

## **THE LAW OF UKRAINE**

**No. 374-V of 17 November 2006**

### **On Amendment of some Laws of Ukraine (regarding license fees and the excise duty on the manufacture of spirits, alcoholic beverages and tobacco products)**

The Verkhovna Rada of Ukraine hereby decrees to:

To introduce changes to the following laws of Ukraine:

1. In the Law of Ukraine “On State Regulation of the Manufacture and Sale of Ethyl Alcohol, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1995, No. 46, Article 345; 1997, No. 45, Article 286; 1998, No. 18, Article 91; 2000, No. 30, Article 240; 2001, No. 11, Article 45; 2002, No. 26, Article 175; 2003, No. 33-34, Article 267; 2005, No. 4, Article 91; No. 17, No. 18-19, Article 267; 2006, No. 8, Article 89; No. 33, Article 278):

1) the language of Article 4 shall be worded as follows:

"To establish a license fee for the manufacture of ethyl, cognac and fruit spirits, ethyl rectified grape spirits, ethyl rectified fruit spirits, alcoholic beverages, tobacco products, crude grape spirits, crude fruit spirits and for primary wineries in the amount of UAH 780.

Licenses shall be issued for the term of five years and license fees shall be levied on an annual basis.

The license fee shall be levied before beginning to manufacture the said products by the licensing body in the amounts established by this Law and shall be transferred to the state budget.

For the issuance of a duplicate license, a fee shall be levied in the amount of UAH 780 and transferred to the state budget.”

Payment for the entire term of the license shall not be allowed.

Payment of a regular license fee shall be effected in the amount established by this Law and levied for each successive annual term of the license.

2) in Article 14:

part six shall be worded as follows:

"The annual license fee for the right to import or export ethyl, cognac and fruit spirits, ethyl rectified grape spirits, and ethyl rectified fruit spirits shall be UAH 780.

The annual license fee to engage in wholesale trade in ethyl, cognac and fruit spirits, ethyl rectified grape spirits, and ethyl rectified fruit spirits shall be UAH 500,000.

Licenses shall be issued by the body authorized by the Cabinet of Ministers of Ukraine for the term of five years and the license fee shall be transferred to the state budget”;

3) Article 15 shall be worded as follows:

"Article 15. Import, export, wholesale and retail trade in alcoholic beverages and tobacco products

Import, export, wholesale and retail trade in alcoholic beverages and tobacco products may be carried out by business subjects of all forms of ownership provided they hold a license.

The license fee to import, export alcoholic beverages and tobacco products shall be UAH 780.

The annual license fee to engage in wholesale trade shall be:

- for trade in alcoholic beverages – UAH 500,000;
- for trade in tobacco products - UAH 500,000.

Licenses to import and export alcoholic beverages and tobacco products shall be issued for a term of 5 years by the executive body authorized by the Cabinet of Ministers of Ukraine.

Licenses to engage in wholesale trade shall be issued for a term of 5 years by executive bodies authorized by the Cabinet of Ministers of Ukraine in the Autonomous Republic of Crimea, oblasts, the cities of Kyiv and Sevastopol.

License fees shall be levied by the licensing body in amounts established by this Law and transferred to the State Budget.

Business subjects that were issued licenses to manufacture or import alcoholic beverages or tobacco products shall supply these products to wholesale and retail trade enterprises and other Ukrainian consumers provided they hold a license to engage in wholesale trade.

Primary wineries shall supply wine materials to secondary production enterprises without a license to engage in wholesale trade.

Shipping alcoholic beverages and tobacco products intended for sale through duty-free shops shall be carried out by business subjects that were issued a license to export alcoholic beverages and tobacco products with formalizing a customs cargo declaration; the minimum wholesale prices shall not be applied to alcoholic beverages.

Retail trade in alcoholic beverages or tobacco products may be carried out by business subjects of all forms of ownership including their manufacturers provided they hold a license.

The license fee to engage in retail trade in alcoholic beverages shall be UAH 8,000 per each separate electronic cash register specified in the license (an accounting book for settlement transactions) located at the trade outlet; retail trade in tobacco products per each trade outlet – UAH 2,000; and in the territory of villages and settlements except for those located within city boundaries – UAH 500 for retail trade in alcoholic beverages per each separate electronic cash register specified in the license (an accounting book for settlement transactions) located at the trade outlet; and UAH 250 for retail trade in tobacco products per each trade outlet.

