

Consolidation of Excise Law

Consolidation of Law of The Republic of Indonesia Number 11 of 1995 concerning Excise as Amended Several Times, Last Amended by Law of The Republic of Indonesia Number 7 of 2021

General Definitions

To encourage sustainable economic growth in establishing a just, prosperous and well-off society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, various measures pertaining to consolidative fiscal policies by the Government are required.

These consolidated fiscal policies may be realized by undertaking strategic measures that focus on improving the budget deficit and increasing the tax ratio, among others, through the implementation of policies to increase tax revenue performance, reforms of tax administration, increased tax base, the establishment of a tax system that emphasizes the principles of justice and legal certainty, as well as increasing taxpayer compliance. At the global level, countries worldwide are currently implementing various tax policies expected to boost revenues by expanding the tax base and adjusting tax rates.

To increase the tax ratio, the Government has made various efforts, including tax reforms that focus on organization, human resources, data-based information technology, business processes and tax regulations. This is carried out by improving service functions, implementing the Tax Amnesty program, implementing the Automatic Exchange of Financial Account Information scheme and strengthening the effectiveness of the extensification function and law enforcement. However, this is insufficient to compensate for changing business patterns and the constantly changing dynamics of globalization and to counter existing aggressive tax planning practices.

Therefore, in line with sustainable tax reforms, specifically, in the regulatory and business process aspects, it is necessary to adjust tax policy arrangements in a comprehensive, consolidated and harmonious manner. As such, the Law on the Harmonization of Tax Regulations is required. Adjustment of the policy-setting aims to promote sustainable economic growth and encourage the acceleration of economic recovery; optimize state revenues to finance national development independently towards a just, prosperous and well-off Indonesian society; realize a fairer tax system with more legal certainty; carry out administrative reforms, consolidated taxation policies, and broaden the tax base; and increase Taxpayer compliance.

Comprehensive, consolidated and harmonious tax policies are implemented through regulations covering General Provisions and Tax Procedures, Income Tax, Value Added Tax and Sales Tax on Luxury Goods, Taxpayer Voluntary Disclosure Program, Carbon Tax and Excise.

Materials relating to General Provisions and Tax Procedures included several amended and/or added provisions, among others, concerning cooperation in tax collection assistance amongst countries, Taxpayer's power of attorney, provision of data in the context of law enforcement and cooperation in the interest of the state and expiration of tax criminal prosecution.

Materials relating to Income Tax include several amended and/or added provisions, among others, concerning changes in the imposition of taxes on in-kind and/or fringes, individual and corporate Income Tax rates, depreciation and amortization as well as international agreements/treaties in the field of taxation.

Changes to materials relating to Value Added Tax and Sales Tax on Luxury Goods include but are not limited to reduced exemptions of taxable objects of Value Added Tax, restipulation of Value Added Tax facilities, changes to Value Added Tax rates and imposition of final Value Added tax rates.

To encourage taxpayer compliance, the Taxpayer Voluntary Disclosure Program materials provide an opportunity for taxpayers to disclose their undisclosed assets. Furthermore, there are new provisions on the carbon tax on carbon emissions with a negative impact on the environment. Carbon tax is imposed by taking into account the carbon tax roadmap and/or the carbon market roadmap. Changes to the provisions on the materials relating to Excise.

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To increase the tax ratio, the Government has made various efforts, including tax reforms that focus on organization, human resources, data-based information technology, business processes and tax regulations. This is carried out by improving service functions, implementing the Tax Amnesty program, implementing the Automatic Exchange of Financial Account Information scheme and strengthening the effectiveness of the extensification function and law enforcement. However, this is insufficient to compensate for changing business patterns and the constantly changing dynamics of globalization and to counter existing aggressive tax planning practices.

Therefore, in line with sustainable tax reforms, specifically, in the regulatory and business process aspects, it is necessary to adjust tax policy arrangements in a comprehensive, consolidated and harmonious manner. As such, the Law on the Harmonization of Tax Regulations is required. Adjustment of the policy-setting aims to promote sustainable economic growth and encourage the acceleration of economic recovery; optimize state revenues to finance national development independently towards a just, prosperous and well-off Indonesian society; realize a fairer tax system with more legal certainty; carry out administrative reforms, consolidated taxation policies, and broaden the tax base; and increase Taxpayer compliance.

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CHAPTER I

GENERAL PROVISIONS

Article 1

Referred to herein this Law:

1. Excise is a state levy imposed on certain goods whose nature or characteristics are stipulated under this law.
2. Factory is a certain place, including buildings, yards and fields that constitute a part thereof used to produce excisable goods and/or to package excisable goods in certain packaging for retail sale.
3. Person is a natural person or legal entity. *)
4. Manufacturer is a person running a factory.
5. Warehouse is a place, building and/or fields that are not part of a factory, used to store Excisable Goods in the form of ethyl alcohol on which excise is payable, 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 end consumers.
8. Retailer is a person running a retail outlet. *)
9. Distributor is a person distributing or selling excisable goods, on which excise has been paid that are solely not intended for end consumers. *)
10. Excise documents are documents used in the context of implementing this law, in printed forms 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 implementing element of 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 official is an employee of the Directorate General of Customs and Excise appointed to a certain position to undertake certain duties pursuant to this law. *)
16. Temporary Stockpiling Site is a building and/or field or other similar premises within the customs territory to temporarily stockpile goods awaiting loading or release. *)
17. Bonded Stockpiling Site is a building, premise or zone that fulfills certain requirements used to stockpile goods for a certain purpose on which import duty deferral is granted. *)
18. Customs area is the territory of the Republic of Indonesia which includes land, waters and airspace above it as well certain places in the Exclusive Economic Zone and the continental shelf in which the law that stipulates customs is applicable. *)
19. Excise audit is a series of activities of auditing financial statements, books of accounts, records and documents constituting proof of bookkeeping and other documents in connection with business, including electronic data and letters in connection with excise-related activities and/or inventory of goods in the context of implementing statutory excise provisions. *)
20. Notice of Tax Collection is a letter in the form of an assessment used to collect excise liability, excise underpayment, administrative penalties in the form of a fine and/or interest. *)

Elucidation of Article 1

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 2

- (1) Certain goods of the following nature or characteristics:
 - a. their consumption needs to be controlled;
 - b. their circulation needs to be supervised;
 - c. their use may result in negative impacts on society or the natural environment; or
 - d. their use requires the imposition of government levies for fairness and balance, *)are subject to excise under this law.
- (2) Goods referred to in paragraph (1) are declared excisable goods.

Elucidation of Article 2

Paragraph (1)

Subparagraph a

Sufficiently clear.

Subparagraph b

Sufficiently clear.

Subparagraph c

Sufficiently clear.

Subparagraph d.

“Their use requires the imposition of government levies for fairness and balance” implies that excise levies may be imposed on goods categorized as luxury goods and/or goods of high value, but do not constitute basic needs, thereby, balance in the imposition of levies is maintained between high-income consumers and low-income consumers.

Paragraph (2)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 3

- (1) The imposition of excise shall apply to Excisable Goods produced in Indonesia when their production is completed and to Excisable Goods imported upon their admission into the customs area pursuant to the provisions in the Law concerning Customs.
- (2) The liability to excise on Excisable Goods produced in Indonesia lies on the Taxable Person for VAT Purposes or Warehouse Proprietor and for imported Excisable Goods lies on the Importer or other parties referred to in the Law concerning Customs.
- (3) Provisions in this Law are fulfilled using excise documents and/or supporting excise documents.

Elucidation of Article 3

Paragraph (1)

Affirmation of when excise is imposed on goods stipulated as Excisable Goods is important because thereafter, juridically, excise liability has arisen (because of the Law), thereby, it is necessary to supervise the goods because state rights are inherent therein.

For Excisable Goods produced in Indonesia, excise is imposed when their production is completed, thereby, this is when these goods are subject to supervision. "When their production is completed" refers to when the production process of these goods is completed with the purpose of being used.

For imported Excisable Goods, excise is imposed when they are admitted into the Customs Area.

Paragraph (2)

Taking into account the definitions of Manufacturer and Warehouse Proprietor stipulated under Article 1, the liability to excise on Excisable Goods if they are still in the Factory, lies on the Manufacturer, whereas if they are in the Warehouse, the liability shifts to the Warehouse Proprietor.

The liability in respect of the provisions on settlement of excise is affirmed when Excisable Goods are released from the Factory or Warehouse.

For imported Excisable Goods, considering that the juridical definition of when excise is imposed is when the goods and means of transport enter the Customs Area pursuant to the principle of imposition of duties in the Customs Law, whereas when the goods enter the Customs Area, whether these goods are intended for use or other purposes is not yet known and the owner is not yet known, the responsibility for excise on imported Excisable Goods shall comply with the stages of the responsibility of duty on imported goods as stipulated in Law concerning Customs.

Paragraph (3)

"Supporting excise documents" refer to all documents used as supporting documents of excise

documents.

Relevant Regulations

There are no relevant regulations

Article 3A

- (1) Excise documents and/or supporting excise documents referred to in Article 3 paragraph (3) shall be submitted in writing on forms or in the form of electronic data. *)
- (2) Excise documents and/or supporting excise documents referred to in paragraph (1) constitute legal evidence pursuant to this law. *)
- (3) Further provisions on excise documents and/or supporting excise documents referred to in paragraph (1) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 3A

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 3B

To excisable goods, all provisions stipulated under this law shall apply. *)

Elucidation of Article 3B

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

Relevant Regulations

There are no relevant regulations

CHAPTER II

EXCISABLE GOODS, EXCISE RATES AND BASE PRICES

Article 4

- (1) Excise is imposed on Excisable Goods which include:
 - a. ethyl alcohol or ethanol, regardless of the ingredients used and the manufacturing process; b. beverages containing ethyl alcohol in any amount, regardless of the ingredients used and the manufacturing process, including concentrates containing ethyl alcohol; and
 - c. tobacco products, which include cigarettes, cigars, corn husk cigarettes, cut tobacco, e-cigarettes and other tobacco processing products, regardless of whether or not alternative materials or indirect materials are used in their production. **)
- (2) The addition or reduction of the types of Excisable Goods shall be stipulated by a Government Regulation after being submitted by the Government to the House of Representatives of the Republic of Indonesia

to be discussed and agreed upon in the preparation of the Draft State Budget. **)

Elucidation of Article 4

Paragraph (1)

Subparagraph a

Ethyl alcohol or ethanol refers to a clear and colourless liquid, constituting an organic compound with the chemical formula C_2H_5OH , that is obtained either by fermentation and/or distillation or by chemical synthesis.

Subparagraph b

Beverages containing ethyl alcohol refer to all liquids commonly referred to as beverages containing ethyl alcohol produced by fermentation, distillation or other methods, including beer, shandy, wine, gin, whiskey and the like.

Concentrates containing ethyl alcohol are ingredients containing ethyl alcohol used as raw materials or indirect materials in the production of beverages containing ethyl alcohol.

Subparagraph c

Cigarettes refer to tobacco products from cut tobacco rolled in paper for consumption, regardless of any alternative or indirect materials used in their production.

Cigarettes consist of clove cigarettes, white cigarettes and rhubarb incense cigarettes.

Clove cigarettes are cigarettes that, in their production, are mixed with cloves or parts thereof, either natural or artificial, regardless of the amount.

White cigarettes are cigarettes that, in their production, are not mixed with cloves, rhubarb or incense.

White cigarettes and clove cigarettes consist of machine-made clove cigarettes or those produced by methods other than machines.

Machine-made white cigarettes and clove cigarettes refer to white cigarettes and clove cigarettes, in the production of which, paper rolling, filter attaching, packaging for retail sale and tax stamps attachment are carried out entirely or partially using machines.

White cigarettes and clove cigarettes made with other methods other than machines are white cigarettes and clove cigarettes, in the production of which, paper rolling, filter attaching, packaging for retail sale and tax stamps attachment are carried out without using machines.

Rhubarb incense cigarettes refer to cigarettes that, in their production, are mixed with rhubarb and/or incense, either natural or artificial, regardless of the amount.

“Cigars” refer to tobacco products made from cut or whole tobacco leaves, rolled in such a way in tobacco leaves for consumption, regardless of any alternative or indirect materials used in their production.

“Cornhusk cigarettes” refer to tobacco products made from palm leaves, cornhusk or the like, by being rolled in for consumption, regardless of any alternative or indirect materials used in their production.

“Cut tobacco” refers to a tobacco product made from cut tobacco leaves for consumption, regardless of any alternative or indirect materials used in their production.

“E-cigarettes” refer to tobacco products in the form of liquid, solid or other forms, originating from the processing of tobacco leaves made by extraction or other methods in accordance with technological developments and consumer tastes, regardless of any alternative or indirect materials used in their production, which are provided for end consumers in retail sales packaging and consumed by heating using an electric heater and inhaled.

“Other processed tobacco products” refer to tobacco products made from tobacco leaves other than those referred to in this subparagraph that are produced in different methods in accordance with technological developments and consumer tastes, regardless of any alternative or indirect materials used in their production.

Paragraph (2)

“House of Representatives of the Republic of Indonesia” refers to complementary organs of the House of Representatives of the Republic of Indonesia, namely a commission whose duties and authorities are in the finance, banking and development planning sectors.

