



STATUTORY INSTRUMENTS.

S.I. No. 34 of 2017



MINERAL OIL TAX (MANDATORY ELECTRONIC FILING AND
MISCELLANEOUS AMENDMENTS) REGULATIONS 2017

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The Revenue Commissioners, in exercise of the powers conferred on them by section 104 of the Finance Act 1999 (No. 2 of 1999), section 153 of the Finance Act 2001 (No. 7 of 2001) and section 917EA of the Taxes Consolidation Act 1997 (No. 39 of 1997), make the following Regulations:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the Mineral Oil Tax (Mandatory Electronic Filing and Miscellaneous Amendments) Regulations 2017.

Commencement

2. These Regulations shall come into operation on 1 February 2017.

Revocation

3. Regulation 12 of the Mineral Oil Tax Regulations 2012 (S.I. No. 231 of 2012) is revoked.

Amendments

4. The Mineral Oil Tax Regulations 2012 are amended—

(a) in Regulation 4(1) by—

(i) inserting the following definition:

“ ‘Act of 1997’ means the Taxes Consolidation Act 1997 (No. 39 of 1997);”

and

(ii) deleting the definition of “capacity”,

(b) by substituting the following for Regulation 9:

“Warehouse to warehouse consignments within the State

9. (1) Where mineral oil is removed from a mineral oil tax warehouse for consignment under a suspension arrangement to another mineral oil tax warehouse in the State, the authorised warehousekeeper who consigns the mineral oil shall complete an approved

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“Iris Oifigiúil” of 7th February, 2017.*

delivery document in three copies (referred to in this Regulation as “copy one”, “copy two” and “copy three”).

(2) Before a consignment is dispatched, the authorised warehousekeeper shall sign the completed delivery document, retain copy one and send copies two and three with the consignment.

(3) The authorised warehousekeeper who receives the consignment shall endorse copies two and three with particulars of the mineral oil received, retain copy two and return copy three to the consigning authorised warehousekeeper.

(4) The consigning authorised warehousekeeper shall make every effort to ensure that copy three is returned as required under paragraph (3), and where it is not returned within 10 working days of the dispatch of the consignment that authorised warehousekeeper shall inform a proper officer accordingly.”,

(c) by substituting the following for Regulation 11:

“Home consumption account

11. An authorised warehousekeeper shall keep a monthly account of the mineral oil removed by that authorised warehousekeeper from a mineral oil tax warehouse for consumption in the State, showing, for each specified description of mineral oil, the quantities so removed, the rate of tax, and the amount of tax payable.”,

(d) by substituting the following for Regulation 14:

“Home consumption and stock returns

14. (1) An authorised warehousekeeper shall, in such form and in respect of each month or such other period as the Commissioners may require, furnish to the Commissioners a return with respect to the tax warehouse concerned detailing—

(a) the tax payable on mineral oil of each specified description released for consumption during the month or period concerned,

and

(b) in respect of each specified description of mineral oil,—

(i) the stock balance brought forward from the previous month or other period,

(ii) the quantities received or produced during the month or period concerned,

- (iii) the quantities released for consumption or otherwise removed or disposed of during the month or period concerned,
- (iv) the closing balance at the end of the month or period concerned, and
- (v) such other details as the Commissioners may from time to time require.

(2) The return in accordance with paragraph (1) shall be furnished even where there are no receipts into, removals or releases for consumption from, or stock level changes within the mineral oil tax warehouse during the month or other period concerned.

(3) The return in accordance with paragraph (1) shall be furnished not later than the 15th day succeeding the month or other period concerned.

(4) A return made under this regulation shall be made by electronic means in accordance with Part 6A.”,

(e) by substituting “return” for “returns” in Regulation 15(1)(a),

(f) by substituting the following for Regulation 23(3)(a):

“(a) not subject to tax under section 95(1)(a) of the Act of 1999,”,

(g) in Regulation 25(1) by substituting “mineral oil movements other than vehicle gas” for “mineral oil movements”,

(h) by inserting the following after Regulation 25:

“PART 6A

ELECTRONIC RETURNS AND PAYMENTS

Interpretation (Part 6A)

25A. In this Part—

‘return’ means any return, claim, application, notification, election, declaration, nomination, statement, list, registration, particulars or other information which a person is or may be required by the Act of 1999, the Act of 2001, or these Regulations to furnish, deliver, give or make to the Commissioners or to any officer.

Specified returns, liabilities and persons

25B. (1) Any return which is specified for the purposes of Chapter 6 of Part 38 of the Act of 1997, by order made by the Commissioners under section 917E of the Act of 1997—

(a) is specified as a specified return for the purposes of section 917EA of the Act of 1997,

and

(b) shall, from the date stated in the order, be furnished, delivered or made by such electronic means as are required by the Commissioners, and in accordance with Chapter 6 of Part 38 of the Act of 1997.

