

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 39 YEAR 2007

ON

AMENDMENTS TO LAW NO. 11 YEAR 1995

ON EXCISE

BY THE GRACE OF THE ONE AND ONLY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- To consider:
- a. that the Unitary State of the Republic of Indonesia is a state based on the rule of law, and grounded in Pancasila and the 1945 Constitution of the Republic of Indonesia, which aims to create a safe, orderly, prosperous and equitable life for the nation;
 - b. that excise as a duty levied by the state on specific goods of which their nature and characteristics are laid out in the law constitutes state revenue for ensuring national welfare;
 - c. that in an effort to provide more legal certainty and ensure justice, and to explore the revenue potential of excise taxation, amendments to several provisions in Law No.11/1995 on Excise are therefore necessary;
 - d. that based on considerations as set forth in letters a, b and c above, it is therefore necessary to establish a Law on Amendments to Law No. 11/1995 on Excise;

- In view of:
1. Article 5 clause (1), Article 20 clause (1), Article 23A, and Article 33 clause (4) of the 1945 Constitution of the Republic of Indonesia;
 2. Law No. 11/1995 on Excise (State Gazette of the Republic of Indonesia No. 76/1995, Supplement to the State Gazette of the Republic of Indonesia No. 3613);

With the Joint Approval of
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HEREBY DECIDE:

To enact: LAW ON AMENDMENTS TO LAW NO. 11/1995 ON EXCISE.

Article I

Several provisions in Law No. 11/1995 on Excise (State Gazette of the Republic of Indonesia No. 76/1995, Supplement to the State Gazette of the Republic of Indonesia No. 3613) shall be amended as follows:

1. Article 1 is hereby amended to read as follows:

Article 1

The terms used in this law carry the following meaning:

1. Excise is a duty levied by the state on specific goods of which their nature and characteristics are laid out in this law.
2. Factory is a site that includes therein buildings, premises and grounds for producing excisable goods and/or for packaging excisable goods for retail sale.
3. Person is a natural person or legal person.
4. Manufacturer is a person running a factory.
5. Warehouse is a place, building and/or grounds that are not part of the factory, utilized for storing excisable goods in the form of ethyl alcohol on which excise duty is owed, for distribution, sale or export.
6. Warehouse proprietor is a person running a warehouse.
7. Retail outlet is a place for the retail sale of excisable goods to the end consumer.

8. Retailer is a person running a retail outlet.
9. Distributor is a person distributing or selling excisable goods, for which duty has been paid, that are not intended for the end consumer.
10. Excise document is any document used for the purpose of implementing this law, in printed form or through electronic media.
11. Office is the Office of the Directorate General of Customs and Excise.
12. Directorate General of Customs and Excise is an agency responsible for performing the duties and functions of the Ministry of Finance in the field of customs and excise.
13. Minister is the Minister of Finance of the Republic of Indonesia.
14. Director General is the Director General of Customs and Excise.
15. Customs and excise officer is an employee of the Directorate General of Customs and Excise appointed for a given position to undertake specific duties as stipulated in this law.
16. Temporary storage facility is a building and/or grounds or other similar premises within the customs territory for the temporary storage of goods awaiting loading or unloading.
17. Bonded storage facility is a building, place or zone that meets a set of criteria intended for the storage of goods for a specific purpose on which the deferral of payment of import duty is granted.

18. Customs territory is the territory of the Republic of Indonesia that comprises the land, waters and air space above them, and specified locations within the exclusive economic zone and the continental shelf in which the customs law applies in full.
 19. Excise audit is a series of activities for examining financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, including electronic data and letters pertaining to excise-related activities and/or inventory of goods with a view to implement provisions set out in laws and regulations on excise.
 20. Notice of collection is an official letter used for the collection of excise duty payable, underpaid excise duty, administrative sanction in the form of fines and penalties, and/or interest charges.
2. Article 2 clause (1) is hereby amended to read as follows:

Article 2

- (1) Specific goods of the following nature or characteristics:
 - a. their consumption needs to be kept under control;
 - b. their circulation needs to be monitored;

- c. their use can adversely affect the public or natural environment; or
 - d. their use of which government taxes need to be charged for the sake of justice and balance, in the form of excise duty as set out in this law.
- (2) Goods as referred to in clause (1) are excisable goods.
3. In between Articles 3 and 4, 2 (two) articles, Article 3A and Article 3B, are inserted to read as follows:

Article 3A

- (1) Excise document and/or supporting excise document as referred to in Article 3 clause (3) shall be presented in written form or as electronic data.
- (2) Excise document and/or supporting excise document as referred to in clause (1) is evidence considered valid by this law.
- (3) Further provisions on excise document and/or supporting excise document as referred to in clause (1) shall be governed by or in accordance with a ministerial regulation.

Article 3B

As regards excisable goods, all provisions as set out in this law shall be applicable.

4. Article 4 remains unchanged with revisions to the explanatory note to Article 4 clause (2), and henceforth the explanatory note to Article 4 shall be as provided in the explanatory note of each article in this law.
5. Article 5 clauses (1), (2) and (4) are amended with 1 (one) additional clause, clause (5), inserted so that henceforth, Article 5 shall read as follows:

Article 5

- (1) Excisable goods in the form of tobacco products shall be subject to excise duty based on the highest rate:
 - a. produced in Indonesia:
 1. 275% (two hundred and seventy five percent) of the base price, if the base price used is the factory sale price; or
 2. 57% (fifty seven percent) of the base price, if the base price used is the retail sale price.
 - b. imported:
 1. 275% (two hundred and seventy five percent) of the base price, if the base price used is the customs value plus import duty; or

2. 57% (fifty seven percent) of the base price, if the base price used is the retail sale price.
- (2) Other excisable goods shall be subject to excise duty based on the highest rate:
- a. produced in Indonesia:
 1. 1,150% (one thousand one hundred and fifty percent) of the base price, if the base price used is the factory sale price; or
 2. 80% (eighty percent) of the base price, if the base price used is the retail sale price.
 - b. imported:
 1. 1,150% (one thousand one hundred and fifty percent) of the base price, if the base price used is the customs value plus import duty; or
 2. 80% (eighty percent) of the base price, if the base price used is the retail sale price.
- (3) Excise duty tariff as referred to in clauses (1) and (2) can be changed from a percentage of the base price to an amount in Rupiah for each unit of excisable goods or vice versa or the combination of the two.

- (4) The state revenue target from excise duty determined in the Draft National Budget (RAPBN) and alternative ministerial policies for optimizing efforts to achieve the revenue target by taking into account the industry situation and the aspirations of industry players, shall be conveyed to the House of Representatives of the Republic of Indonesia (DPR RI) for approval.
- (5) Further provisions on the excise duty tariff as referred to in clauses (1) and (2), and changes to the tariff as described in clause (3) shall be governed in a ministerial regulation.

6. Article 6 clause (3) is hereby amended to read as follows:

Article 6

- (1) The base price used for calculating excise duty on excisable goods made in Indonesia is the factory sale price or the retail sale price.
- (2) The base price used for calculating excise duty on imported excisable goods is the customs value plus import duty or retail sale price.
- (3) Further provisions on determining the base price shall be governed by a ministerial regulation.

7. The heading for CHAPTER III is revised to read as follows:

CHAPTER III
PAYMENT, DEFERMENT AND FACILITIES

8. Part One is hereby amended to read as follows:

Part One
Payment

9. Article 7 clauses (3), (4), (5) and (8) are amended, while in between clauses (3) and (4), 2 (two) clauses, clause (3a) and clause (3b), are inserted, and clauses (6) and (7) are removed, so that henceforth, Article 7 shall read as follows:

Article 7

- (1) Excise duty on excisable goods made in Indonesia is to be paid at the time of removal of the excisable goods from the factory or warehouse.
- (2) Excise duty on imported excisable goods is to be paid at the time the excisable goods are imported for use.
- (3) The settlement of excise duty as set forth in clauses (1) and (2) shall be made as follows:
 - a. payment;
 - b. affixation of excise stamps; or
 - c. placement of other markings indicating the payment of excise duty.
- (3a) The printing of excise stamps as referred to in clause (3) letter b and making available other markings indicating the payment of excise duty as described in clause (3) letter c shall be done by a state-owned company and/or agency or institution appointed by the Minister based on predetermined criteria.

- (3b) The predetermined criteria as referred to in clause (3a) shall at a minimum fulfill the principles of safety, continuity, effectiveness, efficiency and equal opportunity.
 - (4) Excise stamps as referred to in clause (3) letter b and other markings indicating the payment of excise duty as described in clause 3 letter c shall be provided by the Minister.
 - (5) As regards the payment of excise duty by affixing excise stamps as set forth in clause (3) letter b or the placement of other markings indicating the payment of excise duty as described in clause (3) letter c, if it does not comply with existing excise laws and regulations, the duty is considered to have not been paid in full.
 - (6) Deleted.
 - (7) Deleted.
 - (8) Further provisions on the payment of excise duty shall be governed by or in accordance with a ministerial regulation.
10. In between Part One and Part Two, 1 (one) part is inserted, Part One A, that reads as follows:

Part One A

Deferment

Article 7A

- (1) The payment of excise duty as referred to in Article 7 clause (3) letter a may be paid at regular intervals if granted to the manufacturer within no later than 45 (forty five) days from the date of the release of excisable goods without interest.
- (2) A deferral of payment of excise duty may be granted to a manufacturer within:
 - a. no later than 90 (ninety) days from the date of placement of order for excise stamps for those settling through the affixation of excise stamps as set forth in Article 7 clause (3) letter b;
 - b. no later than 45 (forty five) days from the date of release of excisable goods for those settling through the placement of other markings indicating the payment of excise duty as set forth in Article 7 clause (3) letter c.
- (3) A deferral of payment of excise duty may be granted to an importer of excisable goods within no later than 60 (sixty) days from the date of placement of order of excise stamps for those paying through the affixation of excise stamps as set forth in Article 7 clause (3) letter b.

- (4) As regards payment at intervals as set forth in clause (1), the manufacturer must provide collateral.
- (5) In order to be granted deferral of payment as set forth in clauses (2) and (3), the manufacturer or importer of excisable goods must provide collateral.
- (6) The type and amount of collateral as referred to in clauses (4) and (5) shall be governed by or in accordance with a ministerial regulation.
- (7) A manufacturer paying excise duty at intervals as set forth in clause (1) who fails to settle the charges by the time the duration for installment payment ends, must pay the excise duty owed and shall be subject to an administrative sanction in the form of a 10% (ten percent) fine from the amount of excise due.
- (8) A manufacturer or importer of excisable goods granted deferral of payment as described in clauses (2) and (3) who fails to settle the charges by the due date of the deferred payment must pay the excise duty owed and shall be subject to an administrative sanction in the form of a 10% (ten percent) fine from the amount of excise due.
- (9) Further provisions on payment at intervals as set forth in clause (1) and deferral of payment as described in clauses (2) and (3) shall be governed by or in accordance with a ministerial regulation.

