

**Activity subject to excise licence**

Anyone intending to perform an activity subject to excise licence must submit an application for a licence to the National Tax and Customs Administration (NTCA). NTCA decides to issue the licence on the basis of the application.

The Booklet summarizes the rules for issuing excise-type licences. It contains a description of the activities subject to licence and the conditions for granting the licence. It describes the rules for revoking or suspending a licence.

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## **I. What are the activities subject to excise licence?**

The production, storage, use, receipt, forwarding and trade of the excise goods may be performed with a licence issued by NTCA<sup>1</sup>.

Excise goods shall mean energy products, beer, still and sparkling wine, other still and sparkling fermented beverages, intermediate alcohol products, alcohol and tobacco products.

### **1. Tax warehouse licence<sup>2</sup>**

Without paying the tax (in a tax suspension procedure<sup>3</sup>) the excise goods

- may be produced
- may be stored,
- may be used
  - for excise goods exempt from tax,
  - for other goods (for example: acetic acid, chemical, cosmetic and other non-human products),
- may be dispatched
- and may be collected in a tax warehouse.

The production and storage of the following products do not require a tax warehouse licence<sup>4</sup>

- energy product other than a controlled energy product (electricity, natural gas, coal),
- spirits produced by way of private distillation;
- a beverage intended for direct consumption if the amount of tax paid on the ingredients reaches the tax content of the excise goods produced from the mixture (for example: making a cocktail for guests in a catering unit),
- beer, still wine, sparkling wine, other still and sparkling fermented beverages produced by exempted private individuals;
- still wine produced by a small wine producer, sparkling wine fermented in bottle,
- alcohol products made and used for scientific and education purposes;
- other tested mineral oils produced in the intermediate phase during the waste recovery activity (subject to the notification required for the activity),
- alcohol product generated in the intermediate phase of the production of biological acetic acids (subject to the notification required for the activity),
- energy products made by way of blending taxed additives with motor fuel (in a ratio of no more than 0.2 per cent by volume);
- food supplement prepared using taxed excise goods,
- chocolate made from alcoholic fruit without juice.

### **2. Simplified tax warehouse licence<sup>5</sup>**

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<sup>1</sup> Excise goods and activity pursuant to Act LXVIII of 2016 on Excise Tax (hereinafter: Excise Tax Act).

<sup>2</sup> Section 3 (1) Item 4 of the Excise Tax Act.

<sup>3</sup> The tax suspension arrangement used for the production, storage or transport of excise goods outside a customs suspensive procedure. In excise proceedings the tax is the excise tax on excise goods and, in the case of tobacco products, the value added tax on tobacco products [Section 3 (1) Items 1 and 2 of the Excise Tax Act].

<sup>4</sup> Section 19 (1) of the Excise Tax Act

<sup>5</sup> Section 134 of the Excise Tax Act

If the still wine is to be produced in a tax warehouse (not as a small wine producer<sup>6</sup>), the still wine can only be produced with a simplified tax warehouse licence.

The following can be produced and stored in a simplified tax warehouse:

- still wine,
- bottled spritzer made from still wine,<sup>7</sup>
- sparkling wine made from self-produced still wine with bottle fermentation, up to a maximum stock of 50,000 litres.

In addition to the above products, no other excise goods (beer, other sparkling wine, other still or sparkling fermented beverages, intermediate alcohol product, alcohol product) may be produced, stored or bottled in a simplified tax warehouse.

Still wine can be bottled in other tax warehouses, and bottled still wine can be stored in other tax warehouses.

### **3. Authorization for use<sup>8</sup>**

The following activities can be performed with an authorization for use:

- the use and presentation of other tested mineral oils in containers of more than 5 litres/kilogram,
- production of controlled products (including if generated as by-products by manufacturing processes),
- use, packaging of the controlled goods,
- use and packaging of completely denatured alcohol products in containers holding 2 litres or more.

Other tested mineral oil products and controlled goods may not be used for purposes as motor fuel or as industrial or household heating fuel.

### **4. Registered trader licence<sup>9</sup>**

A registered trader is entitled to receive excise goods transported from another Member State under a tax suspension arrangement at the site of the licence.

### **5. Ad hoc registered trader licence<sup>10</sup>**

The ad hoc registered trader is entitled to take delivery of a consignment with its licence.

### **6. Registered consignor licence<sup>11</sup>**

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<sup>6</sup> Section 3 (3) Item 16 of the Excise Tax Act.

<sup>7</sup> Other still fermented beverages [Section 129 a) of the Excise Tax Act].

