

LAWS, DECREES, ORDINANCES AND ORDERS

Ministry of Finances

F. 96-989

16 April 1996 - Royal Order concerning the methods for providing evidence of the purchase in Belgium of batteries which are the subject of a deposit or a return premium.

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Given the ordinary law of 16 July 1993, promulgated in order to complete the federal structure of the state, in particular Art. 378, subsequently replaced by the law of 7 March 1996;

Given the Royal Order of 23 December 1993, concerning the application of markings on containers for beverages, batteries and containers containing certain industrial products, and on waiving the requirement to quote the amount of the deposit;

Given the advice given by the follow-up committee dated 30 June 1995;

Given the laws concerning the Council of State, coordinated on 12 January 1973, in particular Art. 3, § 1, amended by the laws of 9 August 1980, of 16 June 1989 and of 4 July 1989;

Given the urgent need, motivated by the fact that this order defines the method for implementing the requirements of Art. 378 and of the ordinary law of 16 July 1993 to complete the federal structure of the State and which has since been amended and which comes into effect on 1 January 1996, given that the implementation methods must also be put into effect at the same date, and that under these circumstances the order needs to be passed without further delay;

As proposed by Our Minister of Finances,

We have ruled herewith:

Art 1. The proof of purchase in Belgium of batteries which are the subject of a deposit or of a return premium shall consist of a distinctive marking on the said batteries as promulgated by the Royal Order of 23 December 1993 relating to the distinctive marking to be put on drinks containers, batteries, containers containing certain industrial products and the waiving of the requirement to quote the amount of the deposit.

Art. 2. This order comes into effect on 1 January 1996.

Art. 3. Our Minister of Finances is assigned the responsibility for implementing this order.

Given at Châteauneuf-de-Grasse on 16 April 1996:

ALBERT

..... F. 96-990

16 April 1996 - Royal Order fixing the collection and recycling contribution in respect of batteries within the framework of the ecotax procedure.

Given the ordinary law of 16 July 1993 promulgated in order to complete the federal structure of the State, in particular Art. 378, subsequently replaced by the law of 7 March 1996;

Given the advice given by the follow-up committee dated 30 June 1995;

Given the laws concerning the Council of State, coordinated on 12 January 1973, in particular Art. 3, § 1, amended by the laws of 9 August 1980 of 15 June 1989 and of 4 July 1989;

Given the urgent need, motivated by the fact that this order defines the method for implementing the requirements of Art. 378 of the ordinary law of 16 July 1993 to complete the federal structure of the State and which has since been amended and which comes into effect on 1 January 1996, given that the implementation methods must also be put into effect, and that under these circumstances the order needs to be passed without further delay;

As proposed by Our Minister of Finances,

We have ruled herewith:

Article 1. The amount of the collection and recycling contribution has been fixed as 4 francs per battery.

Art. 2. For the purposes of the application of Art. 1, each permanent form of packaging containing two or more batteries shall be taken to represent a single battery.

Art. 3. This order comes into effect on 1 January 1996.

Art. 4. Our Minister of Finances is assigned the responsibility for implementing the order.

Given at Châteauneuf-de-Grasse on 16 April 1996:

ALBERT

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N. 96-992

2 May 1996 - Departmental order concerning the tax system for products subject to an ecotax.

Given the ordinary law relating to customs and excise duties, coordinated on 18 July 1977;

Given the ordinary law of 16 July 1993, promulgated in order to complete the federal structure of the State, in particular Art. 369 to 401, subsequently amended by the laws of 3 June 1994, 9 February 1995, 4 April 1995 and 7 March 1996;

Given the Royal Order of 29 December 1992, concerning the general system, the holding, the circulation and the controls on products subject to excise, modified by the Royal Order of 30 June 1995 relating to excise;

Given the Royal Order of 23 December 1993, concerning the application of distinctive markings on containers for beverages, on batteries and on containers which contain certain industrial products, and the waiving of the requirement to quote the amount of the deposit;

Given the Departmental Order of 24 December 1993 concerning products subject to an ecotax, amended by the Departmental Order of 4 July 1995;

Given the advice given by the follow-up committee dated 7 April 1995 concerning disposable razors;

Given the laws concerning the Council of State, coordinated on 12 January 1973, in particular Art. 3, § 1, amended by the laws of 9 August 1980 of 16 June 1989 and of 4 July 1989;

Given the urgent need, motivated by the fact that this order defines the method for implementing the requirements of the ordinary law of 16 July 1993 to complete the federal structure of the State, amended by the ordinary law of 7 March 1996, to come into effect on 1 January 1996, given that the implementation methods must be put into effect on the same date, and that under these circumstances the order needs to be passed without further delay;

The Minister of Finance orders:

TITLE I - General remarks

Article 1. - The following definitions apply for the purposes of this Order:

- Administration: The Administration of customs and excise
- Official: any official employed by the Department of Customs and Excise

- Director General: The Director General of the Department of Customs and Excise;
- Law: the ordinary law of 16 July 1993 to complete the federal structure of the State;
- Collective/outer packaging and secondary packaging: the packaging designed in such a manner as to cover a group of items at the point of sale - irrespective of whether or not these are sold as such to the final user or the consumer, or merely intended to fill the shelves at the point of sale; it can be removed from the product without affecting its characteristics.

Art.2. The following definitions apply for the purposes of the ecotax:

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(6) Batteries as defined in Article 369 of the law, except for those listed in Annexe 14.

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(10) Products subject to ecotax: containers for beverages, disposable items, batteries, packagings containing certain industrial products, pesticides for agricultural and non-agricultural use, and types of paper defined in (3), (4), (6), (7), (8) and (9) [above]¹.

