

COMMISSION IMPLEMENTING REGULATION (EU) 2021/2266**of 17 December 2021****laying down rules for the application of Council Directive 92/83/EEC as regards the certification and self-certification of independent small producers of alcoholic beverages for excise duty purposes**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages ⁽¹⁾, and in particular Article 23a(4) thereof,

Whereas:

- (1) Directive 92/83/EEC sets out the conditions for ensuring the establishment and functioning of the internal market in the field of alcohol taxation.
- (2) Council Directive (EU) 2020/1151 ⁽²⁾, which amended Directive 92/83/EEC, extended the possibility for Member States to apply reduced excise duty rates, which were available only for beer and ethyl alcohol produced in small volumes by independent small producers, to include the other alcoholic beverages produced in small volumes by independent small producers. In accordance with Article 23a(1) of Directive 92/83/EEC Member States are, upon request, required to provide an annual certificate to independent small producers established in their respective territory, confirming the producers' total annual production as well as their compliance with the criteria set out in Directive 92/83/EEC ('the certificate'). In order to facilitate the recognition of the producers' status as independent small producers in all Member States, a common form is to be used for the certificate.
- (3) Certification of independent small producers by the Member State in which the independent small producer is established is desirable. In order to reduce the administrative burden, it is appropriate to provide for self-certification by the independent small producer, provided that Member States have taken appropriate measures to prevent evasion, avoidance or abuse of the system.
- (4) A reference to the certificate for independent small producers should be included in the administrative document for the movement of goods under Chapter IV or V of Council Directive 2008/118/EC ⁽³⁾, as required by Article 23a(1) of Directive 92/83/EEC, in order to facilitate the recognition of the status of independent small producers.
- (5) In order to clarify which evidence is to be used in the case of self-certification by independent small producers, it is necessary to specify the information to be included in the administrative document and in the simplified accompanying document for movement of goods under Chapter IV or V of Directive 2008/118/EC.
- (6) The application of this Regulation should be deferred to 1 January 2022 in order for it to be aligned to the application of national measures enacted for the transposition of Directive (EU) 2020/1151.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Excise Duty,

⁽¹⁾ OJ L 316, 31.10.1992, p. 21.

⁽²⁾ Council Directive (EU) 2020/1151 of 29 July 2020 amending Directive 92/83/EEC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 256, 5.8.2020, p. 1).

⁽³⁾ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

Independent small producer certificate

The form of the certificate for independent small producers referred to in Article 23a(1) of Directive 92/83/EEC ('the certificate') is set out in the Annex to this Regulation.

Article 2

Reference to the certificate in the administrative document for the movement of goods under Chapter IV of Directive 2008/118/EC

For the purposes of referring to the certificate in the administrative document for the movement of goods under Chapter IV of Directive 2008/118/EC, the information to be included in the administrative document, as set out in Table 1 of Annex I to Commission Regulation (EC) No 684/2009 ⁽⁴⁾, shall be the following:

- (a) in box 17l: '*The product described has been produced by*' followed by, as applicable, one of the following terms:
 - (a) 'a certified independent small brewery';
 - (b) 'a certified independent small wine producer';
 - (c) 'a certified independent small producer of fermented beverages other than wine and beer';
 - (d) 'a certified independent small intermediate products producer';
 - (e) 'a certified independent small distillery';
- (b) in box 18e: the document type for the certificate;
- (c) in box 18f: the serial number of the certificate.

Article 3

Reference to the certificate in the administrative document for the movement of goods under Chapter V of Directive 2008/118/EC

1. For the purposes of referring to the certificate in the administrative document for the movement of goods under Chapter V of Directive 2008/118/CE, the information to be included in box 14 of the simplified accompanying document, as set out in Commission Regulation (EEC) No 3649/92 ⁽⁵⁾, shall be the serial number of the certificate and the term '*Certificate of*' followed by, as applicable, one of the following the terms:

- (a) 'independent small brewery';
- (b) 'independent small wine producer';
- (c) 'independent small producer of fermented beverages other than wine and beer';
- (d) 'independent small intermediate products producer';
- (e) 'independent small distillery'.

