

Act No. 609/2007 on the Excise Duty on Electricity, Coal, and Natural Gas supplementing Act No. 98/2004 on the Excise Duty on Mineral Oil...

**609
ACT**

of 28 November 2007

**on excise tax on electricity, coal and natural gas and on amendments
to Act No. 98/2004 Coll. on excise tax on mineral oil
as amended**

The National Council of the Slovak Republic has adopted the following Act:

Article I

**PART ONE
FUNDAMENTAL PROVISIONS**

§ 1
Scope of the Act

This Act governs the taxation of electricity, coal and natural gas with excise tax (hereinafter the "tax") within the tax territory.

§ 2
Definition of Terms

(1) For the purposes of this Act:

- a) tax territory shall be the territory of the Slovak Republic;
- b) territory of the European Union shall be the territory of the Member States pursuant to a separate regulation¹⁾ except for the territory of the Helgoland Island and the territory of Büsingen in the Federal Republic of Germany, the territory of Livigno, Campione d'Italia and the Italian inland waters of the Lugano lake in the Republic of Italy, the territory of Ceuta, Melilla and the Canary Islands in the Kingdom of Spain, overseas territories of the Republic of France and the territory of the British Norman islands;
- c) Member State shall be the territory of a Member State of the European Union except for the territories specified in b);
- d) territory of a third country shall be a territory that is not a territory of the European Union;
- e) combined nomenclature shall be a nomenclature of goods in accordance with separate regulations²⁾;
- f) business activity shall be an activity carried out within the tax territory pursuant to a separate regulation³⁾ and an identical or similar activity carried out in another Member State in line with the legislation of this Member State;
- g) final consumer of electricity shall be a legal person or a natural person who is the final customer of electricity⁴⁾;
- h) final consumer of coal shall be a legal person or a natural person who was supplied with coal for its final consumption; i) final consumer of natural gas shall be a legal person or a natural person who is the final customer of natural gas⁵⁾; j) final household customer of electricity shall be the household customer of electricity pursuant to a separate regulation⁶⁾; k) final household customer of coal shall be a natural person who purchases coal for its own consumption in the household; l) final household customer of natural gas shall be the household customer of natural gas pursuant to a separate regulation⁷⁾;
- m) metallurgical process shall be the thermal treatment of ores and their concentrates representing the output product of this activity and the manufacture of metals under code 24 "Manufacture of basic metals" of the NACE Rev. 2 nomenclature⁸⁾;
- n) mineralogical process shall be a process under code 23 "Manufacture of other non-metallic mineral products" of the NACE Rev. 2 nomenclature⁸⁾;
- o) dual use shall be the use of coal or natural gas as a fuel for heat generation as well as for purposes other than as a motor fuel or as a fuel for heat generation; dual use shall also be deemed the use of coal or natural gas in chemical reduction, in electrolytic processes or in metallurgical processes;
- p) electricity undertaking shall be a business entity which has a licence to conduct business in the energy sectors pursuant to a separate regulation⁹⁾ and which generates electricity or which is an electricity transmission system operator¹⁰⁾ or which is an electricity trader¹¹⁾;

¹ Article 299 of the Treaty establishing the European Community (Official Journal of the EC C 325, 24.12.2002) as amended.

² e.g. Council Regulation (EEC) No. 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (Special issue of the Official Journal of the EU, chapter 2, vol. 2; Official Journal of the EC L 256, 7. 9. 1987) as amended.

³ §2 of the Commercial Code.

⁴ §2(b)(24) of Act No. 656/2004 Coll. on Energy Sectors and amendments to certain other acts.

⁵ §2(c)(24) of Act No. 656/2004 Coll.

⁶ §2(c)(25) of Act No. 656/2004 Coll.

⁷ §2(c)(25) of Act No. 656/2004 Coll.

⁸ Council Regulation (EEC) No. 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (Special issue of the Official Journal of the EU, chapter 2, vol. 4; Official Journal of the ES L 293, 24.10.1990) as amended.

- q) electricity supplier is a business entity which has a licence to conduct business in the energy sectors pursuant to a separate regulation⁹⁾ and which supplies electricity to a final consumer of electricity;
- r) gas undertaking shall be a business entity which has a licence to conduct business in the energy sectors pursuant to a separate regulation⁹⁾ and which produces natural gas, where the production of natural gas means the extraction or processing of natural gas¹²⁾; is a natural gas transmission network operator or a gas distribution network operator¹³⁾; purchases natural gas for reselling purposes; is authorised to store natural gas in gas storage facilities. A gas undertaking does not include final customers of natural gas;
- s) natural gas supplier shall be a business entity which has a licence to conduct business in the energy sectors pursuant to a separate regulation⁹⁾ and which supplies natural gas to a final consumer of natural gas;
- t) coal producer shall be a business entity which, within the scope of its business activities, produces coal, where the coal production means the mining and processing of coal;
- u) coal trader shall be a business entity which, within the scope of its business activities, purchases coal for reselling purposes only;
- v) coal supplier shall be a business entity which, within the scope of its business activities, supplies coal to final consumers of coal;
- w) code of the combined nomenclature shall be a numeric indication of selected products specified in separate regulations²⁾.

(2) If a code of the combined nomenclature is changed in such a manner that this change does not affect the subject-matter of the tax or the tax rate, the valid tax rate specified in §6, §18 or §30 shall be applied; the conversion between the original and the new code of the combined nomenclature shall be specified by a regulation to be issued by the Ministry of Finance of the Slovak Republic (hereinafter the "Ministry") and published in its full wording in the Collection of Laws of the Slovak Republic.

§ 3 Tax Administration

The tax is administrated by a Customs Office. The competent Customs Office shall be determined, in case of a legal person, by its registered office and in case of a natural person, by its permanent residence; if a legal person does not have a registered office in the Slovak Republic or if a natural person does not have a permanent residence in the Slovak Republic, the competent authority shall be the Bratislava Customs Office. If the competent Customs Office cannot be determined in this manner or if it is more efficient with respect to the purpose of tax administration, it shall be determined by the Customs Directorate of the Slovak Republic (hereinafter the "Customs Directorate"). For a branch, an organisational unit or establishment of a legal person or a natural person, the Customs Directorate may determine a different customs office if it is more efficient with respect to the purposes of tax administration.

PART TWO ELECTRICITY TAX

§ 4 Subject-matter of Tax

The subject-matter of the tax shall be electricity coded 2716 in the combined nomenclature.

§ 5 Tax Base and Tax Calculation

- (1) The tax base shall be the quantity of electricity expressed in kilowatt-hours (kWh).
- (2) The tax shall be the product of the tax base and the respective tax rate.

§ 6 Tax Rate

(1) For the period from 1 July 2008 to 31 December 2009 the electricity tax rate shall be set to the amount of SKK 0.02/kWh.

(2) As of 1 January 2010 the electricity tax rate shall be set to the amount of SKK 0.04/kWh.

§ 7 Exemptions from Tax

- (1) Exempt from the tax shall be the electricity
 - a) used for the purposes of chemical reduction, in electrolytic processes and metallurgical processes;
 - b) used in mineralogical processes,

⁹⁾ §5 of Act No. 656/2004 Coll.

¹⁰⁾ §2(b)(7) of Act No. 656/2004 Coll.

¹¹⁾ §2(b)(23) of Act No. 656/2004 Coll.

¹²⁾ §2(c)(15) of Act No. 656/2004 Coll.

¹³⁾ §2(c)(15) of Act No. 656/2004 Coll.

- c) used for the manufacture of products, if the costs of electricity represent more than 50% of the average own costs of the product manufacture which comprise the sum of the purchase price of material and services, labour costs and the depreciation related to the manufacture of the product; the electricity costs shall mean
 - 1. the purchase price of electricity, or
 - 2. own costs of electricity generation, if generated internally;
- d) used for the generation of electricity and for the maintenance of the capability of a facility generating electricity, including losses in a technologically justified quantity; also applying to electricity transmission and distribution, whereby the competent Customs Office is entitled to assess, on the basis of a decision by the Regulatory Office for Network Industries, whether the incurred losses of electricity correspond to the character of activity of the electricity undertaking and to the usual quantity of losses of another electricity undertaking that performs identical or similar activities,
- e) generated from a renewable source¹⁴), if supplied directly to a final consumer of electricity or consumed by a legal person or a natural person, who generated such electricity, and if it concerns electricity generated in
 - 1. a solar facility,
 - 2. a wind power plant,
 - 3. a facility designed for the use of geothermal energy,
 - 4. a hydroelectric power plant,
 - 5. a facility designed for the use of biomass¹⁵) or a product made of biomass,
 - 6. a facility utilizing methane released from an abandoned coal mine,
 - 7. a fuel cell,
- f) generated in a facility designed for the combined generation of electricity and heat, if supplied directly to the final consumer of electricity or consumed by a legal person or a natural person by whom the electricity was generated and if such facility is highly-efficient and complies with the environmental requirements;
- g) used for the combined generation of electricity and heat;
- h) used for the transportation of persons and cargo by trains, underground, trams, trolleybus, electric buses, funiculars where such transportation is carried out within the scope of the business activities and used for activities directly related to such transportation;
- i) generated aboard a ship which is used for the transportation of persons or cargo, where such transportation is carried out within the scope of the business activities;
- j) used by a final household customer of electricity.