11. Article 8 clauses (3) and (4) are amended, and in between clauses (2) and (3), 1 (one) clause, clause (2a), is inserted so that henceforth, Article 8 shall read as follows:

Article 8

- (1) Excise duty shall not be levied on excisable goods as set forth in Article 4 clause (1), as provided below:
 - a. fine-cut tobacco made from tobacco cultivated in Indonesia not packaged for retail sale or packed for retail sale with traditional packaging material that is typically used, if in its production tobacco originating from a foreign country or other materials normally used in producing tobacco products is not mixed or added, and/or if in the packaging or on the fine-cut tobacco no trademark, label or the like is included;
 - b. beverages that contain ethyl alcohol as a product of fermentation or distillation made through simple methods by the common people of Indonesia purely as a source of livelihood and not packed for retail sale.
- (2) Excise duty is also not levied on excisable goods when:

- a. transported directly or thereafter outside of the customs territory;
 - b. exported;
 - c. deposited into a factory or warehouse;
 - d. used as raw or auxiliary material in producing final products that are also excisable goods;
 - e. destroyed or damaged before release from the factory or warehouse, or before approval is granted on import for use.
- (2a) Changes to excisable goods exempted from excise duty as set forth in clause (1) and to the purpose of excisable goods exempted from excise duty as described in clause (2) shall be determined by the Minister.
- (3) Any manufacturer, warehouse proprietor, importer of excisable goods, or any person violating provisions on duty exemption as set forth in clause (2) shall be liable to administrative sanction in the form of a minimum fine of 2 (two) times the amount of excise duty and a maximum fine of 10 (ten) times the amount of duty payable.
- (4) Further provisions on the implementation of clauses (1) and (2) shall be governed by or in accordance with a ministerial regulation.
12. Article 9 clauses (3) and (4) are amended, and in between clauses (1) and (2), 1 (one) clause, clause (1a), is inserted so that henceforth, Article 9 shall read as follows:

Article 9

- (1) Excise duty may be waived for excisable goods:
 - a. that are used as raw or auxiliary material in the production of final products that are not excisable goods;
 - b. needed for research purposes and scientific development;
 - c. needed by foreign representatives and their diplomatic staff stationed in Indonesia based on the principle of reciprocity;
 - d. needed by foreign experts assigned to international agencies or organizations in Indonesia;
 - e. brought by passengers and crew of carriers, border crossers, or overseas packages in a specified amount;
 - f. used for social purposes;
 - g. placed in a bonded storage facility.
- (1a) Changes to the purpose of excisable goods on which excise duty is waived as set forth in clause (1) shall be determined by the Minister.
- (2) Excise duty may also be waived for certain excisable goods as provided below:

- a. denatured ethyl alcohol made unfit for consumption;
 - b. beverages containing ethyl alcohol and tobacco, consumed by the passengers and crew of carriers that depart immediately outside the customs territory.
- (3) Any manufacturer, warehouse proprietor, importer of excisable goods, or any person contravening provisions on duty exemption as set forth in clause (1) or clause (2) shall be liable to administrative sanction in the form of a minimum fine of 2 (two) times the amount of excise duty and a maximum fine of 10 (ten) times the amount of excise payable.
- (4) Further provisions on the procedure for duty exemption as set forth in clauses (1) and (2) shall be governed by or in accordance with a ministerial regulation.
13. Article 10 clauses (1), (2), and (3) are amended, and in between clauses (2) and (3), 3 (three) clauses, clause (2a), clause (2b), and clause (2c), are inserted so that henceforth, Article 10 shall read as follows:

Article 10

- (1) Duty shall be collected on the following:
- a. outstanding excise duty that has not been paid on time;
 - b. underpaid excise duty; and/or
 - c. administrative sanction in the form of fines.

- (2) Outstanding excise duty, underpaid excise duty, and administrative sanction in the form of fines as set forth in clause (1) must be paid no later than 30 (thirty) days from the date of receipt of the notice of collection.
- (2a) Payment of outstanding excise duty, underpaid excise, and/or administrative sanction in the form of fines as set forth in clause (1) that exceeds the duration as set forth in clause (2) shall be subject to a monthly interest charge of 2% (two percent) for no more than 24 (twenty four) months from the amount of outstanding duty, underpaid duty, and/or administrative sanction in the form of unpaid fine.
- (2b) Under certain circumstances, at the request of the manufacturer, the Director General may allow payment in installments as set forth in clause (1) within no later than 12 (twelve) months and shall be subject to a monthly interest charge of 2% (two percent).
- (2c) Payment of outstanding excise duty, underpaid excise duty, and/or administrative sanction in the form of fines as set forth in clause (2), and interest as referred to in clause (2a), the amount of which shall be rounded to the nearest thousand Rupiah.
- (3) Further provisions on the procedure for collection and payment installment shall be governed by or in accordance with a ministerial regulation.

14. Article 12 is hereby amended to read as follows:

Article 12

- (1) Paid excise duty shall be refunded on the following conditions:
 - a. overpayment due to calculation error;
 - b. excisable goods are exported;
 - c. excisable goods are reprocessed in a factory or destroyed;
 - d. excisable goods are exempted from duty as set forth in Article 9;
 - e. excise duty stamps are returned due to damage or not being used; or
 - f. overpayment as a result of a Tax Court ruling.
 - (2) Excise duty refund as referred to in clause (1) shall be done no later than 30 (thirty) days from the time overpayment was established.
 - (3) If the excise duty is refunded after 30 (thirty) days as set forth in clause (2), the government shall pay a monthly interest of 2% (two percent) calculated from the due date to the time when the refund was paid.
 - (4) Further provisions on excise duty refund shall be governed by or in accordance with a ministerial regulation.
15. Article 14 clauses (1), (2), (4), (5), (6), (7), and (8) are amended; in between clauses (1) and (2), 3 (three) clauses, clause (1a), clause (1b) and clause (1c), are inserted; in between clauses (3) and (4), 1 (one) clause, clause (3a), is inserted; and in between clauses (5) and (6), 2 (two) clauses, clause (5a) and clause (5b), are inserted so that henceforth, Article 14 shall read as follows:

Article 14

- (1) Any person conducting activities as a:
- a. manufacturer;
 - b. warehouse proprietor;
 - c. importer of excisable goods;
 - d. distributor; or
 - e. retailer,
- must hold a license which is the Registration Number of Entrepreneurs of Excisable Goods, issued by the Minister.
- (1a) The requirement to own a license for conducting activities as a distributor as set forth in clause (1) letter d or as a retailer as set forth in clause (1) letter e applies to ethyl alcohol and beverages containing ethyl alcohol.
- (1b) The requirement to own a license for conducting activities as a distributor or retailer of other than ethyl alcohol and beverages containing ethyl alcohol as set forth in clause (1a) shall be established by a ministerial regulation.

- (1c) An importer of excisable goods who holds a license known as the Registration Number of Entrepreneurs of Excisable Goods as set forth in clause (1) letter c may import excisable goods.
- (2) The license as referred to in clause (1) is granted to:
 - a. a person domiciled in Indonesia; or
 - b. a person legitimately representing a legal person or natural person domiciled outside of Indonesia.
- (3) If the license holder as set forth in clause (2) letter a is natural person, and the said person dies, the license can be used for up to twelve months from the date of the person's death by an inheritor or an authorized party, and upon expiry of the said duration, the license must be renewed.
- (3a) The license as referred to in clause (1) may be put on hold when:
 - a. there is sufficient preliminary evidence that the license holder has committed a criminal offense related to excise duty;
 - b. there is sufficient evidence proving that the license no longer meets the necessary requirements; or
 - c. the license holder is under the supervision of a curator in relation to the license holder's debt.

- (4) The license as referred to clause (1) may be revoked under the following conditions:
- a. at the request of the license holder;
 - b. no activities were conducted in the past 1 (one) year;
 - c. the license no longer meets the necessary requirements;
 - d. the license holder no longer legitimately represents a legal person or natural person domiciled outside of Indonesia;
 - e. the license holder is declared bankrupt;
 - f. does not comply with provisions laid out in clause (3);
 - g. the license holder is brought to court based on a court decision having permanent legal force, for contravening provisions stipulated in this law;
 - h. the license holder has violated Article 30; or
 - i. the license which is the Registration Number of Entrepreneurs of Excisable Goods has been handed over to, given in proxy to, and/or in cooperation with another person/party, without the approval of the Minister.
- (5) In the event that the license as referred to in clause (1) is revoked, for excisable goods which duty has not been paid and have not been removed from the factory or warehouse, it should be made certain that duty payable is settled and the goods removed from the factory or warehouse within 30 (thirty) days from the time of receipt of notice of license revocation.

- (5a) If failure to comply with provisions as set forth in clause (5), the excisable goods as referred to in Article 2 clause (1) letters a, b and c shall be destroyed.
 - (5b) If failure to comply with provisions as set forth in clause (5), the excisable goods as referred to in Article 2 clause (1) letter d shall be governed further in a ministerial regulation.
 - (6) The provision on payment as referred to in clause (5) does not apply to importers of excisable goods, distributors and retailers.
 - (7) Any person conducting activities as referred to in clause (1) without owning a license shall be liable to administrative sanction in the form of a minimum fine of Rp 20,000,000 (twenty million Rupiah) up to a maximum fine of Rp 200,000,000 (two hundred million Rupiah).
 - (8) Further provisions on license shall be governed by or in accordance with a government regulation.
16. The heading for CHAPTER VI is hereby revised to read as follows:

CHAPTER VI
BOOKKEEPING AND STOCKTAKING

17. The heading for Part One is hereby revised to read as follows:

Part One
Bookkeeping

18. Article 16 is hereby amended to read as follows:

Article 16

- (1) A manufacturer, warehouse proprietor, importer of excisable goods, or distributor obliged by law to hold a license as set forth in Article 14 clause (1) letters a, b, c and d, must maintain books of account.
- (2) Exempted of the obligation as set forth in clause (1) but are required to keep records are small-scale manufacturers, as well as small-scale distributors and retailers required to hold a license.
- (3) A manufacturer has the obligation to periodically notify the Head of Office on finished excisable goods.
- (4) A manufacturer, warehouse proprietor, importer of excisable goods, or distributor obliged by law to hold a license, that do not maintain books of account as set forth in clause (1) shall be liable to administrative sanction in the form of a fine of Rp 50,000,000 (fifty million Rupiah).

- (5) Small-scale manufacturers and distributors required to hold a license, and retailers also required to own one, who do not keep records as set forth in clause (2) shall be liable to administrative sanction in the form of a fine of Rp 10,000,000 (ten million Rupiah).
 - (6) A manufacturer who fails to inform on finished excisable goods as set forth in clause (3) shall be liable to administrative sanction in the form of a fine of 2 (two) times the amount of duty on unreported excisable goods.
 - (7) Further provisions on recordkeeping as set forth in clause (2) and the obligation to inform about finished excisable goods as set forth in clause (3) shall be governed by or in accordance with a ministerial regulation.
19. In between Articles 16 and 17, 2 (two) articles, Article 16A and Article 16B, are inserted to read as follows:

Article 16A

- (1) Bookkeeping must be carried out properly to reflect the actual business situation or activities, and should at minimum cover records of assets, liabilities, capital, income, costs, and the inflow and outflow of excisable goods.

