

# Refund of Excess Excise Duty on Used Motor Vehicles Act

Promulgated, SG, No. 98/14.12.2010, effective 1.01.2011, amended and supplemented, SG No. 19/8.03.2011, effective 8.03.2011

Text in Bulgarian: Закон за възстановяване на надвнесен акциз за употребявани автомобили

## Chapter One

### GENERAL PROVISIONS

#### Subject of the Act

**Article 1.** (1) This Act shall regulate the refund of excess excise duty on used motor vehicles, imported or introduced on the territory of this country in the period from 1 January 2007 until 31 December 2009 inclusive.

(2) This Act shall not apply to cases where the excise duty under paragraph (1) has been refunded on other grounds.

Persons, eligible for refund

**Article 2.** Eligible for refund of excess excise duty on used motor vehicles shall be any person, who:

1. imported or introduced on the territory of this country a used motor vehicle in the period from 1 January 2007 until 31 December 2009 inclusive;
2. (amended, SG No. 19/2011, effective 8.03.2011) was indicated as consignee in the customs declaration for simultaneous release for free circulation and end-use, as a taxable person in the excise duty return under Article 76d, paragraph (1) (repealed, SG, No 44 of 2009) of the Excise Duties and Tax Warehouses Act, or as a taxable person in another document establishing an excise duty liability;
3. actually paid the excise duty required.

Terms

**Article 3.** Within the meaning of this Act:

1. "Excess excise duty" shall denote the difference between the excise duty paid on an used motor vehicle and the amount of excise duty on a new motor vehicle of the same motor output, determined under the procedure of Article 40, paragraph (2) (repealed, SG, No 44 of 2009) of the Excise Duties and Tax Warehouses Act.
2. "Used motor vehicle" shall denote a motor vehicle, in regard to which on the date of importation, respectively of filing of the excise duty return under Article 76d, paragraph (1) (repealed, SG, No 44 of 2009) of the Excise Duties and Tax Warehouses Act, the conditions required to qualify as a new motor vehicle under the procedure of Article 4, point 16 (repealed, SG, No 44 of 2009) of the Excise Duties and Tax Warehouses Act, are not in place.

Interest

**Article 4.** Statutory interest shall be due in regard to any excess excise duty.

Competence

**Article 5.** (1) The statements under this Act shall be issued by the head of the competent customs office.

(2) Competent customs office for the procedures under this Act shall be the customs office, where the excise duty was paid.

Tax evasion

**Article 6.** In established cases of used motor vehicles, improperly imported or introduced into the territory of this country in the period from 1 January 2007 until 31 December 2009 inclusive, the amount of excise duty required shall be determined as if for a new motor vehicle under the procedure of Article 40, paragraph (2) (repealed, SG, No 44 of 2009) of the Excise Duties and Tax Warehouses Act.

## **Chapter Two**

### **REFUND PROCEDURE**

#### **Submission of request**

**Article 7.** (1) Refund of excess excise duty shall take place upon written request by the person under Article 2 in standard form in accordance with the annex.

(2) The request under paragraph (1) must be submitted by the person under Article 2 or by a person, authorized by him, to the competent customs office within 6 months of entry into force of this Act.

(3) Attached to the request under paragraph (1) shall be:

1. customs declaration, excise duty return under Article 76d (repealed, SG, No 44 of 2009) of the Excise Duties and Tax Warehouses Act or any other document, establishing a liability for excise duty - in original or copy, certified by the competent customs office;

2. copy of payment document, proving payment of the excise duty.

Actions of the customs authorities

**Article 8.** (1) In case of finding any irregularity in the request under Article 7 the competent office shall instruct by a notice the person to correct the irregularities allowed within 7 days of receipt of the notice.

(2) If the irregularities would not be corrected within the term, ordered by the competent office, the request shall be returned to the person and the proceedings shall be discontinued by decision of the competent office.

(3) Within 30 days of receipt of the request, respectively of correction of any irregularities in it, the head of the competent customs office shall issue a decision for full or partial refund of the excess excise duty or a motivated rejection.

(4) Any omission to issue a decision on the request for refund of excise duty within the specified term shall be deemed a tacit rejection.

(5) (Amended, SG No. 19/2011, effective 8.03.2011) The decisions under paragraphs (2) and (3) shall be handed over to the person within 7 days of the date of their issuance.

