

LEGAL ALERT

BRIEF NOTES ON THE NEW EXCISE TAX CODE

Law no. 19/2022, of December 29, was recently approved, amending the Excise Tax Code (ETC), approved by Law no. 17/2017, of December 28. The Excise Tax is levied on certain goods produced in the national territory or imported, and from the aforementioned amendments, the following are highlighted:

1. Regarding its objective incidence, the Excise Tax will also be due whenever the permanence period (of the good/product) in a customs warehouse of goods under the regime of suspension of tax payment expires without the taxpayer opting for its re-exportation (cf. Article 4 (1) *d*));
2. At the same time, in the light of the said article, are now considered to have commercial purposes and, therefore, subject of the Excise Tax, possessions of products, which exceed:

(i) Tobacco:

- Cigarettes – 200 units;
- Cigarillas – 100 units;
- Cigars – 50 units; and
- Smoking tobacco – 500 grams.

(ii) Alcoholic beverages:

- Spirit drinks with alcoholic content volume higher than 8,5% – 4,5 liters;
- Liqueurs and other spirituous beverages with an alcoholic content volume less than 8,5% – 4,5 liters;
- Wines (sparkling wines) – 4,5 liters;
- Wines (others) – 4,5 liters; and

- Beers – 8,4 liters.
3. Under the new Code, the compensation of the Excise Tax paid in the production of demijohns, bottles in PET and plastic bags, whenever the producer, on his own, carries out the respective local recycling;
 4. Regarding exemptions, alcohol as raw material destined to the production of the national industry is now exempted from the said tax;
 5. Regarding the incidence of the tax, the Excise Tax is now levied not only on alcoholic beverages, as stipulated before, but also on non-alcoholic beverages;
 6. It is also highlighted the possibility of reduction of the Excise Tax in 75%, under the alcoholic beverages and non-alcoholic beverages, with added sugar and other sweeteners, as well as under manufactured tobacco of local production, as long as they incorporate, as local production, at least half of the raw materials basis, certified by the Agriculture, Industry and Trade services;
 7. Last, but not least, a specific fuel taxation regime was introduced (Articles 36 to 40 of the ETC), being considered as taxable persons the natural or legal persons who release/introduces, for consumption, the following products:
 - Automotive gasoline;
 - Aviation gasoline (AVGAS);
 - Carboreactors (Jet Fuel);
 - Diesel fuel;
 - Fuel oil;
 - Liquefied Petroleum Gases (LPG) mixture for domestic usage;
 - Vehicular Natural Gas (VNG) for automotive fuel usage; and
 - Kerosene (illumination oil).

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