- (2) Bookkeeping must be carried out in Indonesia by using the Latin alphabets and Arabic numerals, denominated in the Rupiah currency, and in the Indonesian language, or denominated in a foreign currency and in other languages permitted by the Minister.
- (3) Financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, and letters pertaining to excise-related activities must be kept for 10 (ten) years at the place of business in Indonesia.
- (4) Further provisions guiding bookkeeping processes shall be governed by or in accordance with a ministerial regulation.

Article 16B

A manufacturer, warehouse proprietor, importer of excisable goods, or distributor obliged by law to hold a license, who does not comply with provisions as set forth in Article 16A shall be liable to administrative sanction in the form of a fine of Rp 25,000,000 (twenty five million Rupiah).

20. Article 17 clause (2) is hereby amended so that henceforth, Article 17 shall read as follows:

Article 17

- (1) A customs and excise officer must maintain records of excisable goods for each manufacturer or warehouse proprietor on specific excisable goods of which duty is still owed, and that are still at the factory or warehouse.

- (2) The customs and excise office shall keep records of excisable goods as referred to in Article 16 clause (3) and Article 25 clause (1) or clause (3) of which duty is still owed, in a register of excisable goods.
- (3) A manufacturer or warehouse proprietor shall be responsible for duty owed on excisable goods as recorded in the register of excisable goods.

21. Article 18 clause (1) is hereby amended to read as follows:

Article 18

- (1) The register of excisable goods shall be closed at the end of every calendar year.
- (2) The register of excisable goods shall also be closed after the necessary stocktaking has been done or at the request of the manufacturer or warehouse proprietor.
- (3) Provisions on the register of excisable goods as referred to in clauses (1) and (2), and in Article 17 clauses (1) and (2) shall be governed further by the Minister.

22. Article 19 clauses (1) and (2) are hereby amended, and in between clauses (1) and (2), 1 (one) clause, clause (1a), is inserted so that henceforth, Article 19 shall read as follows:

Article 19

- (1) A customs and excise officer must maintain a register of credit for each manufacturer allowed to pay at intervals as set forth in Article 7A clause (1).
 - (1a) The customs and excise officer keeping records of credit for each manufacturer or importer of excisable goods regarding excise duty granted deferral of payment as set forth in Article 7A clauses (2) and (3).
 - (2) Further provisions on the register of credit as set forth in clauses (1) and (1a) shall be governed by or in accordance with a ministerial regulation.
23. Article 20 remains unchanged with revisions to the explanatory note to Article 20 clause (2) so that henceforth, the explanatory note to Article 20 shall be in accordance with the explanatory note for each article in this law.
24. Article 25 clauses (4) and (5) are hereby amended, and in between clauses (4) and (5), 1 (one) clause, clause (4a), is inserted so that henceforth, Article 25 shall read as follows:

Article 25

- (1) The entry or removal of excisable goods into or from the factory or warehouse must be reported to the Head of Office and protected with an excise document.
 - (2) The entry or removal of excisable goods as set forth in clause (1) may be done under the supervision of a customs and excise officer.
 - (3) As to the entry or removal of excisable goods under the supervision of a customs and excise officer, entries into the register of excisable goods as set forth in Article 17 shall be made based on data from the customs and excise officer concerned.
 - (4) A manufacturer or warehouse proprietor removing excisable goods from the factory or warehouse who fails to comply with provisions as referred to clause (1) shall be liable to administrative sanction in the form of a penalty 2 (two) times the amount of duty leviable on the released excisable goods.
- (4a) A manufacturer or warehouse proprietor who deposits excisable goods at a factory or warehouse without observing provisions as referred to clause (1) shall be liable to administrative sanction in the form of a minimum fine of Rp 10,000,000 (ten million Rupiah) and a maximum fine of Rp 50,000,000 (fifty million Rupiah).

- (5) Further provisions on the entry or removal or excisable goods as set forth in clauses (1), (2) and (3) shall be governed by or in accordance with a ministerial regulation.

25. Article 26 clauses (3) and (4) are hereby amended so that henceforth, Article 26 shall read as follows:

Article 26

- (1) In the event of an emergency, excisable goods of which duty is still owed may be transferred outside of the factory or warehouse without protection of an excise document.
- (2) The transfer of excisable goods as set forth in clause (1) must be reported immediately to the Head of Office within the specified duration.
- (3) A manufacturer or warehouse proprietor who fails to report on the transfer of excisable goods on which duty is still owed due to an emergency as referred to clause (2) shall be liable to administrative sanction in the form of a minimum fine of Rp 1,000,000 (one million Rupiah) and a maximum fine of Rp 10,000,000 (ten million Rupiah).
- (4) Further provisions on the implementation of clauses (1) and (2) shall be governed by or in accordance with a ministerial regulation.

26. Article 27 clauses (3), (4) and (5) are hereby amended so that henceforth, Article 27 shall read as follows:

Article 27

- (1) The transport of excisable goods on which duty is still owed must be protected with an excise document.
- (2) The transport of certain excisable goods, even though duty has been paid in full, must be protected with an excise document.
- (3) Any person who fails to comply with provisions on the conveyance of excisable goods on which duty is still owed as referred to in clause (1) shall be liable to administrative sanction in the form of a penalty at a minimum of 2 (two) times the amount of duty and at a maximum of 10 (ten) times the amount of duty owed.
- (4) Any person who fails to comply with provisions on the conveyance of excisable goods as set forth in clause (2) shall be liable to administrative sanction in the form of a minimum fine of Rp 5,000,000 (five million Rupiah) and a maximum fine of Rp 50,000,000 (fifty million Rupiah).
- (5) Further provisions on the transport of excisable goods as referred to in clauses (1) and (2) shall be governed by or in accordance with a ministerial regulation.

27. Article 29 clauses (1), (2) and (3) are hereby amended, and in between clauses (2) and (3), 1 (one) clause, clause (2a), is inserted so that henceforth, Article 29 shall read as follows:

Article 29

- (1) Excisable goods on which duty is paid by means of affixation of excise stamps or placement of other markings indicating the payment of duty can only be offered, handed over, sold, or provided for sale, after packed for retail sale and affixed with duty stamps or other mandatory markings indicating the payment of duty.
- (2) Excisable goods on which duty is paid by means of affixation of excise stamps or placement of other markings indicating the payment of duty that are in a retail outlet or other premises in which activities are intended for selling shall be considered to be made available for sale.
- (2a) A manufacturer or importer of excisable goods who affixes excise stamps or places other markings indicating the payment of duty on excisable goods that are not in accordance with the required excise stamps or other markings indicating payment, hence resulting in underpayment of duty, must pay the duty in full and shall be liable to administrative sanction in the form of a penalty at a minimum of 2 (two) times the amount of duty and at a maximum of 10 (ten) times the amount of duty owed.

- (3) Further provisions on the implementation of clauses (1) and (2) shall be governed by or in accordance with a ministerial regulation.

28. Article 31 clause (3) is hereby amended so that henceforth, Article 31 shall read as follows:

Article 31

- (1) At the warehouse it is prohibited to:
 - a. keep excisable goods on which duty has been paid or duty has been waived;
 - b. store goods other than excisable goods as provided in the letter of permit.
- (2) Excisable goods on which duty has been paid or duty has been waived but are held in a warehouse shall be considered to be goods on which duty is still owed or duty is not waived.
- (3) A warehouse proprietor contravening provisions on prohibition as referred to in clause (1) letter b shall be liable to administrative sanction in the form of a minimum fine of Rp 5,000,000 (five million Rupiah) and a maximum fine of Rp 50,000,000 (fifty million Rupiah).

29. Article 32 is hereby amended to read as follows:

Article 32

- (1) At the factory, place of business of importers of excisable goods, place of business of distributors, and retail outlet where duty is paid by means of affixation of excise stamps or placement of other markings indicating the payment of duty shall be prohibited from:
 - a. withholding or providing used excise stamps and/or other markings indicating the payment of duty; and/or
 - b. withholding or providing used packaging material for excisable goods with excise stamps and/or other markings indicating the payment of duty that remain intact.
- (2) A manufacturer, importer of excisable goods, distributor, or retailer paying duty by affixing excise stamps or placing other markings indicating the payment of duty who has violated the provision on prohibition as set forth in clause (1) shall be liable to administrative sanction in the form of a penalty at a minimum of 2 (two) times the amount of duty and at a maximum of 10 (ten) times the amount of duty from the excise stamps or other markings indicating the payment of duty that have been already been used.

30. Article 33 is hereby amended to read as follows:

Article 33

- (1) A customs and excise officer is conferred with the authority to:
 - a. take the necessary actions on excisable goods and/or other related goods that include stopping, inspecting, detaining and sealing for the purpose of implementing this law;
 - b. take the necessary actions by not fulfilling orders for excise stamps or other markings indicating the payment of duty; and
 - c. detain excisable goods and other related goods, and/or means of conveyance.
- (2) In exercising authority as referred to in clause (1), a customs and excise officer may carry firearms of which the type and conditions of use shall be governed in a government regulation.
- (3) Further provisions on the procedure for taking action as set forth in clause (1) letters a and b, and on detention as set forth in clause (1) letter c shall be governed by or in accordance with a government regulation.

31. Article 34 is hereby amended to read as follows:

Article 34

- (1) In the discharging of duties as stipulated in this law, a customs and excise officer may request for assistance from the National Police of the Republic of Indonesia, Indonesian Armed Forces, and/or other agencies.
 - (2) As to the request set forth in clause (1), the National Police of the Republic of Indonesia, Indonesian Armed Forces, and/or other agencies are obliged to fulfill.
32. The heading for Part Two of Chapter X is hereby amended to read as follows:

Part Two
Inspection

33. Article 35 is hereby amended to read as follows:

Article 35

- (1) A customs and excise officer is authorized to inspect the following:
 - a. factories, warehouses or other premises utilized for storing excisable goods and/or related goods on which duty is still owed or duty is waived;

- b. buildings or other premises that are directly or indirectly related to the buildings or premises as referred to in letter a;
 - c. the place of business of distributors, retail outlets, or other non-residential premises in which excisable goods are found; and
 - d. excisable goods and/or other goods related to excisable goods kept in premises as referred to in letters a, b and c.
- (2) In carrying out inspection as referred to in clause (1), a customs and excise officer is authorized to draw samples of the excisable goods.
- (3) In carrying out inspection as referred to in clause (1) letter d, a customs and excise officer is authorized to request for records on inventory, excise documents, and/or supporting excise documents, that must be done in accordance with this law.
- (4) Any person causing a customs and excise officer from not being able to observe provisions set out in clauses (1), (2) and (3) shall be liable to administrative sanction in the form of a minimum fine of Rp 10,000,000 (ten million Rupiah) and a maximum fine of Rp 100,000.000 (one hundred million Rupiah).