Relevant Regulations

There are no relevant regulations

Article 5

- (1) Excisable goods in the form of tobacco products are subject to excise based on the highest rate of:
 - a. for goods produced in Indonesia:
 1. 275% (two hundred and seventy-five percent) of the base price if the base price used is the factory selling price; or
 2. 57% (fifty-seven percent) of the base price if the base price used is the retail price.
 - b. for imported goods:
 1. 275% (two hundred and seventy-five percent) of the base price if the base price used is customs value plus import duty; or
 2. 57% (fifty-seven percent) of the base price if the base price used is the retail price. *)
- (2) Other excisable goods are subject to excise based on the highest rate of:
 - a. for goods 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 selling price; or
 2. 80% (eighty percent) of the base price if the base price used is the retail price.
 - b. for imported goods:
 1. 1,150% (one thousand one hundred and fifty percent) of the base price if the base price used is customs value plus import duty; or
 2. 80% (eighty percent) of the base price if the base price used is the retail price. *)
- (3) Excise rates referred to in paragraph (1) and paragraph (2) may be changed from the percentage of the base price to the amount in rupiah for each unit of excisable goods or vice versa or a combination of both.
- (4) Stipulation of the amount of state revenue targets from excise in the Draft State Budget and alternative policies of the Minister in optimizing efforts to achieve revenue targets, taking into account industrial conditions and aspirations of industrial entrepreneurs, are submitted to the House of Representatives of the Republic of Indonesia to obtain approval. *)
- (5) Further provisions on the amount of excise rates referred to in paragraph (1) and paragraph (2) as well as changes in rates referred to in paragraph (3) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 5

Paragraph (1)

Subparagraph a

Stipulation of the maximum rate of 275% (two hundred and seventy-five percent) of the factory selling price or 57% (fifty-seven percent) of the retail price is based on the consideration that if excisable goods that, due to their nature or characteristics, have a negative impact on health, their imports, circulation and use are to be strictly limited, the limitation is through the rate instrument, thereby, the said excisable goods may be subject to the highest excise rate.

Subparagraph b

Stipulation of the maximum rate of 275% (two hundred and seventy-five percent) of the customs value plus import duty or 57% (fifty-seven percent) of the retail price is based on the consideration that if excisable goods that, due to their nature or characteristics, have a negative impact on health, their imports, circulation and use are to be strictly limited, the limitation is through the rate instrument, thereby, the said excisable goods may be subject to the highest excise rate.

Paragraph (2)

Subparagraph a

Stipulation of the maximum rate of 1,150% (one thousand one hundred and fifty percent) of the factory selling price or 80% (eighty percent) of the retail price is based on the consideration that if excisable goods that, due to their nature or characteristics, have a negative impact on health, environment and social order, their circulation and use are to be strictly limited, the limitation is through the rate instrument, thereby, the said excisable goods may be subject to the highest excise rate. Moreover, the highest rate may also be imposed in the context of fairness and balance, for example, goods consumed by high income people.

Subparagraph b

Stipulation of the maximum rate of 1,150% (one thousand one hundred and fifty percent) of the customs value plus import duty or 80% (eighty percent) of the retail price is based on the consideration that if excisable goods that, due to their nature or characteristics, have a negative impact on health, environment and social order, their imports, circulation and use are to be strictly limited, the limitation is through the rate instrument, thereby, the said excisable goods may be subject to the highest excise rate. Moreover, the highest rate may also be imposed in the context of fairness and balance, for example, on goods consumed by high-income people.

Paragraph (3)

Changes in excise rates referred to in this paragraph may be in the form of ad valorem changes from the percentage of the base price to the amount in rupiah for each unit of (specific) excisable goods or vice versa. Similarly, the changes may be a combination of the two systems.

Rate changes are intended for several objectives, among others, for state revenue purposes, to limit the consumption of excisable goods and to facilitate the collection or supervision of excisable goods.

Paragraph (4)

“House of the Representatives of the Republic of Indonesia” is a commission in charge of the finance sector.

“Alternative policies” refer to policies on the amount of excise rates on tobacco products produced in Indonesia.

The approval from the House of the Representatives of the Republic of Indonesia in this paragraph, among others, constitutes an effort of protection and partiality with the labour intensive tobacco product industry, particularly, that whose production uses other methods than machines.

Paragraph (5)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 6

- (1) The base price used to calculate excise on excisable goods produced in Indonesia is the factory selling price or retail price.
- (2) The base price used to calculate excise on imported excisable goods is the customs value plus import duty or retail price.
- (3) Further provisions on the stipulation of base prices shall be stipulated by a ministerial regulation. *)

Elucidation of Article 6

Paragraph (1)

“Factory selling price” refers to the supply price of a factory to distributors or consumers, which does not include excise.

“Retail price” refers to the price stipulated as the basis to calculate the amount of excise.

Paragraph (2)

“Customs value and import duty” refer to the customs value and import duty as referred to in the law concerning custom.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER III SETTLEMENT, DEFERRAL AND FACILITIES *)

Article 7

- (1) Excise on excisable goods produced in Indonesia shall be settled when the excisable goods are released from the factory or warehouse.
- (2) Excise on imported excisable goods shall be settled when the excisable goods are imported for use.
- (3) Methods of excise settlement referred to in paragraph (1) and paragraph (2) are carried out by: a. payment;
b. attachment of tax stamps; or
c. affixture of other markings indicating excise settlement. *)
- (3a) The printing of tax stamps referred to in paragraph (3) subparagraph b and procurement of other markings indicating excise settlement referred to in paragraph (3) subparagraph c shall be carried out by state-owned enterprises and/or bodies or institutions appointed by the Minister under stipulated requirements. *)
- (3b) Stipulated requirements referred to in paragraph (3a) shall at least fulfill the principles of security, continuity, effectiveness, efficiency and provide equal opportunities. *)
- (4) Tax stamps referred to in paragraph (3) subparagraph b and other markings indicating excise settlement referred to in paragraph (3) subparagraph c shall be provided by the Minister. *) (5) In the event excise is settled by attaching tax stamps as referred to in paragraph (3) subparagraph b or affixing other markings indicating excise settlement as referred to in paragraph (3) subparagraph c, the implementation does not comply with statutory excise provisions, the excise is deemed not settled. *)
- (6) Deleted. *)
- (7) Deleted. *)
- (8) Further provisions on excise settlement shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 7

Paragraph (1)

Sufficiently clear.

Paragraph (2)

“Imported for use” refers to being imported to the customs area with the purpose of being used, held or controlled by a person domiciled in Indonesia.

Paragraph (3)

Basically, excise settlement on excisable goods constitutes the fulfillment of requirements in the context of securing state rights inherent in excisable goods, thereby, the excisable goods may be approved for release from factories, warehouses or imported for use.

Excisable goods that have been produced and used before being released from the factory are considered to have been released and the excise must be settled.

Subparagraph a

Excise settlement is proven by required excise documents. For excisable goods produced in Indonesia, payment must be performed before the excisable goods are released from the factory or warehouse. For imported excisable goods, payment of excise is performed at the time the excisable goods are imported for use.

Subparagraph b

Excise settlement by attachment of tax stamps is carried out by attaching the corresponding tax stamps pursuant to applicable provisions.

For excisable goods produced in Indonesia, tax stamps must be attached before the excisable goods are released from the factory.

For imported excisable goods, tax stamps must be attached before the excisable goods

are imported for use. Tax stamps may be attached at a temporary stockpiling site, a bonded stockpiling site or a place where excisable goods are produced overseas. Subparagraph c

Excise settlement by affixing other markings indicating excise settlement is carried out by affixing corresponding other markings indicating excise settlement pursuant to applicable provisions, including: barcodes and holograms.

For excisable goods produced in Indonesia, other markings indicating excise settlement must be affixed before the excisable goods are released from the factory

For imported excisable goods, other markings indicating excise settlement must be affixed before the excisable goods are imported for use. Other markings indicating excise settlement may be affixed at a temporary stockpiling site, a bonded stockpiling site or a place where excisable goods are produced overseas.

Paragraph (3a)

Sufficiently clear.

Paragraph (3b)

Sufficiently clear.

Paragraph (4)

“Provided” refers to being provided in the form of physical goods and/or design specifications.

Paragraph (5)

Excise is deemed not settled if the attachment of tax stamps or affixture of other markings indicating excise settlement on the excisable goods does not comply with the applicable provisions, among others:

- a. the attached tax stamps do not comply with the excise rate and/or the stipulated base price of the excisable goods;
- b. the attached tax stamps are incomplete or damaged; or
- c. the attached tax stamps or other markings indicating excise settlement affixed to excisable goods are not eligible and/or do not comply with the stipulated specifications.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

Sufficiently clear.

Paragraph (8)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 7A

- (1) Excise settlement referred to in Article 7 paragraph (3) subparagraph a may be paid periodically to the manufacturer no later than 45 (forty-five) days since the release date of excisable goods without being subject to interest. *)
- (2) Excise payment deferral may be granted to manufacturers within the following period: a. no later than 90 (ninety) days since the order date of tax stamps for settlement by attachment of tax stamps referred to in

Article 7 paragraph (3) subparagraph b;

b. no later than 45 (forty-five) days since the release date of excisable goods for settlement by affixture of other markings indicating excise settlement referred to in Article 7 paragraph (3) subparagraph c. *)

(3) Excise payment deferral may be granted to importers of excisable goods within a maximum period of 60 (sixty) days since the order date of tax stamps for settlement by attachment of tax stamps referred to in Article 7 paragraph (3) subparagraph b. *)

(4) For periodic payments referred to in paragraph (1), manufacturers must submit a guarantee. *) (5) To obtain the referral referred to in paragraph (2) and paragraph (3), manufacturers or importers of excisable goods must to submit a guarantee. *)

(6) The types and amount of the guarantee referred to in paragraph (4) and paragraph (5) shall be stipulated by or based on a ministerial regulation. *)

(7) Manufacturers that settle excise using periodic payments as referred to in paragraph (1) and do not pay the excise until the expiration of the period of periodic payment, must pay excise payable and are subject to an administrative penalty in the form of a fine of a 10% (ten percent) of the value of excise payable. *)

(8) Manufacturers or importers of excisable goods obtaining deferral as referred to in paragraph (2) and paragraph (3) that do not pay excise until the deferral due date must pay excise payable and are subject to an administrative penalty in the form of a fine of a 10% (ten percent) of the value of excise payable. *)

(9) Further provisions on periodic payments referred to in paragraph (1) and deferral referred to in paragraph (2) and paragraph (3) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 7A

Paragraph (1)

“Since the release date of excisable goods” refers is the registration date of release documents.

Paragraph (2)

“Deferral” refers to a payment facility provided to manufacturers in the form of excise payment deferral without being subject to interest.

Subparagraph a

“Since the order date of tax stamps” refers to the registration date of the tax stamp purchase order.

Subparagraph b

Sufficiently clear.

Paragraph (3)

“Deferral” refers to a payment facility provided to importers of excisable goods in the form of excise payment deferral without being subject to interest.

Paragraph (4)

Guarantees may be in the form of bank guarantees or guarantees from insurance companies.

Paragraph (5)

Guarantees may be in the form of bank guarantees, guarantees from insurance companies or corporate guarantees.

The types and amount of the guarantee are determined by considering the compliance level of the manufacturer or importer of excisable goods insofar as deferral is obtained. For example, manufacturers or importers of excisable goods that have never violated the deferral may submit a guarantee in the form of a corporate guarantee.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

Sufficiently clear.

Paragraph (8)

Sufficiently clear.

Paragraph (9)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 8

- (1) Excise is not collected on excisable goods as referred to in Article 4 paragraph (1) on:
 - a. cut tobacco made from tobacco from plants in Indonesia not packaged for retail sale or packaged for retail sale with commonly used traditional packaging materials, if in its production it is not mixed or added with tobacco originating from overseas or other ingredients commonly used in the production of tobacco products and/or the packaging or cut tobacco is not affixed with trademarks, etiquette or the like;
 - b. beverages containing fermented or distilled ethyl alcohol produced by the people in Indonesia in a simple manner solely for livelihood and not packaged for retail sale.
- (2) Excise is not collected on excisable goods if:
 - a. they are transited or transhipped to destinations outside the customs area;
 - b. exported;
 - c. admitted into the factory or warehouse;
 - d. used as raw materials or indirect materials in the production of final products which constitute excisable goods;
 - e. have been destroyed or damaged before being released from the factory, warehouse or before being granted approval on import for use.
- (2a) Changes to excisable goods on which excise is not collected referred to in paragraph (1) and changes to the destination of excisable goods on which excise is not collected referred to in paragraph (2) shall be stipulated by the Minister. *)
- (3) Manufacturers, warehouse proprietors, importers of excisable goods or any person violating the provisions on non-collection of excise referred to in paragraph (2) shall be subject to an administrative penalty in the form of a minimum fine of (two) times the excise value and a maximum fine of 10 (ten) times the excise value that should otherwise be paid. *)
- (4) Further provisions on the implementation of paragraph (1) and paragraph (2) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 8**Paragraph (1)**

The non-collection of excise on excisable goods referred to in this paragraph is intended to provide relief to the people in some regions who produce these goods in a simple manner and constitute a source of livelihood.