For trade outlets located up to 50 km away from the territory of oblast subordination cities and the cities of Kyiv and Sevastopol having salesrooms whose space is over 500 square meters, the license fee to engage in retail trade in alcoholic beverages shall be UAH 8,000 per each separate electronic cash register specified in the license (an accounting book for settlement transactions) located at the trade outlet and UAH 2,000 – for retail trade in tobacco products per each trade outlet.

The license fee to engage in retail trade in alcoholic beverages and tobacco products shall be levied on a quarterly basis in equal installments and transferred to the state budget in accordance with current legislation.

Licenses to engage in retail trade in alcoholic beverages and tobacco products shall be issued by executive bodies authorized by the Cabinet of Ministers of Ukraine in cities, districts, districts in the cities of Kyiv and Sevastopol at the location of the business subject's trade outlet for the term of one year and shall be registered with the body of the State Tax Service of Ukraine, and in the rural area, also with the local government body at the location of the business subject's trade outlet.

Licenses to engage in retail trade in alcoholic beverages and tobacco products in trains, on board of sea or river vessels shall be issued by executive bodies authorized by the Cabinet of Ministers of Ukraine in cities, districts, districts in the cities of Kyiv and Sevastopol at the location where the train was formed (the home port of the vessel is).

The license shall be issued upon business subject's application, attached to which shall be a copy of the business subject's state registration certificate certified by a notary or by the body that issued the original document. To receive a license to engage in retail trade in alcoholic beverages, a statement of the tax service shall be attached confirming the registration of electronic cash registers (accounting books for settlement transactions) located at the trade outlet.

The application shall specify the business activity for the conduct of which the business subject intends to receive the license (import, export, wholesale and retail trade in alcoholic beverages or tobacco products).

The application for a license to engage in retail trade in alcoholic beverages shall additionally specify the list of electronic cash registers (accounting books for settlement transactions) located at the trade outlet as well as the address of the trade outlet.

The application for a license to engage in retail trade in tobacco products shall specify the address of the trade outlet.

In the annex to the license to engage in retail trade in alcoholic beverages, the business subject shall specify the address of the trade outlet and the list of electronic cash registers with information thereon: the model, modification, the construction number, the manufacturer, the date of manufacture; registration numbers of accounting books for settlement transactions located at the trade outlet.

It shall be prohibited to demand submitting other documents than those specified in this Law. One copy of each document specified in this Law shall be submitted; such copies shall be either notarized or certified by the body that issued the original document. The license application and the documents specified by this Law shall be filed by the applicant's authorized person or sent by registered mail. In case the license application and the documents attached thereto are filed personally, they shall be accepted based on the list, which copy shall be issued to the applicant with the mark confirming the date of accepting the application and the documents and the signature of the person who accepted them.

The license or a decision to refuse issuing the license shall be provided to the applicant within 10 calendar days after receiving the documents specified in this Law. The decision to refuse issuing the license shall indicate the ground for refusal.

The license shall be suspended if a regular license payment is late based on written instructions of the licensing body for the period until the debt is paid.

A license shall be considered as suspended from the moment the business subject receives the relevant written instructions of the licensing body; it shall be resumed from the moment the regular license payment is transferred to the budget.

The license shall be cancelled by the licensing body issuing relevant written instructions based on:

- business subject's application;
- the decision on cancelling the business subject's state registration;
- delaying a regular license payment for 30 calendar days from the moment of suspending the license;
- a court decision establishing the fact of business subject's illegitimately using excise duty stamps (with respect to importers);
- a court decision establishing the fact of business subject's selling alcoholic beverages or tobacco products without excise duty stamps;

a court decision establishing the fact of business subject's moving alcoholic beverages or tobacco products outside customs control.

The license shall be cancelled and considered invalid from the moment the business subject receives written instructions regarding its cancellation.

In case the information contained in the license issued to the business subject should change (except for changes related to a reorganization of the business subject), the licensing body shall, within three working days, issue the license to the business subject based on their application formalized on a new form with due regard to the changes.

If the license should be lost or damaged, the licensing body shall, within three working days, issue a duplicate license to the business subject based on their application. The term of the duplicate license may not exceed the term specified in the lost or damaged license.

A fee shall be levied for the issuance of a duplicate license to engage in wholesale trade, retail trade, or import, or export in the amount of UAH 780, which shall be transferred to the budget in accordance with current legislation.

Alcoholic beverages and tobacco products shall be stored at places intended for storage of alcoholic beverages and tobacco products included in the Unified Registry irrespective of who owns such storage place or which business subject filed the application to include the storage place in the Unified Registry.

