

Ministerial Resolution No. (33) of 1981
Issuing the Executive Regulations of Federal Law No. (11) of
1981

Concerning the Imposition of a Federal Customs Duty on
Imports of Tobacco and its Derivatives

The Minister of Finance and Industry,

Having reviewed Federal Law No. (1) of 1972 concerning the competencies of ministries and the powers of ministers, and its amending laws,

And Federal Law No. (11) of 1981 concerning the imposition of a federal customs duty on imports of tobacco and its derivatives,

And based on the proposal of the Undersecretary of the Ministry,

Has decided:

Definitions

Article (1)

For the application of the provisions of this Resolution, the following words and phrases shall have the meanings assigned to each of them:

Goods: Imported commodities of tobacco and its derivatives, such as cigarettes, cigars, chewing tobacco, smoke, and others, whether these commodities are manufactured, semi-manufactured, or raw materials.

Tax: The federal customs duty imposed by the aforementioned Federal Law No. (11) of 1981, as amended by Federal Law No. (12) of 1994.

Customs Department: Any seaport, airport, or land border post with a customs office, which is the entity where customs procedures are carried out, whether on the coast, land borders, or at airports within the state or at its borders.

Chapter One

Customs Departments

Article (2)

The entry of goods shall be through the Customs Department.

Article (3)

The Customs Departments are:

Emirate of Abu Dhabi:

Mina Zayed - Abu Dhabi International Airport - Al Sila'a Center - Ruwais -
Jebel Dhanna - Das Island - Post Office. Al Ain International Airport.

Emirate of Dubai:

Port Rashid - Dubai International Airport - Jebel Ali Port - Al Hamriyah Port -
Al Shindagha Port.

Emirate of Sharjah:

Port Khalid - Sharjah International Airport - Khorfakkan Port.

Emirate of Ras Al Khaimah:

Saqr Port - Ras Al Khaimah Airport.

Emirate of Ajman:

Ajman Port.

Emirate of Umm Al Quwain:

Umm Al Quwain Port.

Emirate of Fujairah:

Fujairah Airport.

Fujairah Port.

The Minister of Finance and Industry may add other customs departments.

Article (4)

Goods withdrawn from free zones or warehouses into the country must be transported to the Customs Department after their withdrawal to complete the procedures for tax payment. Such goods shall be considered as if imported from abroad for the first time, and the tax shall apply to them at the time of withdrawal.

Article (5)

Vessels carrying goods are prohibited from docking outside the Customs Department. If a vessel is forced to dock due to an emergency or force majeure outside the Customs Department, the captain must not unload

any goods for smuggling purposes and must notify the nearest Customs Department.

Article (6)

Goods intended for entry by land must be directed to the nearest Customs Department at the border, and conventional routes must be followed without deviation until the goods reach the first Customs Department to complete customs procedures. If the said Customs Department is not authorized to complete customs procedures, it must inventory the goods, prepare a statement thereof, obtain the signature of the person in charge of the means of transport on this statement, and send the goods under guard to the nearest Customs Department to complete the procedures. If it is not possible to send the goods under guard, the Customs Department shall notify the nearest Customs Department with a statement of the goods.

Chapter Two

Rules for Calculating the Tax

Article (7)

The tax shall be assessed based on the actual price of the goods paid or agreed upon in the currency of the letter of credit, plus shipping and insurance costs to the port of arrival in the state, valued in Dirhams based on the equivalent exchange rate of the foreign currency on the date of tax payment.

Article (8)

If it is not possible to verify the price of the goods, or in case of doubt about this price when examining the documents attached to the customs declaration, the price shall be estimated by customs appraisers based on the closest equivalent value that can be verified, with the help of international prices for those goods or by any other means.

Article (9)

For goods that are found by their owners to be non-compliant with the contracted specifications, defective, of a lower quality, or for other reasons leading to correspondence between the importer and the foreign exporter that results in the exporter's agreement to a certain percentage reduction in the value of the consignment, the customs shall examine all

correspondence, telexes, and related documents. After consulting the customs appraiser, if satisfied with this reduction, the tax on the goods shall be assessed based on the value after the reduction. This provision also applies to goods damaged during transit.

Article (10)

The customs accountant shall calculate the tax and record it on the designated form. The tax rate shall be fifty percent (50%) of the import price of the commodity, calculated on a CIF (Cost, Insurance, and Freight) basis at the port of arrival in the United Arab Emirates if imported from abroad.

In the case of manufacturing or completing the manufacturing of the commodity within the state, the tax shall be calculated at fifty percent (50%) of its production cost, taking into account the deduction of any tax that has been imposed and paid on the materials used in the manufacturing.

Goods exported from the state shall be exempt from the tax.