“Packaged for retail sale” refers to being packed in packages with certain contents using objects that may protect the goods against damage and improve marketing.

Paragraph (2)

The obligation to pay excise remains inherent to the excisable goods as stipulated in this

paragraph but the collection is not carried out insofar as the stipulated requirements are fulfilled, as evidenced by the required excise documents and the excisable goods remain under supervision.

Subparagraph a

“Transited” refers to being transported by means of transport through the customs office without prior unloading.

“Transhipped” refers to being transported by means of transport through the customs office with prior unloading.

Subparagraph b

Sufficiently clear.

Subparagraph c

Excise on excisable goods referred to in this subparagraph is not collected because, in factories or warehouses, excisable goods on which excise has not been paid originating from another factory or warehouse or from imports may be stockpiled. Collection or payment of excise duty on the said excisable goods shall be carried out when they are released from the factory or warehouse.

Subparagraph d

Excisable goods used as raw materials or indirect materials pursuant to the provisions of this subparagraph are subject to non-collection of excise because excise shall be imposed on final products which also constitute excisable goods, such as ethyl alcohol used as a raw material in the production of beverages containing ethyl alcohol or as an indirect material in the production of tobacco products.

Subparagraph e

Sufficiently clear.

Paragraph (2a)

Sufficiently clear.

Paragraph (3)

“Violating the provisions on non-collection of excise” implies that excisable goods are found to deviate from the destination, thereby, no longer fulfilling the provisions stipulated in paragraph (2), for example, excisable goods that cannot be proven to have been transited or exported. **Paragraph (4)**

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 9

(1) Excise exemption may be granted to excisable goods:

- a. used as raw materials or indirect materials in the production of final products not constituting excisable goods;
- b. for scientific research and development purposes;
- c. for the interests of representatives to foreign countries and their officials assigned to Indonesia

- based on the principle of reciprocity;
- d. for the interests of foreign professionals assigned to international agencies or organizations in Indonesia;
 - e. carried by passengers, crew members, migrants or shipments from overseas in a specified amount;
 - f. used for social purposes;
 - g. admitted into a bonded stockpiling site.
- (1a) Changes to the destination of excisable goods granted exemption from excise referred to in paragraph (1) shall be stipulated by the Minister. *)
- (2) Excise exemption may also be granted to certain excisable goods, namely:
- a. denatured ethyl alcohol, thereby, unfit for drinking;
 - b. beverages containing ethyl alcohol and tobacco products, which are consumed by passengers and crew members that directly depart out of the customs area.
- (3) Manufacturers, warehouse proprietors, importers of excisable goods or any person violating provisions on excise exemption referred to in paragraph (1) or paragraph (2) shall be subject to an administrative penalty in the form of a minimum fine of 2 (two) times the excise value and a maximum fine of 10 (ten) times the excise value that should otherwise be paid. *)
- (4) Further provisions on procedures for excise exemption referred to in paragraph (1) and paragraph (2) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 9

Paragraph (1)

“Exemption” refers to a facility granted to manufacturers or warehouse proprietors or importers of not paying excise payable.

Subparagraph a

The excise exemption pursuant to the provisions in this subparagraph is intended to support the growth or development of industries that use excisable goods as raw materials or indirect materials in the production of final products not constituting excisable goods, both for export and domestic marketing purposes, such as ethyl alcohol used as a raw material or indirect material in the production of ethyl acetate, acetic acid, medicine and so forth.

Subparagraph b

The number of excisable goods eligible for the exemption pursuant to the provisions in this subparagraph is limited according to reasonable needs.

Subparagraph c

Sufficiently clear.

Subparagraph d

The number of excisable goods eligible for the exemption pursuant to the provisions in this subparagraph is limited in number according to reasonable needs.

Subparagraph e

1. “Passengers” refer to any persons who cross the borders of a country using means of transport but are neither crew members nor migrants.
2. “Crew members” refer to any persons who due to the nature of their work must be on board a means of transport and arrive with the means of transport.
3. “Migrants” refer to residents who dwell or reside within the borders of a country and have identity cards issued by the competent authority and travel across borders through border control posts.

Subparagraph f

“Social purposes” refer to, among others, aid in natural disasters.

Subparagraph g

“Bonded stockpiling site” refers to a bonded stockpiling site stipulated in the law concerning customs.

Paragraph (1a)

Sufficiently clear.

Paragraph (2)

Subparagraph a

“Denatured ethyl alcohol, thereby, unfit for drinking” refers to ethyl alcohol that is denatured with certain destructive substances, which in trade terms, is commonly referred to as brandspiritus.

Subparagraph b

Sufficiently clear.

Paragraph (3)

“Violating provisions on excise exemption” refers to abusing the excise exemption facility. For example, ethyl alcohol is granted excise exemption because it will be used as a raw material or as an indirect material in the production of certain predetermined final products but, in fact, is used to produce final products other than the predetermined ones.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER IV COLLECTION, REFUNDS AND EXPIRATION

Article 10

- (1) Collection shall be carried out on:
 - a. excise liability that is not paid on time;
 - b. excise underpayment; and/or
 - c. an administrative penalty in the form of a fine. *)
- (2) Excise liability, excise underpayment and administrative penalty in the form of a fine referred to in paragraph (1) must be paid no later than 30 (thirty) days since the date of receipt of the invoice. *) (2a) Payment of excise liability, excise underpayment and/or administrative penalty in the form of a fine referred to in paragraph (1), which exceeds the period referred to in paragraph (2), is subject to 2% (two percent) monthly interest for a maximum of 24 (twenty-four) months of the value of unpaid excise liability, excise underpayment and/or administrative penalty in the form of a fine. *)
- (2b) In certain cases, upon requests from manufacturers, the Director General may provide the installment facility of collection referred to in paragraph (1) within a maximum period of 12 (twelve) months and subject to 2% (two percent) monthly interest. *)
- (2c) Payment of excise liability, excise underpayment and/or administrative penalty in the form of a fine referred to in paragraph (2) and interest referred to in paragraph (2a) shall be rounded to the nearest thousand rupiah. *)
- (3) Further provisions on procedures for the collection and installments shall be stipulated by or based on a

ministerial regulation. *)

Elucidation of Article 10

Paragraph (1)

Subparagraph a

“Excise liability that is not paid on time” refers to, among others:

- a. excise liability arising from excise paid periodically referred to in Article 7A paragraph (1) that is not paid until the periodic payment period ends; and
- b. excise liability arising from deferred excise payment referred to in Article 7A paragraph (2) and paragraph (3) that is not paid until the deferral due date ends

Subparagraph b

“Excise underpayment” refers to, among others:

- a. excise underpayment due to a miscalculation in the notification documents or tax stamps purchase orders; and
- b. excise underpayment due to enumeration results.

Subparagraph c

Sufficiently clear.

Paragraph (2)

“Date of receipt” refers to the postmark, date of facsimile or other shipping media. In the event that the notice of tax collection is hand-delivered, it shall refer to the date on which the notice of tax collection is received in person.

Paragraph (2a)

In the imposition of interest, if the period is less than 1 (one) month, it is calculated as 1 (one) full month. For example, 7 (seven) days are calculated as 1 (one) full month; 1 (one) month and 7 (seven) days are calculated as 2 (two) full months.

Paragraph (2b)

“In certain cases” refers to manufacturers experiencing financial difficulties or in a force majeure.

Paragraph (2c)

“Rounded to the nearest thousand rupiah” refers to being rounded up, thereby, a fraction of the thousand becomes a full thousand.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 11

- (1) State bills under this law have a right to a writ of seizure and sale to all bills for the debtor’s property. (2) The right to a writ of seizure and sale as referred to in paragraph (1) does not apply to:
- a. case fees that are solely caused by a sentence of auctioning movable property or immovable property;
 - b. expenses that have been incurred to save goods;
 - c. case fees that are solely due to the auction and settlement of an inheritance.

- (3) The right to a writ of seizure and sale referred to in paragraph (1) is lost after two years have elapsed since the issuance of the Notice of Tax Collection unless, within that period, payment deferral is granted.
- (4) In the event of payment deferral referred to in paragraph (3), the period of two years must be added to the period of payment deferral.

Elucidation of Article 11

Paragraph (1)

This paragraph stipulates the position of the state as a preferred creditor declared to have a writ of seizure and sale of the debtor's property that will be subject to a public auction.

Only after the excise liability and/or administrative penalties in the form of a fine are settled, payment to other creditors is settled.

This paragraph is intended to provide an opportunity for the Government to preemptively obtain the proceeds from a public auction of the debtor's property over other creditors to cover or settle the debt.

"Debtor's property" refers to the debtor's entire assets. In the event that the debtor is an individual, the debtor's property includes personal assets.

Paragraph (2)

The right to a writ of seizure and sale of the debtor's property subject to a public auction only takes effect after the expenses referred to in subparagraph a, subparagraph b and subparagraph c have been paid for.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 12

- (1) Refunds of paid excise are granted in the event that:
 - a. there is an overpayment due to a miscalculation;
 - b. excisable goods are exported;
 - c. excisable goods are reprocessed at the factory or destroyed;
 - d. excisable goods are exempt from excise as referred to in Article 9;
 - e. tax stamps are returned because they are damaged or not used; or
 - f. there is an overpayment due to a Tax Court decision. *)
- (2) Excise refunds referred to in paragraph (1) shall be carried out no later than 30 (thirty) days since the overpayment is determined. *)
- (3) If the excise refund is carried out after the 30 (thirty) day period referred to in paragraph (2), the government shall grant 2% (two percent) monthly interest, calculated after the period ends until the refund. *)
- (4) Further provisions on excise refunds shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 12

Paragraph (1)

Subparagraph a

“Overpayment due to a miscalculation” refers to miscalculations in multiplication, subtraction, in the application of rates or prices or errors in the enumeration. In such a case, excise that has been paid may be refunded in the amount of overpayment due to the miscalculation.

Subparagraph b

Excisable goods on which excise is settled by payment or affixture of other markings indicating excise settlement on which excise has been paid but are subsequently exported may be given a refund insofar as the realization of export is proven with sufficient proof of export.

Excisable goods on which excise is settled by attachment of tax stamps on which excise has been paid but which are subsequently exported are eligible for refunds insofar as the realization of exports is proven with sufficient proof of export and the attached tax stamps must be damaged before being exported.

Excise refunds on exported excisable goods on which excise is settled by attachment of tax stamps or affixture of other markings indicating excise settlement may only be granted to manufacturers.

Subparagraph c

Sufficiently clear.

Subparagraph d

Sufficiently clear.

Subparagraph e

If tax stamps ordered and received by manufacturers or importers of excisable goods have not been attached to excisable goods may be returned to the Directorate General of Customs and Excise.

Tax stamps are returned due to, among others:

- a. changes to the tax stamps design;
- b. changes to excise rates or retail prices;
- c. the tax stamps are damaged before being attached; or
- d. the factory concerned is no longer in production.

Upon the return of tax stamps, manufacturers or importers of excisable goods are entitled to refunds of paid excise

Subparagraph f

Sufficiently clear.

Paragraph (2)

The overpayment may be known by customs and excise officials from audit findings or upon the said application.

After it is known and proven that there is an overpayment, the customs and excise official issues a decree.

Excise refunds may be calculated with unsettled excise liabilities.

Paragraph (3)

In terms of interest compensation, if the period is less than 1 (one) month, it is calculated as 1 (one) full month. For example, 7 (seven) days are calculated as 1 (one) full month; 1 (one) month and 7 (seven) days are calculated as 2 (two) full months.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 13

- (1) The right to collect debts under this law expires after ten years since the obligation to pay arises.
- (2) The expiration period referred to in paragraph (1) cannot be taken into account in the event of acknowledgment of liabilities.

