

EXCISE TAX IN KOSOVO AND HARMONIZATION WITH THE ACQUIS COMMUNAUTAIRE - COMPARATIVE ANALYSIS

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ABSTRACT

The paper addresses some of the important issues related to excise tax in Kosovo and their harmonization with the *acquis communautaire*, the current legislation which is in force in the European Union. Their structure and functioning, and their impact on budget revenues in Kosovo, and their fiscal role in the country's economic growth and development.

Excise taxes are applied in order to achieve economic prosperity, and since countries with small and open economies must devote most of their activity to importing, and especially to the export component, then the use of these taxes will be in the great function of faster economic development and will have a direct impact both on the increase of imports and exports, as well as on the possible improvement of the overall economic performance.

Keywords: : Excise, Taxes, Harmonization, Legislation, European Union



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Introduction

Excise revenues are all those financial revenues with which the state / government meets the needs of the public and performs its functions. As such they represent all revenues or funds channeled into a state budget. The economic performance and development of the country depends mainly on public revenues. They are a collection of taxes, fees, various contributions and excises as special taxes. Excise revenues as specific taxes are distinguished by the importance, role and share in public revenues in our country as a dominant form of public revenues that together with other revenues collected at border crossings, which currently participate with 35 % in the total revenues of the Kosovo budget. Public revenues and public expenditures together constitute the consolidated state budget.

Excises are distinguished from customs duties, which are import taxes. In common terminology (but, not necessarily in law), excise is usually applied to a narrower range of products, is usually higher, occupying a larger share of the retail price of products, and is usually a tax per unit of product purchased, which means a certain amount for a volume or unit of product purchased. During the import of goods, which is a product which is subject to excise tax, at the customs base of the goods, which includes customs duties and other manipulative import costs, the excise tax is calculated and calculated.

We can say that it is a wide range of goods, in which the excise tax is applied and this also depends a lot on budget planning and is part of macroeconomic policy. In addition to the fiscal character d.m.th collection of revenues for the state treasury, through this tax is attempted to achieve other effects, such as. social, health, ecological etc. Meanwhile, the excise rates and the forms of their implementation in Kosovo are regulated by the law on excise tax rate in Kosovo. It will also talk specifically about the harmonization of customs legislation in the context of excise tax in relation to harmonization with EU directives on excises, solutions offered in accordance with the European Customs Code, Kosovo's achievements in the process of harmonization of legislation in this field and the challenges it faces during this very important process, so that in the near future Kosovo will be as close as possible to the European Union, where it has its purpose.

The concept of excise tax in Kosovo

Excise tax is a tax on the sale of particular goods or a tax on a good produced for sale or sold within a country. Excise duties are different from customs duties, which are taxes on imports. In common terminology (but not necessarily in law), the excise tax is usually applied to a narrower range of products, is usually higher, accounting for a larger share of the retail price of products and is usually a tax per unit of product purchased, which means a certain amount for a volume or unit of product purchased. Excise tax is an indirect tax on certain products set by the government. Consumption of certain products such as alcohol, cigarettes or gasoline is often accompanied not only by the usual general sales tax or VAT, but also by an additional tax called excise tax (Kesner-Škreb, 1999).

Legal relations related to excises in Kosovo are regulated by Law no. 03 / L-109 on the "Customs and Excise Code in Kosovo", Law no. 03 / L-112 "On excise tax in Kosovo", Law no. 04 / L-185. "On special excise tariffs for initial production and small production of alcoholic products produced in Kosovo", Law no. 04 / L-021 On excise duty on tobacco products, etc. This legal norm regulates the legal relations, which have to do with the determination of excises, conditions, procedures, rights and obligations, to which the subjects of excise are subject, such as issues related to the rules for the collection and administration of revenues from the tax authorities for goods which are subject to excise duty. The taxpayer of excise goods taxes of the producer is the importer. Excise rates are different for all products. Excise duties on imported products are collected together with customs duties, while excise goods of local origin paid before being issued in circulation (Dimanoski & Zdravkoski, 2011). The main purpose of their introduction is fiscal character. Unlike sales tax, which appears to be general, excise taxes are represented as separate consumption taxes (Goranović, 2008).

Excise duties, as a separate type of purchase tax, in Kosovo were first applied in 2000 with the UNMIK / REG / 2000/2 Regulation of 22 January 2000 on excises in Kosovo and were paid for the purchase and import of derivatives. Oil, tobacco processing, alcoholic beverages, beers, coffee, passenger vehicles and other luxury goods.

