Republic of Latvia

Cabinet

Regulation No. 564

Adopted 6 September 2022

**Regulations Regarding Activities of Independent Small Producers of Alcoholic Beverages**

*Issued pursuant to*

*Section 12, Paragraph thirteen of the law On Excise Duties*

**I. General Provisions**

1. This Regulation prescribes:

1.1. the procedures by which the State Revenue Service shall issue a certificate which confirms the status of the independent small beer producers, independent medium wine producers, independent medium fermented beverage producers, and independent medium intermediate product producers that are producing beer, wine, fermented beverages, and intermediate products respectively, and also the procedures for refusing to grant the status and for cancelling the certificate;

1.2. the procedures by which the State Revenue Service shall issue a certificate for small alcoholic beverage breweries, refuse to issue the certificate, or cancel the certificate;

1.3. the procedures for applying the reduced rate of excise duty specified in Section 12 of the law On Excise Duties (hereinafter – the Law);

1.4. the conditions for cases where the independent small beer producers, independent medium wine producers, independent medium fermented beverage producers, and independent medium intermediate product producers, and small alcoholic beverage breweries that are producing wine, fermented beverages, intermediate products, or other alcoholic beverages respectively are not deemed to be legally and economically independent from other producers of the respective alcoholic beverages;

1.5. the procedures by which beer, wine, fermented beverages, intermediate products, and other alcoholic beverages produced by independent small beer producers, independent medium wine producers, independent medium fermented beverage producers, and independent medium intermediate product producers, and small alcoholic beverage breweries respectively, and also beer, wine, fermented beverages, intermediate products, and other alcoholic beverages produced by small alcoholic beverage producers respectively in another Member State and brought into the Republic of Latvia within a calendar year shall be moved in the Republic of Latvia.

2. The status of independent small beer producers, independent medium wine producers, independent medium fermented beverage producers, independent medium intermediate product producers, and small alcoholic beverage breweries (hereinafter collectively – the independent small producer) shall be certified by the excise duty certificate for independent small producers of alcoholic beverages (hereinafter – the certificate), as specified in Article 1 of Commission Implementing Regulation (EU) 2021/2266 of 17 December 2021 laying down rules for the application of Council Directive 92/83/EEC as regards the certification and self-certification of independent small producers of alcoholic beverages for excise duty purposes (hereinafter – Regulation No 2021/2266).

3. The independent small producer shall not be deemed to be legally and economically independent from another producer of the respective alcoholic beverage if:

3.1. the independent small producer owns 10 per cent or more of the equity capital or number of shares or stocks of another taxpayer which is the producer of the same type of alcoholic beverages;

3.2. another taxpayer directly owns 10 per cent or more of the equity capital or number of shares or stocks of the independent small producer;

3.3. the independent small producer is a franchisee and it produces alcoholic beverages on the basis of a franchise agreement under which the franchisor has transferred to the other contracting entity, i.e. franchisee, in exchange for direct or indirect financial compensation, the right to use the aggregate of intellectual property rights (in particular, if it is the firm name, trade mark, shop sign, design object, special professional information, know-how, and patents) for the use or marketing of goods;

3.4. the independent small producer, its founder or member of the executive body is the founder or holds a position of the member of the executive body at another producer of the respective alcoholic beverages.

**II. Issue, Re-registration, and Cancellation of the Certificate**

4. In order to obtain the certificate, the taxpayer shall submit a submission (Annex) to the State Revenue Service.

5. The certificate shall be issued for a calendar year.

6. The State Revenue Service shall issue the certificate in accordance with the received submission if:

6.1. the independent small producer has received the special permit (licence) for the activities of an approved warehousekeeper in which the production of the relevant type of alcoholic beverages is declared;

6.2. the independent small producer is legally and economically independent from another producer of the relevant alcoholic beverage;

6.3. the volume of alcoholic beverages produced by the independent small producer in the previous calendar year (if the type of the relevant alcoholic beverage was produced in the previous calendar year) or the planned volume for the current calendar year (if the type of the relevant alcoholic beverage was not produced in the previous calendar year) does not exceed the following volumes:

6.3.1. beer – 200 000 hectolitres;

6.3.2. wine – 1000 hectolitres (if it is sent to the Republic of Malta, then 20 000 hectolitres);

6.3.3. fermented beverages, except for wine and beer – 15 000 hectolitres;

6.3.4. intermediate products – 250 hectolitres;

6.3.5. other alcoholic beverages – 20 hectolitres of absolute alcohol (including if the certificate is requested by the producer of other alcoholic beverages for sending thereof to other Member States);

6.4. the independent small producer does not use the premises used by another producer of the relevant alcoholic beverage.