34. Article 36 clauses (1) and (2) are hereby amended, and in between clause (1) and (2), 1 (one) clause, clause (1a), is inserted so that henceforth, Article 36 shall read as follows:

Article 36

- (1) A manufacturer, warehouse proprietor, importer of excisable goods, distributor, retailer, user of excisable goods granted exemption of excise duty as referred to in Article 9, on which an inspection is carried out, must provide personnel, equipment, and present books, records, and/or documents that are compulsory as stipulated in this law.
- (1a) If a manufacturer, warehouse proprietor, importer of excisable goods, distributor, retailer, user of excisable goods granted exemption of excise duty as referred to in Article 9, on which an inspection is carried out, is not at the premises or unable to be present, the obligation as set forth in clause (1) shall shift to the person acting as representative.
- (2) A manufacturer, warehouse proprietor, importer of excisable goods, distributor, retailer, user of excisable goods granted exemption of excise duty as referred to in Article 9, on which an inspection is carried out, who does not provide the personnel or equipment, or does not hand over books, records, and/or documents at the time of inspection as referred to in clause (1) shall be liable to administrative sanction in the form of a minimum fine of

Rp 25,000,000 (twenty five million Rupiah)
and a maximum fine of Rp 250,000,000
(two hundred and fifty million Rupiah).

35. Article 37 clauses (1) and (4) are hereby amended
so that henceforth, Article 37 shall read as follows:

Article 37

- (1) A customs and excise officer is authorized to stop and inspect transporters and excisable goods and/or other goods related to excisable goods held in the transporter.
- (2) A transporter must present excise documents and/or supporting excise documents that are compulsory as stipulated in this law.
- (3) A transporter that is sealed by the postal service or other law enforcement agency shall be exempted from inspection as referred to in clause (1).

- (4) Any person causing a customs and excise officer from being able to observe provisions as set forth in clause (1), and a transporter that disregards provisions as set forth in clause (2) shall be liable to administrative sanction in the form of a minimum fine of Rp 2,500,000 (two million five hundred Rupiah) and a maximum fine of Rp 25,000,000 (twenty five million Rupiah).
36. Article 39 clauses (1) and (2) are hereby amended, and in between clauses (1) and (2), 3 (three) clauses, clause (1a), clause (1b), and clause (1c), are inserted, and 1 (one) clause, clause (3), added so that henceforth, Article 39 shall read as follows:

Article 39

- (1) A customs and excise officer is authorized to perform an excise audit on a manufacturer, warehouse proprietor, importer of excisable goods, distributor, and user of excisable goods granted exemption of excise duty as referred to in Article 9.
- (1a) In carrying out an excise audit as referred to in clause (1), a customs and excise officer is authorized to:
 - a. request for financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, including electronic data and letters pertaining to excise-related activities;

- b. request for oral and/or written statements from the manufacturer, warehouse proprietor, importer of excisable goods, distributor, and user of excisable goods granted exemption of excise duty as referred to in Article 9, and/or other related parties;
 - c. enter a building or room for keeping financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, including electronic data storage facilities/media, excise stamps or other markings indicating the payment of duty, inventory, and/or goods that can provide an indication on the condition of business activities, and/or other places considered important, to conduct an inspection of the place; or
 - d. take security measures deemed necessary on buildings or rooms as referred to in letter c.
- (1b) A manufacturer, warehouse proprietor, importer of excisable goods, distributor, or user of excisable goods granted exemption of excise duty as referred to in Article 9, on which an excise audit is performed, must provide information, orally and/or in

writing, personnel and equipment, and hand over financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, including electronic data and letters pertaining to excise-related activities.

- (1c) If a manufacturer, warehouse proprietor, importer of excisable goods, distributor, and user of excisable goods granted exemption of excise duty as referred to in Article 9, on which an excise audit is performed, is not at the premises or unable to be present, the obligation as set forth in clause (1b) shall shift to the person acting as representative.
- (2) Any person causing a customs and excise officer from being able to exercise authority in performing an excise audit shall be liable to administrative sanction in the form of a fine of Rp 75,000,000 (seventy five million Rupiah).
- (3) Further provisions on excise audit as referred to in clause (1) shall be governed by or in accordance with a ministerial regulation.

37. Article 40 is hereby amended to read as follows:

Article 40

A customs and excise officer authorized to lock up, seal, and/or affix security tape necessary for sections of the factory, warehouse, place of business of importers of excisable goods, place of business of distributors, retail outlets, other premises, or means of transport in which excisable goods are stored, for the purpose of excise security.

38. After Part Three of CHAPTER X, 1 (one) part, Part Four, is added to read as follows:

Part Four
Special Powers of the Director General

Article 40A

- (1) The Director General, by virtue of the position or at the request of the person concerned may:
 - a. correct a notice of collection or an objection decision letter, in which its issuance contains a typographical error, miscalculation, and/or mistake in implementing provisions laid out in this law; or
 - b. reduce or lift an administrative sanction in the form of fines and penalties when the sanction is imposed on a person liable to sanction due to an oversight or through no fault of the said person.

- (2) Further provisions on the procedure for filing a request, correction, reduction, or removal as set forth in clause (1) shall be governed by or in accordance with a ministerial regulation.

39. The heading of CHAPTER XI is hereby amended to read as follows:

CHAPTER XI
OBJECTIONS, APPEALS AND SUITS

40. The heading of Part One is hereby amended to read as follows:

Part One
Objections

41. Article 41 clause (1) is removed, clauses (2), (3), (4), (5), 6), and (7) are amended, and 1 (one) clause, clause (8), is inserted so that henceforth, Article 41 shall read as follows:

Article 41

- (1) Deleted.
- (2) A party wishing to raise an objection to decisions made by a customs and excise officer in the enforcement of this law, resulting in underpaid excise duty and/or administrative sanction in the form of fines and penalties, may file an objection in writing to the Director General within 30 (thirty) days from the date of receipt of notice of collection by providing collateral to the amount of underpaid duty and/or administrative sanction in the form of the prescribed fine.

- (3) The Director General shall reach a decision on the objection as referred to in clause (2) within 60 (sixty) days from the receipt of the notice of objection.
- (4) If within 60 (sixty) days as referred to in clause (3), the Director General has not made a decision, the said objection shall be considered accepted and the collateral returned.
- (5) If the Director General decides to rule in favor of the objection, the collateral must be returned.
- (6) When collateral is in cash form, and the collateral is returned after 30 (thirty) days from the date of receipt of the notice of objection as set forth in clauses (4) and (5), the Government shall pay a monthly interest of 2% (two percent) for a maximum of 24 (twenty four) months.
- (7) If the Director General decides to reject the notice of objection, the collateral shall be used to pay excise duty and/or administrative sanction in the form of the prescribed fine.
- (8) Further provisions on objection shall be governed by or in accordance with a ministerial regulation.

42. Article 42 is deleted.

43. Article 43 is deleted.

44. In between Part One and Part Two, 1 (one) part, Part One A, is inserted to read as follows:

Part One A
Appeals and Suits

Article 43A

A person wishing to raise an objection to a decision handed down by the Director General as set forth in Article 41 clause (3) may file an appeal within no later than 60 (sixty) days from the date of the decision.

Article 43B

A person wishing to raise an objection to the revocation of license that is not at the person's own request as set forth in Article 14 clause (4) letters b, c, d, e, f, g, h, or i may file a suit within no later than 60 (sixty) days from the date of decision.

Article 43C

The filing of an appeal as set forth in Article 43A or suit as set forth in Article 43B shall be made to the Tax Court as set forth in the law governing on tax courts.

45. Article 44 is deleted.

46. Provisions in Part Two are deleted.

47. Article 50 is hereby amended to read as follows:

Article 50

Any person without a license as referred to in Article 14 who runs a factory, warehouse, or imports excisable goods with the intention of evading the payment of duty shall be sentenced to imprisonment for a minimum term of 1 (one) year and a maximum term of 5 (five) years and shall be subject to a minimum fine of 2 (two) times the amount of excise duty and a maximum fine of 10 (ten) times the amount of duty payable.

48. Article 51 is deleted.

49. Article 52 is hereby amended to read as follows:

Article 52

A manufacturer or warehouse proprietor who removes excisable goods from the factory or warehouse without paying heed to provisions set forth in Article 25 clause (1) with the intention of evading the payment of duty shall be sentenced to imprisonment for a minimum term of 1 (one) year and a maximum term of 5 (five) years and shall be subject to a minimum fine of 2 (two) times the amount of excise duty and a maximum fine of 10 (ten) times the amount of excise duty payable

50. Article 53 is hereby amended to read as follows:

Article 53

Any person who with intent presents or hands over books, records, and/or documents as set forth in Article 36 clause (1) or financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, including electronic data and letters pertaining to excise-related activities as set forth in Article 39 clause (1b) that are fake or falsified shall be sentenced to imprisonment for a minimum term of 1 (one) year and a maximum term of 6 (six) years and shall be subject to a minimum fine of Rp 75,000,000 (seventy five million Rupiah) and a maximum fine of Rp 750,000,000 (seven hundred and fifty million Rupiah).

51. Article 54 is hereby amended to read as follows:

Article 54

Any person offering, handing over, selling, or providing for sale excisable goods that are not packed for retail sale or not affixed with excise stamps or other markings indicating the payment of duty as referred to in Article 29 clause (1) shall be punishable with imprisonment for a minimum term of 1 (one) year and a maximum term of 5 (five) years and/or a minimum fine of 2 (two) times the amount of duty and a maximum fine of 10 (ten) times the amount of duty payable.

52. Article 55 is hereby amended to read as follows:

Article 55

Any person who:

- a. unlawfully produces, duplicates or forges excise stamps or other markings indicating the payment of duty;
- b. procures, keeps, uses, sells, offers, hands over, provides for sale, or imports excise stamps or other markings indicating the payment of duty that are fake or falsified; or
- c. uses, sells, offers, hands over, provides for sale, or imports excise stamps or other markings indicating the payment of duty that have already been used, shall be punishable to imprisonment for a minimum term of 1 (one) year and a maximum term of 8 (eight) years and a minimum fine of 10 (ten) times the amount of excise duty and a maximum fine of 20 (twenty) times the amount of duty payable.

53. Article 56 is hereby amended to read as follows:

Article 56

Any person who hoards, stores, owns, sells, exchanges, gains or provides excisable goods that the said person knows or should suspect to originate from an act of crime, in accordance with this law shall be punishable with imprisonment for a minimum term of 1 (one) year and a maximum term of 5 (five) years and a minimum fine of 2 (two) times the amount of excise duty and a maximum fine of 10 (ten) times the amount of duty payable.

54. Article 57 is hereby amended to read as follows:

Article 57

Any person who without permission opens, removes, or destroys keys, seals, or security markings as governed in this law shall be punishable with imprisonment for a minimum term of 1 (one) year and a maximum term of 2 (two) years and 8 (eight) months and/or a minimum fine of Rp 75,000,000 (seventy five million Rupiah) and a maximum fine of Rp 750,000,000 (seven hundred and fifty million Rupiah).