⁽⁴⁾ Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (OJ L 197, 29.7.2009, p. 24).

⁽⁵⁾ Commission Regulation (EEC) No 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (OJ L 369, 18.12.1992, p. 17).

2. In cases where the movement of goods includes different alcoholic beverages and it is intended to apply the reduced excise duty only to certain beverages, the commercial description of the alcoholic beverages produced by the independent small producer shall be indicated in box 14 of the simplified accompanying document, as set out in Regulation (EEC) No 3649/92.

Article 4

Self-certification by independent small producers

Where independent small producers fall within the definitions set out in Article 4(2), Article 9a(2), Article 13a(4), Article 18a(3) or Article 22(2) of Directive 92/83/EEC, and Member States allow independent small producers established in their respective territory to self-certify, the producers' status as well as their annual production shall be declared in the administrative document in accordance with Articles 5 and 6 of this Regulation.

Article 5

Requirements for the completion of the administrative document in the case of self-certification for the movement of goods under Chapter IV of Directive 2008/118/EC

1. For the movement of goods under Chapter IV of Directive 2008/118/EC, the status of the independent small producers shall be declared in box 17l of the administrative document, as set out in Table 1 of Annex I to Regulation (EC) No 684/2009, in the following terms: 'It is hereby certified that the product described has been produced by' followed by, as applicable, one of the following terms:

- (a) 'an independent small brewery';
- (b) 'an independent small wine producer';
- (c) 'an independent small producer of fermented beverages other than wine and beer';
- (d) 'an independent small intermediate products producer';
- (e) 'an independent small distillery'.

2. When the consignor of the alcoholic beverages is not the self-certified independent small producer, the number in the system for exchange of excise data referred to in Article 19(1) of Council Regulation (EU) No 389/2012 ⁽⁶⁾ ('SEED number') or value added tax number ('VAT number') of the producer shall also be declared in box 17l.

The SEED number shall be the excise related authorisation number granted by the competent authorities referred to in Article 19(1) of Regulation (EU) No 389/2012. The VAT number, as referred to in Article 214 of Council Directive 2006/112/EC ⁽⁷⁾, shall be indicated only when the independent small producer does not have a SEED number.

3. The annual production of alcoholic beverages of the small independent producer shall be declared in box 17n of the administrative document, as set out in Table 1 of Annex I to Regulation (EC) No 684/2009. The quantity shall be indicated in hectolitres, except in case of ethyl alcohol, which shall be indicated in hectolitres of pure alcohol.

⁽⁶⁾ Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121, 8.5.2012, p. 1).

⁽⁷⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

*Article 6***Requirements for the completion of the administrative document in the case of self-certification for the movement of goods under Chapter V of Directive 2008/118/EC**

For the movement of goods under Chapter V of Directive 2008/118/EC, the following information shall be declared in box 14 of the simplified accompanying document, as set out in Regulation (EEC) No 3649/92:

- (a) the status of the independent small producer in the following terms: *'It is hereby certified that the product described has been produced by'* followed by, as applicable, one of the following terms:
 - (a) 'an independent small brewery';
 - (b) 'an independent small wine producer';
 - (c) 'an independent small producer of fermented beverages other than wine and beer';
 - (d) 'an independent small intermediate products producer';
 - (e) 'an independent small distillery';
- (b) the total annual production in hectolitres, except for ethyl alcohol which shall be declared in hectolitres of pure alcohol;
- (c) the SEED or VAT number of the self-certified independent small producer, as laid down in Article 5(2) of this Regulation, when the consignor of the alcoholic beverages is not the producer;
- (d) the commercial description of the alcoholic beverages produced by the independent small producer where the movement of goods includes different alcoholic beverages and it is intended to apply reduced excise duty only to certain beverages.