Chapter Three

Customs Procedures

Article (11)

A customs declaration (duty payment declaration) and an import manifest, in one original and five copies, must be submitted for the goods, completed with all the required information by the importer or agent before commencing customs procedures.

The importer or agent must specify on the customs declaration all details of the goods, such as the number of packages, their marks, numbers, descriptions, weights, and measurements.

Article (12)

The information recorded in the customs declaration and import manifest may not be changed after their submission to customs. However, if the declarant discovers an error in the information before a written order for inspection or weighing of the goods is issued, he may be permitted to correct it if the customs director is convinced of his good faith. This correction must be approved by the customs director or his deputy.

Article (13)

Upon submitting the customs declaration to customs, the importer or agent must declare the actual value paid or agreed to be paid for the goods, packed and ready for shipment at the port of export, in the currency of the exporting country or any other foreign currency, plus shipping, insurance, and other costs up to the port of arrival in the state.

Article (14)

Upon clearing the goods, the importer or agent must provide customs with all documents proving the correct value of the goods, including the value of shipping, insurance, and other expenses, accompanied by an Arabic translation.

These documents shall include, in particular, the following:

- a. Original invoices certified by the embassy of the United Arab Emirates in the exporting country. If there is no UAE embassy, they shall be certified by an Arab embassy, the Federation of Chambers of Commerce, or the Federation of Industry in the exporting country.
- b. Certificate of origin certified as stipulated in item (a).
- c. Insurance policy certified as stipulated in item (a).
- d. Bill of lading.
- e. Packing list for each package separately.
- f. Price list, if available.
- g. A copy of the letter of credit form or documents of value transfer from the bank.

Article (15)

After the goods are unloaded from the vessel, the representative of the Ministry of Finance and Industry shall review the goods against the manifest, in addition to the review by local customs representatives. If it is found that the quantity of the goods is less or more than the quantity or number indicated in the manifest, the captain or his agent must explain the reasons in writing.

Chapter Four

Payment of Tax

Article (16)

The tax shall be collected from the importer or local manufacturer in cash or by a cheque drawn on a bank operating in the state. 50% of the collected tax shall be deposited into the account of the Ministry of Finance and Industry, and the other 50% shall be deposited into the account of the Customs Department where the goods are cleared.

The detailed collection and deposit procedures shall be determined by agreement between the Ministry of Finance and Industry and the concerned Customs Department.

Article (17)

The tax shall be paid using the form prepared for this purpose, and this form shall be signed by the customs director or his deputy.

Article (18)

The necessary procedures shall be taken to release the goods upon the importer or agent presenting the receipt of tax payment to the Customs Department.

Article (19)

A copy of the customs declaration, along with a copy of the tax receipt, purchase invoices, and certificate of origin, shall be attached and sent to the headquarters of the Ministry of Finance and Industry in Abu Dhabi for the Abu Dhabi Customs Department, and to the headquarters of the Ministry of Finance and Industry in Dubai for the customs departments in the Northern Emirates, to carry out inspection procedures and prepare the necessary accounting documents.

Article (20)

If it is found that the tax collected is less than the tax actually due, whether due to omission, error, or any other reason, the person liable for paying the tax shall pay the difference within a period not exceeding two months from the date of being notified.

Article (21)

If a dispute arises between the importer or agent and the customs on the value of the goods for justifiable reasons, the tax shall be collected in cash as a deposit to avoid delaying the goods at customs. The appraiser shall

estimate the deposit based on the value determined by customs for the tax, plus 10% (ten percent) of this value. The importer or agent shall be given one month to provide documents supporting his position. If this period expires without providing these documents, the deposit shall be recorded as revenue.

Chapter Five

Sale of Goods

Article (22)

If the importer or agent fails to submit the customs declaration, delays in its submission, or does not come to collect the goods within 4 months from the date of unloading the goods at the Customs Department, the customs shall have the right to sell the goods by public auction.

The tax and other due local customs duties, fees, and expenses shall be deducted from the sale price in the following order:

- a. Sale expenses, including publication costs.
- b. The tax, calculated based on the sale price.
- c. Local customs duties and fees, calculated based on the sale price.
- d. Revenues, fees, storage charges, and any other dues to customs.

Any remaining amount shall be kept in the customs treasury as a deposit, available on demand to the rightful owner.

Article (23)

In urgent cases, the Customs Department has the right to sell seized goods if their storage exposes them to depreciation or loss, through a committee formed of a representative from the Ministry of Finance and Industry, a member from the local Customs Department, and a member from the Chamber of Commerce and Industry.

If it is decided that the importer or agent is entitled to the sold goods, he shall have the right to recover the sale value after deducting the tax, other local customs duties and fees, and sale expenses.

Article (24)

The sale in the two cases stipulated in the preceding two articles shall be conducted in accordance with the procedures prescribed in the financial

regulations issued by the Ministry of Finance and Industry in Financial Circular No. (10) of 1975.

