

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1637**of 5 July 2022**

laying down the rules for the application of Council Directive (EU) 2020/262 as regards the use of documents in the context of movement of excise goods under a duty suspension arrangement and of movement of excise goods after release for consumption, and establishing the form to be used for the exemption certificate

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty ⁽¹⁾, and in particular Articles 12(3), 29(2), and 43(2) thereof,

Whereas:

- (1) Article 12(1) of Directive (EU) 2020/262 requires excise goods moving between Member States under a duty suspension arrangement and subject to the exemption from payment of excise duty to be accompanied by an exemption certificate. The form of the certificate should be established.
- (2) In accordance with Article 12(2) of Directive (EU) 2020/262, Member States may use the exemption certificate to cover other fields of indirect taxation. In order to ensure uniform communication between the authorities of Member States prior to the movement of excise goods exempt from payment of excise duty from the territory of one Member State to the territory of another Member State, rules should be laid down concerning the notification of the use of the excise exemption certificate to other fields of indirect taxation.
- (3) As Commission Regulation (EC) No 31/96 ⁽²⁾ lays down rules on excise duty exemption certificate, it should be replaced.
- (4) Directive (EU) 2020/262 requires that movements of excise goods under duty suspension arrangement be under cover of the electronic administrative document, exchanged via the computerised system, referred to in Decision (EU) 2020/263 of the European Parliament and of the Council ⁽³⁾. That Directive also requires the use of fallback documents in cases where that computerised system is unavailable in the Member State of dispatch. Rules and procedures should be established for the exchanges of the electronic administrative documents through the computerised system in the context of movement of excise goods under suspension of excise duty and of the fallback documents.
- (5) Directive (EU) 2020/262 requires that movements of excise goods which have been released for consumption in the territory of one Member State and are moved to the territory of another Member State in order to be delivered there for commercial purposes, be under cover of the electronic simplified administrative document, exchanged via the computerised system, referred to in Decision (EU) 2020/263. That Directive also requires the use of fallback documents in cases where that computerised system is unavailable in the Member State of dispatch. Rules and procedures should be established for the exchanges of the electronic simplified administrative documents through the computerised system in the context of the movement of goods to be delivered for commercial purposes and the fallback documents.
- (6) Member States are to apply the measures necessary to comply with Article 12, Articles 20 to 22 and Articles 36 to 37 of Directive (EU) 2020/262 as from 13 February 2023. As this Regulation implements Directive (EU) 2020/262, it should also apply from that date.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Excise Duty,

⁽¹⁾ OJ L 58, 27.2.2020, p. 4.

⁽²⁾ Commission Regulation (EC) No 31/96 of 10 January 1996 on the excise duty exemption certificate (OJ L 8, 11.1.1996, p. 11).

⁽³⁾ Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020 on computerising the movement and surveillance of excise goods (OJ L 58, 27.2.2020, p. 43).

HAS ADOPTED THIS REGULATION:

Article 1

Exemption certificate

1. The form to be used for the exemption certificate referred to in Article 12(1) of Directive (EU) 2020/262 ('the exemption certificate') is set out in the Annex to this Regulation.
2. When using the exemption certificate for the purposes of Article 12(2) of Directive (EU) 2020/262, Member States shall inform the Commission thereof and provide it with necessary information.
3. Member States shall notify the Commission of their national authorities responsible for stamping the exemption certificate.
4. Member States, which dispense with the obligation of the consignee to have the certificate stamped, as set out in point (14) of the explanatory notes of the Annex, shall inform the Commission thereof.
5. The Commission shall communicate to Member States the information received pursuant to paragraphs 2, 3 and 4, no later than 1 month as from the date of receipt of the said information.

Article 2

Formalities before the start of the movement of excise goods under duty suspension arrangement

A consignor wishing to dispatch excise goods under duty suspension arrangement shall complete the fields of the draft electronic administrative document, as set out in Article 3 of Commission Delegated Regulation (EU) 2022/1636 ^(*), and submit it to the competent authorities of the Member State of dispatch as referred to in Article 20(2) of Directive (EU) 2020/262.

That draft electronic administrative document shall be submitted no earlier than 7 days before the date indicated on that document as date of dispatch of the excise goods concerned.