(2) Exempt from the tax shall also be the electricity generated and consumed by a legal person or a natural person, if the total installed capacity of an electricity generation facility does not exceed 5 MW and if such electricity is generated from mineral oil, coal or natural gas that have been demonstrably taxed.

§ 8

Eligible consumer of electricity

(1) For the purposes of this Act, an eligible consumer of electricity is a legal person or a natural person authorized to use electricity that is exempt from tax. A legal or a natural person who intends to use electricity exempt from tax pursuant to §7(1)(a) through (h), is obliged to request the Customs Office in writing for the registration of an eligible consumer of electricity.

(2) A legal person or a natural person which intends to directly take electricity exempt from tax pursuant to §(7)(1)(a) through (h) must have a separate offtake point¹⁶) designated solely for the offtake of electricity exempt from tax and is obliged to request the Customs Office in writing to issue an authorisation for the offtake of electricity exempt from tax (hereinafter the "exempt electricity authorisation").

(3) A legal person or a natural person intending to use electricity exempt from tax under §7(1)(a) through (h), which does not have a separate offtake point¹⁶) used solely for the offtake of electricity exempt from tax, may, in accordance with §13, apply for a refund of the tax pertaining to the quantity of demonstrably taxed electricity actually used for the purposes exempt from tax under the conditions laid down by this Act.

(4) An electricity undertaking registered with the Customs Office as a tax debtor is not obliged to attach the annex pursuant to paragraph (6)(a) to the application for an eligible electricity consumer registration and for the issuance of the exempt electricity authorisation.

(5) An application for the registration of an eligible electricity consumer and for the issuance of exempt electricity authorisation shall include

- a) the business name or the name and registered office of a legal person or the name, surname and permanent residence of a natural person (hereinafter the "identification data") and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence,
- b) the tax identification number of the applicant; if the applicant was not assigned a tax identification number, then the birth certificate number shall be specified;
- c) the purpose of the use of electricity exempt from tax and the expected quantity of annual consumption in kilowatt-hours.
- d) the number of the separate offtake point¹⁶) used solely for the offtake of electricity exempt from tax, providing that it concerns an applicant under paragraph (2);
- e) the electricity supplier identification data.

(6) The application shall contain the following annexes:

¹⁴ §2(b)(4) of Act No. 656/2004 Coll.

¹⁵ §2(b) of Regulation of the Government of the Slovak Republic No. 246/2006 Coll. on the Minimum amount of motor fuels produced from renewable sources in the range of petrol and diesel fuels placed on the market in the Slovak Republic.

¹⁶ §2(b)(17) of Act No. 656/2004 Coll.

- a) extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document, which is no older than 30 days, proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof;
- b) description of the purpose and method of use of electricity exempt from tax, which is necessary to assess the exemption eligibility, and documents proving these facts;
- c) an affidavit that it is technically impossible to use electricity exempt from tax for purposes other than those specified in §7, if it concerns a legal person or a natural person pursuant to paragraph (2);
- d) an information on the total annual volume of electricity consumption and of the annual consumption volume of electricity for purposes exempt from tax; where this information cannot be based on the actual electricity consumption in the previous calendar year, the applicant shall use the expected quantity of electricity consumption during the calendar year.

(7) Prior to registering an eligible electricity consumer and issuing the exempt electricity authorisation, the Customs Office shall verify the information provided by the applicant in the application under paragraph 5 and in annexes under paragraph 6. If the said data is true, the Customs Office shall issue to the applicant a registration certificate and, if the applicant has a separate offtake point used solely for the offtake of electricity exempt from tax, the Customs Office shall also issue the exempt electricity authorisation.

(8) In the exempt electricity authorisation, the Customs Office shall specify the data pursuant to paragraph (5), except for the birth certificate number and the tax identification number, if it contains the applicant's birth certificate number. The exempt electricity authorisation shall be issued in three copies; one copy shall be retained by the Customs Office and two copies shall be provided to the eligible consumer of electricity, who shall retain one copy and submit one copy to its electricity supplier; if the eligible consumer has multiple electricity suppliers, all of them shall receive one authenticated copy of the exempt electricity authorisation.

(9) The eligible consumer of electricity shall inform the Customs Office of any changes in the information pursuant to paragraph (5) and (6)(b) within 15 days from such change. The eligible consumer is obliged to notify the Customs Office of any changes in the information pursuant to paragraph (6)(a) within 15 days from submitting the proposed change in the information to the competent authority. Considering the extent and significance of changes, the Customs Office shall amend the original exempt electricity authorisation or issue a new exempt electricity authorisation.

(10) The eligible consumer of electricity under paragraph 2, with the exception of the final household consumer of electricity, is obliged to submit to the electricity supplier the exempt electricity authorisation no later than upon the first offtake of electricity exempt from tax. The electricity supplier may not supply electricity exempt from tax to a legal person or a natural person without submitting the exempt electricity authorisation.

(11) The eligible consumer of electricity, including the final household customer of electricity, may use electricity exempt from tax solely for the purposes exempt from tax pursuant to this Act.

- (12) The Customs Office shall revoke the exempt electricity authorisation, if the eligible consumer of electricity
- a) repeatedly uses electricity exempt from tax under §7(1)(e) through (h) for a purpose other than that exempt from tax, and fails to remedy the situation despite penalties or notices by the Customs Office;
 - b) ceases to comply with the requirements for electricity exemption from tax;
 - c) requests to be deleted from the Commercial Register or from another record of business licences pursuant to a separate regulation, or requests the revocation of a trade licence, announces the termination of business or is wound up, if it had not been established for business purposes.
 - d) is a natural person who died and none of the entitled heirs or the estate trustee appointed by the court continues the business;
 - e) is a natural person and a court decision declaring the natural person dead becomes final and if none of the entitled heirs or the estate trustee appointed by the court continues the business;
 - f) enters into liquidation;
 - g) requests the revocation of the exempt electricity authorisation;
 - h) has not used the exempt electricity authorisation for the offtake of electricity exempt from tax during 12 successive months following the date of issuance thereof.

(13) The Customs Office shall also revoke the exempt electricity authorisation if a court decision declaring bankruptcy, dismissing a petition to declare bankruptcy on grounds of insufficient assets or discontinuing bankruptcy proceedings on grounds of insufficient assets becomes final, or if enforced composition or permitted composition has been confirmed or restructuring authorised.

(14) The Customs Office shall annul the registration of an eligible consumer of electricity if its exempt electricity authorisation had been revoked pursuant to paragraph (12)(a) through (f) and paragraph (13).

(15) An eligible consumer of electricity whose original exempt electricity authorisation has been amended or replaced by a new exempt electricity authorisation or whose exempt electricity authorisation has been revoked shall deliver a written notification of these facts to the electricity supplier no later than within three working days from the occurrence thereof. A fax or an email shall be also considered a delivery of such written information.

(16) Following the receipt of the written notification pursuant to paragraph (15), the electricity supplier shall apply a change in taxation or in exemption from tax. The change shall be applied within 15 days from the day of the notification delivery following the offtake metering.

§ 9

Occurrence of tax liability

- (1) Tax liability arises on the day

- a) of the supply of electricity to the final consumer of electricity in the tax territory;
- b) of the consumption of electricity by the electricity undertaking in the tax territory;

(2) Tax liability also arises on the day

- a) of the discovery of unauthorized electricity offtake¹⁷;
- b) of the consumption of electricity exempt from tax for a purpose other than that specified in §7.