Chapter Six

Temporary Exemption from Tax

Article (25)

Without prejudice to what is stipulated in the second paragraph of Article (2) of the aforementioned Federal Law No. (11) of 1981, as amended by Federal Law No. (12) of 1994, the goods referred to in Article (1) of this Resolution shall be temporarily exempted from tax if they are imported for the purpose of re-exporting them from the state in their original condition. The exemption is conditional upon the importer depositing a cash security or a bank guarantee with the Customs Department for the value of the due tax, and that the re-export is completed within one year from the date of import. If this period expires without the re-export being completed, the tax shall become due.

Article (26)

A customs declaration shall be submitted for goods imported for the purpose of re-export, indicating that they are for re-export.

Article (27)

The cash security or bank guarantee stipulated in Article (25) of this Resolution for the value of the due tax shall be returned upon the importer or agent presenting the bill of lading for the goods to a destination outside the state.

Chapter Seven

Tax Evasion

Article (28)

Anyone who uses fraudulent methods to evade paying all or part of the tax, as well as anyone who uses fraudulent methods to import goods through channels other than the Customs Departments specified in Article (3) of this Resolution, shall be considered a tax evader.

Article (29)

The entry of goods through postal parcels is not permitted.

Article (30)

Goods shall be considered smuggled in the following cases:

- a. Goods that are unloaded from means of transport before reaching the first Customs Department without a force majeure excuse, for the purpose of smuggling them.
- b. Goods that are found upon inspection to be concealed or hidden in any way, or where the circumstances suggest an attempt to hide them, such as placing them in voids or similar spaces in the corners of transport means, or in hiding places not normally used for storage, or mixed with travelers' personal luggage or clothing, or packed in deceptive packaging, all without being declared.
- c. Goods that are found upon inspection to be inconsistent with the quantity, type, kind, size, or weight specified in the invoice, or whose packaging bears a number different from the actual one, or for which forged or fictitious invoices or documents, or counterfeit marks are presented for the purpose of evading all or part of the tax.
- d. If means of transport arriving from foreign countries by land, sea, or air deviate from the usual route to areas without Customs Departments and unload goods without force majeure reasons.

Article (31)

Smuggled goods may be pursued and seized wherever they are found, even after they have passed the Customs Department's boundaries, by customs officers, with the assistance of the police if necessary.

Article (32)

Upon seizing smuggled goods inside or outside the Customs Department, customs officers must take measures to prepare the necessary report without delay for the violators at the nearest customs office.

The report must specify its date, time, and conclusion, the place where the seizure occurred, the date and time of the seizure, and the names, titles, nationalities, professions, and places of residence of the violators. If the violators refuse to provide any information, this shall be noted in the report. All facts and clarifications that may facilitate the search for and location of the violators shall also be recorded. If one of the violators is an employee on a ship or means of transport, the name of the ship or means

of transport, its type, the name of its captain or driver, and its agent company must be mentioned.

The names of the seizing officers, a summary of the incident, the reason for the seizure, and the circumstances under which it occurred shall be recorded, with a precise description of the seized goods and an estimation of their value. This estimation shall be the basis for the fine imposed on the violator.

The report shall be prepared in the presence of the violators, who will be asked to sign it and provide their statements. If a violator refuses to sign, this shall be noted in the report.

A copy of the seizure report, along with all related documents, shall be sent within twenty-four hours of its preparation to the headquarters of the Ministry of Finance and Industry in Abu Dhabi for the Abu Dhabi Customs Department, and to the headquarters of the Department of Finance and Industry in Dubai for the customs departments in the Northern Emirates, accompanied by the comments of the local Customs Department. Another copy shall be sent to the Federal Public Prosecution to take the necessary action.

Article (33)

Investigations shall be conducted by a committee in each Customs Department, formed by a decision of the head of the Customs Department, with the representative of the Ministry of Finance and Industry at the Customs Department as a member.

Alternatively, if a committee already exists for this purpose in the Customs Department, a representative from the Ministry of Finance shall be included as a member to conduct investigations related only to this tax.

Article (34)

Smuggled goods, as well as the means of transport used in the smuggling, shall be impounded until the smuggling crime is adjudicated.

Ships and aircraft are excluded from impoundment unless they were specifically chartered for the purpose of smuggling.

Chapter Eight

Final Provisions

Article (35)

The forms stipulated in this Resolution shall be issued by a decision of the Minister of Finance and Industry after consulting the local Customs Departments.

Article (36)

The concerned authorities shall, each within its jurisdiction, implement this Resolution.

Article (37)

This Resolution shall be published in the Official Gazette and shall come into force from the date of its publication.

Hamdan bin Rashid Al Maktoum

Minister of Finance and Industry

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