55. Article 58 is hereby amended to read as follows:

Article 58

Any person who offers, sells, or hands over excise stamps or other markings indicating payment of duty to non-entitled parties, or purchases, accepts, or uses excise stamps or other markings indicating payment of duty that the said party is not entitled to shall be punishable with imprisonment for a minimum term of 1 (one) year and a maximum term of 5 (five) years and/or a minimum fine of 2 (two) times the amount of excise duty and a maximum fine of 10 (ten) times the amount of duty payable.

56. In between Articles 58 and 59, 1 (one) clause, clause 58A, is inserted to read as follows:

Article 58A

- (1) Any party who illegally accesses an electronic system related to excise-related services and/or supervision shall be punishable with imprisonment for a minimum term of 1 (one) year and a maximum term of 5 (five) years and/or a minimum fine of Rp 50,000,000 (fifty million Rupiah) and a maximum fine of Rp1,000,000,000 (one billion Rupiah).

- (2) The act as referred to in clause (1) that results in the government's inability to collect taxes, in accordance with this law shall be punishable with imprisonment for a minimum term of 2(two) years and a maximum term of 10 (ten) years and/or a minimum fine of Rp 1,000,000,000 (one billion Rupiah) and a maximum fine of Rp 5,000,000,000 (five billion Rupiah).

57. Article 62 clause (3) is hereby amended so that henceforth, Article 62 shall read as follows:

Article 62

- (1) Excisable goods that are linked to criminal activities, in accordance with this law shall be seized by the state.
- (2) Other goods that are linked to criminal activities, in accordance with this law may be seized for the state.
- (3) Further provisions on handling goods that are seized for the state as referred to in clauses (1) and (2) shall be governed by a ministerial regulation.

58. In between CHAPTER XIII and CHAPTER XIV, 1 (one) chapter, CHAPTER XIII A, is inserted to read as follows:

CHAPTER XIII A
EMPLOYEE DEVELOPMENT

Article 64A

- (1) The attitude and behavior of employees under the Directorate General of Customs and Excise is bound by a code of ethics that guides the discharging of duties as governed in this law.
- (2) Any breach of the code of ethics by an employee of the Directorate General of Customs and Excise shall be resolved by the ethics commission.
- (3) Further provisions on the code of ethics shall be governed by a ministerial regulation.
- (4) Further provisions on the formation, composition and work procedure of the ethics commission shall be governed by a ministerial regulation.

Article 64B

When a customs and excise officer, in calculating or determining excise duty, fails to comply with this law, to the extent that government tax collection targets are not met, the said customs and excise officer shall be liable to sanction in accordance with existing laws and regulations.

Article 64C

- (1) Where there is indication of an excise-related offense involving an employee of the Directorate General of Customs and Excise, the Minister may assign an internal inquiry unit within the Ministry of Finance to examine the said employee for the purpose of gathering preliminary evidence.
- (2) Further provisions as referred to in clause (1) shall be governed by a ministerial regulation.

Article 64D

- (1) An individual, a group of people, and/or work unit that has played an important part in handling an excise-related offense shall be entitled to reward.
- (2) The amount of reward given is up to 50% (fifty percent) of the administrative sanction in the form of fines and/or proceeds from the auction sale of goods held as a result of an excise-related offense.
- (3) If the seized goods are articles which according to existing laws and regulations should not be auctioned off, the value of the said goods shall be the basis on which the Minister calculates the amount of reward.
- (4) Further provisions on the granting of reward as referred to in clauses (1) and (2) shall be governed by a ministerial regulation.

Article 64E

- (1) The Directorate General of Customs and Excise is awarded incentives based on excise-related performance.
- (2) The awarding of incentives as referred to in clause (1) shall be determined through the National Budget.
- (3) Further provisions on the procedure for granting and utilizing incentives as referred to clause (1) shall be governed by a ministerial regulation.

59. Article 65 is hereby amended to read as follows:

Article 65

A manufacturer, warehouse proprietor, importer of excisable goods, distributor, retailer, or user of excisable goods granted exemption of payment of excise duty as referred to Article 9 shall be responsible for the conduct of those under employment or those appointed as representative or proxy in relation to their work with a view to implement this law.

60. Article 66 clause (3) is hereby amended so that henceforth, Article 66 shall read as follows:

Article 66

- (1) Excisable goods and other goods that originate from an unknown offender shall be under the control of the state and the supervision of the Directorate General of Customs and Excise, and if within fourteen days from the time the state takes control the offender remains unknown, the excisable goods and other goods shall belong to the state.
 - (2) Excisable goods of which the owner is unknown shall be under state control and supervision and must be officially declared by the Directorate General of Customs and Excise, to be settled by the person concerned within thirty days from the time the state takes control, and if within the said duration the person concerned fails to settle obligations, the excisable goods shall belong to the state.
 - (3) Further provisions on dealing with excisable goods as referred to clauses (1) and (2) shall be governed by a ministerial regulation.
61. In between Articles 66 and 67, 4 (four) articles, Article 66A, Article 66B, Article 66C, and Article 66D, are inserted to read as follows:

Article 66A

- (1) State revenue from excise levied on tobacco products made in Indonesia shall be allocated to provinces generating tobacco excise tax to as much as 2% (two percent) to be utilized for improving the quality of raw materials, developing the industry, building the social environment, sensitizing on excise-related provisions, and/or eradicating illegal excisable goods.
- (2) The allocation of profit sharing funds from tobacco excise as set forth in clause (1) shall be determined according to actual revenue derived from tobacco excise for the current year.
- (3) The Governor manages and utilizes profit sharing funds from tobacco excise and determines the allocation of such funds to the district head/mayor of the respective region in accordance with the amount of contribution to tobacco excise revenue.
- (4) The allocation of profit sharing funds from tobacco excise as referred to in clause (3) shall be done upon approval of the Minister, with a composition of 30% (thirty percent) for producing provinces, 40 (forty percent) for producing districts/cities, and 30% (thirty percent) for other districts/cities.

Article 66B

The profit sharing funds from tobacco excise shall be distributed through a book-entry settlement by transferring from the general cash account of the state to the general cash account of the province and district/city.

Article 66C

- (1) The Minister monitors and evaluates the utilization of budget for improving the quality of raw materials, developing the industry, building the social environment, sensitizing on excise-related provisions, and/or eradicating illegal excisable goods, originating from profit sharing funds derived from excise duty levied on tobacco products made in Indonesia

- (2) When the results of the monitoring and evaluation of the utilization of budget for improving the quality of raw materials, developing the industry, building the social environment, sensitizing on excise-related provisions, and/or eradicating illegal excisable goods, originating from profit sharing funds derived from tobacco excise, indicate an irregularity, the matter shall be followed up in accordance with existing laws and regulations.

Article 66D

- (1) Any abuse of allocated profit sharing funds from tobacco excise shall be liable to sanction in the form of suspension or termination of the disbursement of profit sharing funds derived from excise duty levied on tobacco products made in Indonesia.
- (2) Further provisions on the sanction imposed for the abuse of allocated profit sharing funds from tobacco excise as referred to in clause (1) shall be governed by a ministerial regulation.

Article II

1. At the time this law enters in force:
 - a. existing implementing regulations related to excise shall remain applicable on condition that they do not contravene and/or have not been governed in new implementing regulations in accordance with this law;
 - b. as to excise-related matters which at the time of this law enters into force have not been resolved, shall be dealt with in accordance with provisions stipulated in excise laws and regulation that are less burdensome to every party.
2. Legislation for implementing this law shall be established no later than 1 (one) year from the time this law is promulgated.
3. This law shall enter into force on the date of its promulgation.

For the purpose that every person is so informed, this Law shall be promulgated by having it published in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta
on 15 August 2007

PRESIDENT

REPUBLIC OF INDONESIA,

signature

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
on 15 August 2007

MINISTER OF LAW AND HUMAN RIGHTS

REPUBLIC OF INDONESIA,

signature

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2007
NUMBER 105

EXPLANATORY NOTES
TO
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 39 YEAR 2007
ON
AMENDMENTS TO LAW NUMBER 11 YEAR 1995
ON EXCISE

I. GENERAL

1. In implementing Law Number 11 Year 1995 on Excise, it has been recognized that certain matters have yet to be addressed in order to strengthen the role of excise taxation as one of the sources of state revenue, and therefore Law Number 11 Year 1995 on Excise needs to be amended in keeping with developments in the socio-economic sector and government policies.
2. Excise as a duty levied by the government on specific goods of which their nature or characteristics are in accordance with the law constitutes state revenue for creating welfare, justice and balance.
3. The imposition of excise duty must have clear limitations in order to provide a legal basis and legal certainty in efforts to increase or broaden the objects of excise taxation by continuing to pay heed to the people's aspirations and capabilities.
4. In order to optimize state revenue from excise duty, in addition to providing clear limitations on the objects of excise taxation, there is also the need to improve the administrative system for excise collection and enhance law enforcement actions, while strengthening employee development with a view to ensure good governance. Amendments to this law thereby shall cover the following:

- a. develop methods for payment of excise duty that are more accommodating to business practices without compromising the rights of the state;
- b. improve the collection system for outstanding excise duty, underpaid excise duty, and/or administrative sanction in the form of fines and penalties by including an installment payment scheme without compromising the rights of the state;
- c. remove provisions that govern on appeals bodies to adjust to provisions that govern on tax judicial entities as set forth in Law No. 14/2002 on Tax Courts;
- d. adjust bookkeeping processes with current trends and excise audit policies;
- e. affirm the use of excise documents and supporting excise documents in the form of electronic data, and sanctions against violations committed by parties accessing electronic systems related to excise services and/or supervision in an illegal manner;
- f. regulate on the development of employees under the Directorate General of Customs and Excise by having the necessary code of ethics in place and resolving violations (punishment) through the ethics commission and granting performance-based incentives to the Directorate General of Customs and Excise;
- g. regulate on the awarding of rewards for those who have made significant contribution; and
- h. regulate on the allocation of profit sharing funds from tobacco excise for local governments.

II. ARTICLE BY ARTICLE

Article I

Number 1

Article 1

Self-explanatory.

Number 2

Article 2

Clause (1)

Letter a

Self-explanatory.

Letter b.

Self-explanatory.

Letter c

Self-explanatory.

Letter d.

That which is meant by “their use of which government taxes need to be charged for the sake of justice and balance” is excise duty levied on goods that fall under the category of luxury and/or high-value goods, but are not basic necessities, thereby balance is maintained in the imposition of charges between high-income and low-income consumers.

Clause (2)

Self-explanatory.

Number 3

Article 3A

Self-explanatory.

Article 3B

Enforcement is carried out by the Directorate General of Customs and Excise.

Number 4

Article 4

Clause (1)

Letter a

That which is meant by "ethyl alcohol or ethanol" is a clear colorless liquid that is an organic compound and its chemical formula written as C_2H_5OH , obtained by fermentation and/or distillation or chemical synthesis.

Letter b

That which is meant by "beverages containing ethyl alcohol" are all liquids commonly known as drinks that contain ethyl alcohol produced through fermentation, distillation, or other methods, inter alia, beer, shandy, gin, whisky, and the like.

That which is meant by "concentrates containing ethyl alcohol" are substances containing ethyl alcohol that are used as raw or auxiliary ingredient in the production of beverages that contain ethyl alcohol.

