

Cabinet Resolution No. (52) of 2019 Concerning Excise Commodities and Tax Rates Levied on them and the Method of Calculating the Excise Price

The Cabinet,

- Having reviewed the Constitution; and
- Federal Decree by Law No. (13) of 2016, establishing the Federal Tax Authority; and
- Federal Law No. (7) of 2017, concerning tax procedures; and
- Federal Decree by Law No. (7) of 2017, concerning excise tax; and
- Federal Decree No. (32) of 2017, ratifying the unified agreement on excise tax for the states of the Gulf Cooperative Council (GCC); and
- Cabinet Resolution No. (38) of 2017 concerning excise commodities and tax rates levied on them and the method of calculating the excise price; and
- Upon the Minister of Finance's proposal, and the Cabinet's approval,

Hereby decides:

Article (1)

Definitions

In the application of the provisions of this Resolution, the following words and phrases shall have the meanings assigned against each, unless the text implies otherwise:

State	:	The United Arab Emirates.
Authority	:	The Federal Tax Authority.
Minister	:	The Minister of Finance.
Tax	:	The Excise Tax.
Federal Decree by Law	:	Federal Decree by Law No. (7) of 2017, concerning Excise Tax.
Excise Commodities	:	The commodities that will be determined as subject to tax in this resolution.

Taxable Person	:	Every registered person or obliged to register for tax purposes in accordance with the Federal Decree by Law.
Importer	:	The natural or legal person whose name is listed as an importer of excise commodities on the import date for the purposes of customs clearance.
Excise Price	:	The price calculated in accordance with the provisions of this resolution.
Value Added Tax	:	A tax levied on the export and import of commodities and services, in accordance with the provisions of Federal Decree by Law No. (8) of 2017 concerning the Value Added Tax.
Milk Alternatives	:	The drink used for all or most uses of milk as a substitute to it and has a similar density to milk and contains 120 mg of calcium in every 100 ml, provided that it is extracted from pulses or grains or nuts or seeds or any other kind of plants and not containing gaseous ingredients.

Article (2)

Excise Commodities

For purposes of article (2) of the Decree by Law, tax shall be imposed on the following excise commodities:

1. Tobacco and its products.
2. Liquids used in electronic smoking devices and tools.
3. Electronic smoking devices and tools.
4. Carbonated beverages.
5. Energy beverages.
6. Sweetened drinks.

Article (3)

Tobacco and its Products

For purposes of article (2) of this Resolution, tobacco and its products shall include all categories stipulated in Chapter (24) of the Unified Customs Tariff schedules for GCC, whether imported, planted or produced in the State, including cigarettes rolls that are electrically heated.

Article (4)

Fluids Used in Electronic Smoking Devices and Tools

For purposes of article (2) of this Resolution, liquids used in electronic smoking devices and tools shall include all liquids used in those devices and tools and the like, whether it contained Nicotine or not in accordance with customs symbols determined by a Resolution issued by the Minister.

Article (5)

Electronic Smoking Devices and Tools

For purposes of article (2) of this Resolution, electronic smoking devices and tools shall mean all electronic smoking devices and tools and the like, whether it contained Nicotine or tobacco or not in accordance with customs symbols determined by a Resolution issued by the Minister.

Article (6)

Carbonated Beverages

For purposes of article (2) of this Resolution, Carbonated Beverages shall mean all of the following:

1. Any drinks that contain carbon, except unflavored carbonated water.
2. Any concentrates, powders, gel or extracts that can be transformed into carbonated beverages.

Article (7)

Energy Beverages

For purposes of article (2) of this Resolution, Energy Beverages shall mean all of the following:

1. Any drinks that are marketed or sold as energy drinks that may contain stimulants, give mental or physical stimulation. These include without limitation, caffeine, Taurine, Ginseng and Guarana. They also include any materials that have same or similar effect of the aforementioned materials.
2. Any concentrates, powders, gel or extracts that can be transformed into energy beverages.

Article (8)

Sweetened Beverages

1. For purposes of article (2) of this Resolution, sweetened drinks shall mean any product with an added derivative of sugars or other sweeteners and is produced in any of the following forms:
 - a. Ready-to-drink for the purpose to be consumed as a beverage.
 - b. Concentrates or powders or gel or extracts or any form that can be transformed into a sweetened beverage.
2. For purposes of this article, sugar shall include any kind of sugar determined in accordance with the GSO standard No. (148) of the GCC Standardization Organization under the title of "Sugar" and any other subsequent and relevant mandatory standards.
3. For purposes of this article, sweeteners shall include any kind of sweeteners determined in accordance with the GSO standard No. (995) of the GCC Standardization Organization under the title of "Sweeteners permitted for use in food stuffs" and any other subsequent and relevant mandatory standards.
4. For purposes of article (2) of this Resolution, the following commodities shall be excluded from the definition of Sweetened Beverages:
 - a. Ready-to-drink beverage containing at least 75% milk.