<sup>8</sup> Section 3 (1) Item 19, Section 121, Section 124 and Section 144 of the Excise Tax Act.

<sup>9</sup> Section 3 (1) Item 9 of the Excise Tax Act.

<sup>10</sup> Section 3 (1) Item 16 of the Excise Tax Act.

<sup>11</sup> Section 3 (1) Item 8 of the Excise Tax Act.

Under the tax suspension procedure, the registered consignor is entitled to dispatch the excise goods imported from a third country and released for free circulation from the place of importation to the consignee (tax warehouse, Member State tax warehouse, Member State registered trader). The excise goods are transported directly from the importer to the consignee, so the untaxed, imported excise goods do not become the property of the registered consignor.

As the activity of a registered consignor is limited to the transport of excise goods, it is not necessary to have an establishment in order to perform the activity of a registered consignor, unlike other types of authorization.

## **7. Excise licence<sup>12</sup>**

Commercial activity in free circulation may be performed subject to an excise licence.

Commercial activity subject to an excise licence includes

- wholesale activity under the Act on Trade,
- export, import activity,
- transport from one Member State to the domestic territory and from the domestic territory to another Member State for commercial purposes.

Excise licensed activities can be performed with the following goods:

- LPG in packages of more than 5 kilograms,
- Other tested mineral oil products in containers of 5 litres/kg or less and more than 1 litre/kg [for wholesale activities only],
- Other tested mineral oil products in packaging of more than 5 litres/kg [only for export and import activities, for transport from one Member State to the domestic territory and from the domestic territory to another Member State],
- a controlled energy product different from those in the previous paragraphs,
- lubricating oils,
- beers,
- still wine,
- sparkling wine,
- other still fermented beverages,
- other sparkling fermented beverages,
- intermediate alcohol products,
- alcohol products,
- tobacco products.

## **II. General conditions of the authorisation procedures<sup>13</sup>**

An authorisation may be granted to a person

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<sup>12</sup> Section 67 (1) of the Excise Tax Act

<sup>13</sup> Section 14 (1) of the Excise Tax Act

- who keeps his books in the double-entry system, or in the case of private entrepreneurs and small-scale agricultural producers, who keeps his books in accordance with the Personal Income Tax Act,
- who is not adjudicated in bankruptcy or liquidation proceedings, or not undergoing voluntary dissolution,
- who has no outstanding public dues unpaid, or unpaid social security contributions, except if deferred payment or payment by instalment was granted;
- who provides excise guarantee,
- who possesses official permits, certificates which are prescribed by law for the activities envisaged,
- who is able to provide for the conditions and facilities required for the activities envisaged and for control procedures,
- who fulfils the conditions for no criminal record.

In order to control the authorised activity, the excise regulations provide separately for the data content of the register to be kept, the manner of registration and the provision of data from it.

### **III. Special conditions for granting an authorisation**

#### **1. Tax warehouse licence**

An applicant for the authorisation must, in accordance with the general conditions, fulfil the following requirements:<sup>14</sup>

- electronic record keeping<sup>15</sup>,
- professional qualification of excise officer or employment of an excise officer<sup>16</sup>,
- the existence of material conditions necessary for the production and safe storage of the excise goods,
- the existence of the material conditions necessary for the accurate quantitative accounting of excise goods produced, used, stored and products produced using excise goods,
- a detailed description of the activity to be performed in the tax warehouse,
- a balance sheet certified (audited) by an independent auditor from the year following the year of issue of the tax warehouse licence, unless the authorised tax warehouse operator is not required to be audited<sup>17</sup>,
- designation of a person responsible for providing on-site inspection conditions and liaisoning.

A licensed tax warehouse operator providing contract distillation service only does not have to fulfil the obligation to keep books in accordance with the general conditions and to keep electronic registers, and to employ a professional excise officer/to employ an excise officer.<sup>18</sup>

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<sup>14</sup> Section 20 of the Excise Tax Act

<sup>15</sup> Section 9 of the Decree of the Minister of National Economy 45/2016 (29 November) NGM on the implementation of the provisions of the Excise Tax Act (hereinafter: Implementation Decree) regulates the requirements specified for the electronic register.

<sup>16</sup> Section 6 of the Implementation Decree.

<sup>17</sup> The rules of auditing are regulated by Act C of 2000 on Accounting (hereinafter: Accounting Act).

<sup>18</sup> Section 142 (1) of the Excise Tax Act.