Elucidation of Article 13

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER V PERMITS

Article 14

(1) Any persons that carry out activities as:

- a. manufacturers;
- b. warehouse proprietors;
- c. importers of excisable goods;
- d. distributors; or
- e. retailers,

must have a permit in the form of a Business Identification Number for Excise from the Minister. *) (1a) The obligation to have a permit to carry out activities as distributors as referred to in paragraph (1) subparagraph d or retailers as referred to in paragraph (1) subparagraph e applies to ethyl alcohol and beverages containing ethyl alcohol. *)

(1b) The obligation to have a permit to carry out activities as distributors or retailers other than ethyl alcohol and beverages containing ethyl alcohol referred to in paragraph (1a) shall be stipulated by a ministerial regulation. *)

(1c) Importers of excisable goods that already hold a permit in the form of Business Identification Numbers for Excise referred to in paragraph (1) subparagraph c may import excisable goods. *) (2) Permit referred to in paragraph (1) is granted to:

- a. a person domiciled in Indonesia; or
 - b. a person who legally represents a legal entity or individual domiciled outside Indonesia. *) (3) In the event that the permit holder referred to in paragraph (2) subparagraph a is an individual, if the person concerned passes away, the permit may be used for twelve months from the date of death by the heirs/heiresses or the trustee and after the expiration of that period, the permit must be renewed. (3a) Permit referred to in paragraph (1) may be suspended, in the event that:
 - a. there is sufficient preliminary evidence that the permit holder has committed an excise crime;
 - b. there is sufficient evidence, thereby, the permit requirements are no longer fulfilled; or c. the permit holder is under the supervision of the curator in relation to his/her debt. *) (4) Permit referred to in paragraph (1) may be revoked in the event:
 - a. at the application of the permit holder concerned;
 - b. no activities are carried out for 1 (one) year;
 - c. permit requirements are no longer fulfilled;
 - d. the license holder no longer legally represents a legal entity or individual domiciled outside Indonesia;
 - e. the permit holder is declared bankrupt;
 - f. the provisions referred to in paragraph (3) are not fulfilled;
 - g. the license holder is sentenced based on a judge's verdict which has permanent legal force for violation of the provisions of this law;
 - h. the license holder violates the provisions under Article 30; or
 - i. permit in the form of Business Identification Number for Excise is transferred, authorized and/or liaised with other people/parties without the approval from the Minister. *)
- (5) In the event that the permit referred to in paragraph (1) is revoked, the excisable goods for which excise has not been settled are still in the factory or warehouse, the excise must be settled and released from the factory or warehouse within 30 (thirty) days from the permit revocation decree. *)
- (5a) In the event that the provisions referred to in paragraph (5) are not fulfilled, excisable goods referred to in Article 2 paragraph (1) subparagraph a, subparagraph b and subparagraph c shall be destroyed. *)
- (5b) In the event that provisions referred to in paragraph (5) are not fulfilled, excisable goods referred to in Article 2 paragraph (1) subparagraph d shall be further stipulated by a ministerial regulation. *) (6) Provisions on the settlement referred to in paragraph (5) do not apply to importers of excisable goods, distributors and retailers. *)
- (7) Any persons carrying out activities referred to in paragraph (1) without having a permit are subject to an administrative penalty in the form of a minimum fine of IDR20,000,000.00 (twenty million rupiah) and a maximum fine of IDR200,000,000.00 (two hundred million rupiah). *)
- (8) Further provisions on permits shall be stipulated by or based on government regulations. *)

Elucidation of Article 14

Paragraph (1)

Sufficiently clear.

Paragraph (1a)

Sufficiently clear.

Paragraph (1b)

Sufficiently clear.

Paragraph (1c)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

The definition of the permit must be renewed refers to after the twelve-month period ends, a new

permit must be held.

Paragraph (3a)

“Suspended” refers to not being allowed to conduct business in the field of excise until the issuance of a decision of permit reinstatement or revocation, without reducing the obligations that must be settled to the state.

Paragraph (4)

Subparagraph a

Sufficiently clear.

Subparagraph b

Sufficiently clear.

Subparagraph c

To obtain the permit referred to in paragraph (1), it is necessary to fulfill the stipulated requirements; if the stipulated requirements are no longer fulfilled, the permit may be revoked.

Subparagraph d

Permits for legal entities or individuals domiciled outside Indonesia pursuant to the provisions stipulated in paragraph (2) are only granted to legal entities or individuals residing in Indonesia that legally represent them. Therefore, if a legal entity or individual residing in Indonesia no longer legally represents a legal entity or individual domiciled outside Indonesia, the permit may be revoked.

Subparagraph e

Sufficiently clear.

Subparagraph f

Sufficiently clear.

Subparagraph g

Permit revocation stipulated in this subparagraph constitutes an additional administrative penalty.

Subparagraph h

Sufficiently clear.

Subparagraph i

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (5a)

Sufficiently clear.

Paragraph (5b)

Sufficiently clear.

Paragraph (6)

Excisable goods on which excise has been settled and are located at the place of business of the importers of excisable goods, distributors and retailers, of which the permit has been revoked, must be transferred to the place of business of the importers of excisable goods, distributors or other retailers or destroyed.

Paragraph (7)

“Carrying out activities” refers to all actions that indicate carrying out activities of production, storage, imports, distribution or sale of excisable goods.

Administrative penalties stipulated in this paragraph are imposed on violations that do not result in state losses.

Paragraph (8)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 15

- (1) Production of Excisable Goods in the form of tobacco products may be carried out outside the Factory and is the responsibility of the Manufacturer concerned.
- (2) Provisions on the implementation of paragraph (1) shall be further stipulated by the Minister.

Elucidation of Article 15

Paragraph (1)

The provisions of this paragraph enable Excisable Goods Manufacturers in the form of tobacco products that have been granted a permit based on the provisions under Article 14 to produce tobacco products outside the Factory upon permission from the Minister.

This is intended to provide convenience to the entrepreneur concerned to increase production and provide job opportunities to people who cannot be accommodated to work in the Factory.

Paragraph (2)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER VI

BOOKKEEPING AND ENUMERATION *)

Article 16

- (1) Manufacturers, warehouse proprietors, importers of excisable goods or distributors required to hold permits as referred to in Article 14 paragraph (1) subparagraph a, subparagraph b, subparagraph c and subparagraph d are required to maintain bookkeeping. *)
- (2) Excluded from the obligation referred to in paragraph (1) but obliged to maintain recording are small scale manufacturers, small-scale distributors required to have permits and retailers required to have permits. *)
- (3) Manufacturers must periodically notify the Head of the Office of the finished excisable goods. *) (4) Manufacturers, warehouse proprietors, importers of excisable goods or distributors required to have a permit, that do not maintain bookkeeping as referred to in paragraph (1) are subject to an administrative

penalty in the form of a fine of IDR50,000,000.00 (fifty million rupiah). *)

- (5) Small-scale manufacturers, small-scale distributors required to have permits and retailers required to have permits that do not maintain recording as referred to in paragraph (2) are subject to an administrative penalty in the form of a fine of IDR10,000,000.00 (ten million rupiah). *)
- (6) Manufacturers that do not notify the finished excisable goods referred to in paragraph (3) are subject to an administrative penalty in the form of a fine of 2 (two) times the excise value of the unnotified excisable goods. *)
- (7) Further provisions on the recording referred to in paragraph (2) and the notification of finished excisable goods referred to in paragraph (3) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 16

Paragraph (1)

“Bookkeeping” is a recording process conducted regularly to collect data and financial information that include and affect assets, liabilities, equity, income and expenses that specifically describe the amount of acquisition prices and supplies of goods or services that are subsequently summarized in financial statements.

Paragraph (2)

The obligation to maintain recording is intended to provide convenience in the fulfillment of the provisions under this law while guaranteeing the security of state rights.

“Recording” refers to regular data collection and writing process concerning:

- a. admission, production and release of excisable goods; and
- b. receipt, use and return of tax stamps or other markings indicating excise settlement.

Small-scale manufacturers and small-scale distributors refer to individuals not registered as Taxable Persons for VAT Purposes as referred to in statutory tax provisions.

Paragraph (3)

“Periodically” may refer to daily, weekly, monthly or yearly, adjusted to the type of excisable goods.

For example:

- a. for ethyl alcohol and beverages containing ethyl alcohol, the manufacturer shall notify the customs and excise officials of the finished excisable goods daily;
- b. for tobacco products, the manufacturer shall notify the customs and excise officials of the finished excisable goods monthly.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 16A

- (1) Bookkeeping must be maintained properly reflecting actual business circumstances or activities and must at least consist of records regarding assets, liabilities, capital, income, costs and inflows and outflows of excisable goods. *)
- (2) Bookkeeping must be maintained in Indonesia using the Latin alphabet, Arabic numerals, rupiah currency and the Indonesian language or using a foreign currency and a foreign language permitted by the Minister. *)
- (3) Financial statements, books of account, records and documents constituting the underlying proof of bookkeeping and other business-related documents and letters pertaining to activities in the excise sector must be retained for 10 (ten) years in the place of business in Indonesia. *)
- (4) Further provisions on the guidelines for the maintenance of bookkeeping shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 16A

Paragraph (1)

Bookkeeping must be maintained in a common manner or system in Indonesia, for example, based on financial accounting standards, unless stipulated otherwise by statutory excise provisions. This is intended to maintain trustworthy and reliable bookkeeping in the context of supervision of the production of excisable goods, the circulation of excisable goods and/or excise value that should otherwise be paid.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Financial statements, books of account, records and documents constituting the underlying proof of bookkeeping and other business-related documents and letters pertaining to activities in the excise sector, including electronic data processing results must be retained for 10 (ten) years in Indonesia, thereby, in the event of excise audit, remain available and can be promptly provided.

In the event that data is stored in the form of electronic data, the reliability of the data processing system used must be maintained, thereby, the stored electronic data may be accessed, read or retrieved at any time.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 16B

Manufacturers, warehouse proprietors, importers of excisable goods or distributors required to have permits that do not implement the provisions referred to in Article 16A are subject to an administrative fine sentence of IDR25,000,000.00 (twenty-five million rupiah). *)

Elucidation of Article 16B

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 17

- (1) Customs and excise officials must maintain account books of excisable goods for each manufacturer or warehouse proprietor regarding certain excisable goods for which excise is payable and are in the factory or warehouse.
- (2) Customs and excise officials shall record excisable goods referred to in Article 16 paragraph (3) and Article 25 paragraph (1) or paragraph (3) subject to excise payable in the account books of excisable goods. *)
- (3) Manufacturers or warehouse proprietors are responsible for excise liabilities from the existing excisable goods according to the account books of excisable goods.

Elucidation of Article 17

Paragraph (1)

“Account books of excisable goods” is a register book containing records of the number of certain excisable goods, namely ethyl alcohol and beverages containing ethyl alcohol produced, admitted, released as well as rebates, shortage and excess of enumeration results from a factory or warehouse.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 18

- (1) Account books of excisable goods shall be closed at the end of each calendar year. *)
- (2) Account books of excisable goods are also closed after an enumeration has been carried out or at the request of manufacturers or warehouse proprietors.
- (3) Provisions on account books of excisable goods referred to in paragraph (1) and paragraph (2) as well as in Article 17 paragraph (1) and paragraph (2) shall be further stipulated by the Minister.

Elucidation of Article 18

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 19

- (1) Customs and excise officials must maintain a credit account book for every manufacturer eligible for the periodic payment facility as referred to in Article 7A paragraph (1). *)
- (1a) Customs and excise officials must maintain a credit account book for every manufacturer or importer of excisable goods concerning excise eligible for payment deferral referred to in Article 7A paragraph (2) and paragraph (3). *)
- (2) Further provisions on the credit account book referred to in paragraph (1) and paragraph (1a) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 19

“Credit account book” refers a book containing records of the amount of excise eligible for payment deferral or periodic payment facilities and the settlement.

Relevant Regulations

There are no relevant regulations

Article 20

- (1) Certain Excisable Goods in the Factory or Warehouse may be enumerated at any time by Customs and Excise Officials.
- (2) Manufacturers or Warehouse Proprietors must show all Excisable Goods that are in the places referred to in paragraph (1) as well as provide manpower and equipment for enumeration purposes. (3) Provisions on enumerations shall be further stipulated by the Minister.

Elucidation of Article 20

Paragraph (1)

“Enumeration” refers to an activity to determine the quantity, type, quality and condition of excisable goods.

To avoid the possibility of excise manipulation or evasion, this law authorizes customs and excise officials to enumerate certain excisable goods, such as ethyl alcohol and beverages containing ethyl alcohol, either in factories or warehouses. In the enumeration, shortage or excess of excisable goods may be discovered based on account books of excisable goods in accordance with the nature or characteristics of the excisable goods.

Customs and excise officials who carry out the enumeration must be equipped with a letter of assignment.

Paragraph (2)

“Provide manpower and equipment” refers to providing manpower and equipment required to assist the activities of customs and excise officials in conducting the enumeration. *) **Paragraph (3)**
Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 21

- (1) In the event that the total enumeration results referred to in Article 20 are found to be lower than the number stated in the Account Books of Excisable Goods, the Manufacturers or Warehouse Proprietors shall be given a rebate of a maximum of ten percent of the number of Excisable Goods produced or admitted since the last enumeration.
- (2) Rebate referred to in paragraph (1) shall be deducted from the difference between the enumeration results and the Account Books of Excisable Goods and the remainder constitutes the shortage on which excise must be paid by the Manufacturers or Warehouse Proprietors within thirty days after the closing date of the Account Books of Excisable Goods.
- (3) Provisions on the types of Excisable Goods eligible for a rebate and the amount of the rebate shall be further stipulated by the Minister.

Elucidation of Article 21

Paragraph (1)

“Rebate” refers to a relief given to entrepreneurs for the shortage of Excisable Goods obtained upon enumeration. This shortage may occur due to natural causes of certain Excisable Goods, including evaporation or shrinkage.

Paragraph (2)

To determine the shortage of Excisable Goods for which excise must be paid, the following example is provided:

- On 30 November 1995 Customs and Excise Officials conducted an enumeration of a Factory.
- Available data are as follows:

The last enumeration was carried out on 31 October 1995 and the closing of the Account Books of Excisable Goods indicated the following:

- Balance	175.000
- Factory Production until the enumeration	50.000 +
	225.000
- Release	180.000 -
- Book balance	35.000
- Enumeration result	25.000 -
- Difference	10.000
- Rebate (maximum) 10% x 50,000	5.000 -
- Shortage (excise is to be paid)	5.000

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 22

Rebates shall not be given if the total enumeration result referred to in Article 20 is found to be equal to or greater than the number of inventory listed in the Account Books of Excisable Goods.

