

Ministerial Resolution No. (33) of 1981
Concerning the Executive Regulations of Federal Law No. (11) of 1981
Imposing Federal Custom Tax on Imports of Tobacco and its Derivatives

The Minister of Finance and Industry,

- Having reviewed Federal Law No. (1) of 1972, Concerning the Competences of Ministries and Capacities of Ministers, and its amendments thereof; and
- Concerning the imposition of a federal tax on imports of tobacco and its derivatives; and
- The proposal submitted by the Undersecretary of the Ministry,

Has resolved the following:

Definitions

Article (1)

Upon application of the provisions of this Law, the following terms and expressions shall have the following meanings, unless the context requires otherwise:

- Goods** : Any imports of tobacco and its derivatives including cigarettes, cigars, snuffs, tobacco, etc., whether manufactured or semi manufactured from raw materials.
- Tax** : The federal customs duty imposed pursuant to Federal Law No. (11) of 1981, referred to above, and as amended by Federal Law No. (12) of 1994.
- Customs Department** : Any seaport, airport or land center that may contain a customs department, which is the authority where the customs procedures are taken, whether on the seashores, the land borders or at the airports inside the State or on its borders.

Chapter One

Customs Departments

Article (2)

Goods shall enter through the Customs Department.

Article (3)

The Customs Departments are:

In the Emirate of Abu Dhabi,

Zayed Port – Abu Dhabi International Airport – Commodities Center – Al Ruwais – Al Dhana Mountain – Das Island – the Post – Al Ain International Airport.

In the Emirate of Dubai:

Port Rashid – Dubai International Airport – Jebel Ali Port – Al Hamriyah Port – Al Shandaga Port.

In the Emirate of Sharjah:

Khalid Port – Sharjah International Airport – Khorfakkan Port.

In the Emirate of Ras Al Khaimah:

Saqr Port – Ras Al Khaimah Airport.

In the Emirate of Ajman:

Ajman Port.

In the Emirate of Umm Al Quwain:

Umm Al Quwain Port.

In the Emirate of Fujairah:

Fujairah Port – Fujairah Airport.

The Minister of Finance and Industry may add any other Customs Departments.

Article (4)

Goods removed from the free zones or warehouses shall be carried into the State after being moved to the Customs Department in order to complete the procedures for the payment of the

Tax on such Goods, which shall be deemed imported from abroad for the first time. The Tax shall apply to such Goods on the date of such removal.

Article (5)

Vessels carrying Goods may not berth other than in the Customs Department. If a vessel has to berth due to any incidentally circumstance or force majeure other than in the Customs Department, the master of the vessel shall not discharge any part of the Goods for the purpose of smuggling. In such event, the master shall notify the nearest Customs Department.

Article (6)

Goods to be entered by land shall be taken to the nearest Customs Department on the borders. Familiar routes shall be used without deviation until the Goods reach the first Customs Department to complete the customs procedures. If such Customs Department is not authorized to complete the customs procedures, a statement of inventory of the Goods shall be prepared and the person in charge of the transport mean shall sign such statement, and the Goods shall be taken under guard to the nearest Customs Department to complete the customs procedures. If the Goods cannot be sent under guard, such Customs Department shall notify the nearest Customs Department of the statement of such Goods.

Chapter Two

Applicable Rules for the Calculation of Tax

Article (7)

Tax shall be assessed on the basis of the true price of the Goods, whether paid or agreed, in the currency of the documentary credit, plus the freight and insurance costs to the port of discharge in the State, nominated by UAE dirhams on the basis of the equivalent rate of the foreign currency on the date of payment of such Tax.

Article (8)

If the price of the Goods cannot be verified or in the event of doubt at the time of inspection of the documents attached to the customs manifest, the price shall be evaluated by two assessors by the customs on the basis of the nearest equivalent value that can be verified, using the international prices of such Goods or in any other manner.

Article (9)

As for the Goods which their owners find that they are not compliant with the agreed specifications, contain defects or are of less quality products or for any other reason which result in exchanging communications between the importer and the exporter abroad and the exporter agrees to deduct a particular percentage of the value of such consignments, the customs shall inspect all the relevant communications, telex messages and documents with the assistance of a customs assessor. If such assessor is satisfied by such deduction, the Tax on the Goods shall be assessed on the basis of the value following such deduction. This provision shall apply to such Goods that may suffer damage en route.

Article (10)

The customs accountant calculates the tax and fixes it in the form designated for that purpose, and the tax rate is (50%) fifty percent of the import price of the good calculated on the basis of its delivery at the port of arrival in the United Arab Emirates if it is imported from abroad (CIF value). In the event the commodity is manufactured, or its manufacturing was completed, within the country, the tax is calculated on the basis of (50%) fifty percent of the value of its production cost, taking into account the deduction of the tax that may have been imposed and paid on the materials involved in manufacturing.

The exports of such goods are exempted from tax.

Chapter Three

Customs Procedures

Article (11)

A customs manifest and an import statement of the Goods in one original copy and 5 photocopies with all such information to be filled by the importer or the agent prior to the commencement of the relevant customs procedures.