(6) (New, SG No. 19/2011, effective 8.03.2011) The decision referred to in paragraph (2) may, within 7 days of its delivery, be appealed against before the director of the National Customs Agency, who

shall issue a decision within 14 days. The decision shall be delivered to the relevant person within 7 days of its issuance.

#### Offset and refund of the excess excise duty

**Article 9.** (1) By the decision under Article 8, paragraph (3) the competent office shall offset the excess excise duty against any other executable public liabilities, collected by the National Customs Agency and refund the balance, if any.

(2) Any excise duty, subject to refund, shall be refunded together with the interest under Article 4 within 3 days of entry into force of the decision for refund.

(3) The excise duty shall be reimbursed to the bank account of the person, indicated in the request.

#### Refund of value added tax in connection with excise duty refunded

**Article 10.** (1) As regards the portion of the value added tax, which corresponds to the excise duty, refunded or offset under this Act, the person under paragraph (2), registered under the Value Added Tax Act, who had not benefited from a tax credit in regard to the tax charged on the import or intra-Community acquisition, shall enter the effective decision, issued by the customs authorities for refund or offset of excise duty in the log of purchases under Article 124, paragraph (1), point 1 of the Value Added Tax Act.

(2) The person shall enter the effective decision, issued by the customs authorities for refund or offset of excise duty, in the tax period, in which the decision under paragraph (1) entered into effect or in any of the 12 subsequent tax periods.

(3) As regards the portion of the value added tax corresponding to any excise duty, refunded or offset under this Act, the person under paragraph (2), registered under the Value Added Tax Act, who had benefited from a tax credit (full or partial) in regard to the tax charged on the import or intra-Community acquisition, shall not enter the effective decision, issued by the customs authorities, for refund or offset of excise duty in the reporting registers under Article 124 of the Value Added Tax Act.

(4) Where the person under Article 2 is not a registered person under the Value Added Tax Act or was registered on the grounds of Articles 97a, 99 and 100, paragraph (2) of the Value Added Tax Act, he shall exercise his right to refund of unduly paid value added tax in accordance with an effective decision for refund or offset of excise duty, issued by the customs authorities under the procedure of Article 128 et seq. of the Tax and Social Insurance Procedure Code, in case the person had not benefited from a tax credit (full or partial) in regard to the tax charged on the import or intra-Community acquisition.

(5) In the cases under paragraph (4) the person shall not become eligible to deduction of tax credit under Articles 74 and 76 of the Value Added Tax Act for any amount of unduly paid value added tax, determined by the customs authorities by effective decision for refund or offset of excise duty. In such cases the decision shall be indicated in the inventory of available assets under Articles 74 and 76 of the Value Added Tax Act, as a negative value.

(6) Where the person under Article 2 had applied the special procedure for taxation of the price margin under Chapter Seventeen of the Value Added Tax Act to subsequent delivery of goods, imported or acquired under intra-Community acquisition terms, no adjustment of the tax base for this delivery shall be made in connection with the decision for refund or offset of excise duty, issued by the customs authorities.

(7) As regards used motor vehicles under § 51 of the Transitional and Concluding Provisions of the Rules for Amending and Supplementing the Rules on Implementation of the Value Added Tax Act (SG, No 6 of 2010) for which the excise duty under this Act would have been refunded before the date of their subsequent delivery, the persons under Article 2 may not exercise the right to deduct a tax credit under § 51, paragraph (2) of the Transitional and Concluding Provisions of the Rules for Amending and Supplementing the Rules on Implementation of the Value Added Tax Act (SG, No 6 of 2010) for the portion of the value added tax, which corresponds to the excise duty, refunded or offset under this Act.

## **Chapter Three**

### **APPEALS**

#### **Appeal under administrative procedure**

**Article 11.** (1) (Amended, SG No. 19/2011, effective 8.03.2011) The decision under Article 8, paragraph (3) may be appealed against as a whole or in any part before the director of the National Customs Agency within 14 days of handing it over.

(2) The tacit rejection may be appealed against within 30 days of expiry of the term, in which the competent authority was obliged to issue a decision.

(3) The petition shall be lodged via the competent authority, which issued the decision, respectively which had been obliged to issue a decision.

(4) Within 7 days of receipt of the petition the body, via which it was lodged, shall be obliged to complete the file and transmit it to the director of the National Customs Agency.

#### Content of the petition

**Article 12.** (1) The petition must contain:

1. the name (trade name or own name) of the petitioner, respectively of the authorised representative, if lodged via an authorised representative and the correspondence address;
2. a reference to the act appealed against;
3. the nature of the request
4. the petitioner's signature.

