



FTA publishes Excise Tax Public Clarification on stockpiling of Excise goods

Determining Excise Tax obligations for
stockpilers of Excise goods

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The United Arab Emirates (UAE) Federal Tax Authority (FTA) has published Excise Tax Public Clarification [EXTP003](#) on stockpiling of Excise goods.

Who is this document for?

Businesses in the UAE which hold stock of Excise goods or expect to hold stock of Excise goods on 1 December 2019.

Overview

EXTP003 explains the Excise Tax obligations for businesses which expect to hold stock of the following Excise goods for business purposes on 1 December 2019 (the date of expansion of the UAE Excise Tax regime):

- Sweetened drinks;
- Electronic smoking devices and tools;
- Liquids used in electronic smoking devices and tools; and
- Tobacco products which have been subject to Excise Tax at a price lower than the minimum Excise Price introduced on such products by [Cabinet Decision No. 55 of 2019](#) on the Excise Price for Tobacco Products.

The Public Clarification details the criteria for determining whether a business expecting to hold stock of the above products on 1 December 2019 would be formally classified as a “stockpiler”. In such case, the business would have additional Excise Tax accounting obligations (and registration obligations if they were not already registered for Excise Tax).

Determining if Excise goods are “stockpiled”

Excise goods are considered stockpiled in the UAE if all of the following conditions apply:

- The goods are held in free circulation in the UAE;
- The goods are intended to be sold in the course of business;
- The excise tax on the goods has not been paid, remitted, relieved, or deferred; and
- The goods are “excess” Excise goods.

If the above conditions are met, the Excise goods are subject to Excise Tax on the latest of the following dates:

- The date they were acquired by the stockpiler;
- The date an increase in tax obligation arose; or
- The date the Excise Tax Law comes into force in respect of the relevant Excise goods (1 December 2019 for the goods discussed in this alert).

What are excess Excise goods?

Excess Excise goods are Excise goods which meet all of the following conditions:

- The goods are owned by a person on 1 December 2019;
- The goods are acquired by the stockpiler prior to 1 December 2019;
- The goods are intended to be sold by the person in the course of business; and
- The quantity of each type of Excise good owned exceeds the average monthly stock level held by the person, based on the person's average monthly stock holding level of that Excise good.

How are "excess" amounts calculated?

The average monthly stock holding is calculated by reference to the 12-month period prior to the Excise Tax expansion date (1 December 2018 to 30 November 2019).

The average monthly stock level for a particular product for this period is calculated as the total number of units of stock over the 12-month period) divided by 12.

If, on 1 December 2019, the quantity of any of the relevant Excise goods held exceeds the average monthly stock level of that product, any quantity held above the average monthly stock level will be considered excess Excise goods and the excess stock will be subject to Excise Tax.

As an exception to this, if on 1 December 2019 the person holds a quantity of the Excise good higher than two times the average monthly sales volume of that good over the same 12-month period referred to above, then any quantity held above this level will be considered excess Excise goods and the excess stock will be subject to Excise Tax. This exception applies even if the volume of goods held is below the average monthly stock level.

The following two calculations must therefore be performed:

A. **Stock-based calculation:**

$$\frac{\text{Total number of units of stock held 1 Dec 2018 – 30 Nov 2019}}{12}$$

B. **Sales-based calculation:**

$$\frac{2 \times (\text{Total number of units sold 1 Dec 2018 – 30 Nov 2019})}{12}$$

If the stock held on 1 December 2019 is considered excess stock under one of either calculation A or B, then Excise Tax will be due on that based on that calculation.

If, on the other hand, the stock held on 1 December 2019 is considered excess stock under both calculations, then Excise Tax will be due based on the higher excess amount calculated.

EXTP003 further states that this calculation must be performed on an **individual product** level rather than on the overall category of Excise goods. For example, orange juice under the category of sweetened drinks must be calculated separately from apple juice also under the category of sweetened drinks.

In addition to these requirements, businesses are required to keep records **audited by an external third party** which show the quantity of Excise goods for the 12-month period prior to 1 December 2019, **regardless of whether the stock is considered "normal" or "excess"**.

Action to take

The rules relating to stockpiling of Excise goods are complex and businesses have less than one month to ensure that they are able to achieve compliance with the expansion of the UAE Excise Tax regime on 1 December 2019. In addition to the new Public Clarification, businesses should also refer to the legislation related to the expansion of Excise Tax in the UAE:

- [Ministerial Decision No. 236 of 2019](#) – Implementation of the [Cabinet Decision No. 52 of 2019](#) On Excise Goods, Excise Tax Rates and the Methods of Calculating the Excise Price
- [Ministerial Decision No. 237 of 2019](#) – Implementation of the [Cabinet Decision No. 55 of 2019](#) On Excise Price for Tobacco Products



Contacts

Mark Junkin

Partner, Indirect Tax
majunkin@deloitte.com

Adrienne D'Rose

Director, Indirect Tax
addrrose@deloitte.com

Yeji Moon Monda

Manager, Indirect Tax
ymonda@deloitte.com

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