Elucidation of Article 22

No rebate is given for excess inventory listed in the account books of Excisable Goods based on enumeration results because, in principle, entrepreneurs must correctly report produced, admitted or released Excisable Goods.

Example:

- Balance of the last enumeration	175.000
- Production	50.000 +
	225.000
- Released	75.000 -
- Book balance	150.000
- Enumeration result	170.000 -
- Excess	20.000

The amount of 20,000 shall not be given a rebate and recorded in the Account Books of Excisable Goods.

Relevant Regulations

There are no relevant regulations

Article 23

- (1) Shortage of Excisable Goods referred to in Article 21 paragraph (2) is granted a tolerance not exceeding three times the rebate referred to in Article 21 paragraph (1).
- (2) Excess of Excisable Goods referred to in Article 22 is granted a tolerance not exceeding one percent of the number of Excisable Goods that should otherwise be available according to the Account Books of Excisable Goods.
- (3) Manufacturers or Warehouse Proprietors in a Factory or Warehouse experiencing the shortage of Excisable Goods referred to in Article 21 paragraph (2) or excess of Excisable Goods referred to in Article 22 exceeding the tolerance referred to in paragraph (1) or paragraph (2), are subject to an administrative penalty in the form of a maximum fine of ten times the excise value and a minimum fine of two times the excise value of Excisable Goods found in the shortage or excess.

Elucidation of Article 23

Paragraph (1)

“Tolerance” refers to the threshold of shortage after being given a rebate or threshold of excess allowed at the time of enumeration to determine whether a violation has occurred or not.

The tolerance of 3 x granted rebate, with respect to the example of shortage calculation in article 21 paragraph (2), is $3 \times 5,000 = 15,000$.

Paragraph (2)

The tolerance amounts to one percent of the number of Excisable Goods that should otherwise be available according to the Account Books of Excisable Goods, with respect to the example of excess calculation in Article 22 is 1% of the book balance, namely $1\% \times 150,000 = 1,500$. **Paragraph**

(3)

If the shortage referred to in Article 21 paragraph (2) or the excess referred to in Article 22 exceeds the tolerance threshold, this constitutes a violation that may be subject to administrative penalties.

Based on the example of shortage calculation in Article 21 paragraph (2), because the shortage

does not exceed the tolerance, there is no violation; but based on the example of excess calculation in Article 22, because the excess exceeds the tolerance, this constitutes a violation that may be subject to an administrative penalty in the form of a fine.

Relevant Regulations

There are no relevant regulations

CHAPTER VII STORAGE

Article 24

- (1) Excisable Goods on which excise has not been settled may be stored in the Temporary Stockpiling Site or Bonded Stockpiling Site as stipulated in the Law concerning Customs.
- (2) Excisable Goods on which excise has not been settled used as raw materials or indirect materials may be stored in the Factory.
- (3) Provisions on storage referred to in paragraph (1) and paragraph (2) shall be further stipulated by the Minister.

Elucidation of Article 24

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER VIII ADMISSION, RELEASE, TRANSPORT AND TRADE

Article 25

- (1) The admission or release of excisable goods into or from the factory or warehouse must be notified to the Head of Office and protected with excise documents.
- (2) The admission or release of excisable goods referred to in paragraph (1) may be carried out under the supervision of customs and excise officials.
- (3) The admission or release of excisable goods under the supervision of customs and excise officials constituting the basis for bookkeeping in accounts books of excisable goods referred to in Article 17 shall be findings by the customs and excise officials concerned.
- (4) Manufacturers or warehouse proprietors releasing excisable goods from the factory or warehouse that do not implement the provisions referred to in paragraph (1) shall be subject to an administrative penalty in the form of a fine of 2 (two) times the excise value of the released excisable goods. *)
- (4a) Manufacturers or warehouse proprietors admitting excisable goods into the factory or warehouse without due regard to the provisions referred to in paragraph (1) shall be subject to an administrative penalty in the form of a minimum fine of IDR10,000,000.00 (ten million rupiah) and a maximum fine of IDR50,000,000.00 (fifty million rupiah). *)
- (5) Further provisions on the admission or release of excisable goods referred to in paragraph (1), paragraph (2) and paragraph (3) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 25

Paragraph (1)

Excisable goods stockpiled in a factory or warehouse remain subject to excise. Therefore, the admission of excisable goods into these places must be notified to the Head of the Office and protected by excise documents.

Similarly, the release of excisable goods from the said places, either those on which excise has not been settled or those obtaining excise exemption or those on which excise has been settled must be notified to the Head of the Office and protected by excise documents as a means of supervision or as recording materials in the account books of excisable goods referred to in Article 17 paragraph (2).

Paragraph (2)

Basically, to the admission or release of excisable goods, a self-assessment system that gives full trust to entrepreneurs applies, thereby, no physical supervision by customs and excise officials is required. However, if an entrepreneur is suspected of being about to commit or of having committed a violation that results in state losses, and similarly for excisable goods that, due to their nature or characteristics, may result in an adverse impact on public order, such as beverages containing ethyl alcohol, customs and excise officials may supervise the admission or release of excisable goods to or from the factory or warehouse.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (4a)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 26

- (1) In an emergency, excisable goods on which excise has not been settled may be transferred outside the factory or warehouse without being protected by excise documents.
- (2) Transfer of excisable goods referred to in paragraph (1) must be immediately reported to the Head of the Office within the stipulated period.
- (3) Manufacturers or warehouse proprietors that do not report the transfer of excisable goods on which excise has not been settled due to the emergency referred to in paragraph (2) shall be subject to an administrative penalty in the form of a minimum fine of IDR1,000,000.00 (one million rupiah) and a maximum fine of IDR10,000,000.00 (ten million rupiah). *)
- (4) Further provisions on the implementation of paragraph (1) and paragraph (2) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 26

Paragraph (1)

Basically, this law stipulates that the admission, release or transport of excisable goods on which excise has not been settled to or from the factory or warehouse must be protected by excise documents. However, in an emergency, such as a fire, flood or other natural disasters, to save the excisable goods, a transfer may be carried out without the stipulated excise documents.

Paragraph (2)

Concerning the transfer of excisable goods referred to in paragraph (1), the manufacturer or warehouse proprietor, within the stipulated period must report to the local Head of Office and must comply with the instructions of the Head of the Office concerned.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 27

- (1) The transport of excisable goods on which excise has not been settled must be protected by excise documents.
- (2) The transport of certain excisable goods, although the excise has been settled, must be protected by excise documents.
- (3) Any persons that do not comply with provisions on the transport of excisable goods on which excise has not been settled as referred to in paragraph (1) are subject to an administrative penalty in the form of a minimum fine of 2 (two) times the excise value and a maximum fine of 10 (ten) times the excise value that should otherwise be paid. *)
- (4) Any persons that do not comply with provisions on the transport of excisable goods referred to in paragraph (2) shall be subject to an administrative penalty in the form of a minimum fine of IDR5,000,000.00 (five million rupiah) and a maximum fine of IDR50,000,000.00 (fifty million rupiah). *)
- (5) Further provisions on the transport of excisable goods referred to in paragraph (1) and paragraph (2) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 27

Paragraph (1)

To prevent excise evasion and the misuse of excisable goods, the transport of excisable goods, either packaged for retail sale or in bulk or packaged not for retail sale, on which excise has not been settled, must be protected with excise documents.

Paragraph (2)

Considering the risky nature of certain excisable goods, such as ethyl alcohol and beverages containing ethyl alcohol, although excise has been settled, the transport must be protected with excise documents.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 28

Before the period stipulated in the excise documents referred to in Article 27 paragraph (1) or paragraph (2) is exceeded, its validity may be extended by the Head of the Office supervising the place where the Excisable Goods concerned are located.

Elucidation of Article 28

In the excise documents that function as transport documents, the validity period is stipulated, thereby, the transport of Excisable Goods from the time of transport to the destination is within the specified period. Due to possible obstacles in the transport resulting in the unfulfillment of the period stipulated in the relevant excise documents, the provisions under this article facilitate the carrier to report to the Head of the Office supervising the area where the Excisable Goods are located to obtain an extended validity period of the excise documents concerned.

Relevant Regulations

There are no relevant regulations

Article 29

- (1) Excisable goods on which excise is settled by attaching tax stamps or affixing other markings indicating excise settlement may only be offered, supplied, sold or made available for sale, after being packaged for retail sale and attached with tax stamps or affixed with other required markings indicating excise settlement. *)
- (2) Excisable goods on which excise is settled by attaching tax stamps or affixing other markings indicating excise settlement located in the retail outlet or other places whose activity is selling are deemed to be made available for sale. *)
- (2a) Manufacturers or importers of excisable goods that affix tax stamps or affix other markings indicating excise settlement on excisable goods that do not comply with the required tax stamps or other markings indicating excise settlement, resulting in excise underpayment, are obliged to settle excise and subject to an administrative penalty in the form of a minimum fine of 2 (two) times the excise value and a maximum fine of 10 (ten) times the excise value that should otherwise be settled. *)
- (3) Further provisions on the implementation of paragraph (1) and paragraph (2) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 29

Paragraph (1)

Excisable goods on which excise is settled by attachment of tax stamps and affixture of other markings indicating excise settlement must be packaged for retail sale pursuant to statutory excise provisions in the context of supervision and securing state revenues.

“Tax stamps or other markings indicating excise payment” refer to tax stamps attached or other markings indicating excise settlement affixed to the packaging pursuant to statutory excise provisions.

Paragraph (2)

Sufficiently clear.

Paragraph (2a)

Violations referred to in this paragraph are, for example, a manufacturer attaching tax stamps on hand-rolled clove cigarettes to machine-made clove cigarettes, but the tax stamps are, in fact, the manufacturer’s property or right.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER IX PROHIBITIONS

Article 30

- (1) Inside the factory, producing goods other than Excisable Goods specified in the relevant permit is prohibited.
- (2) The prohibition referred to in paragraph (1) does not apply to:
 - a. ethyl alcohol Factories that produce in an integrated manner other goods not constituting Excisable Goods using ethyl alcohol as the raw material or indirect material;
 - b. Excisable Goods Factories other than ethyl alcohol that produce other goods not constituting Excisable Goods, insofar as within the Factories, physical separation is carried out on Excisable Goods and non-Excisable Goods, both in the production and stockpiling site for raw materials or indirect materials and final products.

Elucidation of Article 30

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Subparagraph a

“Produce in an integrated manner” refers to a series of production processes, ranging from the production of ethyl alcohol as the raw material to the production of final products that do not constitute Excisable Goods, carried out in the ethyl alcohol Factories.

Subparagraph b

In Excisable Goods Factories, it is possible to produce other final products not constituting Excisable Goods, insofar as physical separation is conducted for the production site and stockpiling site for raw materials or indirect materials and the final products of Excisable Goods and non-Excisable Goods. The physical separation of the production and stockpiling sites within the factory is intended to facilitate supervision and searches as well as excise calculation.

Relevant Regulations

There are no relevant regulations

Article 31

- (1) Within the warehouse, the following are prohibited:
 - a. storing excisable goods on which excise has been settled or those eligible for excise exemption; storing goods other than excisable goods specified in the relevant permit.
 - b. For excisable goods on which excise has been settled or those eligible for excise exemption that are found to be in a warehouse, the excise is deemed to have not been settled or not eligible for excise exemption.
- (2) Warehouse proprietors violating provisions on prohibitions referred to in paragraph (1) subparagraph b are subject to an administrative penalty in the form of a minimum fine of IDR5,000,000.00 (five million rupiah) and a maximum fine of IDR 50,000,000.00 (fifty million rupiah). *)

Elucidation of Article 31

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 32

- (1) In factories, places of business of importers of excisable goods, places of business of distributors and retail outlets, on which excise is settled by attaching tax stamps or affixing other markings indicating excise settlement, the following are prohibited:
 - a. storing or providing tax stamps and/or other markings indicating excise settlement that have been used; and/or
 - b. storing or providing packaging of used excisable goods with tax stamps and/or other markings indicating excise settlement that are still intact. *)
- (2) Manufacturers, importers of excisable goods, distributors or retailers, on whom excise is settled by attaching tax stamps or affixing other markings indicating excise settlement that violate the provisions on prohibitions referred to in paragraph (1) shall be subject to an administrative penalty in the form of a minimum fine of 2 (two) times the excise value and a maximum fine of 10 (ten) times the excise value of the tax stamps or other markings indicating excise settlement found to have been used. *)

Elucidation of Article 32

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER X AUTHORITY IN THE EXCISE SECTOR

Article 33

- (1) Customs and excise officials are authorized to:
- undertake necessary actions on excisable goods and/or other goods related to excisable goods in the form of stopping, searching, preventive measures and sealing to implement this law; b. undertake necessary actions in the form of not serving orders for tax stamps or other markings indicating excise settlement; and
 - undertake preventive measures on excisable goods, other goods related to excisable goods and/or means of transport. *)
- (2) In exercising the authority referred to in paragraph (1), customs and excise officials may be equipped with firearms, the types and conditions of use of which shall be stipulated by a government regulation. *)
- (3) Further provisions on procedures for the actions referred to in paragraph (1) subparagraph a and subparagraph b as well as preventive measures referred to in paragraph (1) subparagraph c shall be stipulated by or based on a government regulation. *)

Elucidation of Article 33

Paragraph (1)

Subparagraph a

Actions in the form of stopping, searches, preventive measures and sealing are carried out within the scope of administrative authority.