7. In case of any changes in the types or volumes of the alcoholic beverages specified in the certificate, the independent small producer shall submit a submission for the re-registration of the certificate.

8. In case of any changes in the name or legal address of the independent small producer specified in the certificate, the State Revenue Service shall update the information specified in the certificate and send the updated certificate to the independent small producer by using the Electronic Declaration System of the State Revenue Service.

9. The State Revenue Service shall take the decision on refusal to issue or re-register the certificate if the requirements referred to in Paragraph 6 of this Regulation are not complied with.

10. The State Revenue Service shall cancel the certificate or remove the type of alcoholic beverage specified in the certificate if:

10.1. the independent small producer does not conform to the requirements laid down in this Regulation;

10.2. false information has been provided in the submission for obtaining the certificate that has been relevant when taking the decision to issue the certificate;

10.3. a submission has been received from the independent small producer regarding cancellation of the certificate;

10.4. the independent small producer does not have the special permit (licence) for the production of the relevant type and volume of alcoholic beverages;

10.5. the independent small producer has been liquidated.

11. The submission for obtaining, re-registration, or cancellation of the certificate shall be submitted electronically by using the Electronic Declaration System of the State Revenue Service.

**III. Application of the Reduced Rate of Excise Duty**

12. The independent small producer shall apply the reduced rate of excise duty specified in Section 12, Paragraph two, three, four, five, or six of the Law to the alcoholic beverages produced by itself if it has received the certificate indicating the quantity of alcoholic beverages produced that does not exceed the volume specified in Section 1, Paragraph two, Clause 15 and Section 12, Paragraph three, four, five, or six of the Law.

13. The reduced rate of excise duty specified in Section 12, Paragraph two, three, four, five, or six of the Law shall be applied to the alcoholic beverages produced by the independent small producer depending on the type of alcoholic beverages if they are released for consumption in the Republic of Latvia or stored in a tax warehouse, or sent to another taxpayer in the Republic of Latvia, applying the excise duty suspension arrangement.

14. The independent small producer shall apply the reduced rate of excise duty in accordance with Section 12, Paragraph two, three, four, five, or six of the Law to the produced alcoholic beverage from the first date of the taxation period (calendar month thereof) in which has received the certificate.

15. To apply the reduced rate of excise duty in accordance with Section 12, Paragraph seven, eight, nine, eleven, or twelve of the Law to the alcoholic beverages produced by the independent small producer of another Member State, the accompanying document for movement shall indicate the information referred to in Paragraph 21 of this Regulation, and the taxpayer shall append the following documents to the excise duty return:

15.1. a certificate issued by the competent authority of another Member State, except for the case where the alcoholic beverages have been produced by a self-certified independent small producer;

15.2. regarding beer – a document issued by the independent small producer and translation thereof in the official language containing the following information:

15.2.1. a confirmation that the volume of beer brought into the Republic of Latvia does not exceed the volume limit of a calendar year specified in Section 12, Paragraph seven of the Law to which the reduced rate of excise duty is applied;

15.2.2. the name of the independent small beer producer and the country where the alcoholic beverage is produced;

15.2.3. the date of the document, the given name, surname, and signature of the responsible official.

16. The taxpayer may apply the reduced rate of excise duty to the alcoholic beverage produced by the independent small producer in accordance with Section 12 of the Law if the taxpayer does not perform any other activities involving the relevant alcoholic beverage (for example, production, processing, packaging), except for receipt, storage, release for consumption, and bringing out. In this case, the number of the accompanying document referred to in Paragraph 21 of this Regulation shall be indicated in the excise duty return.

17. The taxpayer shall ensure separate records of the alcoholic beverages produced, received, and brought out by the independent small producer to which the reduced rate of excise duty is applied in accordance with Section 12 of the Law.

18. The reduced rate of excise duty in accordance with Section 12, Paragraph two, three, four, five, or six of the Law shall not be applied to the alcoholic beverages produced elsewhere but packaged on the premises of the independent small producer.