(3) In the case of repeated supply¹⁸, the date of electricity supply shall not be later than the last day of the period to which the payment for the quantity of electricity supplied pertains. The date of electricity supply is also the date, which is used as a reference date for the measuring of the actually supplied quantity of electricity for the billing period, if there is a difference between the total quantity of electricity supplied in the individual periods that are subject to billing and the actually supplied quantity of electricity for the billing period. If a credit note or a debit note is issued to an electricity consumer, the identified tax difference shall be stated in the tax return for the tax period, in which the invoice containing tax base correction was issued.

(4) For the purposes of this Act, the day of the electricity consumption shall be, at the latest, the last day of the calendar month in which the electricity was consumed.

(5) A tax liability does not arise in the tax territory for a legal person or a natural person in the supply of electricity to another Member State or to the territory of a third country.

§ 10

Tax debtor

- (1) For the purposes of this Act, a tax debtor is a legal person or a natural person which
- a) supplied electricity to the final consumer of electricity in the tax territory;
 - b) consumed electricity in the tax territory and which is an electricity undertaking.

(2) A tax debtor is also

- a) the final consumer of electricity supplied with electricity in the tax territory by a legal entity which does not have, in the tax territory, a registered office or an organisational unit incorporated in the Commercial Register, or by a natural person who does not have a permanent residence in the tax territory (hereinafter the "foreign entity"), except for the final consumer of electricity who is the final household customer of electricity;
- b) a foreign entity which supplied electricity to a final household customer of electricity in the tax territory;
- c) a legal person or a natural person who carried out an unauthorised offtake of electricity.¹⁷
- d) a legal person or a natural person who consumed electricity exempt from tax for a purpose other than that specified in §7.

§ 11

Tax Debtor Registration

(1) A tax debtor pursuant to §10(1) and (2)(a) shall request tax debtor registration from the Customs Office in writing no later than on the day of occurrence of the first tax liability.

(2) The application must contain

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, then the birth certificate number shall be specified;

(3) An extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof shall comprise an annex to the application.

(4) A foreign entity which is a tax debtor pursuant to §10(2)(b) shall request tax debtor registration from the Customs Office in writing no later than on the day of occurrence of the first tax liability. The provisions of paragraphs (2) and (3) apply accordingly to the application.

(5) A business entity authorised to conduct business in the energy sectors pursuant to a separate regulation⁹), which purchases electricity solely for reselling purposes and which is not obliged to register pursuant to paragraph (1) shall request tax debtor registration from the Customs Office in writing no later than on the date of first electricity supply. The provisions of paragraphs (2) and (3) apply accordingly to the application. Such business entity shall submit the document demonstrating registration issued by the Customs Office to a legal person or a natural person from which it intends to purchase electricity no later than on the date of first day of supply of electricity.

(6) A legal person or a natural person supplying electricity exempt from tax is also obliged to register as a tax debtor, provided that it is not already registered pursuant to paragraph (1), no later than on the date of first supply of electricity exempt from tax. The provisions of paragraphs (2) and (3) apply accordingly to the application.

§ 12

Taxation Period, Tax Return, Additional tax Return and Tax Due Date

¹⁷ §39(1) of Act No. 656/2004 Coll. as amended by Act No. 107/2007 Coll.

¹⁸ §19(3) of Act No. 222/2004 Coll. on Value Added Tax as amended.

(1) The taxation period shall be a calendar month, unless otherwise stipulated by this Act.

(2) The tax debtor is obliged to submit a tax return to the Customs Office no later than on the 25th day of the calendar month following the calendar month in which the tax liability arose, and pay the tax within the same period. The Ministry shall issue a generally binding regulation stipulating the template forms of a tax return, additional tax return, tax refund application and additional tax refund application.

(3) In the tax return, the tax debtor shall specify

- a) the total quantity of electricity supplied by the tax debtor, in kilowatt-hours;
- b) the quantity of electricity, from the amount of electricity under (a), in kilowatt-hours, for which a tax liability arose as a result of supply;
- c) the amount of electricity, from the amount of electricity under (a), in kilowatt-hours, which was supplied by the tax debtor for purposes exempt from tax;
- d) the quantity of electricity, from the amount of electricity under (a), in kilowatt-hours, for which a tax liability arose as a result of consumption;
- e) the total quantity of electricity in kilowatt-hours for which a tax liability arose;
- f) the resulting tax that pertains to the quantity of electricity for which a tax liability arose

(4) In the case of advance payments, the expected quantity of electricity consumption, to which the advance payment pertains, shall be deemed the quantity of electricity supplied.

(5) The tax debtor shall calculate the tax on its own. The resulting tax shall be rounded up to whole Slovak korunas.

(6) If the tax debtor finds out that the submitted tax return is incorrect or incomplete and the correction results in

- a) the increased tax, the tax debtor shall submit an additional tax return to the Customs Office immediately after discovering that the tax return is incorrect or incomplete, and pay the tax within ten working days from the date of the additional tax return submission;
- b) the tax reduction, then the tax debtor may apply for a tax refund in an additional tax return.

(7) The additional tax return must be labelled "Additional". The additional tax return shall indicate the taxation period to which the additional tax return pertains, and shall also specify the differences when compared to the tax return originally submitted. The Customs Office shall refund the tax within 30 days from the date of submission of an additional tax return.

(8) An additional tax return will be disregarded if the Customs Office already initiated a tax audit in order to investigate the facts crucial for the correct determination of tax or tax refund claimed with respect to the taxation period to which the additional tax return would pertain.

(9) A tax debtor whose tax liability during a taxation period does not exceed SKK 100 is not required to file a tax return and to pay tax.

§ 13 Tax refund

(1) Under the conditions laid down by this Act, tax from electricity demonstrably taxed in the tax territory may be refunded to an eligible consumer of electricity pursuant to §8(3), if the eligible consumer demonstrably used such electricity for purposes exempt from tax.

(2) The tax refund shall be claimed in a tax refund application form or an additional tax refund application form pursuant to §12(2), except for cases stipulated in §12(7), where the tax refund shall be claimed in an additional tax return.

(3) For the purposes of this Act, demonstrably taxed electricity shall be electricity, the taxation of which is demonstrated by a document confirming that the electricity was purchased for a price including tax and a document confirming the payment of tax included in the price of electricity, e.g. a bank account statement issued by a bank or the subsidiary of a foreign bank or a document confirming the tax was paid to the Customs Office.

(4) For the purposes exempt from tax and for the purposes of this Act, demonstrably consumed quantity of electricity is the quantity of electricity measured by a specified meter¹⁹) positioned at a place which has been approved by the Customs Office and equipped with a seal of the Customs Office for tax purposes. In justified cases, the Customs Office may permit, based on the written request of a legal person or a natural person, the calculation and demonstration of the consumption of electricity in a different manner for the purposes exempt from tax and for the purposes of tax refund.

(5) A tax refund application may be submitted to the Customs Office for the respective taxation period in which the electricity was supplied and demonstrably consumed for purposes exempt from tax only after the end of the calendar month in which conditions necessary to claim a tax refund have been met; however, no later than within three years from the end of the calendar month in which the possibility to claim a tax refund arose; tax may not be refunded on the basis of a tax refund application submitted after the lapse of this period.

(6) If the tax refund is requested by an eligible consumer of electricity which pays for the supplied quantity of electricity by means of advance payments, the eligible consumer shall claim the tax refund within three years of the end of the billing period. The tax refund application must include documents demonstrating the use of electricity for purposes exempt from tax.

(7) Tax may also be refunded to a tax debtor, if the debtor has already paid the tax and the tax has been calculated

¹⁹ Act No. 142/2000 Coll. on Metrology and on amendments to certain Acts, as amended by Act No. 431/2004 Coll.

- a) by the tax debtor to the detriment of the customer of electricity to which a credit note was issued;
- b) by the tax debtor to its own detriment;
- c) by the Customs Office to the detriment of the tax debtor; the Customs Office shall notify the tax debtor of this fact in writing.

(8) If an eligible consumer of electricity discovers that the submitted tax refund application is incorrect or incomplete and its correction results in

- a) a reduction of the claimed tax refund, the eligible consumer shall submit an additional tax refund application to the Customs Office immediately after discovering that the tax refund application is incorrect or incomplete, and pay the tax within ten working days from the date of the submission of additional tax refund application if the tax had already been refunded;
- b) an increase of the claimed tax refund, the eligible consumer may claim the tax refund in an additional tax refund application; this also applies if such fact is discovered by the Customs Office.

(9) An additional tax refund application must be labelled "Additional". The additional tax refund application shall indicate the taxation period to which the additional tax refund application pertains, and shall specify the differences when compared with the originally submitted tax refund application. An additional tax refund application may be submitted within three years from the end of the taxation period to which it pertains; tax may not be refunded on the basis of an additional tax refund application submitted after the lapse of this period.