Subparagraph b

Actions in the form of not serving orders for tax stamps or other markings indicating excise settlement are carried out within the scope of administrative authority.

Subparagraph c

“Preventive measures on excisable goods” refer to undertaking administrative actions to delay the release, loading and transport of excisable goods.

“Preventive measures on means of transport” refer to undertaking administrative actions to prevent the departure of means of transport, except for public means of transport. **Paragraph (2)**

Considering the magnitude of the dangers of using firearms for the security and safety of the people, their use is strictly limited. Therefore, the types and conditions for the use of firearms shall be further stipulated by a government regulation by taking into account applicable statutory provisions.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 34

- (1) In carrying out duties under this law, customs and excise officials may request assistance from the State Police of the Republic of Indonesia, the Indonesian National Defense Forces and/or other agencies. *)
- (2) At the requests referred to in paragraph (1), the State Police of the Republic of Indonesia, the Indonesian National Defense Forces and/or other agencies. are obliged to fulfill such requests. *)

Elucidation of Article 34

Paragraph (1)

Sufficiently clear.

Paragraph (2)

All government agencies, both civilian and military agencies, if requested, are obliged to provide assistance and protection or order to protect customs and excise officials in all matters relating to their work pursuant to statutory provisions.

Relevant Regulations

There are no relevant regulations

Article 35

- (1) Customs and excise officials are authorized to search:
- factories, warehouses or other places used to store excisable goods and/or other goods related to excisable goods, for which excise has not been settled or have obtained excise exemption;
 - buildings or other places directly or indirectly related to the buildings or places referred to in subparagraph a;
 - place of business of distributors, retail outlets or other places that do not constitute residences, in which there are excisable goods; and
 - excisable goods and/or other goods related to excisable goods located in the places referred to in subparagraph a, subparagraph b and subparagraph c. *)
- (2) In conducting searches referred to in paragraph (1), customs and excise officials are authorized to take samples of excisable goods. *)
- (3) In conducting searches referred to in paragraph (1) subparagraph d, customs and excise officials are authorized to request stock accounts, excise documents and/or supporting excise documents, which must be carried out based on this law. *)
- (4) Any persons who cause customs and excise officials to fail to implement provisions referred to in paragraph (1), paragraph (2) and paragraph (3) are subject to an administrative penalty in the form of a minimum fine of IDR10,000,000.00 (ten million rupiah) and a maximum fine of IDR100,000,000.00 (one hundred million rupiah). *)

Elucidation of Article 35

Paragraph (1)

Subparagraph a

Sufficiently clear.

Subparagraph b

A search is carried out considering that at the time of the search, excisable goods may have been moved to another building or place with a direct or indirect relationship with the factory, warehouse or other places being searched.

Subparagraph c

Sufficiently clear.

Subparagraph d

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

“Stock accounts” refer to stock accounts of excisable goods, tax stamps and other markings indicating excise settlement.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 36

- (1) Manufacturers, warehouse proprietors, importers of excisable goods, distributors, retailers, users of excisable goods eligible for the excise exemption facility referred to in Article 9, that are being searched, are obliged to provide manpower, equipment and submit books of accounts, records and/or documents that must be maintained under this law. *)
- (1a) In the event that the manufacturers, warehouse proprietors, importers of excisable goods, distributors, retailers, users of excisable goods eligible for the excise exemption facility referred to in Article 9, that are being searched, are not present or unable to attend, the obligations referred to in paragraph (1) shall shift to their representatives. *)
- (2) Manufacturers, warehouse proprietors, importers of excisable goods, distributors, retailers, users of excisable goods eligible for the excise exemption facility referred to in Article 9 whose records and/or documents are being searched, at the time of the search referred to in paragraph (1) shall be subject to an administrative penalty in the form of a minimum fine of IDR25,000,000.00 (twenty-five million rupiah) and a maximum fine of IDR250,000,000.00 (two hundred and fifty million rupiah). *)

Elucidation of Article 36

Paragraph (1)

Sufficiently clear.

Paragraph (1a)

“Representatives” refer to employees or subordinates or other responsible parties of manufacturers, warehouse proprietors, distributors, retailers or users of excisable goods eligible for the excise exemption facility referred to in Article 9, that are being searched.

Paragraph (2)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 37

- (1) Customs and excise officials are authorized to stop and search means of transport as well as excisable goods and/or other goods related to excisable goods on the means of transport. *) (2) The carrier is obliged to show excise documents and/or supporting excise documents required under this law.
- (3) Means of transport sealed by the postal service or other law enforcement agencies are excluded from the search referred to in paragraph (1).
- (4) Any persons who cause customs and excise officials to fail to implement the provisions referred to in paragraph (1) and the carrier that does not comply with the provisions referred to in paragraph (2) shall be subject to an administrative penalty in the form of a minimum fine of IDR2,500,000.00 (two million and five hundred thousand rupiah) and a maximum fine of IDR25,000,000.00 (twenty-five million rupiah). *)

Elucidation of Article 37

Paragraph (1)

The stopping and search of means of transport by customs and excise officials are intended to guarantee state rights and compliance with statutory provisions, the implementation thereof is borne by the Directorate General of Customs and Excise.

Therefore, the stopping and search of the means of transport and excisable goods are only carried out selectively based on information on the existence of excisable goods that do not yet fulfill the required administrative requirements under this law.

Paragraph (2)

“Excise documents and supporting excise documents” refer to all required documents under this law to protect the transport of excisable goods.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 38

- (1) Searches of buildings or other places referred to in Article 35 must be based on an order from the Director General.
- (2) The Order referred to in paragraph (1) is not required to carry out:
- a. the pursuit of people and/or Excisable Goods entering buildings;
 - b. searches of buildings or other places by Customs and Excise Officials who are permanently appointed to supervise buildings or other places.

Elucidation of Article 38

Paragraph (1)

Searches of Factories, Warehouses, Retail Outlets of Excisable Goods or other places referred to in Article 35 must be based on an order from the Director General or Customs and Excise Officials appointed by the Director General, which implies that the search by Customs and Excise Officials may only be carried out if accompanied by an order to prevent abuse of authority.

Paragraph (2)

An order is not required if the Customs and Excise Officials continuously pursue a person who is reasonably suspected of violating the provisions under this Law and conduct a search due to the permanent appointment to supervise the objects being searched.

Relevant Regulations

There are no relevant regulations

Article 39

- (1) Customs and excise officials are authorized to conduct excise audits on manufacturers, warehouse proprietors, importers of excisable goods, distributors and users of excisable goods eligible for the excise exemption facility referred to in Article 9. *)
- (1a) In carrying out excise audits referred to in paragraph (1), customs and excise officials are authorized to:
- a. request financial statements, books of accounts, records and documents constituting the underlying proof of bookkeeping and other business-related documents, including electronic data and letters relating to activities in the excise sector;
 - b. request oral and/or written information from manufacturers, warehouse proprietors, importers of excisable goods, distributors, users of excisable goods eligible for the excise exemption facility referred to in Article 9 and/or other related parties;
 - c. enter buildings or rooms where financial statements, books of accounts, records and documents constituting the underlying proof of bookkeeping and other business-related documents are retained, including electronic data storage facilities/media, tax stamps or other markings indicating excise settlement, stock accounts and/or goods that may provide hints about the conditions of business and/or other places deemed important as well as search these places; or
 - d. undertake safeguard measures deemed necessary to the buildings or rooms referred to in subparagraph c. *)
- (1b) Manufacturers, warehouse proprietors, importers of excisable goods, distributors or users of excisable goods eligible for the excise exemption facility referred to in Article 9, that are being subject to an excise audit, must provide oral and/or written information, provide manpower, equipment and submit financial statements, books of account, records and documents constituting the underlying proof of bookkeeping and other business-related documents, including electronic data and letters relating to activities in the excise sector. *)
- (1c) In the event that manufacturers, warehouse proprietors, importers of excisable goods, distributors or users of excisable goods eligible for the excise exemption facility referred to in Article 9, that are being subject to an excise audit, are not present or unable to do so, the obligations referred to in paragraph (1b) shall shift to their representatives. *)
- (2) Any persons who cause customs and excise officials to fail to exercise their excise audit authority shall be subject to an administrative penalty in the form of a fine of IDR75,000,000.00 (seventy-five million rupiah). *)
- (3) Further provisions on excise audits referred to in paragraph (1) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 39

Paragraph (1)

Excise audits are intended to assess the compliance of manufacturers, warehouse proprietors, importers of excisable goods, distributors and users of excisable goods eligible for the excise exemption facility referred to in Article 9, with statutory excise provisions.

Paragraph (1a)

Subparagraph a

Sufficiently clear.

Subparagraph b

“Other related parties” refer to parties having a relationship or connection with transactions carried out by manufacturers, warehouse proprietors, importers of excisable goods, distributors or users of excisable goods eligible to the excise exemption facility referred to in Article 9. For example, buyers, sellers, banks as well as other parties believed to be able to provide information in connection with the transactions.

Subparagraph c

Sufficiently clear.

Subparagraph d

“Safeguard measures” refers to sealing carried out to guarantee that financial statements, books of accounts, records and documents constituting the underlying proof of bookkeeping and other business-related documents, including electronic data and letters relating to activities in the excise sector and important goods will not be lost, not altered or not transferred to other places/rooms until the search continues and/or other actions justified by statutory excise provisions are undertaken while taking into account business sustainability.

Paragraph (1b)

Sufficiently clear.

Paragraph (1c)

In the event that a manufacturer, warehouse proprietor, importer of excisable goods, distributor or user of excisable goods eligible for the excise exemption facility referred to in Article 9, constitutes a legal entity, “not present or unable to attend” refers to the management of the legal entity being not present or unable to attend.

“Representatives” refer to the employees or subordinates in charge or other parties appointed by the manufacturers, warehouse proprietors, importers of excisable goods, distributors or users of excisable goods eligible for the excise exemption facility referred to in Article 9, that are being subject to an excise audit.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 40

Customs and excise officials are authorized to lock, seal and/or attach the necessary official customs seal to parts of the factories, warehouses, places of business of importers of excisable goods, places of business of distributors, retail outlets, other places or means of transport containing excisable goods therein for excise security. *)

Elucidation of Article 40

The authority of customs and excise officials is intended to ensure better supervision in the context of securing state finances.

Relevant Regulations

There are no relevant regulations

Article 40A

(1) The Director General *ex officio* or at the application of the person concerned may: a. rectify notices of tax collection or objection decision letters, the issuance of which contains errors in writing, miscalculation and/or errors in the application of statutory provisions under this law; or b. reduce or nullify administrative penalties in the form of a fine in the event that the penalties are imposed on persons subject to the penalties due to their negligence or not because of their fault. *) (2) Further provisions on procedures for applications, rectification, reduction or nullification as referred to in paragraph (1) shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 40A

Paragraph (1)

Subparagraph a

Rectification of notices of tax collection or objection decision letters according to this provision is carried out to implement good governance, thereby, any human errors or mistakes in an assessment should be rectified accordingly.

The term rectify may refer to adding, subtracting or nullifying according to the nature of the error and mistake.

The Director General *ex officio* may rectify or cancel incorrect notices of tax collection, for example, not fulfilling the formal requirements even though the material requirements are fulfilled.

Subparagraph b

The Director General may reduce or nullify an administrative penalty in the form of a fine if the person subject to the penalties, in fact, has only been negligent, instead of an intentional error or the error occurs due to the actions of another person having no business relationship with the said person and without his/her knowledge and approval.

Paragraph (2)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 40B

- (1) Customs and Excise officials are authorized to verify alleged violations in the excise sector. **) (2) In the event that the verification results on alleged violations referred to in paragraph (1) constitute an administrative violation in the excise sector, it shall be resolved administratively pursuant to statutory excise provisions. **)
- (3) Verification results referred to in paragraph (1) may not be investigated in the event that: a. there are alleged violations as referred to in Article 50, Article 52, Article 54, Article 56 and Article 58; and b. the person concerned pays an administrative penalty in the form of a fine of 3 (three) times the excise value that should otherwise be paid. **)
- (4) Excisable goods related to alleged violations that are not investigated referred to in paragraph (3) are declared state property. **)
- (5) Other goods related to alleged violations that are not investigated referred to in paragraph (3) may be declared state property. **)
- (6) Further provisions on alleged violations that have not been investigated referred to in paragraph (3) shall be stipulated by a Ministerial Regulation. **)

Elucidation of Article 40B

Paragraph (1)

“Verification on alleged violations” refers to all efforts by Customs and Excise officials on people, places, goods and means of transport, such as requesting information from related parties, inspecting goods, searching places/buildings, searching means of transport, checking bookkeeping and recording and/or other actions pursuant to statutory provisions in the context of searching for and collecting materials and information to determine whether or not violations in the excise sector, both administrative and criminal, have occurred.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

This is intended for the law enforcement approach in the excise sector to be of restorative justice nature, namely a law enforcement approach that prioritizes the recovery of the rights or conditions of victims, in excise crimes, the victim is the state because the state loses its rights, namely state revenues in the excise sector.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

“Other goods” refer to goods other than excisable goods involved in the crime, such as means of transport, communications equipment, storage media or areas as well as documents and letters.