Inputting data onto the Unified Registry shall be effected based on a business subject's application specifying the location of the alcoholic beverages and tobacco products storage place as well as: for legal entities – the name, location, code in the Unified State Registry of Legal Entities and Private Entrepreneurs; for individual entrepreneurs – the first, middle and last name, residential address, the number of the business subject's state registration certificate.

A notarized copy of the license to engage in the relevant activity issued to the applicant shall be attached to the application as well as the document confirming the right to use the premises.

A statement on the inclusion of the storage place in the Unified Registry shall be issued to the business subject within seven calendar days after filing the application. The maintenance of the Unified Registry and the issuance of statements on the inclusion of storage places in the Unified Registry shall be financed from the state budget of Ukraine. The authorities shall insure free access to the information contained in the Unified Registry.

The exclusion of storage places from the Unified Registry shall be effected by the body of the State Tax Service of Ukraine that included them in the Unified Registry based on a written application of the business subject that was the applicant of such storage place or in case of cancelling the license issued to such business subject in accordance with this Law, by issuing relevant written instructions no later than 10 days after the grounds stipulated by this Law arise.

The body of the State Tax Service of Ukraine shall provide the business subject that was the applicant with a notarized copy of written instructions on the exclusion of the storage place from the Unified Registry within three working days after their approval.

It shall be prohibited to pay the excise duty on alcoholic beverages and tobacco products by offsets, counter liabilities, notes and in other forms that do not envision payment of such excise duty in cash.

In case of sale (other types of alienation) of alcoholic beverages and tobacco products under barter (goods exchange) transactions or other transactions that do not envision payment in the monetary form, including notes or other debentures, the purchaser (recipient) of excisable products shall pay the amount of excise duty included in the price of the products as well as the value added tax accrued to such price in the monetary form. In accordance with the same

procedure, costs of the manufacture (processing, conditioning) of excisable products on tolling terms shall be paid. "

**2. In the Law of Ukraine “On Excise Duty Rates on Ethyl Spirits and Alcoholic Beverages”** (Bulletin of the Verkhovna Rada of Ukraine, 1996, No. 28, Article 131; 2003, No. 33-34, Article 267; 2005, No. 4, Article 91, No. 17-19, Article 267):

1) in Article 1, figures and words:

<b>Code of goods in accordance with UCCFEA</b>	<b>Description of goods</b>	<b>Excise duty rates in UAH per unit of goods</b>
“2207	Non-denatured ethyl spirits with the concentration of alcohol at least 80 per cent of the volume, ethyl spirits and other denatured spirits of any concentration	17 UAH for 1 liter 100-proof spirits
2208 (except 2208 20)	Non-denatured ethyl spirits with the concentration of alcohol less than 80 per cent of the volume, spirit infusions, liquors and other spirit beverages	17 UAH for 1 liter 100-proof spirits
2208 20 (except 2208 20 12 00, 2208 20 29 00 – only brandy, 2208 20 89 00 – only cognac spirits)	Spirit beverages produced by distilling grape wine or husks of grapes	17 UAH for 1 liter 100-proof spirits
2208 20 12 00	Cognac	6 UAH for 1 liter 100-proof spirits
2208 20 29 00	Only brandy	6 UAH for 1 liter 100-proof spirits

shall be replaced by the following figures and words:

<b>Code of goods in accordance with UCCFEA</b>	<b>Description of goods</b>	<b>Excise duty rates in UAH per unit of goods</b>
“2207	Non-denatured ethyl spirits with the concentration of alcohol at least 80 per cent of the volume, ethyl spirits and other denatured spirits of any concentration	19 UAH for 1 liter 100-proof spirits
2208 (except 2208 20)	Non-denatured ethyl spirits with the concentration of alcohol less than 80 per cent of the volume, spirit infusions, liquors and other spirit beverages	19 UAH for 1 liter 100-proof spirits
2208 20 (except 2208 20 12 00, 2208 20 29 00 – only brandy, 2208 20 89 00 – only cognac spirits)	Spirit beverages produced by distilling grape wine or husks of grapes	19 UAH for 1 liter 100-proof spirits
2208 20 12 00	Cognac	7 UAH for 1 liter 100-proof spirits

2208 20 29 00	Only brandy	7 UAH for 1 liter 100-proof spirits
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2) Article 7 shall be worded as follows:

