



STATUTORY INSTRUMENTS

S.I. No. 480 of 2008

EUROPEAN COMMUNITIES (TAX EXEMPTION FOR CERTAIN NON-COMMERCIAL GOODS IMPORTED IN THE PERSONAL LUGGAGE OF TRAVELLERS FROM THIRD COUNTRIES) REGULATIONS 2008

(Prn. A8/1863)

EUROPEAN COMMUNITIES (TAX EXEMPTION FOR CERTAIN NON-COMMERCIAL GOODS IMPORTED IN THE PERSONAL LUGGAGE OF TRAVELLERS FROM THIRD COUNTRIES) REGULATIONS 2008

I, BRIAN LENIHAN, Minister for Finance, in exercise of the power conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive 2007/74/EC of 20 December 2007¹, hereby make the following regulations:

Citation, Commencement and Interpretation

1. (1) These Regulations may be cited as the European Communities (Tax Exemption for Certain Non-Commercial Goods Imported in the Personal Luggage of Travellers from Third Countries) Regulations 2008.

(2) These Regulations come into operation on 1 December 2008.

2. (1) In these Regulations—

“cigarillos” means cigars of a maximum weight of 3 grams each;

“crewmember” means a member of the crew of a means of transport used, other than for private pleasure-flying or private pleasure-sea-navigation, to travel to the State from a third country or from a territory where the Community provisions on value-added tax or excise duty, or both do not apply;

“non-commercial character” in relation to imports, means imports that—

(a) take place occasionally,

(b) consist exclusively of goods for the personal or family use of the traveller, or of goods intended as presents,

where the nature and quantity of the goods are not such as to indicate that they are being imported for commercial purposes;

“personal luggage” means the whole of the luggage which a traveller is able to present to the customs authorities upon arrival in the State, as well as luggage which the traveller presents later to the same authorities, subject to proof that such luggage was registered as accompanied luggage at the time of the traveller’s departure with the company which has been responsible for conveying the traveller. Fuel, other than mineral oil in the standard tank of a mechanically propelled vehicle and a quantity of fuel not exceeding 10 litres contained in a portable container, is not personal luggage;

¹OJ No. L 346, 29.12.2007, p. 6

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 28th November, 2008.

“private pleasure-flying” means the use of an aircraft by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for purposes other than commercial and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities;

“private pleasure-sea-navigation” means the use of a seagoing vessel by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for purposes other than commercial and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities;

“territory where the Community provisions on value-added tax or excise duty, or both do not apply” means any territory, other than the Isle of Man or a territory of a third country, where Directives 2006/112/EC² or 92/12/EEC³, or both do not apply;

“third country” means any country, which is not a Member State of the European Union. However, Monaco shall not be regarded as a third country and San Marino shall not be regarded as a third country in respect of excise duty;

“traveller” means an air traveller or a sea traveller arriving, other than by private pleasure-flying or private pleasure-sea-navigation, in the State from a third country or a territory where the Community provisions on value-added tax or excise duty, or both do not apply;

“% vol” means alcoholic strength by volume which is the ratio, expressed as a percentage, of the volume of alcohol present in a product to the total volume of the product at a temperature of 20° Celsius.

(2) A word or expression that is used in these Regulations and is also used in Council Directive 2007/74/EC¹ has, unless the contrary intention appears, the same meaning in these Regulations that it has in that Directive.

Travellers

3. Goods, the importation of which is regarded as being of a non-commercial character, imported in the personal luggage of a traveller shall—

- (a) subject to Regulation 4, be exempt from value-added tax, and
- (b) subject to Regulations 5, 6 and 7, be exempt from value-added tax and excise duty.

4. (1) Goods, other than those to which Regulation 5, 6 or 7 applies, shall be exempt from value-added tax where—

- (a) in the case of travellers other than those to whom paragraph (b) applies, the total value of the goods does not exceed €430, or

²OJ No. L347, 11.12.2006, p. 1.

³OJ No. L76, 23.3.1992, p. 1.

(b) in the case of a traveller under 15 years of age, the total value of the goods does not exceed €215.

(2) For the purposes of applying the monetary thresholds specified in paragraph (1), the value of an individual item may not be split up.

(3) The value of the personal luggage of a traveller, which is imported temporarily or is re-imported following its temporary export, and the value of medicinal products required to meet the personal needs of a traveller shall not be taken into consideration for the purposes of applying the exemptions specified in paragraph (1).

