

Pursuant to Article 95 item 3 of the Constitution of Montenegro I hereby enact

**DECREE
PROMULGATING THE LAW ON TAX ON COFFEE**

I hereby promulgate the **Law on Tax on Coffee**, adopted by the 25th Parliament of Montenegro on its sitting of the first extraordinary session in 2015, on 17 February 2015.

Number: 01-197/2
Podgorica, 24 February 2015
President of Montenegro
Filip Vujanović, m.p.

Pursuant to Article 82 item 2 of the Constitution of Montenegro and Amendment IV paragraph 1 to the Constitution of Montenegro, the 25th Parliament of Montenegro on its sitting of the first extraordinary session in 2015, on 17 February 2015, adopted the

LAW ON TAX ON COFFEE

(Official Gazette of Montenegro, No. 08/15 of 27 February 2015)

**Subject Matter
Article 1**

This Law introduces the obligation of payment of the tax on coffee released into free circulation on the territory of Montenegro.

**Allocation of Revenues
Article 2**

Revenues obtained from the tax on coffee shall belong to the Budget of Montenegro.

**Subject of Taxation
Article 3**

- (1) The subject of taxation is coffee imported to or produced on the territory of Montenegro.
- (2) The tax on coffee shall be paid on:
 - 1) roasted coffee under the Tariff Code of the Customs Tariff (hereinafter referred to as the Tariff Code) 0901 21 and 0901 22;
 - 2) not roasted coffee under the Tariff Codes 0901 11 and 0911 12;
 - 3) Coffee husks and skins under the Tariff Code 0901 90 10;

- 4) extracts, essences and concentrates of coffee under the Tariff Code 2101 11;
 - 5) coffee substitutes containing coffee under the Tariff Code 0901 90 90;
 - 6) preparations with a basis of extracts, essences or concentrates of coffee or with a basis of coffee under the Tariff Code 2101 12;
 - 7) Beverages and non-alcoholic beverages containing coffee, extracts, essences and concentrates of coffee under the Tariff Code 2202.
- (3) Coffee production referred to in paragraph 1 of this Article shall be deemed to be processing, roasting, packing, as well as other related activities used for the coffee production purposes.
- (4) Within the meaning of this Law, the coffee shall not be deemed to be chocolate and chocolate like products, cream products, sugar confectionary products, bakery products, pudding powders, and creams with added coffee.

Taxpayer and Tax Warehouse **Article 4**

- (1) Taxable person for the Tax on Coffee shall be a legal or natural person or an entrepreneur producing coffee in a tax warehouse (hereinafter referred to as the coffee producer) or a person importing coffee into the territory of Montenegro.
- (2) The tax warehouse referred to in paragraph 1 of this Article shall be deemed to include facilities and plants for production of coffee, storage for ingredients intended for production of coffee, as well as other related areas and appliances used for the coffee production purposes.
- (3) The taxpayer referred to in paragraph 1 of this Article, shall be obliged to submit an application for registration in the registry of taxable persons of the tax on coffee (hereinafter referred to as the Registry) to the administration authority competent for customs affairs (hereinafter referred to as the competent customs authority) by no later than within ten days as of the day of commencement of coffee production or import activities.
- (4) The State administration authority competent for finance affairs (hereinafter referred to as the Ministry of Finance) shall stipulate a form and content of the application for registration as well as the manner of registering in the Registry, as well as detailed procedure for determining amount and type of instruments of securing payment of the tax on coffee.

Tax Base and Tax Amount **Article 5**

- (1) The tax on coffee referred to in Article 3 paragraph 2 items 1 to 4 of this Law shall be paid per one kilogram of net mass of the coffee, and so for:
- 1) Not roasted coffee – 1.00 euro;
 - 2) Roasted coffee – 0.80 euro;

- 3) Coffee husks and skins – 1.00 euro;
 - 4) Extracts, essences and concentrates of coffee – 1.30 euro.
- (2) The tax on coffee referred to in Article 3 paragraph 2 items 5 to 7 of this Law shall be paid in the amount of 2.50 euro per one kilogram of net mass of coffee contained in the finished product.