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TITLE II

CHAPTER I, *Registration of the taxpayer [i.e. person liable for ecotax]*

Art. 3. Parties which must have themselves registered at the Administration:

- 1). The taxpayer, i.e. any natural or legal person who supplies to retailers products which are subject to the ecotax;
- 2). Any natural or legal person who is further up the commercial chain (eg. the manufacturer, the importer, the shop) and who replaces the taxpayer referred to in 1) above for the obligations in question and who thereby assumes the status of taxpayer.

Art. 4. The registration application is to be sent to the Director General.

¹Translator's note: Not included in this translation.

Art. 5. The registration application must include the following information:

- 1) name, first names or commercial name and address of the taxpayer;
- 2) VAT registration number;
- 3) trading address(es);
- 4) trade, profession, aim of the company with a description of its envisaged operations;
- 5) location where the books are kept, specifying, if necessary, the location where the accounts are kept relating to stocks as well as the general bookkeeping (or cost accounting);
- 6) date on which the accounts are closed;
- 7) type of products manufactured, supplied or received which are subject to the ecotax.

The application must be dated and signed by the taxpayer. If the signatory is a legal person, the application must also name the post, surname and first names [of the natural person signing] after the signature.

Art. 6. When making the registration application, the taxpayer must also include a declaration identifying the location where he/she/it holds the products which are subject to the ecotax.

Art. 7. If there is a change in the holding location of the products subject to the ecotax, the Administration must be kept informed of this change by the taxpayer.

Art. 8. Natural or legal persons replacing the taxpayer in respect of the latter's obligations, but who do not hold any goods subject to the ecotax within the national territory of Belgium, are not subject to any of the obligations specified in Articles 6 and 7.

Art. 9. Falling within the scope of Art. 8 may be foreign manufacturers, importers, marketers or their tax agents, if any.

Art. 10. The Director General shall issue a registration number to the taxpayer or the natural person or legal person replacing the taxpayer.

CHAPTER II

Distribution for consumption² and payment of the ecotax

Art. 11. The ecotax is payable when distributing the products as specified in Art. 369, 11) of the Law relating to products falling under the provisions of Art. 2. 10).

Art. 12. Notwithstanding Art. 11, the ecotax is payable by the natural or legal person who, replacing the person which supplies the products subject to ecotax to retailers, provides such products to an economic agent located at any point in the commercial chain.

Art. 13 § 1. When distributing the products, these must be legibly provided on the outside with the distinctive marking specified in Annexe 1 of this Order, as well as with the registration number provided for in Art. 10.

§ 2. The amount of the ecotax must be quoted on the product. The total amount of the ecotax to be paid must appear on the commercial document drawn up in connection with the product's distribution.

§ 3. If several products subject to the ecotax are packaged in a collective or secondary packaging, the marking, the amount of the ecotax and the registration number must be applied to each item taken individually.

Art. 14. The taxpayer shall make a distribution declaration by, at the latest, the 15th of the month after the distribution of the products subject to the ecotax.

Art. 15. When making the declaration, a copy of the invoices must be appended.

Art. 16. The ecotax must be paid immediately on presentation of the distribution declaration.

Art. 17. The distribution declaration must be forwarded to the collector of customs and excise duties for the area of jurisdiction of the taxpayer.

CHAPTER III

Distributing a product enjoying a tax exemption

Art. 18. Products subject to an ecotax may be distributed exempt from ecotax under an exemption granted in Book III of the Law.

²Translator's note: Hereafter translated simply as *distribution*.

Art. 19 § 1. When distributing the products covered by Art. 18, they must be given a clearly visible marking as specified in Annexe 2, as well as the registration number specified in Art. 10.

§ 2. If several products enjoying tax exemption are packaged in a collective or secondary packaging, the distinctive marking and the registration number must be applied to each product taken individually.

Art. 20. The commercial document relating to the products enjoying exemption must carry the wording "Exempted from ecotax" [*Exonération de l'écotaxe*] and the legal provision under which the exception has been granted.

Art. 21. Notwithstanding Art. 19 § 1, containers for beverages, batteries and certain industrial packagings, subject to a deposit system need only be provided with the distinctive marking specified in Art. 1 of the Royal Order of 23 December 1993 relating to the marking of containers for beverages, batteries and on packagings of certain industrial products. Neither do these packagings have to carry any information concerning the amount of the deposit.

Art. 22. Compliance with the conditions specified by statute must be proven by the taxpayer to the satisfaction of the Director General.

Art. 23. The distribution of products exempted from the payment of the ecotax, does not require a distribution declaration.

CHAPTER IV

Distributing of products subject to ecotax and granted exemption

Art. 24 § 1. Products subject to ecotax intended for delivery within the framework of the procedure laid down in Art. 23a of the Royal Order of 29 December 1992 concerning the general system, holding, circulation and controls on products subject to excise (*Moniteur belge* of 31 December 1992) may be distributed exempt from ecotax.

§ 2. When distributing the products specified in § 1, they must be provided with a legible distinctive marking as specified in Annexe 2 and with their registration number.

CHAPTER V

Various stipulations

Art. 25 § 1. Under no circumstances may products subject to the ecotax be warehoused or kept in stock by retailers after the date referred to in § 2 below without carrying the registration number as specified in Article 10.

§ 2. The following dates apply to the implementation of § 1 above:

- Packagings containing beverages: 1 Feb. 1997
- Disposable razors: 1 November 1996
- Disposable cameras: 1 November 1996
- Batteries: 1 November 1996
- Packagings of certain industrial products: 1 February 1997
- Pesticides: 1 February 1997

Art. 26. This order comes into force on 1 January 1996.

The Departmental Order of 24 December 1993, concerning products subject to the ecotax of 4 July 1995 is herewith annulled.

Brussels 2 May 1996

Ph. MAYSTADT

Annexe to the departmental order of 2 May 1996.