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The Mechanism for Calculating the Average Retail Selling Price of Excise Goods in the Market

Federal Tax Authority Decision No. 1 of 2021

Issue Date: 28th of April 2021

The Chairman of the Board of Directors of the Federal Tax Authority,

- Having reviewed the Constitution,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Law No. 7 of 2017 on Tax Procedures
- Federal Decree-Law No. 7 of 2017 on Excise Tax,
- Cabinet Decision No. 37 of 2017 on the Executive Regulation of the Federal Decree-Law No. 7 of 2017 on Excise Tax,
- Cabinet Decision No. 52 of 2019 on Excise Goods, Excise Tax Rates and the Methods of Calculating the Excise Price, and
- Board of Directors' approval on the Mechanism for Calculating the Average Retail Selling Price of Excise Goods in the Market, at its 15th meeting held on 20 April 2021,

Has Decided:

Article 1 - Calculation of the Average Retail Selling Price in the Market

1. For the purposes of Clause 2 of Article 14 of Cabinet Decision No. 52 of 2019 referenced herein, a Taxable Person shall undertake the following procedures to calculate the Average Retail Selling Price of Excise Goods in the Market for the purposes of identifying the Designated Retail Selling Price as per the sequence:
 - a. Identify the different Retail Selling Prices of the Excise Good within the supply chains in which the Taxable Person is party to or participating in,

which are charged by the retailer when the Good is sold to consumers during the 12-month period preceding the month in which the calculation of the Average Retail Selling Price is performed;

- b. Deduct the value of Value Added Tax and Excise Tax included within each Retail Selling Price identified in paragraph (a) of this Clause to calculate the tax-exclusive Retail Selling Price;
 - c. Multiply the total number of units of the Excise Good sold at each Retail Selling Price identified in paragraph (b) of this Clause by the Retail Selling Price applicable on each of such Excise Goods, to determine the total revenues in the Market arising from sales of that Excise Good for the previous 12-month period;
 - d. Divide the total revenues in the Market identified in paragraph (c) of this Clause by the total number of units of the Excise Good sold at all prices during the 12-month period preceding the month in which the calculation of the Average Retail Selling Price is performed;
 - e. Multiply the figure resulting from paragraph (d) of this Clause by the Excise Tax rate applicable to the Excise Good to arrive at the notional Excise Tax due on the Excise Good;
 - f. Add the figures resulting from paragraphs (d) and (e) of this Clause to arrive at the Average Retail Selling Price of the Excise Goods in the Market, excluding Value Added Tax.
2. For the purposes of paragraph (a) of clause 1 of this Article, the Taxable Person shall identify the different Retail Selling Prices of the Excise Good based on the following:
- a. Where the Taxable Person deals with a maximum of two customers, the Taxable Person shall identify all the different Retail Selling Prices of the Excise Good sold to these two customers;
 - b. Where the Taxable Person deals with more than two customers, the Taxable Person shall identify a sample of the Retail Selling Prices at which the Excise Good was sold, representing at least 50% of the total volume of sales and involving a minimum of three different customers; or
 - c. The recommended Selling Price of the Excise Good as specified by the producer of the Excise Good, where the Excise Goods have not previously been sold for retail purposes in the State.
3. As an exception to paragraph (b) of clause 1 of this Article, where the Retail Selling Price relates to a period prior to the application of Excise Tax on that

Excise Good, only Value Added Tax included within each Retail Selling Price identified in paragraph (a) of clause (1) of this Article should be deducted to calculate the tax-exclusive Retail Selling Price.

Article 2 - Excise Goods Not Intended for Retail Sale in the State

1. The Taxable Person shall use the value of the imported Excise Good as a substitute for the Average Retail Selling Price in the Market, where Excise Goods are imported solely for the purpose of either:
 - a. being Exported outside the State;
 - b. being used in the production of a new Excise Good and the original Excise Good is not sold for retail purposes in the State.
2. The Import value of the Excise Goods shall include the Customs value pursuant to Customs Legislation, the value of insurance, freight and any Customs fees that would be applicable on the Import of the Goods, excluding Value Added Tax.
3. Where Excise Goods are produced in the State for the purpose of being Exported, the Average Retail Selling Price of the Excise Goods in the Market shall be the price at which they are sold for Export.
4. Where Excise Goods are produced in the State for the purpose of being used in the production of a new Excise Good and the original Excise Good was not sold for retail purposes in the State, the Average Retail Selling Price of the Excise Goods in the Market shall be the price at which the Goods are designated for sale to the producer of another Excise Good before calculating any deductions or offers.
5. The Authority may request the Taxable Person to provide such supporting evidence as required to confirm that the Excise Goods are not intended for retail sale within the State or that they were not actually sold therein.
6. Where a change of intention arises after Excise Tax has been declared on the Excise Goods in accordance with this Article, with the effect that the Goods are subsequently intended to be sold for retail purposes, the Taxable Person shall adjust the Excise Price of the Excise Goods in the Tax Return for the Tax Period in which this change of intention arose. In such cases, the Taxable Person shall calculate the Average Retail Selling Price in the Market in accordance with Article 1 of this Decision.

Article 3 - Implementation of the Decision

This Decision shall be implemented as of date of issuance.