

Republic of Latvia  
Cabinet  
Regulation No. 801  
Rīga, 18 December 2018

## **Procedures by which the Status of an Independent Small Brewery is Granted and the Rate of Excise Duty is Applied to Beer Produced by Independent Small Breweries**

*Issued pursuant to  
Section 12, Paragraph three of the Law On Excise Duties*

### **I. General Provisions**

1. The Regulation prescribes the procedures for the issuance of a certificate which confirms the status of an independent small brewery (hereinafter – the certificate), refusal to grant the status of an independent small brewery, cancellation of the certificate which grants the status of an independent small brewery and application of the rate of excise duty specified in Section 12, Paragraph two of the law On Excise Duties (hereinafter – the Law) to the beer produced by independent small breweries.

2. A brewery shall not be deemed legally and economically independent from other breweries if:

2.1. it owns 10 per cent or more of the equity capital or the number of shares or stocks in another brewery;

2.2. another brewery has direct ownership of 10 per cent or more of the equity capital or the number of shares or stocks in the brewery in question;

2.3. 10 per cent or more of the equity capital or the number of shares or stocks in the brewery in question are owned by another economic operator where, in turn, 10 per cent or more of the equity capital or the number of shares or stocks are owned by another brewery;

2.4. 10 per cent or more of the equity capital or the number of shares or stocks in the brewery in question is owned by a person or economic operator who, in turn, owns 10 per cent or more of the equity capital or the number of shares or stocks in another brewery;

2.5. it produces beer in accordance with a franchise agreement in compliance with which a franchiser (another brewery) has transferred to the other contracting entity – the franchisee – in exchange for direct or indirect financial compensation the right to use the aggregate of intellectual property rights (in particular – the firm, the trademark, the shop sign, the design object, special professional information, the know-how and the patents) for the use or marketing of goods;

2.6. a member of the executive body thereof also holds a position of a member of an executive body in another brewery.

3. Upon fulfilment of the requirements of this Regulation, the rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law shall be applied to the first 10 000 hectolitres of beer produced in a calendar year, if such beer has been produced:

3.1. in a brewery of the Republic of Latvia, to which the status of a independent small brewery has been granted;

3.2. in an independent small brewery of another state, which in the previous calendar year produced an amount of beer that does not exceed 50 000 hectolitres.

4. The rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law shall be applied to the beer produced by an independent small brewery which this independent small brewery transfers for consumption in the Republic of Latvia or, upon application of the suspension of payment of excise duty, sends to an economic operator in the Republic of Latvia.

5. An economic operator may apply the rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law to the beer produced by another independent small brewery if it does not perform other activities (for example, production, processing, packaging) with the relevant beer, except for the receipt, storage, transfer for consumption and bringing out. In this case, the excise duty return shall indicate the number of the administrative electronic document with which the beer was received from another independent small brewery.

6. An economic operator shall ensure the separate recording of the beer produced, received and exported by an independent small brewery (to which the rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law is applied) from other excisable goods.

7. The rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law shall not be applied to beer which has been produced in another brewery but is packaged in an independent small brewery.

## **II. Acquisition of the Status of an Independent Small Brewery**

8. For the receipt of the status of an independent small brewery, economic operators who produce beer and who have one or more tax warehouses shall submit an application to the State Revenue Service (Annex 1).

9. The State Revenue Service shall review the application in accordance with the procedures laid down in the Administrative Procedure Law and grant the status of an independent small brewery by issuing the certificate (Annex 2) or shall take a reasoned decision on the refusal to grant the status of an independent small brewery.

10. The certificate shall be issued for an unspecified period.

11. The State Revenue Service shall make an entry in the special permit (licence) for the activities of an approved tax warehousekeeper regarding the granted status of an independent small brewery.

12. The State Revenue Service shall refuse to grant the status of an independent small brewery to an economic operator if:

12.1. the merchant does not conform to the requirements prescribed by these Regulations;

12.2. the amount of beer produced in the brewery during the previous calendar year prior to the submission of the application referred to in Paragraph 8 of this Regulation exceeded 50 000 hectolitres;

12.3. the amount of beer produced in the brewery during the current calendar year prior to the submission of the application referred to in Paragraph 8 of this Regulation exceeded 50 000 hectolitres.

13. If the particulars specified in the certificate change, an economic operator shall, within a period of 10 working days after the coming into effect of the relevant conditions, submit the application for the re-registration of the certificate and attach the copies of the documents certifying such changes.

### **III. Cancellation of the Status of an Independent Small Brewery**

14. The State Revenue Service shall cancel the certificate if:

14.1. the amount of beer produced by a brewery in a calendar year exceeds 50 000 hectolitres;

14.2. the brewery does not conform to the requirements prescribed by these Regulations;

14.3. an application of a merchant regarding cancellation of the certificate has been received.