5. (1) Tobacco products specified in this paragraph shall be exempt from value-added tax and excise duty subject to the following quantitative limits per traveller:

(a) 200 cigarettes;

(b) 100 cigarillos;

(c) 50 cigars;

(d) 250 grams smoking tobacco.

(2) Each amount specified in subparagraphs (a) to (d) of paragraph (1) shall represent 100 per cent of the total allowance for tobacco products for a traveller.

(3) The exemption may be applied by a traveller to any combination of the tobacco products specified in subparagraphs (a) to (d) of paragraph (1) provided that the aggregate of the percentages made up from the individual allowances does not exceed 100 per cent.

6. (1) Alcohol products specified in this paragraph shall be exempt from value-added tax and excise duty subject to the following quantitative limits per traveller:

(a) (i) 1 litre of alcohol or alcoholic beverages of alcoholic strength exceeding 22% vol, or

(ii) 1 litre of undenatured ethyl alcohol of 80% vol and over, or

(iii) 2 litres of alcohol or alcoholic beverages of an alcoholic strength not exceeding 22% vol;

(b) 4 litres of still wine; and

(c) 16 litres of beer.

(2) Each amount specified in clause (i) to (iii) of paragraph (1)(a) shall represent 100 per cent of the total allowance for those alcohol products.

(3) The exemption under paragraph (1)(a) may be applied by a traveller to any combination of the alcohol products in clauses (i) to (iii), provided that the aggregate of the percentages made up from the individual allowances does not exceed 100 per cent.

7. Fuel imported in the standard tank of a mechanically propelled vehicle and a quantity of fuel not exceeding 10 litres contained in a portable container, shall be exempt from value-added tax and excise duty.

Crewmembers

8. Goods, the importation of which is regarded as being of a non-commercial character, imported in the luggage of a crewmember disembarking from a ship or aircraft shall—

(a) subject to Regulation 9, be exempt from value-added tax, and

(b) subject to Regulations 10 and 11, be exempt from value-added tax and excise duty.

9. (1) Goods, other than those to which Regulation 10 or 11 applies, shall be exempt from value-added tax where their total value does not exceed €430.

(2) For the purposes of applying the monetary threshold specified in paragraph (1), the value of an individual item may not be split up.

(3) The value of medicinal products required to meet the personal needs of a crewmember shall not be taken into consideration for the purposes of applying the exemption specified in paragraph (1).

10. (1) Tobacco products specified in this paragraph shall be exempt from value-added tax and excise duty subject to the following quantitative limits per crewmember:

(a) 40 cigarettes;

(b) 20 cigarillos;

(c) 10 cigars;

(d) 50 grams smoking tobacco.

(2) Each amount specified in subparagraph (a) to (d) of paragraph (1) shall represent 100 per cent of the total allowance for tobacco products for a crewmember.

(3) The exemption may be applied by a crewmember to any combination of the tobacco products specified in subparagraphs (a) to (d) of paragraph (1) provided that the aggregate of the percentages made up from the individual allowances does not exceed 100 per cent.

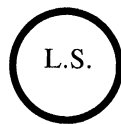
11. (1) Alcohol products specified in this paragraph shall be exempt from value-added tax and excise duty subject to the following quantitative limits per crewmember:

- (a) (i) 0.35 litres of alcohol or alcoholic beverages of alcoholic strength exceeding 22% vol, or
- (ii) 0.5 litres of alcohol or alcoholic beverages of an alcoholic strength not exceeding 22% vol;
- (b) 0.75 litres of still wine; and
- (c) 4 litres of beer.

Additional provisions

12. The exemptions under Regulations 5, 6, 10 and 11 shall not apply to persons under 17 years of age.

13. These Regulations shall apply where a traveller's journey has involved transit through the territory of a third country or a territory where the Community provisions on value-added tax or excise duty, or both do not apply, unless such traveller can establish that the goods transported in his or her baggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of value-added tax or excise duty. Overflying without landing shall not be regarded as transit.



GIVEN under my Official Seal,
25 November 2008

BRIAN LENIHAN.
Minister for Finance.

EXPLANATORY NOTE

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

These Regulations give effect to Council Directive No. 2007/74/EC of 20 December 2007 which allows for the exemption from excise duty and value-added tax of certain goods imported in the personal luggage of persons travelling from third countries. All goods which are admitted exempt from excise duty and/or value-added tax under these Regulations are also admitted free of customs duties in accordance with the provisions of Article 45 (as replaced by Article 1 paragraph 4 of Council Regulation (EC) No. 274/2008) of Council Regulation (EEC) No. 918/83.

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