



NINETIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Bissau, 6 - 7 July 2023

DIRECTIVE C/DIR.3/7/23 ON THE HARMONISATION OF THE LEGISLATIONS OF ECOWAS MEMBER STATES ON EXCISE DUTIES

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Revised Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles, 35, 37 and 40 of the ECOWAS Revised Treaty on liberalisation of trade, the Common External Tariff, Customs Duties and Internal Taxation;

MINDFUL of Directive C/DIR.2/06/09 on the harmonization of the ECOWAS Member States Legislations on Excise duties;

CONSIDERING that the harmonisation of excise duties on tobacco products in ECOWAS Member States has already been established by Directive C/DIR.1/12/17 on the harmonisation of Excise Duties on Tobacco Products in ECOWAS Member States;

CONSIDERING ALSO that the harmonization of the tax legislations of the Member States is a necessity for the attainment of the objectives of the ECOWAS Treaty, particularly the realization of the Common Market;

RECOGNIZING that this harmonization of tax legislations will contribute to establishing coherence in the domestic systems of taxation, ensuring equal treatment for trade operators within the Community and enhancing the output of the different taxes;

CONVINCED that it is also in the Community's interest to achieve the convergence of the Excise duty systems applied to products and facilitate the movement of the products between the Member States;

DETERMINED in that regard, to limit the number of products liable for excise duty and drawing up a list of those products;

DESIROUS to establish a harmonised framework for internal taxation systems;

UPON THE RECOMMENDATION of the 1st meeting of Directors General of Domestic Taxes of ECOWAS Member States held at Abidjan, on 25th November 2022;

UPON THE RECOMMENDATION of the 7th meeting of the Ministers of Finance of ECOWAS Member States held at Abidjan on 26th November 2022;

ON THE OPINION of the Parliament at its First Ordinary Session held in Abuja, Nigeria from 8th to 26th May 2023.

PRESCRIBES:

**CHAPTER 1
DEFINITIONS AND OBJECTIVE**

ARTICLE 1:

For the purpose of this Directive, the following meanings shall apply:

“The ex-factory selling price”, means the sum of all the production or manufacturing costs of the product as well as all the profits made or expected by the manufacturer on the said product when sold in comparable circumstances between unrelated parties on the same free market;

“Products”, means goods and services subject to excise duty under this Directive;

"Tax Authority", means the Structure, Institution or Body responsible in each Member State for the administration and management of excise duties;

ARTICLE 2:

The objective of this Directive is to harmonize the legislations of ECOWAS Member States on excise duties.

**CHAPTER II
SCOPE OF APPLICATION**

ARTICLE 3:

1. Member States shall subject the following categories of products to excise duties:
 - a) alcoholic beverages;
 - b) non-alcoholic beverages excluding water;
 - c) energy drinks
 - d) plastic bags;
 - e) imported used motor vehicles.
2. Member States shall have the power to also submit selected products to excise duty among those featuring on the Community’s list referred to in article 4 below.
3. Tobacco products remain subject to Directive C/DIR.1/12/17 on the harmonisation of Excise Duties on Tobacco Products in ECOWAS Member States.
4. The harmonisation of excise duties on petroleum products will be the subject of a subsequent directive.

ARTICLE 4:

In addition to the products referred to in Article 3 above, the following list may also be subject to excise duties:

TAXABLE PRODUCTS
Coffee
Kola nut
Oils and fatty substances
Perfumery and cosmetic products
Tea;
Weapons and ammunition including parts and accessories for personal use
Precious stones and metals
Motor cars and other motor vehicles principally designed for the transport of persons
Caviar and Caviar substitutes
Leather and skin
Recreational boats
Works of arts
Marbles
Monosodium glutamate
Seasoning powder, Soups and broth and preparations thereof, or bouillon/stock cube.
Mineral waters
Textile Products
Second-hand goods and other imported used goods
Non-recoverable or non-reusable packaging
Machines and devices for games of chance and entertainment

Telecommunication services

A service for broadcasting and rebroadcasting sound or images by satellite or cables.

ARTICLE 5:

1. Excise duty shall apply to the local or imported products referred to in Articles 3 and 4 of this Directive.
2. The same products, when intended for use as inputs in the production process, shall be exempted from excise duties.
3. However, Member States may make these products subject to excise duty. In this case, the tax paid on these inputs shall be setoff against the tax collected by the taxable person. Any excess not charged will not be eligible for reimbursement.

ARTICLE 6:

Excise duties shall be determined in accordance with the terms and conditions laid down by each Member State, subject to compliance with the provisions of Article 7 and subsequent Articles of this Directive.

**CHAPTER III
TAXABLE AMOUNT AND RATE OF TAXATION**

ARTICLE 7:

1. The taxable amount for ad valorem excise duties shall be:
 - a) on importation, by the customs value plus the duties and taxes levied on entry, with the exception of VAT;
 - b) for locally manufactured products, by the selling price ex-factory or place of production excluding VAT or by the selling price excluding VAT in the case of services.
2. Member States may provide for a minimum taxable amount.

ARTICLE 8:

1. The rate of *ad valorem* excise duty shall be fixed by the legislation of each Member State in accordance with the minimum rates laid down for each category of product as listed in Article 9 below.
2. The rate of tax adopted by the Member States shall be the same for the products concerned, whether they are local or imported.
3. Member States may also apply a specific tax or combine it with ad valorem excise duty.

ARTICLE 9:

The Community's minimum rates for the determination of the *ad valorem* excise duty applicable to the products listed in Article 3 of this Directive shall be as follows:

Tariff Statistical Nomenclature (HS 2022)	Taxable Products	Minimum Rate
	1. Beverages	
22.02	▪ Non - alcoholic beverages excluding water	1%
22.02	▪ Energy Drinks	10%
22.03 22.06	▪ Beers	10%
22.04 22.05 22.06	▪ Wines	30%
22.06 22.08	▪ Spirits and other alcoholic beverages	40%
39.23	2. Plastic bags	1%
87.02 87.03 87.04	3. Imported used motor vehicles	5%

CHAPTER IV TAXABLE EVENT AND TAX LIABILITY

ARTICLE 10:

The taxable event for excise duties is constituted for:

1. local products, by the production or the first sale or the first use;
2. imported products, by release for consumption.

ARTICLE 11:

1. Liability of excise duties shall be determined by the legislation of each Member State's recovery agencies to demand payment, on a given date, from the debtor.
2. Excise duties shall be subject to conditions to be determined by each Member State.

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 12:

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive within three (3) years commencing from August 2023.
2. When Member States adopt the provisions referred to in the preceding paragraph, the provisions shall contain a reference to this Directive or shall be accompanied by such a reference at their official publication.
3. Member States shall communicate to the ECOWAS Commission the measures or arrangements they adopt to comply with this Directive.
4. Member States shall notify the difficulties encountered in implementing this Directive to the President of the Commission who shall report to the next session of the Council of Ministers

ARTICLE 13:

The **Directive C/DIR.2/06/09** is hereby repealed.

ARTICLE 14:

1. This **DIRECTIVE C/DIR.3/07/23** shall be published in the official Journal of the community by the ECOWAS Commission within thirty (30) days of its signature by the Chairperson of the Council of Ministers.
2. It shall also be published within the same time frame by each State in its Official Gazette after notification by the ECOWAS Commission.

ARTICLE 15:

This **DIRECTIVE C/DIR.3/07/23** shall enter into force upon its publication.

DONE AT BISSAU, ON 7TH JULY 2023



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H.E. SUZI CARLA BARBOSA
FOR THE COUNCIL
THE CHAIRPERSON