Among the special conditions, the authorised operator of a micro brewery tax warehouse does not have to fulfil the obligation prescribed for the professional qualification of an excise officer/employment of an excise officer.<sup>19</sup>

The authorised operator of the pipeline tax warehouse does not have to provide excise guarantee and keep an electronic register.<sup>20</sup>

The discounts specified for the amount of the excise guarantee cannot be enforced if the authorised operator of a tax warehouse qualifies as a risky taxpayer.<sup>21</sup>

In order to meet the material conditions, NTCA may require the verification of storage tanks, the use of certified measuring instruments or the use of an official seal in the tax warehouse in order to perform the activity.<sup>22</sup>

NTCA may order the use of an official seal in order to prevent the excise goods from being removed from the closed system of the plant, bypassing the measuring equipment and without violating the official seal, and the plant not being used for its intended purpose.

## **2. Simplified tax warehouse licence**

The applicant for the licence does not have to fulfil the obligations relating to

- bookkeeping,
- no prior criminal record,
- electronic record keeping,<sup>23</sup>
- the professional qualification of excise officer/employment of an excise officer,
- auditing the balance sheet.

Furthermore, the issue of a license is not conditional on the certification of a device for storing still wine.

If the authorised operator of a simplified tax warehouse meets the conditions of small wine producer, they are exempted from the tax warehouse licensee requirements on the basis of their declaration to NTCA. A farmer who produces bottled sparkling wine as a risky taxpayer under the RTA may carry on their business only with a simplified tax warehouse licence, even if the conditions laid down for small wine producer activities are met.

The authorised operator of a simplified tax warehouse does not have to provide an excise guarantee for bottle-fermented sparkling wine (0 tax rate) until they are considered a risky taxpayer according to the RTA. As a risky taxpayer, the amount of the excise guarantee is HUF 250,000.

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<sup>19</sup> Section 126 of the Excise Tax Act.

<sup>20</sup> Section 120 (1) of the Excise Tax Act.

<sup>21</sup> The rules of risky taxpayer qualification are regulated by Act CL of 2017 on the on the Rules of Taxation (hereinafter: RTA).

<sup>22</sup> Section 22 (2) of the Excise Tax Act.

<sup>23</sup> The Excise Tax Act does not provide for keeping the records of an authorised operator of a simplified tax warehouse. The record keeping is regulated in the Decree of the Minister of Rural Development (VM) 27/2011 (12 April) on the uniform system of documentation, record keeping and accounting of wine products.

### **3. Authorization for use<sup>24</sup>**

An applicant for the authorisation must, in accordance with the general conditions, fulfil the following requirements:

- electronic record keeping,
- a detailed description of the activity to be performed in the user plant,
- designation of a person responsible for providing on-site inspection conditions and liaisoning.

In order to control the activity, NTCA may require the verification of storage tanks, the use of certified measuring instruments or the use of an official seals in the authorised user's plant in order to continue the activity.

The discounts specified for the amount of the excise guarantee cannot be enforced if the authorised user qualifies as a risky taxpayer according to the RTA.

### **4. Registered Trader Licence, Registered Consignor Licence<sup>25</sup>**

In addition to the general conditions, registered traders and registered consignors must have a balance sheet certified (audited) by an independent auditor from the year following the year of issue of the authorisation even if the applicant for the permit is not obliged to have their financial statements audited according to the Accounting Act.

The registered trader and the registered consignor do not have to keep separate records and provide data from them, given that the data related to their activities are available in the EU computer system.

The registered trader is only obliged to keep a separate electronic register of received seals for excise goods for which excise seal is required.<sup>26</sup>

### **5. Ad hoc registered traders<sup>27</sup>**

By way of derogation from the general rules, an ad hoc registered trader licence may be granted to a person:

- who is not adjudicated in bankruptcy or liquidation proceedings, or not undergoing voluntary dissolution,
- who has no outstanding public dues unpaid, or unpaid social security contributions, except if deferred payment or payment by instalment was granted,
- who has provided excise guarantee in an amount sufficient to cover the tax chargeable on excise goods received under a tax suspension arrangement.

### **6. Excise licence<sup>28</sup>**

In addition to the general rules, the applicant must comply with the following requirements:

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<sup>24</sup> Sections 31-33 of the Excise Tax Act.

<sup>25</sup> Section 25, Section 27 of the Excise Tax Act.

<sup>26</sup> Section 78 (1) of the Excise Tax Act

<sup>27</sup> Section 26 of the Excise Tax Act.