(10) The Customs Office shall refund the tax within 30 days from the date on which a tax refund application or an additional tax refund application was submitted, provided that the conditions for the tax refund under this Act are complied with. If the Customs Office initiates a tax audit during this period in order to investigate the facts crucial for the correct determination of tax or tax refund claimed and discovers that the tax refund application or additional tax refund application is justified, the Customs Office shall refund the tax within 15 days from the date of the tax audit completion.

Keeping of Records

§ 14

- (1) The tax debtor is obliged to keep regular records in kilowatt-hours on the quantity of electricity which has been
- a) generated;
 - b) taken;
 - c) supplied for
 - 1. reselling purposes,
 - 2. purposes exempt from tax, apart from electricity supply to a final household customer of electricity;
 - 3. purposes exempt from tax, to a final household customer of electricity;
 - 4. consumption by the final consumer of electricity;
 - d) used for its own consumption;
 - e) used for the generation of electricity and for the maintenance of the capability of a facility generating electricity, including losses in a technologically justified quantity; also applying to electricity transmission and distribution.

(2) A business entity authorised to conduct business in the energy sectors pursuant to a separate regulation⁹⁾, which is obliged to request registration with the Customs Office pursuant to §11(5), shall keep adequate records pursuant to paragraph 1.

§ 15

(1) An eligible consumer of electricity referred to in §8(2) is obliged to keep, on a regular basis, records in kilowatt-hours on the quantity of electricity

- a) taken for purposes exempt from tax;
- b) used for purposes exempt from tax;
- c) used for a purpose other than that indicated in §7.

(2) An eligible consumer of electricity referred to in §8(3) is obliged to keep regular records in kilowatt-hours on the quantity of electricity

- a) taken;
- b) used for purposes exempt from tax.

PART THREE COAL TAX

§ 16

Subject-Matter of Tax

The subject-matter of tax is coal, which shall, for the purposes of this Act, mean

- a) coal, coded 2701 in the combined nomenclature;
- b) lignite, coded 2702 in the combined nomenclature;
- c) coke and semi-coke of coal, coded 2704 in the combined nomenclature;
- d) other solid hydrocarbons, coded 2706 through 2715 in the combined nomenclature.

§ 17
Tax Base and Tax Calculation

- (1) The tax base shall be the quantity of coal expressed in tonnes (t).
- (2) The tax shall be calculated as the product of the tax base and the respective tax rate.

§ 18
Tax Rate

The coal tax rate shall be set to 320 SKK/t.

§ 19
Exemptions from Tax

Coal shall be exempt from tax, if it is used

- a) for dual use;
- b) in mineralogical processes;
- c) for a purpose other than that of a motor fuel or fuel for heat generation;
- d) in the combined generation of heat and electricity;
- e) in the generation of electricity;
- f) in the production of coke and semi-coke;
- g) for the transportation of persons or cargo carried out within the scope of the business activities in railroad or river transportation;
- h) by a final household customer of coal;
- i) for operational purposes and technological purposes in a mining and coal processing company;
- j) in the generation of heat designated for households.

§ 20
Eligible Consumer of Coal

(1) For the purposes of this Act, an eligible consumer of coal shall be a legal person or a natural person authorised to use coal which is exempt from tax. A legal person or a natural person intending to use coal exempt from tax pursuant to §19(a) through (g) and (i) through (j) is obliged to request the Customs Office in writing to register an eligible consumer of coal and to issue an authorisation for the offtake of coal exempt from tax (hereinafter only "exempt coal authorisation").

(2) A coal producer registered with the Customs Office as a tax debtor is not obliged to attach the annex pursuant to paragraph (4)(a) to the application for the registration of an eligible consumer of coal and for the issuance of an exempt coal authorisation.

(3) The application for the registration of an eligible consumer of coal and for the issuance of exempt coal authorisation shall include

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, then the birth certificate number shall be specified;
- c) the purpose of the use of coal exempt from tax and the expected quantity of annual consumption in tonnes.

(4) The application shall contain the following annexes:

- a) extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof;
- b) description of the purpose and method of use of coal exempt from tax, which is necessary to assess the exemption eligibility, and documents proving these facts.

(5) Prior to the registration of the eligible consumer of coal and the issuance of an exempt coal authorisation, the Customs Office verifies the applicant's data specified in the application pursuant to paragraph (3) and in its annexes pursuant to paragraph (4). If the said data is true, the Customs Office shall issue to the applicant a registration certificate and the exempt coal authorisation.

(6) In the exempt coal authorisation, the Customs Office shall specify the data pursuant to paragraph (3), except for the birth certificate number and the tax identification number, if it contains the applicant's birth certificate number. The exempt coal authorisation shall be issued in three copies; one copy shall be retained by the Customs Office and two copies shall be provided to the eligible consumer of coal, who shall retain one copy and submit one copy to its coal supplier; where the eligible consumer of coal has multiple coal suppliers, all of them shall receive an authenticated copy of the exempt coal authorisation.

(7) The eligible consumer of coal shall inform the Customs Office of any changes in the information pursuant to paragraph (3) and (4)(b) within 15 days from such change. The eligible consumer shall inform the Customs Office of any changes in the information pursuant to paragraph (4)(a) within 15 days from submitting the proposed change in the information to the competent authority. Considering the extent and significance of the changes, the Customs Office shall amend the original exempt coal authorisation or issue a new exempt coal authorisation.

(8) An eligible consumer of coal, except for a final household customer of coal, shall submit the exempt coal authorisation to the coal supplier at the latest upon the first offtake of coal exempt from tax or to the Customs Office upon release of the coal for free circulation. A final household customer of coal intending to use coal exempt from tax pursuant to §19(h) is obliged to

submit a declaration of this fact to the coal supplier at the latest upon the first offtake of coal exempt from tax, stating also its identification data and the ID card number. The coal supplier may not supply coal exempt from tax to a legal person or a natural person without the submission of an exempt coal authorisation or to a final household customer of coal without the submission of the declaration pursuant to the second sentence.

(9) An eligible consumer of coal, including a final household customer of coal, may use coal exempt from tax solely for the purpose exempt from tax pursuant to this Act.

- (10) The Customs Office shall revoke the exempt coal authorisation, if the eligible consumer of coal
- a) repeatedly uses coal exempt from tax under §19(d) through (g) for a purpose other than that exempt from tax, and fails to remedy the situation despite penalties or notices by the Customs Office;
 - b) ceases to comply with the requirements for coal exemption from tax;
 - c) requests to be deleted from the Commercial Register or from another record of business licences pursuant to a separate regulation, or the revocation of a trade licence, announces the termination of business or is wound up, if it had not been established for business purposes;
 - d) is a natural person who dies and if none of the entitled heirs or the estate trustee appointed by a court continues the business;
 - e) is a natural person and a court decision declaring the natural person dead becomes final and if none of the entitled heirs or the estate trustee appointed by a court continues the business;
 - f) enters into liquidation;
 - g) requests the revocation of the exempt coal authorisation;
 - h) has not used the exempt coal authorisation in the offtake of coal exempt from tax during 12 successive months following the date of issuance thereof.

(11) The Customs Office shall also revoke the exempt coal authorisation if a court decision declaring bankruptcy, dismissing a petition to declare bankruptcy on grounds of insufficient assets or discontinuing bankruptcy proceedings on grounds of insufficient assets becomes final, or if enforced composition or permitted composition is confirmed or restructuring authorised.

(12) The Customs Office shall annul the registration of an eligible consumer of coal if its exempt coal authorisation has been revoked pursuant to paragraph (10)(a) through (f) and paragraph (11). In the event of annulment of registration an eligible consumer of coal shall, as of the date of revocation of exempt coal authorisation, make an inventory of coal exempt from tax, file a tax return within a deadline stipulated by the Customs Office and pay the tax within the same period or it may seek permission by the Customs Office to supply the coal exempt from tax to another eligible consumer of coal, who possesses an exempt coal authorisation.

(13) An eligible consumer of coal whose original exempt coal authorisation has been amended or replaced by a new exempt coal authorisation under paragraph (7) or whose exempt coal authorisation has been revoked shall deliver a written notification of these facts to the coal supplier no later than within three working days from the occurrence thereof. The provision of the second sentence in §8(15) applies accordingly to the delivery of the above information.

(14) Upon the receipt of the written notification pursuant to paragraph (13), the coal supplier shall apply a change in taxation or in exemption from tax.