Article 3

Cancellation of the electronic administrative document

1. A consignor wishing to cancel the electronic administrative document, in accordance with Article 20(6) of Directive (EU) 2020/262, shall submit the draft cancellation message referred to in Article 5 of Delegated Regulation (EU) 2022/1636 to the competent authorities of the Member State of dispatch.
2. The competent authorities of the Member State of dispatch shall carry out an electronic verification of the data in the draft cancellation message referred to in paragraph 1.

Where the data in the draft cancellation message are valid, the competent authorities of the Member State of dispatch shall add the date and time of validation to the cancellation message, communicate that information to the consignor and forward the cancellation message to the competent authorities of the Member State of destination.

Where the data in the draft cancellation message referred to in paragraph 1 are not valid, the competent authorities of the Member State of dispatch shall inform the consignor thereof without delay.

^(*) Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 supplementing Council Directive (EU) 2020/262 by establishing the structure and content of the documents exchanged in the context of movement of excise goods, and establishing thresholds for the losses due to the nature of the goods (see page 2 of this Official Journal).

Where the consignee is an authorised warehousekeeper or a registered consignee, upon receipt of the cancellation message, the competent authorities of the Member State of destination shall forward the cancellation message to the consignee.

Article 4

Messages concerning a change of destination or change of consignee during the movement of excise goods under a duty suspension arrangement

1. When a consignor wishes to change the destination or the consignee as referred in Article 20(7) of Directive (EU) 2020/262, the competent authorities of the Member State of dispatch shall carry out an electronic verification of the data in the draft change of destination message, referred to Article 6 of Delegated Regulation (EU) 2022/1636.

Where the data of the draft change of destination message are valid, the competent authorities of the Member State of dispatch shall:

- (a) add the date and time of validation and a sequence number to the draft change of destination message and inform the consignor thereof;
- (b) update the initial electronic administrative document according to the information in the draft change of destination message.

2. Where the update referred to in paragraph 1, point (b), of this Article, includes a change of Member State of destination or a change of consignee, Article 20(4) or 21(1) of Directive (EU) 2020/262 shall apply with respect to the updated electronic administrative document.

3. Where the update referred to in paragraph 1, point (b), of this Article, includes a change of Member State of destination, the competent authorities of the Member State of dispatch shall forward the change of destination message to the competent authorities of the Member State of destination mentioned in the initial electronic administrative document.

The competent authorities of the Member State of destination shall then forward the change of destination message to the consignee mentioned in the initial electronic administrative document.

4. Where the update referred to in paragraph 1, point (b), of this Article, includes a change of consignee within the same Member State of destination as in the initial electronic administrative document, the competent authorities of that Member State shall inform the consignee mentioned in the initial electronic administrative document of the change.

5. Where the update referred to in paragraph 1, point (b), of this Article, includes a change of the place of delivery mentioned in the initial electronic administrative document, as referred to in Article 3 of Delegated Regulation (EU) 2022/1636 without involving a change of the Member State of destination nor a change of the consignee, the competent authorities of the Member State of dispatch shall forward the change of destination message to the competent authorities of the Member State of destination mentioned in the initial electronic administrative document. Upon receipt of the change of destination message, the authorities of the Member State of destination shall forward the change of destination message to the consignee.

6. Where data in the draft change of destination message are not valid, the competent authorities of the Member State of dispatch shall inform the consignor thereof without delay.

Article 5

Messages concerning the splitting of the movement of energy products moving under duty suspension arrangement

1. A consignor wishing to split the movement of energy products pursuant to Article 23 of Directive (EU) 2020/262 shall submit a draft splitting operation message referred to in Article 7 of Delegated Regulation (EU) 2022/1636 for each destination to the competent authorities of the Member State of dispatch.

2. The competent authorities of the Member State of dispatch shall carry out an electronic verification of the data in the draft splitting operation messages.

Where those data are valid, the competent authorities of the Member State of dispatch shall:

- (a) generate a new electronic administrative document for each destination, which shall replace the initial electronic administrative document;
- (b) generate for the initial electronic administrative document a notification of splitting;
- (c) send the notification of splitting to the consignor and to the competent authorities of the Member State of destination mentioned in the initial electronic administrative document.

Article 20(3), third subparagraph, Article 20(4) and (5) and Article 21(1) of Directive (EU) 2020/262 shall apply with respect to each new electronic administrative document as referred to in this paragraph, second subparagraph, point (a).