15. Upon evaluating the essence of the violation committed (its nature and potential influence on the State budget) the State Revenue Service may cancel the certificate if:

15.1. false information has been provided in the application for the receipt of the certificate;

15.2. a merchant has violated the requirements of these Regulations.

16. If the certificate is cancelled, the State Revenue Service shall delete the entry on the status of an independent small brewery in the special permit (licence) for the activities of the approved tax warehousekeeper.

17. The economic operator for whom the certificate has been cancelled (except in the case referred to in Sub-paragraph 14.3 of this Regulation) shall recalculate the excise duty and pay the difference into the State budget between the rates of excise duty specified in Section 12, Paragraph one, Clause 1 and Paragraph two, Clause 1 of the Law for the amount of beer produced which has been exported from the tax warehouse since the beginning of the relevant calendar year and to which the rate specified in Section 12, Paragraph two, Clause 1 of the Law has been applied.

18. If the certificate is cancelled in accordance with Sub-paragraph 14.3 of this Regulation, the economic operator shall recalculate the excise duty and pay into the State budget the difference between the excise duty rates specified in Section 12, Paragraph one, Clause 1 and Paragraph two, Clause 1 of the Law if the amount of beer produced in the brewery in the year of the cancellation of the certificate exceeds 50 000 hectolitres of beer. The recalculation shall be made for the volume of beer produced which has left the brewery since the beginning of the relevant calendar year and to which the rate specified in Section 12, Paragraph two, Clause 1 of the Law has been applied.

### **IV. Procedures for the Movement of Beer Produced by an Independent Small Brewery Which is Subject to the Rate Specified in Section 12, Paragraph two of the Law in the Republic of Latvia**

19. If beer produced by the independent small breweries of the Republic of Latvia, which is subject to the application of the rate specified in Section 12, Paragraph two, Clause 1 of the Law in accordance with this Regulation, is moved by an electronic administrative document specified in 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), the sender shall

complete Column 17.l “Designation of Origin” and Column 17.n “Size of Producer” in accordance with the requirements laid down in Regulation No 684/2009.

20. If beer produced by the independent small breweries of the Republic of Latvia which has been released for consumption and which is subject to the application of the rate specified in Section 12, Paragraph two, Clause 1 of the Law in accordance with this Regulation, is moved to another Member State with the accompanying document specified in 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 (hereinafter – Regulation No 3649/92), the dispatcher shall complete Column 14 “Certificates” in accordance with the requirements laid down in Regulation No 3649/92.

21. If beer produced by the independent small breweries of the Republic of Latvia, which is subject to the application of the rate specified in Section 12, Paragraph two, Clause 1 of the Law in accordance with this Regulation, is moved on the basis of a delivery document specified in the laws and regulations regarding the sorting of accounts and the circulation of excisable goods (hereinafter –the delivery document), in addition to the information specified in the laws and regulations regarding the sorting of accounts and the circulation of excisable goods, the particulars regarding the certificate shall be indicated therein.

#### **V. Procedures for the Application of the Rate Specified in Section 12, Paragraph two of the Law to Beer Produced in Independent Small Breweries of Other Countries**

22. For beer produced in other countries, the rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law shall be applied if the relevant information is indicated in Column 17.l “Designation of Origin” and Column 17.n “Size of Producer” of the administrative electronic document in accordance with the requirements laid down in Regulation No 684/2009 or Column 14 “Certificates” of the simplified accompanying document of the excisable goods in accordance with the requirements laid down in Regulation No 3649/92 and the taxpayer attaches to the declaration of excise duty a document issued by the brewery and a translation thereof in the official language which shall contain the following information:

22.1. the name of the brewery and the state where the beer has been produced;

22.2. evidence that the relevant beer is from the first 10 000 hectolitres of beer produced in the independent small brewery in the relevant calendar year;

22.3. the date and number of the relevant document and also the given name, surname and signature of the responsible official.

23. If the beer referred to in Paragraph 22 of this Regulation is moved on the basis of a delivery document, in addition to the information specified in the laws and regulations regarding the sorting of accounts and the circulation of excisable goods, the name of the brewery referred to in Paragraph 22 of this Regulation and the country in which the beer was produced and also the number and date of the document issued by the brewery shall be indicated.

24. If the amount of beer imported into the Republic of Latvia from the relevant independent small brewery of another country exceeds 10 000 hectolitres per calendar year, the rate of excise duty specified in Section 12, Paragraph two, Clause 2 of the Law shall be applied to the amount of beer that exceeds 10 000 hectolitres.