All legal entities and natural persons, who plan to be producers or importers of excisable goods, are obliged to submit a written request to the body, respectively the customs administration, the Excise Sector in the Kosovo Customs, to be registered. In the register of excise taxpayers and

the basic price for the payment of excise tax is the sale price at which the excise tax is calculated. During the import of goods, at the customs base of the goods, which includes customs duties and other manipulative import expenses, the excise tax is calculated. We can say that it is a wide range of goods, in which excise taxes are applied and this also depends a lot on budget planning and is part of macroeconomic policy. In addition to the fiscal character, is the collection of revenues for the state treasury, through this tax it is attempted to achieve other effects, such as social, health, ecological, etc.

Meanwhile, excise rates and forms of their implementation in Kosovo are regulated by the law on excise tax in Kosovo (Law no. 03 / L-112). This law regulates the excise tax rates for goods presented in Annex A of this law, which in the territory of the Republic of Kosovo are issued in free circulation. This law regulates the maintenance, control, as well as sets the specific rules on excise that applies to the consumption of service, alcohol and alcoholic beverages, tobacco and other by-products which are subject to excise tax.

Meanwhile, excise tax exemptions under this law on production, heating and raw materials must be approved in advance by Customs for the purposes of Article 236 of the Customs Code and Excise Duties in Kosovo, which will also apply to special tariffs on manufactured goods in Kosovo.

From the acquaintance with the Customs Legislation of the Balkan countries and the European Union, and from the analysis of the use of the organization and the competencies we can find in their customs administrations, we conclude that the administration of excise duty both in import and inland is an attribute of customs administration. In Kosovo, excise duties are controlled and managed by Customs. All excise taxes collected by Customs are deposited in the Kosovo Budget (Kosovo Customs and Excise, Code L03 / 109, Articles 134 and 136).

Objectives and effects of excise tax application

The main features of special taxes such as excise duty are the limited purpose of their implementation and the lack of differences in the tax treatment of domestically produced and imported products. There are a number of reasons that justify the introduction of such a tax, such as excise

duties on turnover and their maintenance in tax systems. Among many other reasons are:

- Establishing a more direct link between the amount of tax paid and the taxable benefit
- The concern that consumers are returning (discouraged) from using some of the products that are harmful, such as alcohol, tobacco, etc. namely, that tax policy also affects the reduction of consumption of those products
- Penalization of consumers who use certain products due to possible negative consequences in society, which are considered socially undesirable
- Taxation of the market of some products in order to reduce environmental pollution where we live (such as plastic bags or used car tires).
- Providing the necessary funds to finance public expenditures - specifically financing the expenditures of local units.

Today the structure of indirect taxes with special excise accent has been simplified and three tax forms of special taxes have been emphasized in circulation, which are special taxes on oil products, special taxes on tobacco and tobacco products and special taxes on alcohol and alcoholic beverages. In OECD countries, special sales taxes account for about 10-12% of total revenue (Šimovic & Šimovic, 2002). Non-fiscal reasons in modern states for the application of excise taxes are usually made to gain public benevolence and the electorate, by various political programs. The most important non-fiscal reasons are:

- Social reasons
- Health reasons
- Ecological reasons
- Principle of general utility
- Due to the increase in the prices of imported products (Šimovic & Šimovic, 2002).

The introduction of excise taxes for social reasons is justified by the fact that each entity should be involved in financing public needs in accordance with their economic capabilities, so it is understood that citizens with lower economic strength will not buy products that are subject to tax of excise duty against those whose economic power is higher.

For health reasons, the introduction of excise taxes as a special tax on sales is great, the consumption of certain products that have negative effects on

human health. This refers to the consumption of tobacco and alcohol products and alcoholic beverages. In addition to health, excessive use of these products directly affects the increase of health care activity by institutions and health care personnel, thus increasing government spending.

For ecological reasons, a special sales tax (excise) is subject to products, the use of which causes a negative impact on the natural environment and limited natural and non-renewable energy sources. This actually refers to the consumption of oil and petroleum products and natural gas. By applying higher excise rates to oil and petroleum products, they want to encourage a more rational use of its limited resources, thus increasing the price of products, the consumption of which negatively affects the natural environment.

Excise tax structure as a separate revenue into the Kosovo budget

The obligation to pay excise tax can be presented: On the occasion of the import of excisable products, according to the rate of obligation that is in force. For tobacco products or alcoholic beverages, the excise tax liability arises on the occasion of the application for stamps or control banners through a request to the Kosovo Customs, and on the occasion of the purchase of these excise stamps and in fact the excise tax is paid, it is still not imported goods.