§ 21 Occurrence of Tax Liability

- (1) Tax liability shall arise on the date
- a) of supplying coal to the final consumer of coal in the tax territory;
 - b) of coal consumption in the tax territory by a coal producer or coal trader.
- (2) Tax liability shall arise on the date
- a) of receipt of a customs declaration regarding the release of coal for free circulation, where the free circulation mode is not followed by a tax exemption, or on the day when a tax debt arises on grounds other than the receipt of a customs declaration;
 - b) of using coal exempt from tax for a purpose other than that stated in §19.
 - c) of coal consumption by a legal person or a natural person, if a tax liability did not occur pursuant to paragraph (1) (a).
- (3) A tax liability shall not arise for a legal person or a natural person on whose account a customs declaration was submitted to release coal for free circulation, and which is a coal producer or a coal trader.
- (4) A tax liability shall not arise in the tax territory for a legal person or a natural person when supplying coal to another Member State or into the territory of a third country.

§ 22 Tax Debtor

- (1) For the purposes of this Act, a tax debtor shall be a legal person or a natural person which
- a) supplied coal to the final consumer of coal in the tax territory;
 - b) consumed coal in the tax territory and who is a coal producer or a coal trader.
- (2) A tax debtor shall also be
- a) a final consumer of coal, to which a foreign entity supplied coal in the tax territory, except for a final consumer of coal who is a final household customer of coal;
 - b) a foreign entity which supplied coal in the tax territory to a final household customer of coal;
 - c) a legal person or a natural person who consumed coal exempt from tax for a purpose other than that specified in §19;

- d) a legal person or a natural person who consumed coal from which a tax liability did not arise pursuant to §21 (1) and (2)(a).
- (3) A tax debtor shall also be a legal person or a natural person
- a) which is a final consumer of coal, except for a final household customer of coal, and on whose account a customs declaration was submitted to release coal for free circulation, where the free circulation mode is not followed by a tax exemption.
- b) whose customs debt arose in a manner other than the receipt of a customs declaration.

§ 23
Tax Debtor Registration

(1) A tax debtor pursuant to §22(1) and (2)(a) shall request tax debtor registration from the Customs Office in writing no later than on the day of occurrence of the first tax liability.

(2) The application shall include

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; or if the applicant was not assigned a tax identification number, then the birth certificate number shall be specified;

(3) An extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof shall comprise an annex to the application.

(4) A foreign entity that is a tax debtor pursuant to §22(2)(b) shall request tax debtor registration from the Bratislava Customs Office in writing no later than on the date of occurrence of the first tax liability. The provisions of paragraphs (2) and (3) apply accordingly to the application.

(5) A coal producer or a coal trader not registered pursuant to paragraph (1) shall request coal producer or coal trader registration from the Customs Office in writing no later than on the date of commencement of the first coal production or on the date of the first coal supply. The provisions of paragraphs (2) and (3) apply accordingly to the application.

(6) A legal person or a natural person supplying coal exempt from tax is also obliged to register as a tax debtor, provided that it is not already registered pursuant to paragraph (1), no later than on the date of the first supply of coal exempt from tax. The provisions of paragraphs (2) and (3) apply to the application.

§ 24
Taxation Period, Tax Return, Additional tax Return
and Tax Due Date

(1) The taxation period is a calendar month, unless otherwise stipulated by this Act.

(2) The tax debtor shall submit a tax return to the Customs Office no later than on the 25th day of the calendar month following the calendar month in which the tax liability arose, and shall pay the tax within the same period. The Ministry will issue a generally binding regulation stipulating the template forms of a tax return, additional tax return, tax refund application and additional tax refund application.

(3) In the tax return, the tax debtor shall specify

- a) the total quantity of coal supplied by the debtor in tonnes;
- b) the quantity of coal in tonnes, from the quantity of coal specified in (a), for which a tax liability arose as a result of supply;
- c) the quantity of coal, in tonnes, from the quantity of coal specified in (a), which it supplied for purposes exempt from tax;
- d) the quantity of coal, in tonnes, for which a tax liability arose as a result of consumption;
- e) the total quantity of coal, in tonnes, for which a tax liability arose;
- f) the resulting tax that pertains to the quantity of coal for which a tax liability arose.

(4) The tax debtor shall calculate the tax on its own; if the tax liability arises under §21(2)(a), the tax shall be calculated by the Customs Office. The resulting tax is rounded up to whole Slovak korunas.

(5) If the tax debtor finds out that the submitted tax return is incorrect or incomplete and the correction results in

- a) the increased tax, the debtor shall submit an additional tax return to the Customs Office immediately after discovering that the tax return is incorrect or incomplete, and pay the tax within ten working days from the date of the additional tax return submission;
- b) a tax reduction, the debtor may apply for a tax refund in an additional tax return.

(6) The additional tax return must be labelled "Additional". The additional tax return shall indicate the taxation period to which the additional tax return pertains, and shall specify the differences when compared with the tax return originally submitted. The Customs Office shall refund the tax within 30 days from the date of submission of the additional tax return.

(7) An additional tax return will be disregarded if the Customs Office has already initiated a tax audit in order to investigate the key facts for the correct determination of tax or tax refund claimed with respect to the taxation period to which the additional tax return would pertain.

(8) A tax debtor whose tax liability during a taxation period does not exceed SKK 100 is not required to file a tax return and to pay tax; this does not apply if the tax liability arises under §21(2)(a).

§ 25
Tax Refund

(1) Under the conditions laid down by this Act, tax from coal demonstrably taxed in the tax territory may be refunded to an eligible consumer of coal pursuant to §20(1), if the eligible consumer of coal possesses an exempt coal authorisation and has demonstrably used such coal for purposes exempt from tax.

(2) The tax refund shall be claimed in a tax refund application form or an additional tax refund application form pursuant to §24(2), except for cases under §24(5), where the tax refund shall be claimed in an additional tax return.

(3) For the purposes of this Act, demonstrably taxed coal shall be coal, the taxation of which is demonstrated by a document confirming that the coal was purchased for a price including tax and a document confirming the payment of tax for the price of the coal, e.g. a bank account statement issued by a bank or the subsidiary of a foreign bank or a document confirming the tax was paid to the Customs Office.

(4) A tax refund application submitted to the Customs Office concerns the taxation period in which the coal had been supplied and may be submitted only after the end of the calendar month, in which conditions necessary to claim a tax refund have been met; however, it may not be submitted later than within three years from the end of the calendar month, in which the possibility to claim a tax refund arose; tax may not be refunded on the basis of a tax refund application submitted after the lapse of this period.

(5) Tax may also be refunded to a tax debtor, if the debtor has already paid the tax and the tax has been calculated

- a) by the tax debtor to the detriment of the coal customer to whom credit note was issued;
- b) by the tax debtor to their own detriment;
- c) by the Customs Office to the detriment of the tax debtor; in this case the Customs Office shall notify the tax debtor of this fact.

(6) If an eligible consumer of coal discovers that a submitted tax refund application is incorrect or incomplete and its correction results in

- a) a reduction of the claimed tax refund, it shall submit an additional tax refund application to the Customs Office immediately after discovering that the tax refund application is incorrect or incomplete, and pay the tax within ten working days from the date of submitting the additional tax refund application if the tax has already been refunded;
- b) an increase of the claimed tax refund, it may claim the tax refund in an additional tax refund application; this also applies if the fact is discovered by the Customs Office.

(7) An additional tax refund application must be labelled "Additional". The additional tax refund application shall indicate the taxation period to which the additional tax refund application pertains, and shall specify the differences when compared to the originally submitted tax refund application. An additional tax refund application may be submitted within three years from the end of the taxation period to which it pertains; tax may not be refunded on the basis of an additional tax refund application submitted after the lapse of this period.

(8) The Customs Office shall refund the tax within 30 days from the date on which a tax refund application or an additional tax refund application was submitted, provided that the conditions for the tax refund laid down by this Act are met. If the Customs Office initiates a tax audit during this period in order to investigate the facts crucial for the correct determination of tax or tax refund claimed and it discovers that the tax refund application or additional tax refund application is justified, the Customs Office shall refund the tax within 15 days from the date of the tax audit completion.

(9) It is also possible to refund tax collected from coal demonstrably taxed in the tax territory to a legal person or natural person in possession of the taxed coal, who is not its final consumer.

Keeping of Records
§ 26

(1) The tax debtor is obliged to keep regular records in tonnes of the quantity of coal which has been

- a) produced;
- b) taken;
- c) supplied for
 1. reselling purposes;
 2. purposes exempt from tax, except for the coal supply to a final household customer of coal;
 3. purposes exempt from tax to a final household customer of coal;
 4. consumption by the final consumer of coal;
- d) used for its own consumption;
- e) used by the coal producer for operational and technological purposes.