“To temporarily establish excise duty rates for the following goods for the period from 01.01.2007 to 01.07.2007:

<b>Code of goods in accordance with UCCFEA</b>	<b>Description of goods</b>	<b>Excise duty rates in UAH per unit of goods</b>
“2207	Non-denatured ethyl spirits with the concentration of alcohol at least 80 per cent of the volume, ethyl spirits and other denatured spirits of any concentration	18 UAH for 1 liter 100-proof spirits
2208 (except 2208 20)	Non-denatured ethyl spirits with the concentration of alcohol less than 80 per cent of the volume, spirit infusions, liquors and other spirit beverages	18 UAH for 1 liter 100-proof spirits
2208 20 (except 2208 20 12 00, 2208 20 29 00 – only brandy, 2208 20 89 00 – only cognac spirits)	Spirit beverages produced by distilling grape wine or husks of grapes	18 UAH for 1 liter 100-proof spirits
2208 20 12 00	Cognac	6.5 UAH for 1 liter 100-proof spirits
2208 20 29 00	Only brandy	6.5 UAH for 1 liter 100-proof spirits

3. In the Law of Ukraine “On Excise Duty Rates on Tobacco Products” (Bulletin of the Verkhovna Rada of Ukraine, 1996, No. 8, Article 32; 2005, No. 7-8, Article 162, No. 17-19, Article 267):

1) Article 1 shall be worded as follows:

Article 1. The following excise duty rates on tobacco products shall be established:

<b>Code of goods (products) in accordance with UCCFEA</b>	<b>Description of goods (products) in accordance with UCCFEA</b>	<b>Excise duty rates in hard amounts per one unit of sold goods (products)</b>	<b>Excise duty rates as a percentage of the goods (products) sales turnover</b>
2401	Tobacco raw materials. Tobacco waste	0	0
2402 10 00 00	Cigars including cigars with cut-off tips and cigarillos (slim cigars) containing tobacco	30 UAH for 1000 pieces	8
2402 20 90 10	Tobacco cigarettes without filter	5 UAH for 1000 pieces	10
2402 20 90 20	Tobacco filter cigarettes	13 UAH for 1000	10

		pieces	
2403 (except 2403 99 10 00, 2403 10)	Tobacco and tobacco replacement products, other, industrially manufactured; “homogenized” or “restored” tobacco, tobacco extracts and essences	0	0
2403 10	Smoking tobacco containing or not containing replacements in any proportion	12 UAH for 1 kg	10
2403 99 10 00	Chewing and sniffing tobacco	5 UAH for 1 kg	8

In determining the tax liability for payment of the excise duty on tobacco products for each 1000 pieces of sold goods (products), which shall be calculated simultaneously at the excise duty rates established by law in hard amounts per 1000 units of sold goods (products) for relevant tobacco products and as a percentage of goods (products) turnover, the amount of such liability may not be less than 24 per cent of the maximum retail price for each brand of tobacco products per 1000 of sold goods (products) (without the value added tax and the excise duty).”

2) The Law shall be supplemented with Article 4 of the following content:

Article 4. To temporarily establish excise duty rates for the following goods for the period from 01.01.2007 to 01.07.2007:

<b>Code of goods (products) in accordance with UCCFEA</b>	<b>Description of goods (products) in accordance with UCCFEA</b>	<b>Excise duty rates in hard amounts per one unit of sold goods (products)</b>	<b>Excise duty rates as a percentage of the goods (products) sales turnover</b>
2402 20 90 10	Tobacco cigarettes without filter	5 UAH for 1000 pieces	9
2402 20 90 20	Tobacco filter cigarettes	12 UAH for 1000 pieces	9

The amount of tax liability for payment of the excise duty on cigarettes per each 1000 pieces of sold goods (products), which shall be calculated simultaneously at the excise duty rates established by law in hard amounts per 1000 units of sold goods (products) for relevant cigarettes and as a percentage of goods (products) turnover, the amount of such liability may not be less than 23 per cent of the maximum retail price for each brand of cigarettes per 1000 of sold goods (products) (without the value added tax and the excise duty).”

## **II. Final provisions:**

1. The present Law shall take legal effect as of 01.01.2007, except for subparagraph 1 of paragraph 2 and subparagraph 1 of paragraph 3 that shall take effect on 01.07.2007.

2. The Cabinet of Ministers of Ukraine shall:

bring its normative acts into compliance with this Law;

ensure the review and cancellation by ministries and other central executive authorities of their normative acts contradicting this Law.