



**INTRODUCTION OF
EXCISES ON ENERGY
RELATED PRODUCTS
AND OBLIGATIONS WITHIN
PROCEDURE OF COMPLIANCE
WITH THE EU LAWS**

JPM

JANKOVIĆ POPOVIĆ MITIĆ



By execution of the **Single European Act**¹, the EU member states have undertaken to establish the single market, without borders, which would ensure a free flow of the goods, services, capital and people. Compliance of the member states' regulations governing taxation of the energy-related products was a necessary step in maintaining the market competition, and the compliance of the regulations has to a great extent been achieved by rendering of several Directives, first of all the Directive 92/12/EU on the general excises arrangement, which is deemed to be the basis of compliance of all the products subject to the excise.

Apart from the said Directive, also important are the following Directives: **Directive 92/81/EEU** on compliance of the structure of the excises on mineral oils and the **Directive 92/82/EEU** on assessment of the mineral oils excise rate. For the purpose of carrying out the reform of the said regulations, on October 27th, 2003, the **Directive 2003/96/EU** on taxation of the energy-related products and electric energy was rendered, under which the **Directives 92/81/EEU** and **92/82/EEU** were rendered null and void. As the previous two Directives had governed only the issue of mineral oils taxation, the new Directive extended the scope of the taxable energy-related products, and also specified the minimum taxation rates for all indirect taxes, inclusive of VAT. Besides the Directive 2003/96/EU, also significant is the Directive 2008/118/EU on the general arrangements of the excises collected directly or indirectly on consumption of the energy-related products, under which the **Directive 92/12/EU** was rendered null and void.

As the candidate for joining the European Union, the Republic of Serbia is obliged to comply its laws with the community laws. **The Act on Excises** is one of the regulations the compliance of which with the EU regulations, specifically, the **Directives 2003/96/EU** and **2008/118/EU**, is necessary. One of the major reasons for the future amendments of the Act will be, from the aspect of the energy related products, the narrow scope of the applicable excise policy of the Republic of Serbia.

Introduction of Excises on Energy Related Products

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Authors: Jelena Gazivoda, Senior Partner, Nikola Djordjevic, Partner, Milica Stojanovic, Junior Lawyer
Mateja Čuk, Senior Associate, Mateja Ščuka, Associate -Rojs, eljhan, Prelesnik & partners, Slovenia
Mia Lazić, Associate - Šavorić & Partners, Croatia

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Actually, the Act specifies as the taxable energy related products only the crude oil derivatives, bio-fuels and bio-liquids, while the **Directive 2003/96/EU** provides also for introduction of the excises on the energy related products such as the natural gas, electric energy, coal and coke. Introduction of the excises on these energy related products would affect both the economy and the citizens, and in that case, the deferred application would be as well as the timely information for the public, for the purpose of an easier adjustment to the new circumstances. What significantly contributes to the certainty and predictability of business operations in the Republic of Serbia is the future increase of the excises, defined for the first time in 2012, by the amendments of and supplements to the **Act on Excises**². Also, compliance of the specified amount of the excise with the annual index of the consumers' prices is projected to take place in January 2016.

A novelty, in terms of amendment of the excise policy of the Republic of Serbia, is the announced introduction of the excise tax on the electric energy, which will result in increase of the end user's price by 15%, with Elektroprivreda Srbije getting half of the amount, while the other half would be paid to the state budget through the excise tax. Introduction of the excises is obligation of the Republic of Serbia, not only on the ground of its status of the candidate for joining the European on the ground of the Memorandum on economy and finance policy, which is the integral part of the standby arrangement approved by the International Monetary Fund on February 23rd, 2015. Subject to the **Energy Act**³, the new price shall be applicable only after the approval has been obtained from the Energy Agency and after the specified term from the date of publishing of the resolution in the Official Journal has expired.

As for the natural gas, crude oil, coal and coke, there are still no clear indications of the time when the excises thereon will be introduced. Although the policy of the government relating to the energy related products which are mandatory taxable in the EU is unclear, it is certain that the taxation thereof will become mandatory on the ground of the Republic of Serbia obligations in terms of compliance of its regulations with the regulations of the EU.

Gradual introduction of the excises on the energy related products is not uncommon, which can be concluded on the examples from the countries of the region, which have already become the EU members.

The Republic of Croatia introduced the excises for the first time on July 1st, 1994, when the Act on the special tax on the crude oil derivatives was introduced, however, it was only in 2009 when the procedure of compliance of the Republic of Croatia regulations with those of the EU begun by rendering of the Act on Excise Tax, which Act came into effect in January 2010.