In cases where the manufacturer of excisable goods exports with those excisable goods, e.g. wine export, he has the right to return the excise tax, respectively enjoys the right to exemption from excise tax, documenting to the customs administration the customs document of export of goods, from Kosovo to the country where he was exported and to pay the fees that has paid for that commodity (which has already been exported), the excise tax paid is refunded (this is considered reversible excise).

In the case of release of excisable goods into free circulation for consumption, which goods are found in advance under the suspension agreement, respectively, when the goods are in the warehouse of excisable goods provided by applicable law for warehouses of excisable goods and in the absence of ascertained excisable goods.

The types of excise tax applied in our country are divided into import excise and produced in the country. This type of tax can be calculated as compliant with European Union (EU) directives.

Excises are paid directly or indirectly for consumption in the territory of Kosovo, which in this sense represents excise territory. Excises are paid for these goods:

- Mineral oils (petroleum products),
- Alcohol and alcoholic beverages and
- Non-alcoholic beverages
- Tobacco
- Vehicles

Meanwhile, until recently, the excise rate on coffee products has been applied, which has been removed as part of the harmonization of legislation in this area with the countries of the region and beyond, and being considered as an almost necessary product, in order to eliminate informality from this sphere of goods, it has been removed as a luxury tax since 2014, in the legislation of Kosovo and the same commodity (coffee) is no longer subject to excise tax.

Since 2012, excise taxes have been imposed on goods that are considered in one form or another may affect environmental pollution in Kosovo, and excise tax has been imposed on plastic bags, used tires and electric bulbs, and since 2015 also in fireworks and other related products, such as lighting rockets and other pyrotechnic products from the tariff code 3604. The same excise taxes as special as their kind have been applied through government decisions as a measure of environmental protection policies and ecology.

The following table presents in tabular form the types of goods that have been assigned a special excise tax, for the protection of the environment where we live.

Table 1:

Excise rates and trade policy measures for goods, which are considered pollutants for the environment

Type of goods to which excise duty is applied	Excise code	Excise rate	Trade policy measures
fireworks; lighting rockets and other pyrotechnic articles:	3604	2.00€/kg	Import license from the Ministry of Interior is required
Used tires	4012	5.00€ for piece	/
Biodegradable plastic bags	3923	3.00€ KG	Import license from the Ministry of Interior is required
Non-economical electric pots	8539	0.30 € for piece	/

Source: The data was obtained from Kosovo Customs and processed by the author.

The main purpose in this case, in addition to that of revenue, is primarily the protection of the environment and ecology through the increase in the price of plastic bags, for him the issue of tires is to increase traffic safety and reduce accidents, and electric bulbs the goal is to ensure a saving of energy expended and economic exploitation of energy.

In 2011, the excise rate was set for all games of chance, casinos, betting, etc. and based on the type, the special excise payment rate has been set and this as a good instrument of revenue collection from a profit-making activity and considered as a luxury activity and which for the budget is considered as a fiscal instrument.

We can conclude that excise revenues are part of the revenues collected by the Customs Administration and are part of the structure of public revenues, to a large extent and where their regular collection ensures a sustainability of the country's budget and take an irreplaceable place in the overall structure of public spending. In the following presentation the new table is the data on excise revenues in millions of Euros and their participation in the total revenues collected by Customs.

Table 2: Excise revenues in millions of Euros and their participation in general customs revenues

Year	Excise tax	Total customs revenue	Percentage of participation
2014	315,437.234€	870,978.222€	36.21%
2015	360,632.851€	937,711.876€	38.45%
2016	403,295.575€	1,051,419.363€	38.35%
2017	432,279,341€	1,121,097.109€	38.55%
2018	418,903.169€	1,135,015.816€	36.90%

Source: Official data from the Kosovo Customs, prepared by the author.

Based on the table above, the amount of excise duty on regular liabilities of general import realized by Kosovo Customs for the period 2014 - 2018, we can conclude that excise tax as a special sales tax enjoys a serious participation, starting with 36.21% of total revenues generated by customs in 2014, respectively 38.45% for 2015, a significant upward trend, continuing in 2016 with 38.35% and 2017 with 38.55% with almost the same trend as a slight increase and ending with a slight downward trend in 2018 to 36.90% of total customs revenue. From this we conclude that the trend of excise revenues constitutes an approximate percentage with a share that brings in more than a third of customs revenues, while in the last year the decrease of about 2% can be explained by the rates of gradually releasing excisable products coming from the EU, as part of the release package under the SAA Stabilization and Association Agreement.

EU legislation regulating excise tax

The excise billing system in the EU member states, according to the structure and amount of the tax burden, are different and depending on economic, cultural, social and other circumstances. Under EU law, excise tax is mainly applied to three groups or branches of goods.