The importer or the agent shall insert in the customs manifest all the information related to the Goods, including the number of packages and their marks, numbers, descriptions, weights and measurements.

Article (12)

The information contained in the customs manifest and the import statement may not be changed after being provided to the customs. However, if the party providing the manifest or statement finds, prior to issuing the written order to inspect the Goods or their weight, any misstatement, such party may be authorized to correct such mistake if the customs manager is satisfied of the good faith of such party. Such correction shall be approved by the customs manager or his nominee.

Article (13)

The importer or the agent shall, at the time of delivery of the customs manifest to the customs, state the true value paid or agreed to be paid in connection with the Goods packed and ready for shipping at the export port, in the currency of the exporting country or any other foreign currency plus the freight and insurance costs and other expenses to the port of discharge in the State.

Article (14)

The importer or the agent shall, at the time of clearance of the Goods, provide to the customs all the documents confirming the value of the Goods plus the freight and insurance costs and other expenses, together with an Arabic translation thereof.

Such documents shall in particular include the following:

- a. The original invoices attested by the UAE Embassy in the exporting country. If there is no such UAE embassy in the exporting country, such invoices shall be attested by an Arab embassy, by the chamber of commerce or the chamber of industry in the exporting country.
- b. The certificate of origin attested in accordance with the provision of clause (a).
- c. The insurance policy attested in accordance with the provision of clause (a).
- d. The bill of lading.
- e. The packing list per package.
- f. The price list, if any.
- g. A copy of a documentary credit form or the documents for the remittance by the bank.

Article (15)

Upon the discharge of the Goods from the vessel, a representative of the Ministry of Finance and Industry shall check the manifest of the Goods and contact the local customs representatives. If such representative finds that the quantity of the Goods is less or more than the quantity or number on the manifest, the master of the vessel or its agent shall state in writing the reasons for such deficiency or increase.

Chapter Four
Payment of the Tax

Article (16)

The Tax shall be collected from the importer or local producer, in cash or via a cheque drawn against one of the banks operating in the State; (50%) of the collected tax shall be deposited in the Ministry of Finance and Industry's account and the remaining (50%) shall be deposited in the account of the Customs Department through which the goods are cleared.

The collection and deposit procedures shall be determined, in details, in agreement between the Ministry of Finance and Industry and the concerned Customs Department.

Article (17)

Tax shall be paid on the form prepared for such purpose. Such form shall be signed by the customs manager or his nominee.

Article (18)

The necessary procedures, for the discharge of goods, shall be taken when the importer or the agent presents a receipt confirming the settlement of tax to the Customs Department.

Article (19)

A copy of the customs manifest shall be attached to a copy of the tax receipt, purchase invoices, and certificate of origin; the said documents shall be sent to the Ministry of Finance and Industry headquarters in Abu Dhabi – in relation to Abu Dhabi Customs Department, and to the Ministry of Finance and Industry headquarters in Dubai – in relation to the Customs Departments in the Northern Emirates, in order to perform the testing procedures and prepare the necessary registration documents.

Article (20)

If it is established that the Tax collected is less than the Tax actually payable by way of omission or error or for any other reason, the person liable to pay the Tax shall pay the difference within no later than two months following the request to do so.

Article (21)

If a dispute arises between the importer or the agent and the customs on the value of the Goods for any good reasons, the Tax shall be collected in cash in trust so as not to delay the Goods at the customs. The assessor shall assess the deposit on the basis of the value as determined by the customs for Tax purposes plus 10% (ten percent) of such value. The importer or the agent shall be given one month to provide the documents supporting his point of view. If such period expires without providing such documents, the deposit shall be entered as revenue.

Chapter Five

Sale of Goods

Article (22)

If the importer or the agent declines to provide the customs manifest or fails to provide it in due time or fails to appear to collect the Goods within 4 months from the date of discharge of the Goods at the Customs Department, the customs shall be entitled to sell the Goods at the public auction.

It shall be deducted from the sale proceeds the Tax and the other payable taxes and local customs duties and the expenses in the following order:

- a. The sale expenses including the publication expenses.
- b. The Tax calculated on the basis of the sale price.
- c. Taxes and local customs duties calculated on the basis of the sale price.
- d. Revenues, charges and flooring fees and any other dues payable to the customs.

After that, any balance shall be held in the customs fund as trust on demand to any person that may be entitled thereto.

Article (23)

In urgent cases, the Customs Department may sell the seized Goods, which may suffer deficiency or loss in the event of storing thereof, through a committee formed from the representative of the Ministry of Finance and Industry, a representative of the local Customs Department and a representative of the chamber of commerce and industry.

If it is decided that the importer or the agent are entitled to the sold Goods, such importer or agent may recover the sale price upon deducting the Tax and other local customs duties and the sale expenses.

Article (24)

In either event as provided by the, the sale shall be made in accordance with the applicable procedures in the financial rules issued by the Ministry of Finance and Industry under Financial Circular No. (10) of 1975.

