Excise Licensing & Registration

APRIL 2015

EXCISE LICENCING

- In accordance with Section 90 of the Cap 472 and regulation 128 of the Customs and Excise Regulations

  "no person shall manufacture any excisable goods unless he is licensed by the Commissioner to manufacture such goods"

- Excisable goods are listed in the 5th Schedule to the CAP 472 and include : Wines & spirits, beer, cigarettes, mineral water, juices, soft drinks, polythene shopping bags, cosmetics etc

- The excise licences are renewable each year before / on 31st of December

Sec 91(2) a separate application shall be required in respect of-

a) Each factory in which excisable goods are to be manufactured

*"**factory** means any premises on which a person is licensed to -*

- *manufacture and store excisable goods;*
- *use excisable goods in other manufactures"*

b) Each class of excisable goods to be manufactured

- The Licensing process commences upon application and payment of prescribed fees Excise license fee applicable

  (Wines & spirits, beer, cigarettes- Ksh.100,000)

  (Mineral water, juices, soft drinks, polythene bags and cosmetics- Ksh.50,000)

- The application is on prescribed Form E1 together with the supporting documents

General Requirements

- Application Form E.1 in duplicate
- Detailed Manufacturing process flow chart
- Certificate of Incorporation/registration
- Copies of PIN Certificates for Applicant and Directors / owners
- Copy of valid Tax Compliance Certificate for

  a) Company

  b) Directors/owners

- Details of Bankers and Name(s) of Bank, Branches, Account Numbers of
  a) Company
  b) Directors / owners
- Clearance certificate from a Credit Reference Bureau
- Copy of Valid public safety certificates
  a) KEBS Certificate of Compliance with Standards for all brands
  b) Public Health
  c) NEMA

- Copy of Valid Single Business Permit
- Copy of Lease and/or Deed, or other document evidencing possession or right to possess the physical premises or real property for the proposed location of the factory
- Brand Details (including barcodes and package quantity)
- Production formulas (input-output ratios) for each product
- Valid Security bond for the protection of excise duty (Sec 160-163)
- Provide letter from the county government as evidence that the factory is located in a designated industrial area.

- Provide a detailed sketch / route map showing physical location of the factory
- Proof of maintenance of proper records for accounting of: Raw materials, Finished Products, Wastages, Purchases, Sales and Deliveries (Renewal)
- Attach a schedule of average monthly taxes paid in 2013 and 2014 Calendar Years in compliance with Regulation 130 (1B) of Customs and Excise Act, CAP 472 (renewal)

Other Specific Requirements

- Installation of Flow metres of a specification acceptable to KRA, in the case of Manufacturers of Spirit and spirituous beverages (Legal Notice No. 69 of 4th April 2011)
- Infrastructure to support installation of Excisable Goods Management System (Excise stamps application and Production Accounting) as shall be prescribed by KRA except for plastic bags and motor vehicles (Legal Notice No. 110 of 18th June, 2013)
- Copy of Valid Liquor licence in case of alcoholic manufacturers

Revocation / non renewal of Excise licences

- Sec 93.(1) of CAP 472 empowers the Commissioner to revoke, suspend or refuse to renew, a licence where he is satisfied that ï

  (a) the licensee has been guilty of an offence under this Act;

  (b) the licensee has been convicted of an offence involving dishonesty or fraud:

  (c) the licensee has become a bankrupt or has entered into an arrangement or composition with or for the benefit of his creditors;

(d) the factory, or the plant therein, is of such a nature or so maintained that the excisable goods manufactured therein are likely to be adversely affected;

(e) the factory is so designed, equipped or sited as to render difficult the supervision thereof for excise purposes;

(f) the licensee has failed to comply with the provisions of Section 95(*provision of facilities for proper accounting of Excise Duty)*

- Regulation 130(1B) provides that The Commissioner may revoke any licence issued in respect of an excise factory where, in any calendar year, the average monthly output in duties and taxes is less than five hundred thousand shillings.

Transfer of Excise licence

Sec 92 read together with Regulation 155:

An excise license is transferrable incase of a licensee who wishesð

- to transfer his licence to any other person; or
- to transfer his factory to any other place; or
- to manufacture any other class of excisable goods in his factory on his ceasing to manufacture spirits therein,

Application done in Form E. 3 in duplicate to the Commissioner;

- accompanied by an application to the Commissioner for approval of processes
- where the application is for the transfer of a licence to some other person, the application shall be accompanied by an application by the proposed transferee for the approval of his processes and entry of premises in all respects as required

REGISTRATION OF IMPORTERS

- Sec116(B) (1) The Minister may, by notice in the Gazette, specify the excisable goods to which the requirement for the affixing of excise stamps under this section applies.
  - These goods include: wines, spirits and cigarettes

- In accordance with Sec 116(B)(3)(a)

  No person shall import any of the above goods unless such person is registered with Commissioner

Registration process

- A taxpayer intending to import excisable goods subject to ***excise stamps*** should apply to the Commissioner of DTD in writing and attach all the required documents as per the short listing of importers checklist.
- The procedure for registration is the similar to excise licensing but ***no fees*** paid

Requirements for applicants to be shortlisted as importers of Wines, Spirits & Cigarettes:

- Application Letter
- Physical address (location)
- PIN of the Company
- PIN of the directors/ partners /sole proprietor

- VAT registration number/Certificate
- Tax compliance: VAT, Income tax, Excise duty, etc
- Single business Permit Certificate of incorporation/ registration
- Bank account number and bank statements for at least 3 months
- Product range
- Packaging size of each brand
- Sales quantities for each brand size for proceeding 12 months
- Projected sales quantities for each brand for the year
- Import documents /customs payment document for prior imports

Approval

- Upon approval, the applicant/importer is issued with an authority letter allowing them to formally apply for excise stamps and a copy therein is filed in the respective file
- An updated report of short listed importers is prepared and forwarded to the Commissioner for Customs Services Department on monthly basis

Revocation of Registration

- Provided under Sec 116(B)(5) :

  ñ*An importer who is convicted of an offence under subsection (4) shall, in addition to the penalty prescribed under that subsection, be liable to have his registration under this section revoked, as the case may be”*

DFD USERS AND REGIONAL IMPORTERS

- For **duty free** and **denatured** spirits only
- For regional importers, vetting to establish authenticity
- Local DFD users, registration as a means to rid off misuse
- Applications in writing containing the following information:
  - Description of the nature of business and physical location of Main Operation/Head office.
  - Certificate of Incorporation for Limited Companies.
  - Certificate of Registration for non-corporate bodies.
  - Copies of PIN and VAT Certificates.
  - Single Business Permit.

- Names of Directors/Partners/Proprietor and their PIN Numbers.
- Bankers and bank account details.
- For manufacturers, product brands, packaging sizes and production formulae (to include spirit usage per unit of production).
- For spirit resellers, details of clientele including names, physical & e-mail addresses, telephone and PIN numbers.
- For spirit exporters, details of clientele including names, physical & e-mail addresses, telephone and Tax Identification Numbers.
- Production and sales data per product for previous year in both quantities and value.
- Copies of financial statements for previous year.

- **Applicants are to ensure compliance with tax (including ETR) requirements through up to date filing of returns and payment of applicable taxes.**

- For local DFD users,
  - inspection of premises a must
  - registration with other relevant agencies
- For Regional importers Liaison with EAC partner states
- Accounting of purchases every three months
- List revised every 3 months

THANK YOU