Paragraph (6)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

OBJECTION, APPEAL AND LAWSUIT *)

Article 41

- (1) Deleted. *)
- (2) The objecting party to the assessment of customs and excise officials in the enforcement of this law, resulting in excise underpayment and/or an administrative penalty in the form of a fine, may file a written objection to the Director General within 30 (thirty) days from the date of receipt of the notice of tax collection by submitting a guarantee in the amount of the excise underpayment and/or administrative penalty in the form of a fine. *)
- (3) The Director General shall decide on the objection referred to in paragraph (2) within 60 (sixty) days since the objection application is received. *)
- (4) If within the period of 60 (sixty) days referred to in paragraph (3), the Director General does not make a decision, the said objection is deemed granted and the guarantee is returned. *)
- (5) If the Director General decides to grant the filed objection, the guarantee must be returned. *) (6) In the event of a guarantee in the form of cash, if the guarantee is returned after a period of 30 (thirty) days since the receipt of the objection referred to in paragraph (4) and paragraph (5), the Government shall grant 2% (two percent) monthly interest for a maximum of 24 (twenty-four) months. *) (7) If the Director General decides to reject the filed objection, the guarantee is disbursed to pay excise duty and/or administrative penalty in the form of a fine. *)
- (8) Further provisions on objections shall be stipulated by or based on a ministerial regulation. *)

Elucidation of Article 41

Paragraph (1)

Sufficiently clear.

Paragraph (2)

In the event that the 30 (thirty) day period elapses, the right of the person concerned to file an objection becomes void.

Guarantees may be in the form of cash, bank guarantees or guarantees from insurance companies.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

The decision of the Director General on filed objections may be in the form of granting in whole or in part, thereby, the amount of returned guarantee is in accordance with the decision. **Paragraph (6)**

For the interest compensation, if the period is less than 1 (one) month, it is calculated as 1 (one) full month. For example, 7 (seven) days are calculated as 1 (one) full month; 1 (one) month and 7 (seven) days are calculated as 2 (two) full months.

Paragraph (7)

Sufficiently clear.

Paragraph (8)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 42

Deleted *)

Elucidation of Article 42

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 43

Deleted *)

Elucidation of Article 43

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 43A

The objecting party to the decision of the Director General referred to in Article 41 paragraph (3) may file an appeal within a maximum period of 60 (sixty) days from the date of the assessment or decision. *)

Elucidation of Article 43A

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 43B

The objecting party to the permit revocation not on their own application as referred to in Article 14 paragraph (4) subparagraph b, subparagraph c, subparagraph d, subparagraph e, subparagraph f, subparagraph g, subparagraph h or subparagraph i may file a lawsuit within a maximum period of 60 (sixty) days from the date of assessment or decision. *)

Elucidation of Article 43B

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 43C

Appeal referred to in Article 43A or lawsuit referred to in Article 43B shall be filed to the Tax Court as referred to in the law stipulating the tax court. *)

Elucidation of Article 43C

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 44

Deleted *)

Elucidation of Article 44

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 45

Deleted *)

Elucidation of Article 45

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 46

Deleted *)

Elucidation of Article 46

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 47

Deleted *)

Elucidation of Article 47

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 48

Deleted *)

Elucidation of Article 48

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 49

Deleted *)

Elucidation of Article 49

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER XII CRIMINAL PROVISIONS

Article 50

Any persons not having permits referred to in Article 14 that carry out activities of factories, warehouses or import excisable goods intending to evade excise payments, shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine sentence of a minimum of 2 (two) times the excise value and a maximum of 10 (ten) times the excise value that should otherwise be paid. *)

Elucidation of Article 50

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 51

Deleted *)

Elucidation of Article 51

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 52

Manufacturers or warehouse proprietors releasing excisable goods from factories or warehouses without due regard to the provisions referred to in Article 25 paragraph (1) intending to evade excise payments shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine sentence of a minimum of 2 (two) times the excise value and a maximum of 10 (ten) times the excise value that should otherwise be paid. *)

Elucidation of Article 52

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 53

Any persons that intentionally show or submit books of accounts, records and/or documents referred to in Article 36 paragraph (1) or financial statements, books of accounts, records and documents that serve as underlying proof of bookkeeping and other business-related documents, including electronic data and letters relating to activities in the excise sector referred to in Article 39 paragraph (1b) that are false or forged shall

be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 6 (six) years and a fine sentence of a minimum of IDR75,000,000.00 (seventy-five million rupiah) and a maximum of IDR750,000,000.00 (seven hundred and fifty million rupiah). *)

Elucidation of Article 53

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 54

Any persons that offer, supply, sell or make available for sale excisable goods that are not packaged for retail sale or not attached with tax stamps or not affixed with other markings indicating excise settlement as referred to in Article 29 paragraph (1) shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and/or a fine sentence of a minimum of 2 (two) times the excise value and a maximum of 10 (ten) times the excise value that should otherwise be paid. *)

Elucidation of Article 54

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 55

Any persons that:

- a. illegally produce, replicate or forge tax stamps or other markings indicating excise settlement; b. purchase, store, use, sale, offer, supply, sell, make available for sale or import tax stamps or other markings indicating excise settlement that are false or forged; or
- c. use, sell, offer, supply, make available for sale or import tax stamps or other markings indicating excise settlement tax stamps or other markings indicating excise settlement that have been used, shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 8 (eight) years and a fine sentence of a minimum of 10 (ten) times the excise value and a maximum of 20 (twenty) times the excise value that should otherwise be paid. *)

Elucidation of Article 55

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 56

Any persons that stockpile, store, own, sell, exchange, obtain or give excisable goods which they are aware or should reasonably suspect of originating from a crime pursuant to this law shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years. (five) years and a fine sentence of a minimum of 2 (two) times the excise value and a maximum of 10 (ten) times the excise value that should otherwise be paid. *)

Elucidation of Article 56

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 57

Any persons that without permission open, remove or damage a lock, seal or official customs seal as stipulated under this law shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 2 (two) years and 8 (eight) months and/or a fine sentence of a minimum of IDR75,000,000.00 (seventy-five million rupiah) and a maximum of IDR750,000,000.00 (seven hundred and fifty million rupiah). *)

Elucidation of Article 57

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 58

Any persons that offer, sell or supply tax stamps or other markings indicating excise settlement to those who are not entitled to or purchase, receive or use tax stamps or other markings indicating excise settlement which are not their right, shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 1 (one) year. 5 (five) years and/or a fine sentence of a minimum of 2 (two) times the excise value and a maximum of 10 (ten) times the excise value that should otherwise be paid. *)

Elucidation of Article 58

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 58A

(1) Any persons that illegally access electronic systems related to services and/or supervision in the excise sector shall be sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years

and/or a fine sentence of a minimum of IDR50,000,000.00 (fifty million rupiah) and a maximum of IDR1,000,000,000.00 (one billion rupiah). *)

- (2) Actions referred to in paragraph (1) resulting in the non-fulfillment of state levies pursuant to this law shall be sentenced to imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and/or a fine sentence of a minimum of IDR1,000,000,000.00 (one billion rupiah) and a maximum of IDR5,000,000,000.00 (five billion rupiah). *)

Elucidation of Article 58A

Paragraph (1)

“Access” refers to an action or attempt to login into the excise system.

Paragraph (2)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 59

- (1) In the event that the fine sentence is not paid by the person concerned, it shall be taken from the assets and/or income of the person concerned instead.
- (2) In the event that the compensation referred to in paragraph (1) cannot be fulfilled, the fine sentence shall be replaced with imprisonment of a maximum of six months.

Elucidation of Article 59

Paragraph (1)

If the fine sentence is not paid in whole or in part, the criminal’s legal assets and/or income he/she has earned will be confiscated.

Proceeds from the auction of legal assets and/or income shall be used to settle the fine sentence. Confiscation and auctions are carried out pursuant to applicable statutory provisions.

Paragraph (2)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 60

Crimes in this Law cannot be prosecuted after ten years have elapsed since the crimes occurred.

Elucidation of Article 60

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 61

(1) If a crime pursuant to this Law is committed or on behalf of a legal entity, corporation, company, alliance, foundation or cooperative, criminal charges and criminal penalties shall be imposed on:

a. the legal entity, corporation, company, alliance, foundation or cooperative; and/or b. those who give orders to commit the crime or act as the leaders or neglect the prevention. (2) Crimes pursuant to this Law are deemed to be committed by or on behalf of a legal entity, corporation, company, alliance, foundation or cooperative if the crime is committed by persons, either based on an employment relationship or other relationships, acting within the legal entity, corporation, company, alliance, foundation or cooperative, without due regard to whether these persons have acted individually or collectively.

(3) In the event of a criminal charge against a legal entity, corporation, alliance, foundation or cooperative at the time of prosecution, it is represented by a manager or if there is more than one manager, by one of them and the representative may be represented by another person.

(4) For the legal entity, corporation, alliance, foundation or cooperative sentenced under this Law, the principal sentence is always in the form of a fine sentence of a maximum IDR300,000,000.00 (three hundred million rupiah) if the crime is subject to an imprisonment sentence, without nullifying the fine sentence if the crime is subject to imprisonment sentence and fine sentence.

Elucidation of Article 61

Paragraph (1)

This paragraph allows the sentencing of a legal entity, corporation, alliance, foundation or cooperative, because in reality, individuals may act on behalf of these entities and/or those who have given orders to commit crimes or those acting as the leaders or those who neglect prevention, thereby, the crime occurs, must also be sentenced.

The said crime does not necessarily be committed by one person, but may also be committed by more than one person.

Included in the definition of “leaders” are persons who are, in fact, authorized to participate in setting policies and/or making decisions in running the legal entity, corporation, alliance, foundation or cooperative.

Paragraph (2)

“Other relationships” in this paragraph refer to, among others, ownership relationships and partnership relationships.

Paragraph (3)

“Another person” refers to a legal representative or another individual outside the legal entity, company, corporation, alliance, foundation or cooperative who legally receives power of attorney from the management to act for and on behalf of the management.

Paragraph (4)

This paragraph affirms that legal entities, companies, corporations, alliances, foundations, or cooperatives may only be subject to a fine sentence. Therefore, if crimes committed by legal entities, companies, corporations, alliances, foundations or cooperatives are subject to an imprisonment sentence, the sentence imposed shall be replaced by a fine sentence. This substitution does not nullify the imposed fine sentence.

Relevant Regulations

There are no relevant regulations

Article 62

- (1) Excisable goods involved in a crime pursuant to the provisions under this law shall be confiscated by the state.
- (2) Other goods involved in a crime pursuant to the provisions under this law may be confiscated for the state.
- (3) Further provisions on the settlement of confiscated goods for the state referred to in paragraph (1) and paragraph (2) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 62

Paragraph (1)

Sufficiently clear.

Paragraph (2)

“Other goods” refer to goods that are directly related to excisable goods, such as the means of transport used to transport excisable goods, equipment or machines used to produce excisable goods.

Other goods involved in a crime pursuant to the provisions under this law may be confiscated for the state constitutes an affirmation that an excise crime has a special nature, thereby, requiring separate treatment of other goods involved in the said crime.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER XIII INVESTIGATIONS

Article 63

- (1) Certain Civil Servants within the Directorate General of Customs and Excise are granted special authority as investigators as referred to in Law Number 8 of 1981 concerning the Code of Criminal Procedures to conduct investigations on excise crime.
- (2) Investigators referred to in paragraph (1), due to their obligations, are authorized to:
 - a. receive reports or information from any persons concerning excise crime;
 - b. subpoena individuals to be heard and examined as the suspect or witnesses;
 - c. arrest and detain people suspected of committing excise crimes;
 - d. photograph and/or record through audiovisual media people, goods, means of transport or anything that may be used as evidence of excise crimes;
 - e. audit records and bookkeeping required under this Law and other bookkeeping;
 - f. take fingerprints of people;

- g. conduct house searches, clothes searches and body searches;
- h. search places or means of transport and inspect the goods contained therein if an excise crime is suspected;
- i. confiscate objects strongly suspected to be goods that may be used as evidence in excise crime cases;
- j. provide official customs seal and secure anything that may be used as evidence in connection with the excise crime;
- k. call in needed professionals in connection with the examination of a case;
- l. order to stop the suspect in excise crime and inspect the suspect's identification card;
- m. terminate investigations;
- n. conduct other responsible legal measures to expedite excise crime investigations. (3) Investigators referred to in paragraph (1) shall notify the commencement of an investigation and submit investigation results to the Public Prosecutor pursuant to the provisions under Law Number 8 of 1981 concerning the Code of Criminal Procedures Law.

Elucidation of Article 63

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Subparagraph a

Sufficiently clear.

Subparagraph b

Sufficiently clear.

Subparagraph c

The arrest and detention referred to in this subparagraph are carried out specifically in the case of being caught in the act.

Subparagraph d

Sufficiently clear.

Subparagraph e

"Other bookkeeping" refers to corporate bookkeeping and other records that are not required under this Law, which are suspected to be related to the investigated crime.