Chapter Six

Temporary Exemption from Tax

Article (25)

It shall be temporarily exempted from Tax such Goods imported for the purpose of re-exporting thereof outside the State in their original condition or upon manufacturing or completing the manufacture of such Goods.

It is conditional for such exemption that the importer pays to the Ministry of Finance and Industry a cash deposit or provides a bank guarantee of the amount of the applicable Tax and to re-export the Goods within one year from the date of import. In the event of failure to re-export such Goods within one year, the Tax shall become payable.

The foregoing condition may not be applied if the re-export is scheduled to be made within 15 days from the date of arrival of the Goods to the port of discharge in the State. Such exclusion shall be granted under a resolution by the Minister of Finance and Industry.

The one-year condition may be excluded if the importer or the agent provides such statements confirming that the re-exporting is impossible within one year due to force majeure events. Such exclusion shall be granted under a resolution by the Minister of Finance and Industry.

Article (26)

A customs declaration shall be submitted for the goods imported for the purpose of re-export stating that such goods are for re-export.

Article (27)

The cash deposit or bank guarantee as provided by hereof may be returned when the importer or the agent provides a bill of lading of the Goods to be shipped abroad.

Chapter Seven

Tax Evasion

Article (28)

A person shall be deemed Tax evasive if such person uses fraudulent means to avoid the payment of all or any of the Tax or uses fraudulent means to enter the Goods other than through the Customs Departments as provided by hereof.

Article (29)

Goods may not be entered by way of mail packages.

Article (30)

Goods shall be deemed smuggled in any of the following events:

- a. Goods removed from the means of transport prior to the arrival to the first Customs Department without any compulsory circumstance, for the purpose of smuggling.

- b. Goods found upon inspection to be hidden or have been hidden by any way or it is suspected in the circumstances to be hidden, such as by putting the Goods in the overhead pockets or any similar pockets in the means of transport or in any unusual places or among the luggage of the passengers or in their own clothing bags carried by them or in disguised packages, all without declaration of such Goods.
- c. Goods found upon inspection to be different in number, type, quantity, measurement or weight than as stated in the invoice or the number on the label is untrue or for which invoices or documents feigned or imaginary or forged marks to avoid payment of all or any of the Tax.
- d. If the land, air, or sea means of transport coming from a foreign country deviates from the familiar route to locations free of custom departments and unloads the Goods without any compulsory reasons.

Article (31)

Smuggled Goods may be pursued wherever they are and may be seized, even upon crossing the borders of the Customs Department, by the customs and, if necessary, the police.

Article (32)

Upon seizure of the smuggled Goods inside or outside the Customs Department, the customs officers shall issue the required minutes without any delay for the violating persons in the nearest customs office.

The minutes shall state the date, time, and closure thereof and the place of such seizure and its date and time and the names, surnames, nationalities, profession and places of residences of the violating persons. If such persons reject to give any such information, such rejection shall be entered in the minutes. All the facts and explanations that may facilitate the search for and arrest of the violating persons shall also be entered in the minutes. If any of such violating persons is employed on board a vessel or any other means of transport, the name and type of such vessel or

means of transport, the name of the master or driver and the name of its agent company shall be stated.

The names of the seizing officers, a summary of the incident, the reason for seizure and its circumstances and an accurate description of the Goods and their assessed value shall be stated in the minutes. Such assessment shall be the basis of the penalty to be imposed on the violating person.

The minutes shall be prepared in the presence of the violating persons, and they shall be required to sign the minutes and give their statements. If any of them rejects to sign the minutes, it shall be entered in the minutes.

A copy of the seizure minutes shall be dispatched, together with all the relevant documents, within 24 hours to the to the head office of the Ministry of Finance and Industry in Abu Dhabi in case of the Abu Dhabi Customs Department or to the head office of the Ministry of Finance and Industry in Dubai in case of the Customs Departments in the Northern Emirates, together with the notes by the local Customs Department. Another copy shall be dispatched to the Federal Public Prosecution to take the required action.

Article (33)

Investigations shall be conducted by a committee in every Customs Department, to be formed under a resolution by the Head of the Customs Department. The representative of the Ministry of Finance and Industry in the Customs Department shall be a member of such committee.

If such committee is actually formed in the Customs Department for such purpose, a representative of the Ministry of Finance and Industry shall be a member of such committee for the purpose of investigations in connection with this Tax only.

Article (34)

The smuggled Goods shall be kept in custody. This also applies to the means of transport used for smuggling until the crime of smuggling is concluded. This provision shall not apply to vessels and airplanes unless chartered especially for the purpose of smuggling.

Chapter Eight

Final Provisions

Article (35)

Forms as provided by this Resolution shall be issued under a resolution by the Minister of Finance and Industry upon consultation of the local Customs Departments.

Article (36)

The relevant authorities shall, according to their respective jurisdictions, execute this Resolution.

Article (37)

This Resolution shall come in force from the date of issue hereof and shall be published in the Official Gazette.

Hamdan bin Rashid Al Maktoum
Minister of Finance and Industry

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