*Article 7***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

EUROPEAN UNION

EXCISE DUTY CERTIFICATE FOR INDEPENDENT SMALL PRODUCERS OF ALCOHOLIC BEVERAGES

(Council Directive 92/83/EEC – Article 23a)

Serial No:**1. IDENTIFICATION OF THE INDEPENDENT SMALL PRODUCER**

Designation/name

Street and No

Postcode, place

Member State of establishment

SEED number/VAT number

2. DESCRIPTION OF THE ALCOHOLIC BEVERAGES FOR WHICH THE EXCISE DUTY CERTIFICATE IS REQUESTED

Type of alcoholic beverages	Description	Total annual production

3. IDENTIFICATION OF THE COMPETENT AUTHORITY

Name

Office Reference Number (if applicable)

Address

Telephone number

Email address

4. CONFIRMATION BY THE COMPETENT AUTHORITY

The undersigned national authority confirms:

- the total annual production described in box 2 of the independent small producer mentioned in box 1.
- that the independent small producer identified in box 1 complies with the criteria set out in, as appropriate, Articles 4(2), 9a(2), 13a(4), 18a(3) and 22(2) of Directive 92/83/EEC.

Name and status of signatory

Place, date

Stamp (if applicable)

Signature

Explanatory notes

1. This certificate serves as a supporting document for the application of a reduced excise duty rate for alcoholic beverages produced by independent small producers, as referred to in Article 23a of Directive 92/83/EEC. Accordingly, one certificate per year referring to all types of alcoholic beverages produced shall be drawn up for each independent small producer.
 2. The form on which the certificate is issued shall measure 210 × 297 mm. Where the form is printed, it shall be done on white paper not containing mechanical pulp.
 3. The certificate shall be completed legibly and in a manner that makes entries indelible. No erasures or overwriting shall be permitted. The certificate shall be completed in a language recognised by the Member State in which the independent small producer is established. The term 'recognised language' shall mean one of the languages officially in use in the Member State of the independent small producer or any other official language of the Union which that Member State has declared as acceptable for that purpose.
 4. Where the certificate is drawn up in a language other than a language recognised by the Member State of destination, a translation shall, upon request of the authorities of that Member State, be attached to the certificate by the consignee when submitting it. That Member State may, at its discretion, dispense with the obligation of attaching the translation.
 5. The serial number shall be composed of 14 digits. It shall begin with the two-digit number referring to the year in which the certificate is issued; followed by an identifier of the Member State with a two-letter code for the issuing country in accordance with point 3 of Annex II to Regulation (EC) No 684/2009; followed by a unique identifier of 10-digit alphanumeric national number, assigned by the Member State where the independent small producer is established. An example of such a serial number is: 22ES01ABCD234E.
 6. In box 1 of the certificate, the relevant data necessary for the identification of the independent small producer shall be indicated, including its SEED number. Only if the independent small producer does not have a SEED number, shall the VAT number be indicated.
 7. In box 2 of the certificate, the competent authority shall indicate the total annual production of the alcoholic beverages of the independent small producer for which the certificate is requested, taking into account the following:
 - (a) the type of alcoholic beverage shall be specified in accordance with the following list, as set out in the Directive 92/83/EEC:
 - (i) beer;
 - (ii) wine;
 - (iii) fermented beverages other than wine and beer;
 - (iv) intermediate products;
 - (v) ethyl alcohol;
 - (b) the description of the product may be indicated. Where the description of intermediate products and other fermented beverages is indicated, the description should be in accordance with Article 13a(2) and (3) and Article 18a(2) of Directive 92/83/EEC;
 - (c) the quantity of the alcoholic beverage shall be expressed in hectolitres, except for ethyl alcohol, for which hectolitres of pure alcohol shall be indicated.
 8. In box 3 of the certificate, the relevant data necessary for the identification of the competent authority shall be indicated, including the Customs Office Reference Number, where applicable, as set out in point 5 of Annex II to Regulation (EC) No 684/2009.
 9. The competent authorities may dispense with the obligation to stamp the issued certificate if it is authenticated by other means, such as an electronic signature.
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