3. The competent authorities of the Member State of destination mentioned in the initial electronic administrative document shall forward the notification of splitting to the consignee mentioned in the initial electronic administrative document.

4. Where the data in the draft splitting operation message are not valid, the competent authorities of the Member State of dispatch shall inform the consignor thereof without delay.

Article 6

Formalities before the start of the movement of excise goods after release for consumption

1. The consignor shall submit the draft electronic simplified administrative document referred to in Article 4 of Delegated Regulation (EU) 2022/1636 to the competent authorities of the Member State of dispatch.

2. The draft electronic simplified administrative document shall be submitted no earlier than 7 days before the date indicated on that document as date of dispatch of the excise goods concerned

Article 7

Messages concerning a change of destination of the movement of excise goods after release for consumption

1. A consignor wishing to change the destination as referred to in Article 36(5) of Directive (EU) 2020/262, shall submit the draft change of destination message referred to in Article 6 of Delegated Regulation (EU) 2022/1636 to the competent authorities of the Member State of dispatch.

2. The competent authorities of the Member State of dispatch shall carry out an electronic verification of the data in the draft change of destination message referred to in paragraph 1.

Where the data of the draft change of destination message are valid, the competent authorities of the Member State of dispatch shall:

- (a) add the date and time of validation and a sequence number to the draft change of destination message and inform the consignor thereof;
- (b) update the initial electronic simplified administrative document according to the information in the draft change of destination message;
- (c) send the change of destination message to the competent authorities of the Member State of destination mentioned in the initial electronic simplified administrative document.

The competent authorities of the Member State of destination shall forward the change of destination message to the consignee.

3. Where the data in the draft change of destination message are not valid, the competent authorities of the Member State of dispatch shall inform the consignor thereof without delay.

Article 8

Repeal

Regulation (EC) No 31/96 is repealed.

Article 9

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 13 February 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 July 2022.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX

European Union**Excise Duty Exemption Certificate****Article 12 of COUNCIL DIRECTIVE (EU) 2020/262 ⁽¹⁾**

Serial No (optional, depending on national requirements)

1. ELIGIBLE INSTITUTION/INDIVIDUAL

Designation/Name

Street and No

Postcode, City/place

Host Member State

email address

Delivery address (to be completed if different from above)

Street and No

Postcode, City/place

email address

2. COMPETENT AUTHORITY FOR ISSUING THE STAMP

Name

Address

Telephone number

email address

⁽¹⁾ Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

3. DECLARATION BY THE ELIGIBLE INSTITUTION OR INDIVIDUAL

The eligible institution or individual (*delete as appropriate*) hereby declares that:

(a) The goods set out in box 5 are intended:

(*please tick the appropriate box*)

<input type="checkbox"/> or the official use of	<input type="checkbox"/> for the personal use of
<input type="checkbox"/> a foreign diplomatic mission	<input type="checkbox"/> a member of a foreign diplomatic mission
<input type="checkbox"/> a foreign consular representation	<input type="checkbox"/> a member of a foreign consular representation
<input type="checkbox"/> an international organisation	<input type="checkbox"/> a staff member of an international organisation
<input type="checkbox"/> an armed force of a State being a party to the North Atlantic Treaty (NATO force)	
<input type="checkbox"/> the armed forces of the United Kingdom stationed in Cyprus	
<input type="checkbox"/> the armed forces of a Member State taking part in a Union activity under the common security and defence policy	
<input type="checkbox"/> consumption under an agreement concluded with third countries or international organisations provided that such an agreement is allowed or authorised with regard to exemption from value added tax	

.....
Designation of the eligible institution (see box 4)

- (b) the goods described in box 5 comply with the conditions and limitations applicable to the exemption in the host Member State mentioned in box 1; and
- (c) that the information above is furnished in good faith. The eligible institution or individual hereby undertakes to pay to the Member State from which the goods were dispatched, the excise duty which would be due if these goods did not comply with the conditions of exemption, or if the goods were not used in the manner intended.