(2) Any liabilities to tax, including interest on unpaid tax, arising under any provision of the Act of 1999 or the Act of 2001, the payment of which is or will be accounted for, directly or indirectly, in a specified return within the meaning of paragraph (1)(a), including any payment which is treated under those Acts as a payment on foot of, or on account of, any liabilities to tax—

(a) are specified as specified tax liabilities for the purposes of section 917EA of the Act of 1997,

and

(b) shall, from the date stated in the order referred to in paragraph (1), be paid by such electronic means as are required by the Commissioners and in accordance with Chapter 6 of Part 38 of the Act of 1997.

(3) Each person who is obliged to make a return, other than the Commissioners, an officer of the Commissioners, the Appeal Commissioners, or staff of the Tax Appeals Commission acting under its authority, is specified as a specified person for the purposes of paragraphs (a) and (b) of subsection (3) of section 917EA of the Act of 1997.

Time at which payments made by electronic means are taken to be made

25C. (1) For the purpose of these Regulations, the time at which a payment of any specified tax liabilities by or on behalf of a specified person shall be taken as having been made shall be the later of the due date for that payment and the time at which the Commissioners receive authorisation to debit the amount of the payment from the account of the specified person in a financial institution.

(2) For the purposes of any dispute arising as to the time at which a payment of any specified tax liabilities to which these Regulations apply is to be taken as having been made, a certificate signed by an officer which certifies that he or she has examined the relevant records and that it appears from them that the time at which the payment is to be taken as having been made, is the time so specified in the certificate, shall be evidence until the contrary is proven that the payment was made at the time so certified.

Repayment of tax by electronic means

25D. (1) In this Regulation “relevant person” means a person to whom a repayment under a provision specified in Schedule 4 falls due to be made.

(2) Where, on or after 1 June 2017, a repayment under any of the provisions specified in Schedule 4 falls due to be made by the Commissioners to a relevant person, the repayment shall be made by electronic means.

(3) The time at which a repayment referred to in paragraph (2) to a relevant person shall be taken as having been made shall be the time at which the Commissioners give authorisation to credit the amount of the repayment to the account of the relevant person in a financial institution.

(4) Where a dispute arises as to the actual time at which a repayment of any liabilities to which this Regulation applies was made, where an officer, having examined the relevant records, provides a signed certificate specifying a time to be taken as that when the repayment was made, that certificate shall be evidence until the contrary is proven that the repayment was made at the time so certified.”,

(i) In Regulation 26 by substituting the following paragraph for paragraph (1):

“(1) In this Regulation ‘requirement’ means a requirement to furnish, make, deliver or cause to be delivered a return by electronic means.”,

(j) by substituting the following Regulation for Regulation 27:

“Right of Appeal to the Appeal Commissioners

27. A person aggrieved by a decision of the Commissioners not to exclude the person from the provisions of Regulation 25B in accordance with Regulation 26(3) may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that decision.”,

(k) in Regulation 36B by deleting the definition of “purchase in bulk”,

(l) in Regulation 43 by substituting “Any return or declaration required under section 95E of the Act of 1999 or under these Regulations shall be signed—” for “Any return or declaration required under these Regulations shall be signed—”,

(m) by inserting the following Schedule after Schedule 2:

“SCHEDULE 4

(Regulation 25D)

Repayments specified in accordance with and for the purpose of Regulation 25D:

Section 97B(3) of the Finance Act 1999

Section 100(1)(c) of the Finance Act 1999

Section 100(6)(a) of the Finance Act 1999”

GIVEN under my hand,
31 January 2017.

NIALL CODY,
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not a part of the Instrument and does not purport to be a legal interpretation)

Chapter 1 of Part 2 of the Finance Act 1999 provides for a duty of excise known as Mineral Oil Tax. These Regulations amend the Mineral Oil Tax Regulations 2012 (S.I. No. 231 of 2012) to provide for changes in the requirements for the electronic submission of mineral oil tax home consumption and stock returns consequent to the introduction by the Revenue Commissioners of a computerised excise accounting system.

These Regulations provide for the Commissioners to permit exceptions to be made to the electronic submission requirement where they consider appropriate, and also provide for an appeal procedure where a person is dissatisfied with a decision of the Commissioners in relation to allowing an exception. The Regulations also make it mandatory that certain repayments shall be made by electronic means. They also specify the times at which payments and repayments of tax may be deemed to have taken place.

Finally these Regulations make some minor grammatical corrections to the original regulations, remove redundant definitions and contain an amendment to take account of the application of mineral oil tax to vehicle gas.

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