(2) The following shall be attached to the petition:

1. power of attorney, if lodged via an authorised representative;
2. written evidence.

#### Review of the petition

**Article 13.** (1) If the petition is lodged late, it shall not be acted upon by the body, competent to review it and the proceedings will be discontinued by decision.

(2) In instances of irregularity under Article 12, paragraph (1) and paragraph (2), point 1, the decision-making body shall instruct by notice the petitioner to correct any irregularities found within 7 days of receipt of the notice. If the irregularities of the petition would not be corrected in due course, the proceedings shall be discontinued by decision of the body, competent to review it.

(3) The decision of the administrative body on the petition shall be handed over to the petitioner within 7 days of its issuance.

(4) The decision under paragraphs (1) and (2) may be appealed against within 7 days of handing it over before the administrative court for the location of the decision-making body.

Issuance of decision

**Article 14.** (1) The director of the National Customs Agency shall issue a motivated decision within 45 days of receipt of the petition under Article 11, respectively of the correction of irregularities. Any failure to issue a decision within that deadline shall be treated as complete confirmation of the decision in the section appealed against.

(2) The director of the National Customs Agency may confirm, amend or cancel in full or in part the decision appealed against.

(2) The decision of the director of the National Customs Agency shall be handed over to the petitioner within 7 days of its issuance.

Appeal in court

**Article 15.** (1) In the cases, where the decision under Article 8, paragraph (3) would be confirmed by the director of the National Customs Agency, it may be challenged via the decision-making body before the administrative court for its location under the procedure and terms, determined in the Tax and Social Insurance Procedure Code.

(2) (Amended, SG No. 19/2011, effective 8.03.2011) In case of failure to issue a decision within the term under Article 14, paragraph (1), the decision under Article 8, paragraph (3) may be challenged under the procedure of paragraph (1) within 30 days of expiry of the deadline for issuing decision.

(3) In regard to any cases of court appeal not regulated the Tax and Social Insurance Procedure Code shall apply.

**SUPPLEMENTARY PROVISION**

§ 1. In regard to any cases, not regulated in this Act, the procedures of the Tax and Social Insurance Procedure Code shall apply.

**CONCLUDING PROVISION**

§ 2. This Act shall enter into force as of 1 January 2011.

This Act was passed by the 41-st National Assembly on 1 December 2010 and the official seal of the National Assembly was affixed thereto.

**Annex to Article 7, paragraph (1)**

Ref No .....  
Date .....

TO  
THE HEAD OF .....  
CUSTOMS OFFICE

REQUEST

1. By .....  
Personal Number .....  
UIC under Bulstat .....  
Correspondence address .....  
.....  
Telephone: ..... Fax: .....  
E-mail .....

2. Represented by .....  
(to be completed if the request is lodged via an authorized  
representative)  
Personal Number .....  
UIC under Bulstat .....  
Correspondence address .....  
.....  
Telephone: ..... Fax: .....  
E-mail .....

3. Contact person: .....  
Position: .....  
Telephone: ..... Mobile: ..... Fax: .....  
E-mail: .....  
Website .....

I am requesting, on the grounds of Article 2 of the Refund of  
Excess Excise Duty on Used Motor Vehicles Act (REEDUMVA) refund  
of excess excise duty together with any statutory interest.  
In accordance with the requirements of Article 7 of REEDUMVA I  
am providing the following information and attaching the  
following documents:

1. Description of the motor vehicle, in regard to which refund  
of excess excise duty is requested

Make .....  
Model .....  
Engine power .....  
Date of original registration .....

2. Number and date of the customs declaration or number and  
date  
of the excise duty return under Article 76d, paragraph (1)  
(repealed, SG, No 44 of 2009) of the Excise Duties and Tax  
Warehouses Act (EDTWA).  
.....

3. Excise duty amount paid .....

4. Bank account of the person, to which the amounts, subject to  
refund, are to be transferred: IBAN .....  
BIC.....  
with ..... bank, city of .....

5. Customs declaration/Excise duty return  
? original  
? certified copy

(Mark correct answer by X.)

6. Other documents, establishing an excise duty liability  
.....

7. Payment document No ....., proving payment of the  
excise duty - copy.

8. Certified copy of power of attorney  
(Applies in cases, where the request is lodged via an  
authorised representative.)

Date:  
Signature: .....

(name and surname)