19. If the State Revenue Service establishes that the volume of beer brought in from the relevant brewery of another Member State (which has issued the document referred to in Paragraph 15.2 of this Regulation) per calendar year exceeds the quantity of beer specified in Section 12, Paragraph seven of the Law to which the reduced rate of excise duty may be applied, the relevant payers of excise duty shall recalculate the excise duty and pay into the State budget the difference between the excise duty rate specified in Section 12, Paragraph one, Clause 1 and Paragraph seven of the Law for the exceeded amount.

20. If the volume of alcoholic beverages produced by the independent small producer in the calendar year exceeds the volumes of production specified in Section 12, Paragraphs two, three, four, five, and six of the Law, the rates specified in Section 12, Paragraph one of the Law shall be applied to the exceeded volume when releasing it for consumption in the Republic of Latvia or sending it to another taxpayer in the Republic of Latvia.

**IV. Procedures for the Movement of the Alcoholic Beverages Produced by the Independent Small Producer**

21. When moving the alcoholic beverages produced by the independent small producer, box 17.l “Designation of origin”, box 17.n “Size of producer” (if the alcoholic beverages have been produced by a self-certified independent small producer of another Member State), box 18.e “Type of document”, and box 18.f “Reference of document” in the electronic administrative document, as specified in Article 3(1) of Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (hereinafter – Regulation No 684/2009), shall contain information in accordance with the requirements laid down in paragraphs 17 and 18 in Table 1 of Annex I to Regulation No 684/2009 and Articles 2 and 5 of Regulation No 2021/2622, or box 14 “Certificates” in the simplified accompanying document for excise goods shall contain information in accordance with the requirements laid down in box 14 and explanatory notes of box 14 in Annex to 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, and the requirements laid down in Articles 3 and 6 of Regulation No 2021/2266.

22. If alcoholic beverages produced by the self-certified small producer which are released for consumption in the Republic of Latvia and to which the reduced rate of excise duty is applied in accordance with Section 12 of the Law are moved within the Republic of Latvia, in addition to the information specified in the laws and regulations regarding conducting of accounting and circulation of excise goods, the delivery document shall also indicate information on the certificate or self-certified small producer of another Member State.

**Informative Reference to European Union Directives**

The Regulation contains legal norms arising from:

1) Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages;

2) Council Directive (EU) 2020/1151 of 29 July 2020 amending Directive 92/83/EEC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages.

Prime Minister A. K. Kariņš

Minister for Finance J. Reirs

**Annex**

Cabinet Regulation No. 564

6 September 2022

**Submission for the Obtaining or Re-registration of the Excise Duty Certificate for Independent Small Producers of Alcoholic Beverages**

1. Taxpayer

2. Taxpayer’s registration code

3. Legal address

4. Alcoholic beverages for which the excise duty certificate is required

|  |  |  |
| --- | --- | --- |
| Type of alcoholic beverages | Total volume of production in the previous calendar year1 | Total planned volume of production in the current calendar year2 |
| beer (hl) |   |   |
| wine (hl) |   |   |
| other fermented beverages, except for wine and beer (hl) |   |   |
| intermediate products (hl) |   |   |
| other alcoholic beverages (hl a/a)  |   |   |

Notes.

1To be indicated if the relevant type of alcoholic beverage was produced in the previous calendar year.

2To be indicated if the relevant type of alcoholic beverage was not produced in the previous calendar year.

5. I certify that:

▢ the submitter of the submission does not own 10 per cent or more of the equity capital or number of shares or stocks of another taxpayer producing the same type of alcoholic beverages;

▢ another taxpayer does not directly own 10 per cent or more of the equity capital or number of shares or stocks of the submitter of the submission;

▢ the submitter of the submission is not a franchisee that produces alcoholic beverages on the basis of a franchise agreement under which the franchisor has transferred to the other contracting entity, i.e. franchisee, in exchange for direct or indirect financial compensation, the right to use the aggregate of intellectual property rights (in particular, the firm name, trademark, shop sign, design object, special professional information, know-how, and patents) for the use or marketing of goods;

▢ the submitter of the submission, its founder or member of the executive body is not the founder of another producer of the relevant alcoholic beverages or does not hold a position of the member of the executive body thereof;

▢ the submitter of the submission does not use premises used by another producer of the relevant alcoholic beverage.