Letter c

That which is meant by "cigarette" is a tobacco product made from fine-cut tobacco wrapped and rolled in paper, for use, regardless the substitute or auxiliary material used in its production.

Cigarette consists of the *kretek* cigarette, white cigarette, and *kelembak kemenyan* cigarette.

Kretek cigarette is made by mixing in cloves, or part of cloves, either natural or artificial, regardless of the amount.

White cigarette is made without mixing in cloves, *kelembak* (rhubarb), or *kemenyan* (incense).

White cigarette and *kretek* cigarette consist of cigarettes produced by machine or other methods, other than machines.

That which is meant by white cigarette and *kretek* cigarette produced by machine are white and *kretek* cigarettes of which production begins with a rolling process, insertion of filter tips, packaging into packs for retail sale, until affixation of excise stamps, with the full or partial use of machines.

That which is meant by white cigarette and *kretek* cigarette produced by other methods than machines are white and *kretek* cigarettes of which production begins with a rolling process, insertion of filter tips, packaging into packs for retail sale, until the affixation of excise stamps,

without the use of machines.

Kelembak kemenyan cigarette is made by mixing in *kelembak* and/or *kemenyan*, natural or artificial, regardless of the amount.

That which is meant by cigar is a tobacco product made from pieces of tobacco leaves, finely cut or not, by rolling the tobacco leaves in such a way, for use, regardless of the substitute or auxiliary ingredients used in its production.

That which is meant by leaf cigarette is a tobacco product made from palm leaf, corn husk, or the like, by way of rolling, for use, regardless of the substitute or auxiliary ingredients used in its production.

That which is meant by fine-cut tobacco is a tobacco product made from chopped tobacco leaves, for use, regardless of the substitute or auxiliary ingredients used in its production.

That which is meant by other products from tobacco processing are tobacco products made from tobacco leaves other than those mentioned in this letter, that are made by using other methods in line with developments in technology and consumer preferences, regardless of the substitute or auxiliary ingredients used in their production.

Clause (2)

Any addition or reduction to the type of excisable goods shall be notified by the government to the DPR RI parliamentary organ responsible for finance to secure approval and be included in the Bill On National Budget.

Number 5

Article 5

Clause (1)

Letter a

Setting the highest tariff at 275% (two hundred and seventy five percent) from the factory sale price or 57% (fifty seven percent) from the retail sale price takes into consideration that if excisable goods due to their nature and or characteristics are deleterious to health and as such are to be tightly restricted as to their circulation and usage, restrictions can therefore be placed through tariffs, whereby the said excisable goods may be subject to the highest excise tariff.

Letter b

Setting the highest tariff at 275% (two hundred and seventy five percent) of the customs value plus import duty or 57% (fifty seven percent) of the retail sale price takes into consideration that if excisable goods due to their nature and or characteristics are deleterious to health and as such are to be tightly restricted as to their importation, circulation and usage, restrictions can therefore be placed through tariffs, whereby the said excisable goods may be subject to the highest excise tariff.

Clause (2)

Letter a

Setting the highest tariff at 1,150% (one thousand one hundred and fifty percent) of the factory sale price or 80% (eighty percent) of the retail sale price takes into consideration that if excisable goods due to their nature and or characteristics are deleterious to health, the environment and social order, and as such are to be tightly restricted as to their circulation and usage, restrictions can therefore be placed through tariffs, whereby the said excisable goods may be subject to the highest excise tariff. Furthermore, the highest tariff may also be imposed for the sake of justice and balance, for example, goods consumed by high-income earners.

Letter b

Setting the highest tariff at 1,150% (one thousand one hundred and fifty percent) of the customs value plus import duty or 80% (eighty percent) of the retail sale price takes into consideration that if excisable goods due to their nature and or characteristics are deleterious to health, the environment and social order, and as such are to be tightly restricted as to their importation, circulation and usage, restrictions can therefore be placed through tariffs, whereby the said excisable goods may be subject to the highest excise tariff. Furthermore, the highest tariff may also be imposed for the sake of justice and balance, for example, goods consumed by high-income earners.

Clause (3)

Changes to the excise tariff as referred to in this clause may be in the form of changing the percentage of base price (ad valorem) to the amount of Rupiah for each unit of excisable goods (specific) or vice versa. It can also be a combination of the two systems.

A tariff change serves several purposes including for the importance of state revenue, for restricting the consumption of excisable goods, and for facilitating the collection of duty or supervision of excisable goods.

Clause (4)

That which is meant by "DPR RI" is the commission responsible for finance.

That which is meant by "alternative policies" is policies regulating on the level of excise tariff on tobacco products made in Indonesia.

The approval of DPR RI as provided in this clause is part of an effort to protect and side with the labor-intensive tobacco industry, primarily where the production process relies on other methods than machines.

Clause (5)

Self-explanatory.

Number 6

Article 6

Clause (1)

That which is meant by "factory sale price" is the price at hand over from the factory to the distributor or consumer in which excise duty is not included.

That which is meant by "retail sale price" is the price established as the basis for calculating the amount of excise duty.

Clause (2)

That which is meant by "customs value and import duty" is the customs value and import duty as referred to in the law on customs.

Clause (3)

Self-explanatory.

Number 7

Self-explanatory.

Number 8

Self-explanatory.

Number 9

Article 7

Clause (1)

Self-explanatory.

Clause (2)

That which is meant by "imported for use" is entry into the customs territory for the purpose of usage, ownership, or control of persons domiciled in Indonesia.

Clause (3)

The payment of duty on excisable goods is in principle the satisfaction of requirements in order to

safeguard the rights of the state that are inherent in the excisable goods in which the goods can therefore be approved for clearance from the factory, warehouse, or imported for use.

Excisable goods where manufacture is complete and are used before clearance from the factory are considered to have been removed from the factory and thus duty must be paid.

Letter a

The settlement of excise duty through payment shall be proven by the required excise documents.

As to excisable goods made in Indonesia, payment must be done before the goods are removed from the factory or warehouse.

As to imported excisable goods, payment of duty must be done at the time the goods are imported for use.

Letter b

The payment of excise duty by affixing excise stamps shall be done by attaching the required stamps in accordance with prevailing provisions.

As to excisable goods made in Indonesia, excise stamps must be affixed before the goods are removed from the factory.

As to imported excisable goods, duty stamps must be affixed before the goods are imported for use. The affixation of duty stamps can be done at the temporary storage facility, bonded storage facility, or at the overseas place of production of the goods.

Letter c

The payment of excise duty by placing other markings indicating payment of duty shall be done by attaching other markings indicating payment of duty as required and in accordance with prevailing provisions, including: barcode and hologram.

As to excisable goods made in Indonesia, the placement of other markings indicating payment of excise duty must be done before the goods are removed from factory.

As to imported excisable goods, the placement of other markings indicating payment of duty must be done before the goods are imported for use. The placement of other markings indicating payment of duty may be done at the temporary storage facility, bonded storage facility, or the overseas place of production of excisable goods.

Clause (3a)

Self-explanatory.

Clause (3b)

Self-explanatory.

Clause (4)

That which is meant by “provided” is making available in physical form the goods and/or design specifications.

Clause (5)

Excise duty is considered unpaid when the affixation of excise stamps or placement of other markings indicating payment of duty is not in accordance with applicable provisions, which include the following:

- a. the affixed excise stamps are not in accordance with the excise tariff and/or established base price of excisable goods;
- b. the affixed excise stamps are not intact or are damaged; or
- c. the affixed excise stamps or other markings indicating payment of duty placed on excisable goods are those which the person concerned is not entitled to and/or not in accordance with the established specifications.

Clause (6)

Self-explanatory.

Clause (7)

Self-explanatory.

Clause (8)

Self-explanatory.

Number 10

Article 7A

Clause (1)

That which is meant by “from the date of release of excisable goods” is the date of registration of the clearance document.

Clause (2)

That which is meant by “deferment” is ease of payment granted to a manufacturer for the postponement of payment of excise duty without interest charges.

Letter a

That which is meant by “from the date of order of excise stamps” is the date of registration of the excise stamp order document.

Letter b

Self-explanatory.

Clause (3)

That which is meant by “deferment” is ease of payment granted to an importer of excisable goods for the postponement of payment of duty without interest charges.

Clause (4)

Collateral may be in the form of a bank guarantee or a guarantee from an insurance firm.

Clause (5)

Collateral may be in the form of a bank guarantee, guarantee from an insurance firm, or corporate guarantee.

The type and amount of collateral shall be established by taking into consideration the level of compliance of the manufacturer or importer of excisable goods during the time deferment is granted. For example, a manufacturer or importer of excisable goods who has never violated a deferment requirement may provide collateral in the form of corporate guarantee.

Clause (6)

Self-explanatory.

Clause (7)

Self-explanatory.

Clause (8)

Self-explanatory.

Clause (9)

Self-explanatory.

Number 11

Article 8

Clause (1)

Duty waiver on excisable goods as referred to in this clause is intended to provide relief to communities in certain regions producing such goods through simple methods and as a source of livelihood.

That which is meant by “packaged for retail sale” is being packed with specific content by utilizing items that can protect from damage and increase marketing.

Clause (2)

The obligation to pay excise duty remains inherent in excisable goods governed in this clause, but will not be collected providing that requirements are met, substantiated by the required excise documents, and the goods remain under supervision.

Letter a

That which is meant by “transported directly” is being hauled by a transporter through the customs office without having first to unload.

That which is meant by "transported thereafter" is being hauled by a transporter through the customs office by having first to unload.

Letter b

Self-explanatory.

Letter c

Duty is not charged on excisable goods as referred to in this letter is because in a factory or warehouse, excisable goods on which duty has not been paid that originate from a different factory or warehouse or are imported, can be stored. The collection or payment of duty on the said excisable goods shall be done at the time the goods are once again removed from the factory or warehouse.

Letter d

Excisable goods used as raw material or auxiliary material as set out in this letter shall not be subject to duty, as the duty shall be charged on final products that are also excisable goods, such as ethyl alcohol used as raw material in the production of beverages containing ethyl alcohol or as auxiliary material in the production of tobacco products.

Letter e

Self-explanatory.

Clause (2a)

Self-explanatory.

Clause (3)

That which is meant by “contravening provisions on duty waiver” is when excisable goods are found to deviate from their original purpose to the extent that they no longer comply with provisions as governed in clause (2), for example excisable goods where there is no proof that they are transported directly or exported.

Clause (4)

Self-explanatory.

Number 12

Article 9

Clause (1)

That which is meant by “waived” is a facility granted to a manufacturer or warehouse proprietor or importer to be relieved of excise duty owed.

Letter a

The duty-waiver facility as set forth in this letter is intended to support the growth or development of industries that use excisable goods as raw or auxiliary material in producing final products that are not excisable goods, either for export or domestic sale, such as ethyl alcohol used as raw or auxiliary ingredient in the production of ethyl acetate, acetic acid, medicines and others.

Letter b

Excisable goods on which duty may be waived as set out in provisions in this letter shall be restricted with regard to amount according to reasonable needs.

Letter c

Self-explanatory.