<sup>28</sup> Section 28, Section 29 of the Excise Tax Act.

- electronic record keeping,
- in the case of petrol, jet fuels, gas oils and fuel oils, a storage tank having a nominal capacity of at least 500 cubic meters in each facility, with the exception if purchased by means other than in bulk forms,
- in the case of LPG, a storage tank having a nominal capacity of at least 300 cubic meters in each facility, with the exception of LPG in cylinders of 25 kilograms or less,
- in the case of lubricating oils, a storage area of at least 50 square meters in each facility.

An exemption from compliance with the obligations for the excise guarantee and storage capacity may be requested from NTCA by a person who is able to verify the use of lubricating oils imported from any Member State or from elsewhere for own purposes only.

The discounts specified for the amount of the excise guarantee cannot be enforced if the authorised excise trader qualifies as a risky taxpayer according to the RTA.

#### **IV. Submission of an application for a licence, conducting the authorisation procedure**

The continuation of the activity requiring a licence is subject to personal, guarantee and material conditions, for the fulfilment of which the documents and declarations certifying the existence of the conditions prescribed in the Implementation Decree<sup>29</sup> must be submitted with the application for the licence.

In the licensing procedure, the administration can, as a general rule, be done electronically. The application for a licence can be submitted electronically on form NAV\_J31. The supply of an excise guarantee may be submitted on a separate form NAV\_J38.<sup>30</sup>

The application for the authorisation is assessed by the competent directorate of NTCA. The first instance procedure initiated by submitting the application is free of duty.<sup>31</sup>

During its procedure, NTCA examines whether the conditions for issuing the authorisation have been met. The application for authorisation shall be assessed within 30 days, in the case of an ad-hoc registered trader and a registered consignor within 15 days, which administrative period may be extended once by no more than 30 days. NTCA sends the authorisation to the applicant via the customer port of entry/company port of entry.

## **Attachments**

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<sup>29</sup> Sections 2-3 and Section 8 of the Implementation Decree.

<sup>30</sup> Non-resident farmers who are not established in the domestic territory may choose to apply for an excise licence on paper. Form NAV\_J31: "Application for the authorization of activities under the Excise Tax Act", form NAV\_J38: "Application for the acceptance of the excise guarantee offered/ modification of the excise guarantee accepted or set at a different amount" form.

<sup>31</sup> The competence of the NTCA Directorates is regulated by Government Decree 485/2015 of 29 December on the Competence and Jurisdiction of the Organisations of the National Tax and Customs Administration. The procedure is duty-free in accordance with Section 33(2) item 23 of Act XCIII of 1990 on Duties.



The documents and declarations required for the authorisation of the activity may be attached to the application in electronic copies. By way of derogation from the general rule, the following documents must be submitted in original<sup>32</sup>

- document containing the statement of commitment if the excise guarantee is provided by means other than cash (financial security);
- the certificate of no criminal record,
- the specimen signature in an authentic instrument of the individual entitled to sign for the simplified accompanying document (SAD), the wine accompanying document (WAD) and the document used for release for (domestic) free circulation.

The original paper-based document must be sent to the relevant NTCA Directorate in person or by post as part of the application for authorisation.

The applicant may waive the attachment of a certificate of no criminal record if they fulfil the certification of no criminal record in some other way<sup>33</sup> specified in the Excise Tax Act.

#### Verification of material conditions

NTCA checks the fulfilment of the material conditions in the framework of an on-site inspection. The applicant shall provide NTCA with the documents to be presented during the inspection in electronic form.<sup>34</sup>

As part of the on-site inspection, NTCA prepares a technical description of the equipment, storage tanks and the applied official seals of the tax warehouse (except for the authorised operators of a simplified tax warehouse) and the authorised user's facility.

The authorised operator is obliged to keep the equipment in the condition specified in the technical description, to notify any changes made to the equipment, and to be responsible for keeping the official seals used in the plant intact.<sup>35</sup>

### **V. Withdrawal and suspension of authorisations<sup>36</sup>**

NTCA monitors on an ongoing basis compliance with the conditions considered during the authorisation procedure, including those to be satisfied after the authorisation is granted, as well as the circumstances under which the activity is performed.

Deficiencies that jeopardize the controllability of the activity or the fulfilment of the tax payment obligations

If the deficiencies jeopardise the controllability of the activity or the fulfilment of the tax payment obligation, NTCA will suspend or revoke the authorisation, depending on whether the deficiency may be eliminated within 30 days.

#### **Immediate revocation of authorisation**

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<sup>32</sup> Section 14 (1a) of the Excise Tax Act.