Subparagraph f

Sufficiently clear.

Subparagraph g

A house search is carried out with the permission of the chief justice of the local district court.

Subparagraph h

Sufficiently clear.

Subparagraph j

Sufficiently clear.

Subparagraph k

Sufficiently clear.

Subparagraph l

Sufficiently clear.

Subparagraph m

The termination of investigations must be notified to the investigators of the State Police of the Republic of Indonesia and Public Prosecutor.

Subparagraph n

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 64

- (1) For state revenue purposes, upon a request from the Minister, the General Attorney may terminate an excise crime investigation within a maximum of 6 (six) months from the date of the request letter. **) (2) The termination of investigations referred to in paragraph (1) shall only be carried out for crimes referred to in Article 50, Article 52, Article 54, Article 56 and Article 58 after the person concerned has paid the administrative penalty in the form of a fine of 4 (four) times the excise value that should otherwise be paid. **)
- (3) In the event that the criminal case has been transferred to the court, the defendant may still settle the administrative penalty referred to in paragraph (2). **)
- (4) The settlement referred to in paragraph (3) shall be a consideration for prosecution without any sentence to imprisonment. **)
- (5) In the event that the payment by the suspect or defendant at the investigation stage up to the trial proceeding does not fulfill the amount referred to in paragraph (2), the payment may be considered the payment of the fine sentence imposed on the defendant. **)
- (6) Excisable goods in respect of the termination of excise crime investigations referred to in paragraph (1) shall be declared state property. **)
- (7) Other goods in respect of the termination of excise crime investigations referred to in paragraph (1) may be declared state property. **)
- (8) The Minister and the Attorney General may delegate further authority to appointed officials in respect of requests for and the termination of excise crime investigations referred to in paragraph (1). **) (9) Further provisions on the termination of investigations referred to in paragraph (1) shall be stipulated by or based on a Government Regulation. **)

Elucidation of Article 64

Paragraph (1)

Sufficiently clear.

Paragraph (2)

The administrative penalty in the form of a fine of 4 (four) times the excise value that should otherwise be paid is considered sufficient to provide deterrence and embodies the balance between restorative justice and fiscal recovery.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

For cases that have been transferred to the court, the payment of the administrative penalty in the

form of a fine for the termination of investigations referred to in paragraph (1) shall be considered by the public prosecutor to formulate an indictment without any corporal punishment.

The administrative penalty in the form of a fine paid by the defendant shall be calculated as payment for the fine sentence imposed by the judge.

Paragraph (5)

Payment of administrative penalty in the form of a fine by the suspect or defendant who has not fulfilled the amount in accordance with the provisions referred to in paragraph (2), shall be calculated as payment for the fine sentence imposed by the judge, whereas the underpayment shall be borne by the defendant.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

“Other goods” refer to goods other than excisable goods involved in a crime that have been confiscated by the Civil Servant Investigators within the Directorate General of Customs and Excise, such as means of transport, communications equipment, storage media or places and documents and letters.

Paragraph (8)

Sufficiently clear.

Paragraph (9)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

**CHAPTER XIII
EMPLOYEE DEVELOPMENT *)**

Article 64A

- (1) The attitudes and conduct of employees of the Directorate General of Customs and Excise are bound by a code of conduct that serves as guidelines for the implementation of duties stipulated under this law. *)
- (2) Violations of the code of conduct by employees of the Directorate General of Customs and Excise shall be resolved by the code of conduct commission. *)
- (3) Further provisions on the code of conduct shall be stipulated by a ministerial regulation. *) (4) Further provisions on the establishment, structure and working procedures of the code of commission shall be stipulated by a ministerial regulation. *)

Elucidation of Article 64A

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 64B

In the event that customs and excise officials calculate or assess excise not in accordance with this law, thereby, resulting in the non-fulfillment of state levies, the customs and excise officials shall be subject to penalties pursuant to applicable statutory provisions. ***)

Elucidation of Article 64B

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 64C

- (1) In the event of indications of any excise crime involving employees of the Directorate General of Customs and Excise, the Minister may instruct internal auditors within the Ministry of Finance to inspect employees to find preliminary evidence. *****)
- (2) Further provisions referred to in paragraph (1) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 64C

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 64D

- (1) Individuals, groups of people and/or work units that are meritorious in handling violations in the excise sector are entitled to receive a premium. *)
- (2) The premium amounts to a maximum of 50% (fifty percent) of the administrative penalty in the form of a fine and/or from auction proceeds of goods resulting from violations in the excise sector. *) (3) In the event that forfeited goods are goods that, according to applicable statutory provisions, may not be auctioned, the value of the goods as the basis for calculating the premium shall be stipulated by the Minister. *)
- (4) Further provisions on the granting of premium referred to in paragraph (1) and paragraph (2) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 64D

Paragraph (1)

“Meritorious” refers to being meritorious in handling:

a. administrative violations, ranging from providing information, finding both administratively and physically and/or up to the settlement of collection by customs and excise officials; or b. criminal violations in the excise sector, ranging from providing information, making arrests, investigations and/or to prosecution.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 64E

- (1) The Directorate General of Customs and Excise is given incentives based on performances in the excise sector. *)
- (2) The granting of incentives referred to in paragraph (1) is stipulated through the State Budget. *) (3) Further provisions on procedures for the granting and utilization of incentives referred to in paragraph (1) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 64E

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

**CHAPTER XIV
OTHER PROVISIONS**

Article 68

Provisions on procedures for the imposition of administrative penalties and adjustments to the amount of administrative penalties as well as adjustments to the amount of interest pursuant to this Law shall be further stipulated by a Government Regulation.

Elucidation of Article 68

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 65

Manufacturers, warehouse proprietors, importers of excisable goods, distributors, retailers or users of excisable goods eligible for excise exemption referred to in Article 9 are responsible for the actions of the persons employed or appointed as representatives or power of attorney in respect of their work in the context of the implementation of this law. *)

Elucidation of Article 65

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 66

- (1) Excisable goods and other goods originating from unknown violators shall be controlled by the state and under the supervision of the Directorate General of Customs and Excise and if within fourteen days since being controlled by the state, the violators remain unknown, the excisable goods and other goods shall be state property.
- (2) Excisable goods whose owner is unknown, are controlled by the state and are under supervision and must be officially announced by the Directorate General of Customs and Excise to be settled by the person concerned within thirty days since being controlled by the state, and if within the said period, the person concerned does not fulfill the obligation, the excisable goods shall be state property.
- (3) Further provisions on the settlement of excisable goods referred to in paragraph (1) and paragraph (2) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 66

Paragraph (1)

“Unknown violators” refer to persons who violate statutory excise provisions, either administrative provisions or criminal provisions, that are not known.

In such a case, excisable goods and other goods involved in the violation are controlled by the state and under the supervision of the Directorate General of Customs and Excise and within fourteen days since being controlled by the state, shall be declared state property if the owner remains unknown.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 66A

- (1) State revenues from excise on tobacco produced in Indonesia are distributed to provinces that generate tobacco excise of 2% (two percent) used to fund the improvement of the quality of raw materials, industrial development, social environment development, socialization of excise provisions and/or eradication of illegal taxable goods. *)
- (2) The allocation of revenue sharing fund of tobacco excise referred to in paragraph (1) is stipulated based on the realization of tobacco excise revenues in the current year. *)
- (3) Governors shall manage and use revenue sharing fund of tobacco excise and stipulate the distribution of revenue sharing fund of tobacco excise to the regents/mayors in their respective regions based on the contributions to tobacco excise revenues. *)
- (4) Revenue sharing fund of tobacco excise referred to in paragraph (3) is distributed with approval from the Minister, with a composition of 30% (thirty percent) for producing provinces, 40% (forty percent) for producing districts/cities and thirty percent) for other districts/cities. *)

Elucidation of Article 66A

Paragraph (1)

Excise on tobacco produced in Indonesia is distributed to regions because the consumption of excisable goods in the form of tobacco products with nature or characteristics should be controlled and supervised as well as resulting in an adverse impact on society and optimizing efforts for state revenues from excise.

Control and supervision are carried out by the central government and local governments.

Revenue sharing fund of tobacco excise is part of the fiscal capacity, the calculation thereof is adjusted to the General Allocation Fund (DAU) formula which is stipulated annually in the discussion of the Draft State Budget.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Distribution, management and use of the distribution of revenue sharing fund of tobacco excise shall be carried out for districts/cities that contribute to tobacco excise and calculated based on their contributions to tobacco excise revenues.

Paragraph (4)

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 66B

Revenue sharing fund of tobacco excise shall be distributed by overbooking from the general treasury account to the provincial general treasury account and the district/city general treasury account. *)

Elucidation of Article 66B

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 66C

- (1) The Minister shall supervise and evaluate the use of the budget for the improvement of the quality of raw materials, industrial development, social environment development, socialization of excise provisions, and/or eradication of illegal taxable goods originating from revenue sharing fund of excise on tobacco produced in Indonesia. *)
- (2) If the results of supervision and evaluation of the use of the budget for the improvement of the quality of raw materials, industrial development, social environment development, socialization of excise provisions, and/or eradication of illegal taxable goods originating from revenue sharing fund of tobacco excise indicate deviations in the implementation, they shall be followed up accordingly pursuant to applicable statutory provisions. *)

Elucidation of Article 66C

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 66D

- (1) On the misuse of the allocation of revenue sharing fund of tobacco excise, penalties may be imposed, ranging from suspension to the termination of distribution of revenue sharing fund of excise on tobacco produced in Indonesia. *)
- (2) Further provisions on penalties for the misuse of the allocation of revenue sharing fund of tobacco excise, referred to in paragraph (1) shall be stipulated by a ministerial regulation. *)

Elucidation of Article 66D

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 67

To requirements and procedures for imports of Excisable Goods from zones designated as a free trade zone and/or free ports as well as Customs Declarations on the installations and equipment located in the Indonesia Continental Shelf and Indonesia Exclusive Economic Zone, the Law concerning Customs shall apply.

Elucidation of Article 67

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

CHAPTER XV TRANSITIONAL PROVISIONS

Article 69

- (1) With the enactment of this Law, all existing permits and the specified time limit are declared to remain valid until their validity period expires, whereas permits whose validity period is not determined are declared to remain valid for one year since the enactment of this Law.
- (2) Permits referred to in paragraph (1), when the validity period has expired, must be renewed pursuant to the provisions of this Law.
- (3) Manufacturers or Warehouse Proprietors that before the enactment of this Law had run their business and due to the former statutory excise provisions, are not required to have the permits stipulated under this Law, within three months since the enactment of this Law, must already hold permits.

Elucidation of Article 69

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 70

With regard to excise matters which upon the enactment of this Law cannot be resolved, the resolution shall be carried out pursuant to statutory excise provisions which relieve every person.

Elucidation of Article 70

Although the former statutory excise provisions are revoked with the enactment of this law, to all unsettled excise matters, such as orders for tax stamps, use of tax stamps, excise liabilities, excise refunds and so forth, to the settlement, the statutory provisions with the least burden for every person shall apply.

Relevant Regulations

There are no relevant regulations

CHAPTER XVI CLOSING PROVISIONS

Article 71

With the enactment of this law, the following are declared no longer valid:

1. Kerosene Excise Ordinance (*Ordonnantie Van 27 Desember 1886 Stbl. 1886 No. 249* and *Ordonnantie*

- Van 11 May 1908 Stbl. 1908 No. 361*), as amended several times and added, last by Government Regulation in Lieu of Law Number 2 Prp of 1965 concerning State Revenue Policies of 1966 (State Gazette of the Republic of Indonesia of 1965 Number 121);
2. Distilled Alcohol Excise Ordinance (*Ordonnantie Van 27 Februari 1898 Stbl. 1898 No. 90 en 92* and *Ordonnantie Van 10 Juli 1923 Stbl. 1923 No. 344*), as amended several times and added, last by Government Regulation in Lieu of Law Number 2 Prp of 1965 concerning State Revenue Policies of 1966 (State Gazette of the Republic of Indonesia of 1965 Number 121);
 3. Beer Excise Ordinance (*Bieraccijns Ordonnantie Stbl. 1931 No. 488 en 489*), as amended several times and added, last by Government Regulation in Lieu of Law Number 2 Prp of 1965 concerning State Revenue Policies of 1966 (State Gazette of the Republic of Indonesia of 1965 Number 121);
 4. Tobacco Excise Ordinance (*Tabacsaccijn Ordonnantie Stbl. 1932 No. 517*), as amended several times and added, last by Government Regulation in Lieu of Law Number 2 Prp of 1965 concerning State Revenue Policies of 1966 (State Gazette of the Republic of Indonesia of 1965 Number 121);
 5. Sugar Excise Ordinance (*Suikeraccijns Ordonnantie Stbl. 1933 No. 351*), as amended several times and added, last by Government Regulation in Lieu of Law Number 2 Prp of 1965 concerning State Revenue Policies of 1966 (State Gazette of the Republic of Indonesia of 1965 Number 121).

Elucidation of Article 71

Sufficiently clear.

Relevant Regulations

There are no relevant regulations

Article 72

This Law comes into force on 1 April 1966.

Elucidation of Article 72

Sufficiently clear.

Relevant Regulations

There are no relevant regulations