- Tobacco products
- Mineral oil products
- Alcohol products

The joint excise system in the European Union entered into force on January 1, 1993, where a common position was reached on the application of excise duties, focusing with particular emphasis on the circulation of tobacco, alcohol, energy products (oil derivatives, oil, natural gas, and electricity), as mandatory products subject to excise tax.

Member States may introduce and excise other products, for which each country independently determines a taxation system, provided that it does not impede the free cross-border movement of goods and persons. The rules governing excise duty in the EU were widely adopted during 1992, regarding the creation of a single domestic market and the purpose of enabling the free movement of people, goods, services and capital. The legal basis for a harmonized excise system is found in Chapter II on tax provisions in Article 93 of the Treaty establishing the European Union (Antic, 2011). Progress has also been made in harmonizing the percentages of excises, the structure of excises (defining products in different measures and in exceptions) as well as in the circulation of goods which are taxed with excises in the member states (Peci, 2018).

Directive 92/12 / EEC (Council Directive, 1992) of 1 January 1993 (Kulis, 2005), is a general document, fundamental to the harmonization of the excise system, which regulates the possession, movement and monitoring of alcoholic beverages, tobacco products and mineral oils, petroleum products (alcoholic beverages), manufactured tobacco, mineral oils) that are taxed with excise duties. Due to considerable difficulties in the process of harmonization and change in the political and economic aspect and the accession of new members, Instruction 92/12 / EEC have been amended several times (Council Directive, 1992). In addition, general guidelines for each group of these products are provided with specific guidelines for determining the excise structure (product definition, tax base, and tax exemption, temporary) and guidelines for which the norms to be applied are, so they are defined.

The excise duties on tobacco products in the EU are imposed on tobacco products and what they include, cigarettes, cigarillos and tobacco. Taxation of excise tobacco products was regulated at EU level and came into force on 1 January 1993.

With Directive no. 92/79 (1992) / EEC on harmonization of cigarette taxes, excise duty on cigarettes is calculated in two methods, per unit of product (per cigarette) and proportionally. With a special method, i.e. per unit of product (per unit), a minimum excise tax of 60 Euros per 1000 cigarettes was determined, which are the most popular categories in sales. With the method proportional (ad valorem), the rate is determined to be not less than 5% or more than 55% of the total tax contained in the maximum retail price.

Alcohol and alcoholic beverages taxation is usually regulated for EU countries and has been applied since January 1, 1993. First, Directive 92/83 / EEC on the harmonization of the excise structures of alcohol and alcoholic beverages determine:

- Types of alcoholic products that are taxed (beers, wine, fermented products different from beer or wine, intermediate products and ethyl alcohol contained in beverages)
 - The possibility of reduced rates for small manufacturers of small factory and small distilleries, whose annual production is not more than 200,000 hectoliters
 - Ability to apply a reduced rate for certain drinks
 - Special tax procedures for certain areas in Spain and ethyl alcohol used in processing and chemical production or excise-excluded medical needs
- Alcohol and alcoholic beverages set minimum rates for: beer 0.748 Euros per hectoliter (depending on the concentration of malt) or 1.87 Euros per hectoliter (depending on alcohol content), wine and carbonated wine, intermediate (e.g. dry wines, liqueur wine): 45 Euros per hectoliter and pure alcohol: 550 Euros per hectoliter of pure alcohol (Council Directive 92/83, 1992).

Excise on EU energy and electricity resources - The Energy Directive 2003/96 / EC of 1 January 2004 replaces the previous guidelines and expands them, covering taxable products on all fuels, including coal, coke, gas natural and electricity. The system sets minimum energy usage rates as fuel or as a heating device (Kulis, 2005).

The purpose of the tax is to improve the functioning of the domestic market and reduce competition between oil products and other energy sources. In line with the objectives of the Community and the Kyoto Protocol (Kulis, 2005), which supports more efficient use of energy reducing dependency on energy imports and control and limiting greenhouse gas emissions? It is also in the interest of protecting the environment allowed by member states to reduce the negative and have been implemented for businesses, which define the fiscal label for gas oil and kerosene in order to prevent tax evasion and improve the internal functioning of market.

EU member states have the right to regulate the height of their excise minimum rates provided that the upper limit is not set and each country can autonomously set more rates.

The 2003/96 / EC Energy Excise Tax Directive allows members to apply differentiated rates for commercial and non-commercial use of oil, gas and fuel, provided that the gaseous oil rates are commercially available and not below national tax level, which entered into force on 1 January 2003. The loss of excise revenues due to the gray economy is smuggling in these goods is the same, a major problem in both the European Union and Kosovo. Preparation for membership will certainly need to be determined by the manner of connection and engagement in an information exchange system between the respective customs administrations.