<sup>33</sup> Section 92 (1) of the Excise Tax Act

<sup>34</sup> Section 2 (3)-(5) of the Implementation Decree.

<sup>35</sup> Section 5 of the Implementation Decree.

<sup>36</sup> Section 15 (2)-(9) of the Excise Tax Act.

If the deficiency cannot be rectified within 30 days, NTCA will revoke the authorisation.

### **Suspension of the authorisation**

If the deficiency can be rectified within 30 days, NTCA will suspend the authorisation until the deficiency is rectified, but for no more than 30 days. If the deficiency is not rectified, NTCA will revoke the authorisation.

As a factor triggering the suspension of the authorisation, NTCA's electronic system continuously checks whether the excise guarantee provided by the licensee complies with the regulations and whether it covers the tax risk. If an adequate excise guarantee is not available for the continuation of the activity, the electronic system will automatically block the activity of the consignor, consignee, transfer licensee (licensed tax warehouse operator, registered trader, registered consignor) in the tax suspension procedure linked to the EU computer system. The automatic measure refuses to transmit the electronic acknowledgment of receipt and the approval and transmission of the draft e-ADEG (delivery and receipt with tax suspension).

NTCA will review the automatic measure immediately, but no later than within three days. If it is necessary to maintain the automatic measure, NTCA will decide to suspend the authorisation.

While the authorization is suspended:

- NTCA shall not approve or forward the electronic document made out by the holder of authorization in the EU computer system, shall not send or forward electronic documents and shall not provide excise seals to the holder of authorization, and shall notify the holder of authorization thereof,
- the holder of authorization may not release excise goods for free circulation, may not dispatch or receive excise goods released for free circulation under a tax suspension arrangement, and may not distribute excise goods released for free circulation, and
- the holder of authorization may not produce or use excise goods, and may not perform any activity that may be exempted from tax payment obligation.

The suspension shall not apply to production or use, if shutting production down is likely to be unduly risky or likely to result in undue losses for technical or safety reasons or for reasons of disaster management. The existence of this condition may be stated in the authorisation at the request of the licensee.

Deficiencies that do not jeopardize the controllability of the activity or the fulfilment of the tax payment obligations

If the detected deficiency does not endanger the controllability of the activity or the fulfilment of the tax payment obligation, NTCA will first call on the licensee to rectify the deficiency. NTCA will only revoke the authorisation if the deficiency is not remedied.

### **Examination of public debt**

The Excise Tax Act provides separately for the revocation of the authorisation in respect of public debt.

In the event of non-payment of public dues, and when outstanding public dues are established, NTCA revokes the authorization if the holder of authorization:

- has not fulfilled his obligation to pay public dues in terms of any type of tax, or failed to pay his debt within sixty days past the due date, provided that the amount of the liability is higher than 100,000 forints, except if the holder of authorization paid his debts before the opening of the proceedings for the withdrawal of his authorization, or if deferred payment or payment by instalment was allowed, or
- was found by definitive decision of the state tax and customs authority in default by more than 10 per cent of the outstanding public due pertaining to the period under review, and the RTA excludes the reduction of a tax penalty based on the nature of the conduct.

## **VI. Further information, assistance**

If you have any further questions about excise licences, do not hesitate to contact us at the contact details below.

On Internet:

- on the NTCA website at [www.nav.gov.hu](http://www.nav.gov.hu).

Via e-mail:

- using the form available at the link: <http://nav.gov.hu/nav/e-ugyfsz/e-ugyfsz.html>.

By telephone:

- on the NTCA Info line
  - 1819 in Hungary,
  - +36 (1) 250-9500 from abroad.
- Through NTCA Customer Information and Administration Centre (ÜCC)\*
  - in Hungary on 80/20-21-22,
  - from abroad on +36 (1) 441-9600.

The NTCA Info Line and the ÜCC can be called from Monday to Thursday from 8:30 a.m. to 4 p.m., and on Fridays from 8:30 a.m. to 1:30 p.m.

\* You need to have a customer identification number or Partial Code Phone Identification (RKTA) to use the system. If you do not have a customer identification number, you may request it on the form TEL that shall be lodged to the NTCA in person or through KÜNY. Please note that if you wish to use ÜCC not in your own matter, you shall also file a form named EGYKE.

In person:

- at the NTCA Customer Services throughout Hungary.

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Customer Service Finder: <https://nav.gov.hu/nav/ugyfelszolg>.

National Tax and Customs Administration