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Salient Features of the Draft Excise Tax Law

Introduction

The Excise Tax Proclamation which was promulgated in 2002 and has been in effect since the beginning of the year 2003 is set to be revised in the current fiscal year. A draft bill has already been approved by the Council of Ministers and sent to the Ethiopian Parliament which is expected to promulgate it into law with some modifications after public consultations and further revisions by the relevant standing committee are made. The Proclamation was amended three times in the past – two in 2008 and the third one in 2016 with the adoption of the Federal Tax Administration Proclamation effectively amending the administration parts of all tax laws. We have summarized the major changes introduced by the current draft as follows subject to the changes that will surface in its final adoption:

Excise Tax on Services

The draft law levies the tax on Services provided in Ethiopia by authorized suppliers (Art. 5(1) (c)). Services are not subject to the tax in the existing laws. However, in the Schedule annexed to the draft bill, only Telecom Services namely Mobile Services (including internet, voice and text), Wireless Phone Services and Cable and Wireless Internet Services are listed as excisable at the rate of 5%.

Registration and Licensing by the Tax Authority

The draft has introduced a system by which all producers and suppliers of excisable Goods and Services have to be mandatorily registered and licensed by the Tax Authority for production and supply of excisable goods and services in Ethiopia and engagement in activities subject to the licensing in a Directive to be prescribed by the Ministry of Finance (Art 15 (1)).

Exempt items and Refund Mechanism

The existing Excise Tax Proclamation (as amended) does not have a list of items exempt from the payment of the Tax apart from providing that only items appearing in its Schedule are excisable. This created confusion whether or not the listed items are excisable in certain special circumstances. The draft bill (Article 8), apart from introducing elements in its Schedule 2 the fulfilment of which renders goods not excisable, it also lists situations and items that are exempt from the payment of Excise Tax. To name a few, excisable goods sold to persons with the tax free privilege, excisable goods destroyed by the producer following the Tax Authority's

approval and excisable goods lost or destroyed by an accident or other factors beyond one's control are exempt items in the new draft bill.

The draft bill has also introduced a mechanism by which an Excise Tax that is already paid to the Government could be refunded to the taxpayer based on occurrence of certain events such as loss or destruction of goods or their return to the seller by the purchaser. (Article 30)

Possibility of Raising Tax Rate

The new draft bill empowers the Ministry of Finance to raise the Excise Tax Rate up to a maximum of 10% of the rate indicated under its first Schedule. (Art 10(1))

Inflation Adjustment

Under the draft bill, the Tax Authority has the responsibility to apply an inflation adjustment at least once a year on the Standard Excise Tax Rates under Schedule 1 according to a Directive to be issued by the Ministry of Finance. (Art 10 (2))

Specific Excise Tax Rate

The draft bill introduced application of a specific excise tax rate that is based on the quantity or weight of goods along with an Ad Valorem rate (i.e. based percentage of value) as opposed to the existing law which adopts only the latter type of excise tax rate. (Art 12)

Introduction of a Monitoring mechanism on excisable goods

The other new feature introduced by the draft excise tax law is the setting up of a monitoring mechanism of excisable goods by the Tax Authority while excisable goods are inside the manufacturing factory of an authorized producer. Accordingly, an officer of the Tax Authority is empowered to investigate the nature and status of excisable goods, to weigh their weights, and count their quantity inside the factory. Authorized manufacturers of excisable goods are in turn obliged to register list of inputs and outputs in an approved form and set up a mechanism by which the officer of the Tax Authority can realize its monitoring responsibilities. (Art 25)

Introduction of Excise Tax Stamp

The draft bill empowers the Ministry of Finance to issue a Directive that governs stamps that are used to identify excisable goods, alcohol products that are exempt from the tax, export goods and those goods produced for the consumption of exempt entities. The time, place and manner of administration of such excise tax stamps is also to be addressed in this Directive. The type and content of the excise tax stamps is to be publicized by the Tax Authority in newspapers having nationwide circulation. (Article 29)

New Excisable Items and Changed Tax Rates

The other major change introduced by the draft bill is the levying of the tax on items that are not excisable under the applicable excise tax law and change of the tax rate on currently excisable goods.

Under the first category, items such as: Fats and Oils, Foods Containing Sugar, Chocolates and Cacao Products, Fireworks, Plastic Bags, Pastic Vehicle Tyres, Artificial Flowers and Fruits,

Human and Synthetic Hair, Tractors, Special Purpose Vehicles, Trailers, Gambling and Video Game Machines and Telecom Services are among the newly introduced excisable items.

For easy reference, we have summarized below a brief comparison of the existing and the draft excise tax laws:

No.	Provisions	Existing Excise Tax Law	Draft Excise Tax Law
1.	Tax Payer	Importers and Manufacturers of Excisable goods	Importers and Authorized Manufacturers and Suppliers of Excisable goods and Services
2.	Tax Base	For goods produced locally - Cost of Production (i.e. direct labor and raw material cost incurred in the production process, cost of indirect inputs and overhead costs, but does not include depreciation costs of machineries)	For goods produced locally – factory selling price (i.e. price paid by the purchaser; or fair market value of the goods in case of related party transactions) less VAT on supply of goods, cost of Excise Stamp and cost of Returnable packaging. Excise tax must be shown separately on the transactional invoice.
		For goods imported - cost, insurance, freight (C.I.F) + Customs Duty	For goods imported – value of goods as per the Customs Proclamation + Customs Duty
			For local Services - actual price charged for the services (in the case of related parties – fair market value)
3.	Time of Payment	For Manufactured goods – not later than 30 days from the date of production; For Imported goods – at the time of clearing the goods from Customs area	For Manufactured goods – at the time of exit of goods from factory or consumed therein; For Services – During provision of the service; For Imported goods – at the time of entry of goods into Ethiopia.
4.	Types of Excise Tax Rates	Only Ad Valorem rates	Ad Valorem and Specific rates
5.	Deduction of Excise Tax paid on Inputs	Only allowed for textile and textile products locally produced in a factory and vehicles assembled locally	Allowed for all excisable goods Except Alcohol, Tobacco and Sugar

Disclaimer

The information contained on this legal update is based on the draft Excise Tax Proclamation, which has not gained a status of a law. The official proclamation is yet to be issued after public consultation and reviews by the Parliament. The information above is provided for general information purposes only and nothing is intended as a legal advice.