Duty on Mineral Oils as amended as of 30 April 2004, separately for inventories of mineral oil which it has in accordance with current regulations

a) with tax,

b) without tax.

(27) A legal person or natural person stated in Paragraph 26 from inventories under Paragraph 26 letter b) is obliged to submit to the customs office a separate tax return before 25 May 2004, admit tax under the tax rate valid from 1 May 2004 and pay the tax before the same deadline.

(28) A legal person or natural person stated in Paragraph 26 which submitted an application for the issuing of an authorization for the operation of a tax warehouse or authorization to receive mineral oil from another Member State under tax suspension or tax exemption certificate but the proceedings on this application were not finished as of 1 May 2004 shall have a date set by the customs office as of which it should perform a new stock-taking before the issuing of the appropriate authorization or exemption certificate; such application shall be assessed as if it was submitted after 30 April 2004.

(29) A legal person or natural person stated in Paragraph 17, 25 and 27 which as of 30 April 2004 has mineral oil inventories at a price without tax and which has not submitted to the customs office a separate tax return before 25 May 2004 or has claimed tax reimbursement in an incorrect amount shall have tax stated and a fee imposed in the amount of the set tax by the customs office.

(30) As of 1 May 2004, registrations issued under current regulations expire and authorizations for the operation of a tax warehouse and exemption certificates issued under current regulations lose validity.

(31) If mineral oil was transported to the tax territory from a state which is a Member State on 1 May 2004 and as of 30 April 2004 is situated in the customs regime with the exception of the customs regime transit and these were not finished, such mineral oil is after 1 May 2004 considered as mineral oil under tax suspension. If such mineral oil is not transported to the tax warehouse, tax obligations arises in the tax territory on the day of releasing mineral oil into tax free circulation.

(32) To prove the transport of mineral oil exempt from tax to the territory of another Member State by a Slovak representative (Article 16 Paragraph 3) any by the armed forces of the Slovak Republic for use within activities under an international treaty can be used a certificate of exemption from excise duty according to the sample stated in Annex No. 3.

(33) A legal person or natural to whom was issued an authorization for the operation of a tax warehouse after 1 May 2004 and wants to transport mineral oil under tax suspension until 1 May 2004 can use the accompanying document under the sample stated in Annex No. 4.

(34) A legal person or natural person which is under this act entitled after 1 May 2004 to transport mineral oil released into tax free circulation in the tax territory to another Member State for commercial purposes (Article 31 Paragraph 8), can until 1 May 2004 use the simplified accompanying document under the sample stated in Annex No. 5.

(35) For the transport of mineral oil after 1 May 2004 can be used documents under Paragraph 33 and 34, if documents under the regulations of the union are not used.³³⁾

(36) The provisions of a special regulation²⁵⁾ apply to the proceeding of the customs office under Paragraph 1 through 35, unless this act states otherwise.

Article 47

Cancelled are:

1. Act No. 239/2001 Coll. on Excise Duty on Mineral Oils as amended by Act No. 582/2001 Coll., Act No. 74/2002 Coll., Act No. 642/2002 Coll. and Act No. 248/2003 Coll.,
2. decree of the Ministry of Finance of the Slovak Republic No. 457/2001 Coll. on Stating the Type and Amount of Materials for the Fiscal Marking of Gas Oils,
3. decree of the Ministry of Finance of the Slovak Republic No. 460/2001 Coll. on the Sample of the Accompanying Document and on the Sample of Tax Return and Application for the Reimbursement of the Excise Duty on Mineral Oils,
4. decree of the Ministry of Finance of the Slovak Republic No. 461/2001 Coll. on the Details and Features of Guaranty Certificates,
5. decree of the Ministry of Finance of the Slovak Republic No. 462/2001 Coll. on Details of the Reimbursement of the Excise Duty to the Ministry of Defence of the Slovak Republic from Mineral Oil supplied in the territory of the Slovak Republic without Tax to the Armed Forces of Foreign Countries,
6. decree of the Ministry of Finance of the Slovak Republic No. 463/2001 Coll. on Details of the Reimbursement of the Excise Duty on Mineral Oil to Foreign Diplomatic Missions in the Slovak Republic and to International Institutions with Registered Office in the Slovak Republic on the basis of International Agreements on their Establishment.

Article 48

This act enters into effect on 1 March 2004 apart from the provisions of Article 1 through 5 Article 6 Paragraph 1 through 4, Article 7 through 45 and Article 47, which enter into effect on 1 May 2004.

³³⁾ Commission Regulation (EEC) No. 2719/92 of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty (O. J. E. C., L 276, 19/09/1992, p. 1 - 10) as amended.

Commission Regulation (EEC) No. 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (O. J. E. C., L 369, 18/12/1992, p. 17 - 24).

Rudolf Schuster, man.sign.
Pavol Hrušovský, man.sign.
Mikuláš Dzurinda, man.sign.