Occurrence and Manner of Payment of the Tax Liability

Article 6

- (1) The obligation to calculate the tax on coffee referred to in Article 3 paragraph 2 of this Law shall occur:
- 1) At the event of import;
 - 2) At the moment of dispatch of coffee into a tax warehouse, except for:
 - Dispatch to another producer for further production, accompanied with a statement of recipient that the coffee will be used for further production of coffee.
 - Dispatch for export;
 - 3) At the moment of establishing a shortage or loss of coffee (hereinafter referred to as the expense) in the tax warehouse, except for expenses that the producer can prove that could be attributed to unforeseen circumstances or *force majeure*, or that the expense is inseparable from a product's characteristics occurred during the production and storage of coffee.
- (2) In the event of export of coffee referred to in paragraph 1 item 2 indent 2 of this Law, the exporter exporting coffee shall be obliged to submit for inspection to the competent customs authority an authenticated customs declaration as evidence that the coffee has left the territory of Montenegro.
- (3) The Ministry of Finance shall stipulate the form and the content of the statement referred to in paragraph 1 item 2 indent 1.
- (4) The Ministry of Finance shall stipulate the type and amount for recognised expenses referred to in paragraph 1 item 3 of this Law on which the tax on coffee shall not be paid.

Calculating the Tax on Coffee

Article 7

- (1) The tax on coffee shall be calculated by:
- 1) The competent customs authority – in the event referred to in Article 6 paragraph 1 item 1 of this Law;
 - 2) A taxpayer, producer on the day of dispatch of coffee from the tax warehouse – in the event referred to in Article 6 paragraph 1 item 2 of this Law;
 - 3) A taxpayer at the moment of determining expenses - in the event referred to in Article 6 paragraph 1 item 3 of this Law.

Tax Return Article 8

- (1) Taxable person of the tax on coffee shall be obliged to state the tax liability in the monthly return for calculation of the tax on coffee.
- (2) Taxable person of the tax on coffee shall be obliged to submit the return referred to in paragraph 1 of this Article to the competent customs authority by the 15th day of the following month for the previous month.
- (3) If the taxpayer fails to submit the return for calculation of the tax on coffee or does not have stipulated documentation and tax records, within the deadline referred to in paragraph 2 of this Article, the competent customs authority may assess the tax liability based on a completed control, by comparing it with a taxpayer carrying out a similar activity or based on other data on operation of the taxpayer.
- (4) The Ministry of Finance shall stipulate the form and content of the return referred to in paragraph 1 of this Article.

Paying the Tax Liability Article 9

- (1) The tax liability shall be due for payment on the 15th day in the month for the previous month.
- (2) Notwithstanding paragraph 1 of this Article, the obligation to pay the tax on coffee referred to in Article 6 paragraph 1 item 1 of this Law shall occur within deadlines set forth by customs regulations.

Tax on Coffee Refund Article 10

- (1) The tax on coffee refund shall be approved to a taxpayer – importer referred to in Article 4 paragraph 1 of this Law that exports coffee for which it has paid the tax at import, in the amount of the paid tax.
- (2) The tax credit shall be recognised to a taxpayer that exports coffee in the amount of paid tax at import.
- (3) The taxpayer referred to in paragraphs 1 and 2 of this Article shall submit a request for refund of the tax on coffee to the competent customs authority according to the place of its registered office or habitual residence.
- (4) The following shall be submitted along with the request for refund of the tax on coffee:

- Evidence that the tax on coffee was paid at import for the coffee being exported and evidence of coffee being exported;
 - Evidence that the coffee was procured at the domestic market with calculated tax on coffee and evidence of export of coffee produced from coffee with calculated and already paid tax.
- (5) An authenticated customs declaration issued by the competent customs authority shall be submitted as evidence that the coffee has left the territory of Montenegro.
- (6) A taxpayer that has exercised the right to refund of the tax on coffee and that has liabilities for other taxes at the same time, may be approved, upon its request, redirection of such funds for payment of other tax liabilities.

Registration of Taxpayers

Article 11

- (1) A producer of coffee shall be obliged to submit an application for registration as a taxpayer for the tax on coffee to the competent customs authority according to the place of its registered office or habitual residence by no later than 15 days before commencing activity of production of coffee.
- (2) A taxable person for the tax on coffee shall be obliged to notify the competent customs authority within the deadline referred to in paragraph 1 of this Article of the intent to cease the activity or terminate ceased production, forthwith.
- (3) The Ministry of Finance shall stipulate the form and content of the application referred to in paragraph 1 of this Article.