(2) If supplying coal to a final household customer of coal, the records pursuant to paragraph (1)(c)(3) must include the identification data and the ID card number of the final household customer of coal.

(3) A coal producer or a coal trader obliged to apply for registration by the Customs Office pursuant to §23(5) shall keep adequate records pursuant to paragraph (1) .

§ 27

An eligible consumer of coal is obliged to keep regular records in tonnes of the quantity of coal

- a) taken;
- b) used for purposes exempt from tax.

PART FOUR NATURAL GAS TAX

§ 28

Subject-Matter of Tax

The subject-matter of tax is natural gas, which shall, for the purposes of this Act, mean

- a) goods coded 2711 11 in the combined nomenclature;
- b) goods coded 2711 21 in the combined nomenclature;
- c) goods coded 2711 29 in the combined nomenclature;
- d) goods coded 2705 in the combined nomenclature.

§ 29

Tax Base and Tax Calculation

- (1) The tax base shall be the quantity of natural gas expressed in kilowatt-hours (kWh).
- (2) The tax shall be calculated as the product of the tax base and the respective tax rate.

§ 30

Tax Rate

(1) From 1 July 2008 until 31 December 2009, the tax rate for natural gas used as

- a) motor fuel shall be set to 0.20 SKK/kWh;
- b) heating fuel shall be set to 0.02 SKK/kWh.

(2) As of 1 January 2010, the tax rate for natural gas used as

- a) motor fuel shall be set to 0.40 SKK/kWh;
- b) heating fuel shall be set to 0.04 SKK/kWh.

§ 31

Exemptions from Tax

(1) Natural gas shall be exempt from tax, if it is used

- a) for dual use,
- b) in mineralogical processes;
- c) for a purpose other than that of a motor fuel or fuel for the heat generation;
- d) in the combined generation of electricity and heat;
- e) in the generation of electricity;
- f) as a motor fuel;
- g) by a final household customer of natural gas;⁷⁾
- h) for operational and technological purposes in a gas undertaking, including losses in a technologically justified quantity; it also applies to natural gas transmission and distribution, whereby the competent Customs Office is entitled to assess, on the basis of a decision by the Regulatory Office for Network Industries, whether the incurred losses of natural gas correspond to the character of activity of the gas undertaking and to the usual quantity of losses of another natural gas undertaking that performs identical or similar activities.;
- i) in the generation of heat designated for households;
- j) in activities directly related to railroad or river transportation of persons or cargo carried out within the scope of the business activities;

(2) Natural gas shall also be exempt from tax if it is designated for the production of compressed natural gas used as a motor fuel.

(3) Natural gas shall also be exempt from tax if it is located in the regular tanks of motor vehicles, industrial machines, air conditioning, cooling and other similar units upon their entry into the tax territory from another Member State or from the territory of a third country, provided that this gas serves for their own drive or operation; for the purposes of this Act, a regular tank shall mean a tank allowing for the direct use of fuel.

§ 32

Eligible Consumer of Natural Gas

(1) For the purposes of this Act, an eligible consumer of natural gas shall be a legal person or a natural person authorised to use natural gas that is exempt from tax. A legal person or a natural person intending to use natural gas exempt from tax under §31(1)(a) through (e), (i) and (j) is obliged to request the Customs Office in writing to register an eligible consumer of natural gas.

(2) A legal person or a natural person intending to directly offtake natural gas exempt from tax under §31(1)(a) through (e), (i) and (j) must have a separate offtake point²⁰⁾ used solely for the offtake of natural gas exempt from tax and is obliged to request the Customs Office in writing to issue an authorisation for the offtake of natural gas exempt from tax (hereinafter only "exempt natural gas authorisation").

²⁰⁾ §2(c)(13) of Act No. 656/2004 Coll.

(3) A legal person or natural person intending to use natural gas exempt from tax under §31(1)(a) through (e), (i) and (j), which does not have a separate offtake point²⁰) used solely for the offtake of natural gas exempt from tax, may, in accordance with §37, apply for a refund of the tax pertaining to the quantity of demonstrably taxed natural gas actually used for purposes exempt from tax under the conditions laid down by this Act.

(4) A gas undertaking registered with the Customs Office as a tax debtor is not obliged to attach the annex pursuant to paragraph (6)(a) to the application for the registration of an eligible consumer of natural gas and for the issuance of an exempt natural gas authorisation.

(5) The application for the registration of an eligible consumer of natural gas and for the issuance of exempt natural gas authorisation shall include

- a) the applicant's identification data and the addresses of establishments, if different from the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, the birth certificate number shall be specified;
- c) the purpose of the use of natural gas exempt from tax and the expected annual consumption quantity in kilowatt-hours;
- d) the number of the separate offtake point²⁰) used solely for the offtake of natural gas exempt from tax, provided that it concerns an applicant under paragraph (2);
- e) the identification data of the natural gas supplier.

(6) The application shall contain the following annexes:

- a) extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof;
- b) description of the purpose and method of use of natural gas exempt from tax, which is necessary to assess the exemption eligibility, and documents proving these facts;
- c) information on the total annual volume of natural gas consumption and of the annual consumption volume of natural gas for purposes exempt from tax; where this information cannot be based on the actual natural gas consumption in the previous calendar year, the applicant shall use the expected quantity of natural gas consumption during the calendar year.

(7) Prior to the registration of the eligible consumer of natural gas and the issuance of an exempt natural gas authorisation, the Customs Office will verify the applicant's data specified in the application pursuant to paragraph (5) and in its annexes pursuant to paragraph (6). If the said data is true, the Customs Office shall issue to the applicant a registration certificate and, if the applicant has a separate offtake point used solely for the offtake of natural gas exempt from tax, the Customs Office shall also issue the exempt natural gas authorisation.

(8) In the exempt natural gas authorisation, the Customs Office shall specify the data pursuant to paragraph (5), except for the birth certificate number and the tax identification number, if it contains the applicant's birth certificate number. The exempt natural gas authorisation shall be issued in three copies; one copy shall be retained by the Customs Office and two copies shall be provided to the eligible consumer of natural gas, who shall retain one copy and submit one copy to its natural gas supplier; where the eligible consumer has multiple natural gas suppliers, all of them shall receive an authenticated copy of the exempt natural gas authorisation.

(9) The eligible consumer of natural gas shall inform the Customs Office of any changes in the data pursuant to paragraph (5) and (6)(b) within 15 days from such change. The eligible consumer shall inform the Customs Office of a change in the data pursuant to paragraph (6)(a) within 15 days from submitting the proposed change in the information to the competent authority. Considering the extent and significance of the changes, the Customs Office shall amend the original exempt natural gas authorisation or issue a new exempt natural gas authorisation.

(10) An eligible consumer of natural gas under paragraph (2), except for a final household customer of natural gas, shall submit the exempt natural gas authorisation to the natural gas supplier at the latest upon the first offtake of natural gas exempt from tax. An eligible consumer of natural gas, except for a final household customer of natural gas, shall submit to its natural gas supplier the meter value as at the day directly preceding the day of first offtake of natural gas exempt from tax. The natural gas supplier may not supply natural gas exempt from tax to a legal person or a natural person without the submission of an exempt natural gas authorisation.

(11) An eligible consumer of natural gas, including a final household customer of natural gas, may use natural gas exempt from tax solely for the purposes exempt from tax pursuant to this Act.

(12) The Customs Office shall revoke the exempt natural gas authorisation, where the eligible consumer of natural gas

- a) repeatedly uses natural gas exempt from tax under §31(1)(d) and (e) for a purpose other than that exempt from tax, and fails to remedy the situation despite penalties or notices by the Customs Office;
- b) ceases to comply with the requirements for natural gas exemption from tax;
- c) requests to be deleted from the Commercial Register or from another record of business licences pursuant to a separate regulation, or requests the revocation of a trade licence, announces the termination of business or is wound up, if it had not been established for business purposes.
- d) is a natural person who died and if none of the entitled heirs or estate trustee appointed by a court continues the business;
- e) is a natural person and a court decision declaring the natural person dead becomes final and if none of the entitled heirs or estate trustee appointed by a court continues the business;
- f) enters into liquidation;
- g) requests the revocation of the exempt natural gas authorisation;
- h) has not used the exempt natural gas authorisation in the offtake of natural gas exempt from tax during 12 successive months following the date of issuance thereof.