.....
Place, date

.....
Name and status of signatory

.....
Signature

4. Stamp of the institution (in case of exemption for personal use)

Signature

Name

Status/position of signatory

Place, date

Stamp

5. DESCRIPTION OF THE DISPATCHED GOODS FOR WHICH THE EXEMPTION FROM EXCISE DUTY IS REQUESTED

(a) Information concerning the consignor (authorised warehousekeeper, registered consignor, supplier)

Name

Street and No

Postcode, City

Member State

Unique excise number (required)

email address

(b) Information concerning the goods (*add lines as needed*)

Line number	Description of the goods or reference to the attached order form ^(?)	Quantity	Unit of measurement	Unit value excluding excise duty	Total value excluding excise duty	Currency
Total amount						

^(?) Delete space not used. This obligation also applies even if order forms are attached.

6. CERTIFICATION BY THE COMPETENT AUTHORITY OF THE HOST MEMBER STATE

The consignment of the goods described in box 5 meets:

- ☐ Totally
- ☐ Up to a quantity of (number) ⁽³⁾

the conditions for exemption from excise duty.

Signature

Name

Status/position of signatory

Place, date

Stamp (if applicable)

7. PERMISSION TO DISPENSE WITH THE STAMP (only in case of exemption for official use)

By letter no (reference to file):

Dated:

.....

designation of eligible institution

has been permitted by:

Competent authority in the host Member State

to dispense with the stamp under box 6

Signature

Name

Status/position of signatory

Place, date

Stamp

⁽³⁾ Goods not eligible should be deleted in box 5.

Explanatory notes

- (1) For the consignor, the Excise Duty Exemption Certificate ('the certificate') serves as a supporting document for the tax exemption of the consignments of goods to eligible institutions or individuals referred to in Article 11(1) of Directive (EU) 2020/262. One certificate shall be drawn up for each consignor and each movement. The consignors are required to keep this certificate as part of their records in accordance with the legal provisions applicable in their Member State. The consignee shall give the consignor an exemption certificate, which has been duly stamped by the competent authorities of the host Member State.
- (2) The form on which the certificate is issued shall measure 210 × 297 mm. Where the form is printed, it shall be printed on white paper not containing mechanical pulp.
- (3) One copy of the certificate shall be kept by the consignor and one copy shall be used to accompany the movement of the products subject to excise duty and the administrative document referred to in Article 20 of Directive (EU) 2020/262. Member States may require an additional copy for administrative purposes.
- (4) Any unused space in box 5, point (b), of the certificate is to be crossed out or deleted so that nothing can be added.
- (5) The certificate shall be completed legibly and in a manner that makes entries indelible. No erasures or overwriting are permitted. It shall be completed in a language recognised by the host Member State.
- (6) If the description of the goods in box 5, point (b), of the certificate refers to a purchase order form drawn up in a language other than a language recognised by the host Member State, a translation must be attached by the eligible institution or individual.
- (7) If the certificate is drawn up in a language other than a language recognized by the Member State of the consignor, a translation of the information concerning the goods in box 5, point (b), shall be attached by the eligible institution/individual. The host Member State may, at its discretion, dispense with the obligation of attaching the translation.
- (8) A recognised language means one of the languages officially in use in the Member State or any other official language of the Union, which the Member State declares can be used for this purpose.
- (9) By its declaration in box 3 of the certificate, the eligible institution or individual shall provide the information necessary for the evaluation of the request for exemption in the host Member State.
- (10) By its declaration in box 4 of the certificate, the institution confirms the details in boxes 1 and 3, point (a), of the certificate and certifies that the eligible individual is a staff member of the institution.
- (11) The reference to the order form in box 5, point (b), of the certificate shall contain the date and order number. The order form shall contain all the elements that appear in box 5 of the certificate. If the certificate has to be stamped by the competent authorities of the host Member State, the order form shall also be stamped.
- (12) In box 5, point (a), the indication of the excise number as referred to in Article 19(2), point (a), of Council Regulation (EU) No 389/2012 ^(*) is required.
- (13) The currency should be indicated by means of a three-letter code in conformity with the international ISO 4217 standard established by the International Standards Organization.
- (14) Where the exemption is for official use, the competent authorities may dispense with the obligation for the eligible institution to ask for the stamp in box 6 of the certificate. The eligible institution shall mention this dispensation in box 7 of the certificate.
- (15) Where the exemption is for individual use, the certificate shall be authenticated in box 6 by the stamp of the competent authorities of the host Member State.

^(*) Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121, 8.5.2012, p. 1).