- b. Ready-to-drink beverage containing at least 75% milk substitutes.
- c. Manufactured infant milk, follow-up formula or infant foods.
- d. Beverages designated for special dietary uses in accordance with the GSO standard No. (654) of the GCC Standardization Organization under the title of "General requirements for prepackaged foods for special dietary uses" and any other subsequent and relevant standards.
- e. Beverages designated for special medical uses in accordance with the GSO standard No. (1366) of the GCC Standardization Organization under the title of "General requirements for prepackaged foods for special medical use" and any other subsequent and relevant standards.

Article (9)

Drinks Containing Alcohol

Except for what is stipulated in this Resolution, the aforementioned beverages in articles (6), (7) and (8) of this Resolution shall not include the beverages containing alcohol.

Article (10)

Commodities Previously Subject to Tax

1. If any of the excise commodities, referred to in Articles (6), (7) and (8) of this Resolution, was subject to a tax in the State, the beverage produced by mixing this commodity with any other products at the place where the product is sold for consumption by persons who are not subject to tax, such beverage shall not be considered an excise commodity for the purposes of the Decree by Law and no additional excise tax shall be due.
2. The tax paid for excise commodities mentioned in clause (1) of this Article shall not be considered as deductible tax subject to provision of Article (16) of the Decree by Law.

Article (11)

Compatibility with the Definition of More Than One Excise Commodity

1. In the event that any product is compatible with the definition of more than one commodity of the excise commodities designated in this Resolution, that product shall be categorized under the excise commodity that is subject to the highest tax.
2. In the event that any product is compatible with the definition of carbonated beverages and sweetened beverages subject to this Resolution, that product shall be categorized as a carbonated beverage.

Article (12)

Tax Rates

For purposes of article (3) of the Federal Decree by Law, a tax shall be levied on excise Commodities referred to above in article (2) of this Resolution, with the following rates:

Excise Commodities	Tax Rate
Tobacco and its products	100%
Liquid used in electronic smoking devices and tools	100%
Electronic smoking devices and tools	100%
Carbonated Drinks	50%
Energy Drinks	100%
Sweetened Drinks	50%

Article (13)

Excise Price

1. In accordance with article (3) of the Federal Decree by Law, the excise price shall be the higher price among the following two prices:
 - a. Determined price for the excise commodity by the Authority within the list of prices it issues, if available.
 - b. The retail price determined for the commodity deducted from it the tax included in it.
2. For the deduction of tax included in the retail price determined in paragraph (b) of clause (1) of this article, the following calculations shall be followed:
 - a. In reference to the excise commodity subject to tax rate of (50%) of the excise price, the tax value shall be equivalent to third of the retail price designated for that commodity.
 - b. In reference to the excise commodity subject to tax rate of (100%) of the excise price, the tax value shall be equivalent to half of the retail price designated for that commodity.
3. As an exception to the provisions of paragraph (b) of clause (1) of this article, the excise price for essences or powders or gel or extracts referred to in this resolution shall be calculated in according with the formula determined by the Minister.

Article (14)

Designated Retail Price

1. For purposes of article (13) of this resolution, the designated retail selling price shall be the higher of:
 - a. The suggested retail selling price within the scope of retail sale, that is designated and published and posted on commodities by the importer or product after deducting the value added tax.
 - b. Average retail selling price in the market for the designated commodity after VAT deduction.
2. For purposes of paragraph (b) of clause (1) of this article, an average market retail price

shall be calculated for the commodity in accordance with the procedures determined by the Authority.

Article (15)

The Authority's Procedures

1. The Authority shall be entitled to determine procedures required to prove the categorization of any product to confirm it is an excise commodity, and it may request the person to provide documents or laboratory proofs or any other proofs designated by the Authority to prove and determine the content of the product in case it is difficult to categorize it.
2. The Authority is entitled to determine procedures required to add any product to the aforementioned price list in Article (13) of this Resolution.
3. If the person did not provide the aforementioned documents in Clause (1) of this Article within the period determined by the Authority, the Authority is entitled to consider the product as excise commodity subject to the provisions of the Decree by Law, until the contrary is proved.

Article (16)

Repeals

Cabinet Resolution No. (38) of 2017 referred to above, shall be repealed as well as any provision that contradicts or conflicts with the provisions of this Resolution.

Article (17)

Enforcement of Resolution

The Minister shall issue a decision determining a date for enforcing the provisions of this Resolutions, provided that the execution shall be before 01 January 2020.

Article (18)

Publication

This Resolution shall be published in the Official Gazette.

Mohammed bin Rashid Al-Maktoum

Prime Minister

Issued by us:

On: 03 Thu Al-Hijjah 1440 AH

Corresponding to: 04 August 2019 AD