Harmonization of excise tax in Kosovo in the context of *Acquis communitarian*

The main purpose of harmonizing the legislation with the EU law related to excises is undoubtedly the advancement of the market and the strengthening of the international trade chain; all this supported by the relevant control mechanisms and electronic management systems.

From the acquaintance with the Customs Legislation of the countries of the European Union, and from the analysis of the way of organization and competencies that cover the customs administrations of these countries, we have come to the conclusion that the excise tax management in both import and domestic production (excise internal) is the exclusive competence of the customs administration.

The content of the customs legislation related to excise rates in Kosovo is based on the EU Directive no. 2008/118 on excise duty. This Directive is binding on all Member States and has been applicable to EU countries since 1 January 2011. This legislation is also based on a number of other EU Directives which regulate the specific elements of products of excise, such as:

Directive 92/12 / EEC of 25 February 1992 on general rules for the maintenance, movement and supervision of excise products;

Directive 92/83 / EEC of 19 October 1992 on the harmonization of excise tax structures on alcohol and alcoholic beverages;

Directive 92/84 EEC of 19 October 1992 on the harmonization of excise duty levels on alcohol and alcoholic beverages;

Directive 2003/96 / EC of 27 October 2003 restructuring the Community framework for the taxation of energy and electricity products;

Decision of the Commission dated 22 July 2006 on the provision of fiscal markers of diesel and kerosene, etc;

Regulation of the EC Commission 2008/450, "Modernized Customs Code" (Regulation (EC) No 450/2008 of the European Parliament and of the Council, 2008) etc.

Excise legislation in Kosovo determines the general rules for the production, storage, storage, movement and control of products subject to excise duties, and sets specific rules on excise that applies to the consumption of products such as alcohol and alcoholic beverages, liquids and their products, tobacco and its by-products, so we rightly state that based on the content of the law on excise and excise products the same is in line with the above directives in terms of regulating this area, as a very important domain, in the customs field, especially when it comes to the level of equality, since taxation, in regulation of excise taxation, especially those that are considered as special products of luxury such as tobacco or alcohol, in addition to the material side of the harvest as tax for the state coffers, it also has the social side, that of protecting society, by applying higher market prices for them products, that in some form create distillation to the buyers or users of those goods.

The administration of excise duty by the Customs Service also in production has several advantages such as:

- It is a tested model for its well-functioning in many countries that aspire to be part of the EU.
- Since the Kosovo Customs Administration is one of the most computerized administrations in the Republic of Kosovo, computerization in the field of administration, supervision and collection of excise revenues in domestic production, including various beverages, alcohol and tobacco is the easiest. Customs operates with the Ascidia World Information System, so for the administration and collection of the Excise there is no need to create a new computer system, but in the current system, the control and fertilization system of the Excise is also included in production.

The calculation of excise duties as a specific tax on alcoholic beverages in the concept of calculating the liabilities according to the percentage of alcohol in the final product is without a doubt according to the standards of EU countries.

Conclusions

The purpose of this paper is to analyze and elaborate on the role and manner of operation and application of excise tax in Kosovo from its establishment until now, and its future path, perspective and challenges, and to analyze the harmonization and degree of compliance of Kosovo's excise legislation with that of the EU, and to identify the obstacles and challenges during this very important process in Kosovo's path towards the EU.

Harmonization of customs legislation in general and indirect taxes in particular, including excise and VAT taxes - still remains a challenge not only for Kosovo legislation versus *acquis communautaires* but it is also a problem within the European community itself. Even in the founding treaties of the EU, we cannot find any special provision that provides for the full harmonization of indirect taxes, respectively excises and VAT, and to some extent leaves it to the member states to set their own rates, depending on the specific circumstances. in which they are found.

While Kosovo is moving towards the process of European integration, and in the near future it will be part of the European family and has already signed the Stabilization and Association Agreement 2015, customs tax revenues for goods and products coming from the European Union Gradually decrease, meanwhile, revenue will be needed in the budget to finance spending / costs and I think the real opportunity to offset this reduction in customs revenue is only by setting excise duty as a separate tax / fee as excise duties are rarely or almost never included in any agreement. is will begin to decrease and will later be eliminated almost completely.

The paper also analyzes the fiscal effects achieved in the case of the application of excise tax in Kosovo, expressed through tabular statistics and we can say that the general impression is that the benefits gained from its application are high, above all, emphasizing environmental protection and social health.

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