Although the excise tax was introduced on the natural gas and the electric energy, the rate thereof has not been complied. The Republic of Croatia has fully implemented the Directives by rendering the new **Act on Excise Tax**⁵, which came into effect in 2013, except for certain provisions which came into effect when the Republic of Croatia joined the EU. The aim of the Act from 2013, was to replace the 2009 Act, which had already been complied with the said Directives. Besides the identical provisions, the 2013 Act introduced some new provisions such as those relating to the electronic Energy Management Control System (EMCS system) and also the rates of the excise tax in the natural gas and electric energy have been complied. Although there were significant difficulties in terms of implementation of the provisions relating to the excise tax on tobacco products, compliance of the Republic of Croatia excise tax on the energy related products went on quite smoothly by adoption of the 2013 Act.

Despite the above, the excise rate for certain energy related products has been increased by the Croatian Government following joining the EU, although such increase has not been necessary on account of compliance, and therefore, the conclusion may be drawn that the reason for such increase lies in the necessity of increase of the state budget, which can also be expected in the future.

Another example of the gradual adoption of the excises is the practice of the Republic of Slovenia, which in 2004, and then also in 2006, implemented the Directives for the first time by amendments of and supplements to the **Act Amending the Excise Duty Act**⁶ and its sub-legal acts. Additional amendments of and supplements to the Act were made in 2009⁷, for the purpose of implementation of the novelties provided in the **Directive 2008/118/EU**, such as introduction of the EMCS system.

The **Act Amending the Excise Duty Act** treats the electric energy and the energy related products used as the drive fuel or heating fuel as the products subject to the excise tax. As the Republic of Slovenia has been allowed a certain period for implementation, the Act which finally introduced the excise tax came into effect in 2007, while the excise tax for the natural gas had already been specified in the 1999 **Act Amending the Excise Duty Act**. As is the case with the excise tax on other products, the excise tax on the energy related products and the electric energy shall be collected from the beginning of "utilization" thereof by the producers or wholesalers.

The excise tax rate in Slovenia and Croatia is specified in the Act governing the excise tax, with the government being entitled to, under a directive, comply the rate, subject to the various circumstances that might occur. For example, the Government of the Republic of Slovenia is entitled to adjust the excise tax rate for the energy related products by 50% for each type of the excise. The excises are specified for each group of the energy related products separately, and their rates differ subject to the intended use of the product. In case of the natural gas, for example, the excise rate on consumption thereof as a drive fuel is higher than when used for heating purposes.

On the ground of such policy of the countries in the region, it can be expected that the same practice will be used in the Republic of Serbia when the excise tax on the energy related products is introduced.

Namely, off the records, the above is indicated by the recent proposal of the Republic of Serbia Government extended to the IMF representatives on postponing or at least reduction of the citizens' obligations in terms of payment of the excise tax on the electric energy, specified in the Memorandum, considering the fact that the financial results are much better than expected. That would actually mean that the excise tax on the electric energy, of 15% specified in the Memorandum, would not exist for the time being, or would be reduced to the minimum EUR 0,5, meaning that the kW prices for the citizens would be increased by 7 - 8%, for the amount collected by Elektroprivreda Srbije. This method of gradual introduction of the excises is to a great extent present in the EU member-countries. In the event that IMF refuse to accept such proposal, it is assumed that the Republic of Serbia Government would come up with an alternative proposal of 7,5%, while the increase of the kW prices the Government would try to postpone for the next year.

¹ Original title: Single European Act, 1986

² Act on Excises ("RS Official Journal", No. 22/2001, 73/2001, 80/2002, 43/2003, 72/2003, 43/2004, 55/2004, 135/2004, 46/2005, 101/2005 - other act, 61/2007, 5/2009, 31/2009, 101/2010, 43/2011, 101/2011, 6/2012 - complied, 43/2012 - resolution, 76/2012 - resolution, 93/2012, 119/2012, 8/2013 - complied, 47/2013, 4/2014 - complied, 68/2014 - other act, 142/2014, 4/2015 - complied and 5/2015 - complied)

³ Energy Act ("RS Official Journal", No. 145/2014)

⁴ Act on special tax on crude oil derivatives („Official Journal" No. 51/94)

⁵ Act on Excise Tax („Official Journal" No. 83/09)

⁶ Act Amending the Excise Duty Act; ZTro-E, Službeni Glasnik Republike Slovenije, br. 42/04, 23.03.2004.

⁷ Act Amending the Excise Duty Act; ZTro-F, Službeni Glasnik Republike Slovenije, br. 122/06, od 28.11.2006.



JPM JANKOVIĆ POPOVIĆ MITIĆ
NBGP Apartments, 6 Vladimira Popovića street
11070 Belgrade
Tel: +381 11 207-6850, Fax: +381 11 207-6899
E-mail: office@jpm.rs, Online: www.jpm.rs



JANKOVIĆ POPOVIĆ MITIĆ