(13) The Customs Office shall also revoke the exempt natural gas authorisation if a court decision declaring bankruptcy, dismissing a petition to declare bankruptcy on grounds of insufficient assets or discontinuing bankruptcy proceedings on

grounds of insufficient assets becomes final, or if enforced composition or permitted composition is confirmed or restructuring authorised.

(14) The Customs Office shall annul the registration of an eligible consumer of natural gas if its exempt natural gas authorisation has been revoked pursuant to paragraph (12)(a) through (f) and paragraph (13).

(15) An eligible consumer of natural gas whose original exempt natural gas authorisation has been amended or replaced by a new exempt natural gas authorisation under paragraph (9) or whose exempt natural gas authorisation has been revoked shall deliver a written notification of these facts to the natural gas supplier no later than within three working days of the occurrence thereof. The provision of the second sentence in §8(15) applies accordingly to the delivery of the above information.

(16) The natural gas supplier shall apply a change in taxation or in exemption from tax after the receipt of the written information pursuant to paragraph (15). The change shall be applied within 15 days from the day of the notification delivery following the offtake metering.

§ 33 Occurrence of Tax Liability

(1) Tax liability shall arise on the date

- a) of supplying natural gas within the tax territory to the final consumer of natural gas, except for supplying natural gas to a gas undertaking or to a natural gas supplier;
- b) of natural gas consumption within the tax territory by a gas undertaking or by a natural gas supplier.

(2) Tax liability shall also arise on the date

- a) of discovering unauthorised natural gas offtake;²¹⁾
- b) of consumption of natural gas exempt from tax for a purpose other than that specified §31.

(3) In the case of repeated supply ¹⁸⁾, the date of natural gas supply shall not be later than the last day of the period to which the payment for the quantity of natural gas supplied pertains. The date of supply of natural gas is also the date, which is used as a reference date for the measuring of the actually supplied quantity of natural gas for the billing period, if there is a difference between the total quantity of natural gas supplied in the individual periods that are subject to billing and the actually supplied quantity of natural gas for the billing period. If a credit note or a debit note is issued to a natural gas consumer, the identified tax difference shall be stated in the tax return for the tax period in which the invoice containing tax base correction was issued. In the event of one-off supplies, the date of natural gas supply is the day upon which the customer gains the right to dispose of the natural gas as its owner.

(4) The day of the natural gas consumption shall be, at the latest, the last day of the calendar month in which the natural gas was consumed.

(5) A tax liability shall not arise in the tax territory for a legal person or a natural person in the supply of natural gas to another Member State or into the territory of a third country.

§ 34 Tax debtor

(1) For the purposes of this Act, a tax debtor shall be a legal person or a natural person which

- a) supplied natural gas within the tax territory to the final consumer of natural gas, except for supplying natural gas to a gas undertaking or to a natural gas supplier;
- b) consumed natural gas within the tax territory and which is a gas undertaking or a natural gas supplier.

(2) A tax debtor shall also be

- a) a final consumer of natural gas, to which a foreign entity supplied natural gas in the tax territory, except for a final consumer of natural gas which is a final household customer of natural gas;
- b) a foreign entity which supplied natural gas in the tax territory to a final household customer of natural gas;
- c) a legal person or a natural person carried out an unauthorised offtake of natural gas;²¹⁾
- d) a legal person or a natural person who consumed natural gas exempt from tax for a purpose other than that specified in §31.

§ 35 Tax Debtor Registration

(1) A tax debtor pursuant to §34(1) and (2)(a) shall request tax debtor registration from the Customs Office in writing no later than on the day of occurrence of the first tax liability.

(2) The application shall include

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, the birth certificate number shall be specified;

(3) An extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document proving that the legal

²¹⁾ §59(1) of Act No. 656/2004 Coll.

person is not established or incorporated for business purposes no older than 30 days or an authenticated copy thereof shall comprise an annex to the application.

(4) A foreign entity that is a tax debtor pursuant to §34(2)(b) shall request tax debtor registration from the Bratislava Customs Office in writing no later than on the date of occurrence of the first tax liability. The provisions of paragraphs (2) and (3) apply accordingly to the application.

(5) A business entity authorised to conduct business in the energy sectors pursuant to a separate regulation⁹⁾, which purchases natural gas solely for reselling purposes and which is not obliged to register pursuant to paragraph (1) shall apply for registration by the Customs Office in writing no later than on the date of first natural gas supply. The provisions of paragraphs (2) and (3) apply accordingly to the application. Such business entity shall submit the document demonstrating registration issued by the Customs Office to a legal or a natural person from which it intends to purchase natural gas no later than on the date of first supply of natural gas.

(6) A legal person or a natural person supplying natural gas exempt from tax is also obliged to register as a tax debtor, provided that it is not already registered pursuant to paragraph (1), no later than on the date of the first supply of natural gas exempt from tax. The provisions of paragraphs (2) and (3) apply to the application.

§ 36

Taxation Period, Tax Return, Additional tax Return and Tax Due Date

(1) The taxation period shall be a calendar month, unless otherwise stipulated by this Act.

(2) The tax debtor shall submit a tax return to the Customs Office no later than on the 25th day of the calendar month following the calendar month in which the tax liability arose, and pay the tax within the same period. The Ministry will issue a generally binding regulation stipulating the template forms of a tax return, additional tax return, tax refund application and additional tax refund application.

(3) In the tax return, the tax debtor shall specify

- a) the total quantity of natural gas supplied by the tax debtor, in kilowatt-hours;
- b) the quantity of natural gas from the quantity of natural gas identified under (a), in kilowatt-hours, for which a tax liability arose as a result of supply;
- c) the quantity of natural gas from the quantity of natural gas identified under (a), in kilowatt-hours, which the tax debtor supplied for purposes exempt from tax;
- d) the quantity of natural gas, in kilowatt-hours, for which a tax liability arose as a result of consumption;
- e) the total quantity of natural gas, in kilowatt-hours, for which a tax liability arose;
- f) the resulting tax that pertains to the quantity of natural gas for which a tax liability arose.

(4) In the case of advance payments, the expected quantity of natural gas consumption, to which the advance payment pertains, shall be deemed the quantity of electricity supplied.

(5) The tax debtor shall calculate the tax on its own. The resulting tax shall be rounded up to whole Slovak korunas.

(6) If the tax debtor finds out that the submitted tax return is incorrect or incomplete and the correction results in

- a) increased tax, the tax debtor shall submit an additional tax return to the Customs Office immediately after discovering that the tax return is incorrect or incomplete, and pay the tax within ten working days from the date of the additional tax return submission;
- b) a reduction in tax, the tax debtor may apply for a tax refund in the additional tax return.

(7) The additional tax return must be labelled "Additional". The additional tax return shall indicate the taxation period to which the additional tax return pertains, and shall specify the differences when compared with the tax return originally submitted. The Customs Office shall refund the tax within 30 days from the date of submission of an additional tax return.

(8) An additional tax return will be disregarded if the Customs Office has already initiated a tax audit in order to investigate the facts crucial for the correct determination of tax or tax refund claimed with respect to the taxation period to which the additional tax return would pertain.

(9) A tax debtor whose tax liability during a taxation period does not exceed SKK 100 is not required to file a tax return and to pay tax.

§ 37

Tax refund

(1) Under the conditions laid down by this Act, tax from natural gas demonstrably taxed in the tax territory may be refunded to an eligible consumer of natural gas pursuant to §32(3), if the eligible consumer has demonstrably used such natural gas for purposes exempt from tax.

(2) The tax refund shall be claimed in a tax refund application form or an additional tax refund application form pursuant to §36(2), except for cases stipulated in §36(7), where the tax refund shall be claimed in an additional tax return.

For the purposes of this Act, demonstrably taxed natural gas shall be natural gas, the taxation of which is demonstrated by a document confirming that the natural gas has been purchased for a price including tax and a document confirming that the tax

has been paid within the price of the natural gas, e.g. by a bank account statement issued by a bank or the subsidiary of a foreign bank or by means of a document confirming the tax was paid to the Customs Office.

(4) For the purposes exempt from tax and for the purposes of this Act, demonstrably consumed quantity of natural gas shall be an amount of natural gas measured by a specified meter¹⁹⁾ positioned at a place which has been approved by the Customs Office and equipped with a seal of the Customs Office for tax purposes. In justified cases, the Customs Office may permit, based on the written request of a legal person or a natural person, the calculation and demonstration of the consumption of natural gas in a different manner for the purposes exempt from tax and for the purposes of tax refund.