Letter d

Excisable goods on which duty may be waived as set out in provisions in this letter shall be restricted with regard to amount according to reasonable needs.

Letter e

1. That which is meant by “passenger” is any person crossing the territorial borders of the state by using a carrier, but is neither a crew of the carrier nor a border crosser.
2. That which is meant by “crew of a carrier” is any person who due to the nature of work must be in the carrier and comes with the carrier.
3. That which is meant by “border crosser” is a resident staying or domiciled within the territorial borders of the state holding an identity card issued by an authorized body, who travels across the border at the border area through the border outpost.

Letter f

That which is meant by “social purposes”, among others is for natural disaster relief.

Letter g

That which is meant by “bonded storage facility” is a bonded storage place as governed in the law on customs.

Clause (1a)

Self-explanatory.

Clause (2)

Letter a

That which is meant by “denatured ethyl alcohol made unfit for consumption” is ethyl alcohol that has been denatured with a specific denaturing agent which in trading terminology is commonly known as methylated spirit.

Letter b

Self-explanatory.

Clause (3)

That which is meant by “contravening provisions on duty exemption” is the abuse of duty-waiver facility. For example, ethyl alcohol is exempted from payment of duty as it is used as raw or auxiliary material in the production of a specific final product as designated, but is in fact used for the production of a different final product than the one designated.

Clause (4)

Self-explanatory.

Number 13

Article 10

Clause (1)

Letter a

That which is meant by “outstanding excise duty that has not been paid on time” includes the following:

- a. outstanding duty arising from excise duty paid at intervals as set forth in Article 7A clause (1) that has not been settled by the due date of installment payment; and
- b. outstanding duty arising from the payment of duty granted deferment as set forth in Article 7A clauses (2) and (3) that has not been settled by the due date of deferment.

Letter b

That which is meant by “underpaid excise duty” includes the following:

- a. underpaid duty due to calculation error in the excise tax return or duty stamp order form; and
- b. underpaid duty due to the results of stocktaking.

Letter c

Self-explanatory.

Clause (2)

That which is meant by “date of receipt” is the date of postmark, date of facsimile, or other means of delivery. When the notice of collection is sent directly, the point of reference is the date on which the notice is received.

Clause (2a)

In charging interest, if the duration is less than 1 (one) month it shall be counted as 1 (one) full month. For example, 7 (seven) days are counted as 1 (one) full month; 1 (one) month 7 (seven) days are counted as 2 (two) full months.

Clause (2b)

That which is meant as “under certain circumstances” is when a manufacturer is in financial difficulty or in the event of a force majeure.

Clause (2c)

That which is meant by “rounded to the nearest thousand rupiah” is a rounding up so that the nearest thousand becomes a full thousand.

Clause (3)

Self-explanatory.

Number 14

Article 12

Clause (1)

Letter a

That which is meant by “overpayment due to calculation error” is a miscalculation in multiplying, subtracting, applying tariffs or prices, or a stocktaking error. In such case, any paid duty may be refunded for as much as the excess payment as a result of the said calculation error.

Letter b

Excisable goods on which duty has been settled through payment or placement of other markings indicating payment of duty but thereafter exported, may be refunded on condition that sufficient proof of export is provided.

Excisable goods on which duty has been paid by the affixation of excise stamps but thereafter exported, may be refunded on condition that sufficient proof of export is provided and the affixed excise stamps must be damaged prior to export.

The refund of excise duty on excisable goods that are exported and duty paid by affixation of excise stamps or placement of other markings indicating payment of duty may only be granted to manufacturers.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Letter e

Excise stamps which have been ordered and received by a manufacturer or importer of excisable goods, and have not been affixed on the goods may be returned to the Directorate General of Customs and Excise.

Excise stamps are returned for the following reasons:

- a. a change in the design of the excise stamps;

- b. a change in excise tariff or retail price;
- c. excise stamps are damaged before affixation; or
- d. the factory concerned is no longer in production.

On the return of excise stamps, a manufacturer or importer of excisable goods is entitled to a refund of paid duty.

Letter f

Self-explanatory.

Clause (2)

Overpayment can be detected by a customs and excise officer from audit results or at the notification of the person concerned.

Upon knowledge of overpayment and proven, the customs and excise officer shall issue a notice of overpayment.

Excise refund may take into account duty owed but not paid.

Clause (3)

In the awarding of interest, if the duration is less than 1 (one) month, it shall be counted as 1 (one) full month. For example, For example, 7 (seven) days are counted as 1 (one) full month; 1 (one) month 7 (seven) days are counted as 2 (two) full months.

Clause (4)

Self-explanatory.

Number 15

Article 14

Clause (1)

Self-explanatory.

Clause (1a)

Self-explanatory.

Clause (1b)

Self-explanatory.

Clause (1c)

Self-explanatory.

Clause (2)

Self-explanatory.

Clause (3)

The meaning of “license must be renewed” is that once the twelve-month period ends, a new license must be held.

Clause (3a)

That which is meant by “put on hold” is not being allowed to conduct business activities related to excise until a decision has been issued on reinstatement or revocation of license, without reducing obligations that must be settled with the state.

Clause (4)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

In order to obtain license as referred to in clause (1), the prescribed requirements must be met; if such requirements are no longer satisfied, the license may be revoked.

Letter d

License for a legal person or natural person domiciled outside of Indonesia in accordance with provisions laid out in clause (2) shall only be granted to a legal person or natural person in Indonesia as the legitimate representative. On that account, if a legal person or natural person in Indonesia no longer legitimately represents the legal person or natural person domiciled outside of Indonesia, the license shall be revoked.

Letter e

Self-explanatory.

Letter f

Self-explanatory.

Letter g

The revocation of license as governed in this letter is an additional sanction that is administrative in nature.

Letter h

Self-explanatory.

Letter i

Self-explanatory.

Clause (5)

Self-explanatory.

Clause (5a)

Self-explanatory.

Clause (5b)

Self-explanatory.

Clause (6)

Excisable goods where duty has been paid and are stored at the place of business of an importer of excisable goods, distributor, and retailer, of which license has been revoked, must be relocated to the place of business of a different importer of excisable goods, distributor or retailer, or destroyed.

Clause (7)

That which is meant by “conducting activities” is any action that constitutes activities related to production, storage, importation, distribution, or sale of excisable goods.

Administrative sanction governed in this clause shall be imposed on violations which do not resultantly, lead to state losses.

Clause (8)

Self-explanatory.

Number 16

Self-explanatory.

Number 17

Self-explanatory.

Number

18

Article 16

Clause (1)

That which is meant by “maintain books of account” is a process of regularly keeping records to collect data and information that includes and affects the condition of assets, liabilities, capital, income and expenses that specifically reflects the cost of acquiring and handing over goods or services, which thereafter shall be summarized in a financial statement.

Clause (2)

The obligation to keep records is intended to facilitate compliance with provisions set out in this law while making sure that the rights of the state remain protected.

That which is meant by “keep records” is the process of collecting and recording data on a regular basis on the following:

- a. entry, production and removal of excisable goods; and
- b. receipt, usage and return of excise stamps or other markings indicating payment of duty.

That which is meant by small-scale manufacturer or distributor is a natural person who is not classified as a taxable enterprise as set out in laws and regulations related to taxation.

Clause (3)

That which is meant by “periodically” is daily, weekly, monthly or annually, depending on the type of excisable goods. For example:

- a. as to ethyl alcohol and beverages containing ethyl alcohol, a manufacturer shall notify about finished excisable goods to a customs and excise officer on a daily basis;
- b. as to tobacco products, a manufacturer shall notify about finished excisable goods to the customs and excise officer on a monthly basis.

Clause (4)
Self-explanatory.

Clause (5)
Self-explanatory.

Clause (6)
Self-explanatory.

Clause (7)
Self-explanatory.

Number 19

Article 16A

Letter (1)

Bookkeeping must be carried out through the method or system commonly used in Indonesia, for example, in accordance with financial accounting standards, except otherwise stated in laws and regulations related to excise. This is to make sure that bookkeeping is carried out in a trustworthy and reliable manner for overseeing the production and circulation of excisable goods, and/or payable excise duty.

Clause (2)
Self-explanatory.

Clause (3)
Financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities and letters pertaining to excise-related activities, including the processing of electronic data, must be kept for 10 (ten) years in Indonesia, for the purpose that in the event an excise audit is performed, the documentation will still exist, and can immediately be made available.

As to data stored electronically, the reliability of the data processing system must be maintained to ensure that such electronic data can be opened, read or retrieved at any time.

Clause (4)

Self-explanatory.

Article 16B

Self-explanatory.

Number 20

Article 17

Clause (1)

That which is meant by “register of excisable goods” is a book of records on the amount of specific excisable goods which are ethyl alcohol and beverages containing ethyl alcohol that are produced, deposited and removed, as well as deductions, shortages or excesses in stocktaking, at a factory or warehouse.

Clause (2)

Self-explanatory.

Clause (3)

Self-explanatory.

Number 21

Article 18

Self-explanatory.

Number 22

Article 19

That which is meant by “register of credit” is a book containing records of the amount of excise duty granted deferral of payment or allowed to pay at intervals, and their settlement.

Number 23

Article 20

Clause (1)

That which is meant by “stocktaking” is an activity for determining the amount, type, quality and condition of excisable goods.

In order to avoid the possibility of excise duty manipulation or evasion, this law hereby confers powers to the customs and excise officer to stocktake specific excisable goods such as ethyl alcohol and beverages containing ethyl alcohol, either held in a factory or warehouse. During stocktaking, there is the possibility of discovering shortages or surpluses of excisable goods based on the register of excisable goods in accordance with the nature or characteristics of the goods.

A customs and excise officer conducting stocktakes must carry with them an official letter of duty assignment.

Clause (2)

That which is meant by “providing personnel and equipment” is making available personnel and equipment necessary for assisting a customs and excise in stocktaking.

Clause (3)

Self-explanatory.

Number 24

Article 25

Clause (1)

Excisable goods stockpiled in a factory or warehouse still owe excise duty. The entry of excisable goods into such premises therefore must be notified to the Head of Office and protected with excise documents.

In the same way, the removal of excisable goods from the said premises, where duty has not been paid or where the exemption of payment of duty granted or duty has been paid, must be notified to the Head of Office and protected with excise documents as an instrument of supervision or for keeping records in the register of excisable goods as set forth in Article 17 clause (2).

Clause (2)

As to the entry or removal of excisable goods, a self-reporting system in principle applies that gives full trust to entrepreneurs, thereby not requiring physical supervision from the customs and excise officer. However, if an entrepreneur is suspected of being about to commit or of having

committed an irregularity that results in state losses, and similarly for excisable goods due to their nature or characteristics may negatively impact on public order, such as beverages containing ethyl alcohol, a customs and excise officer may oversee the entry or removal of excisable goods into or from a factory or warehouse.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Clause (4a)

Self-explanatory.

Clause (5)

Self-explanatory.