25. If the State Revenue Service establishes that the amount of beer imported from the relevant brewery of another country (which has issued the document referred to in Paragraph 22 of this Regulation) exceeds 10 000 hectolitres per calendar year, 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 two, Clause 2 and Paragraph two, Clause 1 of the Law for the amount that exceeds 10 000 hectolitres.

26. If the State Revenue Service determines that the volume of beer produced by the relevant brewery of another country (which has issued the document referred to in Paragraph 22 of this Regulation) exceeds 50 000 hectolitres per calendar year, the relevant payer of excise duty shall recalculate the excise duty and pay into the State budget the difference between the excise duty specified in Section 12, Paragraph one, Clause 1 and Paragraph two, Clause 1 of the Law for the amount which has been imported into the Republic of Latvia and which is subject to the application of the rate of excise duty specified in Section 12, Paragraph two, Clause 1 of the Law. The State Revenue Service shall inform the payer of excise duty of the amount of beer for which the excise duty shall be recalculated.

## **VI. Closing Provisions**

27. Paragraphs 11 and 16 of this Regulation shall come into force on 1 January 2020. The State Revenue Service shall make an entry in a special permit (licence) for the activities of an approved tax warehousekeeper regarding the status of an independent small brewery for economic operators to whom certificates regarding the granting of the status of an independent small brewery have been issued until 31 December 2019.

28. This Regulation shall come into force on 1 January 2019.

### **Informative Reference to European Union Directives**

The Regulation contains legal norms arising from Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages.

Prime Minister

Māris Kučinskis

Minister for Finance

Dana Reizniece-Ozola

**Application for the Acquisition of the Status of an Independent Small  
Brewery**

To the State Revenue Service

1. Name of the merchant \_\_\_\_\_
2. Taxpayer's registration code \_\_\_\_\_
3. Telephone \_\_\_\_\_
4. Excise identification number\* \_\_\_\_\_
5. Amount of beer produced in the current calendar year\*\* \_\_\_\_\_

I certify that:

1.  the independent small brewery does not own 10 per cent or more of the equity capital or the number of shares or stocks in another brewery
2.  another brewery does not have direct ownership of 10 per cent or more of the equity capital or the number of shares or stocks in an independent small brewery
3.  10 per cent or more of the equity capital or the number of shares or stocks in this brewery are not owned by another economic operator where, in turn, 10 per cent or more of the equity capital or the number of shares or stocks are owned by another brewery
4.  10 per cent or more of the equity capital or the number of shares or stocks in the brewery in question is owned by a person or economic operator who, in turn, owns 10 per cent or more of the equity capital or the number of shares or stocks in another brewery
5.  an independent small brewery does not produce beer in accordance with a franchise agreement in compliance with which a franchiser (another brewery) has transferred to the other contracting entity – franchisee – in exchange for direct or indirect financial compensation, the right to use the aggregate of intellectual property rights (in particular – the firm, the trademark, the shop sign, the design object, special professional information, the know-how and the patents) for the use or marketing of goods
6.  the members of the executive body of the independent small brewery do not also hold positions as members of an executive body in another brewery
7.  the amount of beer produced in the current calendar year shall not exceed 50 000 hectolitres
8.  the amount of beer produced in the previous calendar year did not exceed 50 000 hectolitres

\_\_\_\_\_  
(position)

\_\_\_\_\_  
(given name, surname)

\_\_\_\_\_  
(signature\*\*\*)

\_\_\_\_\_  
(date)

Notes.

1. \* To be completed by economic operators to whom the excise identification number has been assigned.
2. \*\* A note is made by the economic operators that produced the beer in the previous calendar year.
3. \*\*\* The detail of the document “signature” shall not be completed if the electronic document has been prepared in accordance with the laws and regulations regarding the drawing up of electronic documents.

Minister for Finance

Dana Reizniece-Ozola

(supplemented lesser State coat of arms)

STATE REVENUE SERVICE  
(legal address, phone number, official electronic mail address)

**Certificate**  
**on granting the status of an independent small brewery**

Certificate No.

Name of the merchant

Taxpayer's registration code

Excise identification No.

**We hereby certify that this product has been produced in an independent small brewery  
whose amount of beer produced does not exceed 50 000 hectolitres per year**

Certificate is issued  Certificate is valid from

Certificate is re-registered \*

Official of the State Revenue Service \_\_\_\_\_  
(given name, surname)

THIS DOCUMENT HAS BEEN SIGNED BY SECURE ELECTRONIC SIGNATURE  
AND CONTAINS A TIME STAMP

Note. \* Specified only in cases when a certificate has been re-registered. The last date of re-registration shall be indicated.

Minister for Finance

Dana Reizniece-Ozola