Taxpayer's Bookkeeping

Article 12

- (1) A producer of coffee shall be obliged to keep and state data required for proper and timely calculation and payment of the tax in its business records, and especially:
- 1) Data on place, country and date of procurement or delivery of coffee;
 - 2) Quantities of coffee produced, imported, exported, and sold;
 - 3) Stock of inventory and raw materials;
 - 4) Value, tax base, amount of tax, and amount of calculated tax on coffee.
- (2) Data referred to in paragraph 1 of this Article shall be recorded in bookkeeping records on daily basis or at the moment the business change occurred, and no later than until the commencement of the next business day from the occurrence of a business change.

Reporting Article 13

- (1) A taxable person for the tax on coffee shall compile a monthly report based on the data referred to in Article 12 of this Law and shall submit it to the competent customs authority according to the place of its registered office or habitual residence.
- (2) The report referred to in paragraph 1 of this Article shall be submitted by the end of the current month for the previous month, unless there were no business changes in which event no monthly report is to be submitted.
- (3) A producer of coffee that has more than one tax warehouse shall be obliged to submit to the competent customs authority a consolidated monthly report, if keeps a separate bookkeeping records for each tax warehouse.
- (4) In the event that approval for work of the tax warehouse ceases to be valid, the producer shall be obliged to calculate and pay the tax on inventory found in the tax warehouse and submit to the competent customs authority a monthly report within 30 days as of the day the approval ceased to be valid.
- (5) The Ministry of Finance shall stipulate the form and content of the report referred to in paragraph 1 of this Article.

Safekeeping of Documentation Article 14

A taxable person for the tax on coffee shall be obliged to safekeep the issued and received invoices, bookkeeping documents related to the production of coffee, for the period of five years upon the expiry of the year to which the documents refer.

Control of Calculation and Payment of the Tax on Coffee Article 15

The competent customs authority shall control the calculation and payment of the tax on coffee in accordance with this Law and the law governing the customs procedure.

Oversight Article 16

The Ministry of Finance shall carry out oversight over implementation of this Law and secondary legislation for implementation of this Law.

Application of other regulations

Article 17

The provisions of laws governing the tax or customs procedures shall be applied accordingly to the relations that are not specifically regulated by this Law.

Penalty Provisions

Article 18

- (1) A pecuniary fine from 1,000 euro to 15,000 euro shall be imposed for an offence on a taxpayer – legal person if:
 - 1) Fails to submit to the competent customs authority an application for registration in the Registry of taxable persons by no later than ten days before commencing to carry out coffee production or import activity (Article 4 paragraph 4);
 - 2) Fails to submit to the competent customs authority a return for calculation of the tax on coffee referred to in Article 8 paragraph 1 of this Law by the 15th day of the following month for the previous month (Article 8 paragraph 2);
 - 3) Fails to submit to the competent customs authority an application for registration of the taxable person of the tax on coffee by no later than 15 days before commencing to carry out coffee production or sale activity (Article 11, paragraph 1);
 - 4) Fails to notify the competent customs authority within the deadline referred to in Article 11 paragraph 1 of this Law on the intent to cease the activity or to terminate ceased production of coffee forthwith (Article 11 paragraph 2);
 - 5) Fails to provide in its bookkeeping all data required for proper and timely calculation and payment of the tax (Article 12 paragraph 1).
- (2) A pecuniary fine from 100 euro to 1,000 euro shall also be imposed on a responsible person in the legal person for the offence referred to in paragraph 1 of this Article.
- (3) A pecuniary fine from 500 euro to 6,000 euro shall be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.
- (4) A pecuniary fine from 100 euro to 1,000 euro shall be imposed on a natural person for the offence referred to in paragraph 1 of this Article.

Taking Inventory

Article 19

- (1) Taxable persons of the tax on coffee referred to Article 4 of this Law shall be obliged to take inventory of coffee stocks and make inventory records by the name of product or type of coffee stated in kilograms of net mass on the day this Law enters into force.

- (2) The records on taken inventory of stocks referred to in paragraph 1 of this Article shall be submitted to the competent customs authority within ten days as of the day the inventory is taken.

Expiry of Validity Article 20

Provisions of Article 1 paragraph 2 item 4 of the Law on Excise Taxes (Official Gazette of the Republic of Montenegro, No 65/01 and 76/05 and Official Gazette of Montenegro No 76/08, 50/09, 78/10, 61/11, 28/12, 38/13 and 45/14) shall cease to have effect as of the day this Law enters into force.

Entry into Force Article 21

This Law shall enter into force on the day following the day of its publication in the Official Gazette of Montenegro.

Number 16-03/14-6/10
EPA 694 XXV
Podgorica, 17 February 2015

25th Parliament of Montenegro
Speaker of the Parliament
Ranko Krivokapić, m.p.