Number 25

Article 26

Clause (1)

This law in principle establishes that the entry, removal or conveyance of excisable goods on which duty has not been paid, into or from a factory or warehouse, must be protected with excise documents. However, in the event of emergencies, such as fire outbreaks, floods or other natural disasters, in order to salvage the said excisable goods relocation may be done without the necessary excise documents.

Clause (2)

In case of relocation of excisable goods as referred to in clause (1), a manufacturer or warehouse proprietor, within a specified duration, must notify the local Head of Office, and must comply with instructions issued by the said Head of Office.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Number 26

Article 27

Clause (1)

In order to prevent tax evasion and the misuse of excisable goods, the transport of excisable goods, whether packaged for retail sale or in bulk form or packaged not for retail sale, on which duty has not been paid, must be protected with excise documents.

Clause (2)

Bearing in mind the risky nature of specific excisable goods such as ethyl alcohol and beverages containing ethyl alcohol, even though duty has been paid, the conveyance of these goods must be protected with excise documents.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Clause (5)

Self-explanatory.

Number 27

Article 29

Clause (1)

Excisable goods on which duty is paid by the affixation of excise stamps or the placement of other markings indicating payment of duty must be packaged for retail sale in accordance with provisions specified in laws and regulations related to excise in order to oversee and safeguard state revenue.

That which is meant by “excise stamps or other compulsory markings indicating payment of duty” are excise stamps affixed to or other markings indicating payment of duty placed on the packed goods in accordance with provisions laid out in laws and regulations related to excise.

Clause (2)

Self-explanatory.

Clause (2a)

Violations as specified in this clause, for example a manufacturer who affixes excise stamps for hand-rolled *kretek* cigarettes on machine-rolled *kretek* cigarettes, but the duty stamps are in fact owned by the manufacturer or are what the manufacturer is entitled to.

Clause (3)

Self-explanatory.

Number 28

Article 31

Self-explanatory.

Number 29

Article 32

Self-explanatory.

Number 30

Article 33

Clause (1)

Letter a

Actions that include stopping, inspecting, detaining and sealing shall be undertaken within the ambit of administrative power.

Letter b

Actions where orders for excise stamps or other markings indicating payment of duty are denied shall be undertaken within the ambit of administrative power.

Letter c

That which is meant by “detain excisable goods” is to carry out an administrative action for the purpose of delaying the removal, loading and transporting of excisable goods.

That which is meant by “detain means of conveyance” is to carry out an administrative action for the purpose of preventing the departure of a means of conveyance, except public transporters.

Clause (2)

Considering the degree of danger in using firearms toward human security and safety, their usage is therefore highly restricted. For that reason, the type and conditions for using firearms shall be governed further in a government regulation by taking into account applicable laws and regulations.

Clause (3)

Self-explanatory.

Number 31

Article 34

Clause (1)

Self-explanatory.

Clause (2)

Every government agency, whether civilian or military, when requested, shall be obliged to provide assistance and protection or issue instructions to protect customs and excise officers in all matters related to their work in accordance to existing laws and regulations.

Number 32

Self-explanatory.

Number 33

Article 35

Clause (1)

Letter a

Self-explanatory.

Letter b

Inspection is conducted as during the time of inspection there is the possibility of the person concerned to move the excisable goods to a different building or place that is directly or indirectly related to the factory, warehouse or other premises where inspection is being conducted.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Clause (2)

Self-explanatory.

Clause (3)

That which is meant by “inventory” is the available supply of excise goods, excise stamps, and other markings indicating payment of duty.

Clause (4)

Self-explanatory.

Number 34

Article 36

Clause (1)

Self-explanatory.

Clause (1a)

That which is meant by “acting as representative” is an employee or subordinate or other parties taking responsibility as appointed by a manufacturer, warehouse proprietor, distributor, retailer or user of

excisable goods granted exemption of payment of duty as referred to in Article 9, upon which inspection is carried out.

Clause (2)
Self-explanatory.

Number 35

Article 37

Clause (1)

Stopping and inspection by a customs and excise officer of a means of conveyance is aimed at guaranteeing the rights of the state and compliance with existing laws and regulations, of which implementation shall be under the responsibility of the Directorate General of Customs and Excise.

The stopping and inspection of means of conveyance and excisable goods shall therefore only be carried out selectively based on information regarding the presence of excisable goods that do not meet administrative requirements as required by this law.

Clause (2)

That which is meant by “excise documents and supporting excise documents” are all documents required by this law to protect the conveyance of excisable goods.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Number 36

Article 39

Clause (1)

Excise audit is intended to assess the compliance of manufacturers, warehouse proprietors, importers of excisable goods, distributors, and users of excisable goods granted exemption of payment of duty as referred to in Article 9, toward provisions laid out in laws and regulation related to excise.

Clause (1a)

Letter a

Self-explanatory.

Letter b

That which is meant by “other related parties” are parties who are related or connected to transactions undertaken by a manufacturer, warehouse proprietor, importer of excisable goods, distributor, or user of excisable goods granted exemption of payment of duty as referred to in Article 9. For example, a buyer, seller, bank or other parties understood to be capable of providing information pertaining to said transactions.

Letter c

Self-explanatory.

Letter d

That which is meant by “security measures” are the act of sealing for the purpose of ensuring that financial statements, books, records and documents as proof of bookkeeping, and other documentation related to business activities, including electronic data and letters pertaining to excise-related activities and significant goods, are not lost, altered or moved from the place/room until examination can be resumed and/or other actions taken which are permitted by provisions laid out in laws and regulations related to excise, while paying heed to the continuity of business activities.

Clause (1b)

Self-explanatory.

Clause (1c)

If a manufacturer, warehouse proprietor, importer of excisable goods, distributor, or user of excisable goods granted exemption of payment of duty as referred to in Article 9, is a legal person, that which is meant by “not at the premises or unable to be present” is when the chief executive of the said legal entity is not at the premises or unable to be present.

That which is meant by “acting as representative” is an employee or subordinate taking responsibility or other parties appointed by the manufacturer, warehouse proprietor, importer of excisable goods, distributor, or user of excisable goods granted

exemption of payment of duty as referred to in Article 9, upon which an excise audit is conducted.

Clause (2)

Self-explanatory.

Clause (3)

Self-explanatory.

Number 37

Article 40

The power vested on a customs and excise officer is for providing greater guarantee of more effective supervision in order to safeguard state finances.

Number 38

Article 40A

Clause (1)

Letter a

Any corrections to a notice of collection or letter of objection decision in accordance with this provision are done as part of implementing good governance, whereby any human error or mistake in making a decision must be corrected accordingly.

The term to correct may mean adding, reducing or deleting according to the nature of the error or mistake.

The Director General by virtue of the position may correct or withdraw an erroneous notice of collection, for example when formal requirements are not satisfied yet material requirements have been met.

Letter b

The Director General may reduce or lift an administrative sanction in the form of fines and penalties when the person on which sanction is imposed had in fact made an inadvertent mistake, instead of an intentional one, or the said mistake occurred as a result of the actions of another person having no business relations with and without the knowledge and approval of the penalized person.

Clause (2)

Self-explanatory.

Number 39

Self-explanatory.

Number 40

Self-explanatory.

Number 41

Article 41

Clause (1)

Self-explanatory.

Clause (2)

In case the time limit of 30 (thirty) days is exceeded, the person concerned has therefore lost the right to lodge an objection.

Collateral may be in cash form, bank guarantee, or guarantee from an insurance firm.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Clause (5)

The decision handed down by the Director General concerning an objection may be in favor, partially or in full, and as such the amount of collateral which will be returned shall be in accordance with the decision.

Clause (6)

In the awarding of interest, if the duration is less than 1 (one) month, it shall be counted as 1 (one) full month. For example, 7 (seven) days is counted as 1 (one) full month; 1 (one) month and 7 (seven) days is counted as 2 (two) full months.

Clause (7)

Self-explanatory.

Clause (8)

Self-explanatory.

Number 42

Self-explanatory.

Number 43

Self-explanatory.

Number 44

Article 43A

Self-explanatory.

Article 43B

Self-explanatory.

Article 43C

Self-explanatory.

Number 45

Self-explanatory.

Number 46

Self-explanatory.

Number 47

Article 50

Self-explanatory.

Number 48

Self-explanatory.

Number 49

Article 52

Self-explanatory.

Number 50

Article 53

Self-explanatory.

Number 51

Article 54

Self-explanatory.

Number 52
Article 55
Self-explanatory.

Number 53
Article 56
Self-explanatory.

Number 54
Article 57
Self-explanatory.

Number 55
Article 58
Self-explanatory.

Number 56
Article 58A
Clause (1)
That which is meant by “accesses” is an action or effort to log into the excise system.
Clause (2)
Self-explanatory.

Number 57
Article 62
Clause (1)
Self-explanatory.

Clause (2)

That which is meant by “other goods” are goods directly related to excisable goods, such as means of conveyance used for transporting excisable goods, equipment or machinery utilized for producing excisable goods.

Other goods linked to criminal offenses in accordance with provisions in this law may be seized by the state and thereby affirms that excise-related crimes are of a specific nature, and as such require differential treatment on other goods linked with criminal offenses.

Clause (3)

Self-explanatory.

Number 58

Article 64A

Self-explanatory.

Article 64B

Self-explanatory.

Article 64C

Self-explanatory.

Article

64D

Clause (1)

That which is meant by “played an important part” is with regard to the handling of:

- a. administrative violations, that include the provision of information, detection either administratively or physically, and/or until the settlement of notice of collection, by the customs and excise officer; or
- b. excise-related criminal offenses, that include the provision of information, making an arrest, investigating, and/or until prosecution.

Clause (2)

Self-explanatory.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Article 64E

Self-explanatory.

Number 59

Article 65

Self-explanatory.

Number 60

Article 66

Clause (1)

That which is meant by “unknown offender” is a person contravening provisions in excise-related legislation, either administrative or criminal

provisions, who is unknown.

Under such circumstances, excisable goods and other goods linked to the said violation shall be under the control of the state and under the supervision of the Directorate General of Customs and Excise, and within fourteen days from the time the goods are under state control shall be declared to belong to the state if the owner remains unknown.

Clause (2)

Self-explanatory.

Clause (3)

Self-explanatory.

Number 61

Article 66A

Clause (1)

Revenue derived from excise duty levied on tobacco products made in Indonesia shall be allocated to regions for the reason being that excisable goods in the form of tobacco products have a specific nature or characteristics of which their consumption needs to be kept under control and supervision, given the negative impact on society, and the need to optimize efforts related to state excise duty revenue.

Such control and supervision shall be carried out by the government at the central and local level.

Profit sharing funds from excise duty are part of fiscal capacity, calculated according to the formula prescribed for General Allocation Funds (DAU) which is established annually during deliberations on the Draft National Budget (RAPBN).

Clause (2)

Self-explanatory.

Clause (3)

The allocation, management, and utilization of profit sharing funds from tobacco excise for districts/cities that are contributors to state revenue from tobacco excise, calculated according to the level of contribution to tobacco excise revenue.

Clause (4)

Self-explanatory.

Article 66B

Self-explanatory.

Article 66C

Self-explanatory.

Article 66D

Self-explanatory.

Article II

Self-explanatory.

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