(5) A tax refund application may be submitted to the Customs Office for the respective taxation period only after the end of the calendar month in which conditions necessary to claim a tax refund have been met; however, it may not be submitted later than within three years from the end of the calendar month in which the possibility to claim a tax refund arose; tax may not be refunded on the basis of a tax refund application submitted after the lapse of this period.

(6) If the tax refund is requested by an eligible consumer of natural gas who pays for the supplied quantity of natural gas by means of advance payments, the eligible consumer shall claim the tax refund no later than within three years from the end of the billing period. The tax refund application must include documents demonstrating the use of natural gas for purposes exempt from tax.

(7) Tax may also be refunded to a tax debtor, if the tax has already been paid and calculated

- a) by the tax debtor to the detriment of the customer of natural gas for which a credit note was issued;
- b) by the tax debtor to its own detriment;
- c) by the Customs Office to the detriment of the tax debtor; in this case the Customs Office shall notify the tax debtor of this fact in writing.

(8) If an eligible consumer of natural gas discovers that a submitted tax refund application is incorrect or incomplete and its correction results in

- a) a reduction of the claimed tax refund, the tax debtor shall submit an additional tax refund application to the Customs Office immediately after discovering that the tax refund application is incorrect or incomplete, and pay the tax within ten working days from the date of submission of the additional tax refund application if the tax has already been refunded;
- b) an increase of the claimed tax refund, the tax debtor may claim the tax refund in an additional tax refund application; this also applies if the fact is discovered by the Customs Office.

(9) An additional tax refund application must be labelled "Additional". The additional tax refund application shall indicate the taxation period to which the additional tax refund application pertains, and specify the differences when compared with the originally submitted tax refund application. An additional tax refund application may be submitted within three years from the end of the taxation period to which it pertains; tax may not be refunded on the basis of an additional tax refund application submitted after the lapse of this period.

(10) The Customs Office shall refund the tax within 30 days from the date of submission of a tax refund application or an additional tax refund application, provided that the conditions for the tax refund laid down by this Act have been met. If the Customs Office initiates a tax audit during this period in order to investigate the facts crucial for the correct determination of tax or tax refund claimed and it discovers that the tax refund application or additional tax refund application is justified, the Customs Office shall refund the tax within 15 days of the tax audit completion.

Keeping of Records § 38

(1) The tax debtor is required to keep regular records on the quantity of natural gas in kilowatt-hours which has been

- a) produced;
- b) taken;
- c) supplied
 1. for reselling purposes;
 2. for purposes exempt from tax, apart from natural gas supply to a final household customer of natural gas;
 3. for purposes exempt from tax to a final household customer of natural gas;
 4. for consumption by the final consumer of natural gas;
- d) used for its own consumption;
- e) used for operational and technological purposes in a gas undertaking, including losses in a technologically justified quantity; it also applies to natural gas transmission and distribution.

(2) A business entity which has a licence to conduct business in the energy sector pursuant to a separate regulation⁹⁾ and which is obliged to apply for registration by the Customs Office pursuant to §35(5), shall keep records in accordance with paragraph (1).

§ 39

(1) The eligible consumer of natural gas referred to in §32(2) is obliged to keep regular records on the quantity of natural gas in kilowatt-hours, which has been

- a) taken for purposes exempt from tax;
- b) used for purposes exempt from tax;
- c) used for a purpose other than that specified in §31.

(2) The eligible consumer of natural gas referred to in §32(3) is obliged to keep regular records on the quantity of natural gas in kilowatt-hours which has been

- a) taken;
- b) used for purposes exempt from tax.

PART FIVE
COMMON, TRANSITIONAL AND FINAL PROVISIONS

Common provisions
§ 40

Separate regulation of the exemptions from tax on electricity, coal and natural gas used by citizens of other countries who enjoy privileges and immunities under international treaties

(1) For the purposes of this Act, a citizen of another country who enjoys privileges and immunities under an international treaty²²⁾ (hereinafter referred to as "foreign representative") shall be

- a) a diplomatic mission and a consular office having its registered office in the Slovak Republic, except for consular offices chaired by honorary consuls;
- b) an international agency and its local office having its registered office in the Slovak Republic, which is established on the basis of an international treaty.²²⁾

(2) Exemptions from tax apply to electricity, coal and natural gas used by a foreign representative.

(3) Exemptions from tax shall be granted to a foreign representative of those countries which grant similar advantages to citizens of the Slovak Republic who enjoy privileges and immunities under an international treaty²²⁾ (hereinafter the "Slovak representative").

(4) If a country does not grant similar advantages to a Slovak representative to the extent granted by the Slovak Republic, similar advantages shall be granted to a foreign representative of that country so as not to exceed the advantages granted by the respective country to a Slovak representative. Such mutuality does not apply to international organisations and their local offices pursuant to (1)(b).

(5) A foreign representative which intends to use electricity exempt from tax or coal exempt from tax or natural gas exempt from tax is obliged to request the Ministry of Foreign Affairs of the Slovak Republic to issue a confirmation certifying the standing of the foreign representative. Annex 1 contains a specimen of a confirmation by the Ministry of Foreign Affairs of the Slovak Republic certifying the standing of a foreign representative and the compliance with the mutuality condition.

(6) A foreign representative shall submit a confirmation by the Ministry of Foreign Affairs of the Slovak Republic to the electricity supplier, coal supplier or natural gas supplier, certifying the standing of the foreign representative and the compliance with the mutuality condition, at the latest upon the first offtake of electricity exempt from tax, of coal exempt from tax or of natural gas exempt from tax.

§ 41
Tax audit

(1) Tax audits shall be carried out pursuant to a separate regulation²³⁾ by the competent Customs Office.

(2) Provisions of a separate regulation do not apply to the initiation of tax audits.²⁴⁾

§ 42
Keeping of records by the Customs Office and Customs Directorate

(1) For the purposes of tax administration, the Customs Office shall maintain an electronic database containing a register of tax debtors, eligible consumers of electricity, eligible consumers of coal, eligible consumers of natural gas, and, if not registered as tax debtors, coal producers and coal traders and business entities which have a license to conduct business in the energy sectors pursuant to a separate regulation³⁾ and which purchase electricity for reselling purposes only or which purchase natural gas for reselling purposes only.

(2) In particular, the electronic database shall include

- a) identification data of tax debtors, registration number, date of the assigning and date of the withdrawal of the registration number;
- b) identification data of eligible consumers of electricity, eligible consumers of coal and eligible consumers of natural gas, registration number, date of the assigning and date of the withdrawal of the registration number;
- c) identification data of coal producers and coal traders, if not registered as tax debtors, identification data of business entities which have a license to conduct business in the energy sectors pursuant to a separate regulation³⁾ and which purchase electricity for reselling purposes only or which purchase natural gas for reselling purposes only.

²²⁾ For example, Decree of the Minister of Foreign Affairs No. 157/1964 Coll. on the Vienna Convention on Diplomatic Affairs, Decree of the Minister of Foreign Affairs No. 21/1968 Coll. on the Convention on the Privileges and Immunities of the International Specialized Agencies, Decree of the Minister of Foreign Affairs No. 32/1969 Coll. on the Vienna Convention on Consular Relations, Decree of the Minister of Foreign Affairs No. 40/1987 Coll. on the Convention on Special Missions.

²³⁾ For example, §15 and §15b of Act of the Slovak National Council No. 511/1992 Coll. on administration of taxes and fees and on changes in the system of territorial financial authorities as amended.

²⁴⁾ §15(2) of Act of the Slovak National Council No. 511/1992 Coll. as amended.

(3) The Customs Directorate or the authorised Customs Office shall maintain a central electronic database containing the data specified in paragraph (2).

§ 43 Administrative breaches

(1) Where a business entity has supplied electricity exempt from tax without an exempt electricity authorisation or where it has supplied coal exempt from tax without an exempt coal authorisation or where it has supplied natural gas exempt from tax without an exempt natural gas authorisation, the Customs Office shall impose a fine on the business entity of up to a tax amount pertaining to the amount of supplied electricity, coal or natural gas, however, no less than SKK 10,000; no fine shall be imposed in case the business entity demonstrates that an eligible consumer of electricity, an eligible consumer of coal or an eligible consumer of natural gas has not complied with its obligation to inform the electricity supplier, the coal supplier or the natural gas supplier of the revocation of the exempt electricity authorisation or exempt coal authorisation or exempt natural gas authorisation within the specified period in writing.

(2) Where a business entity has used electricity for the purposes exempt from tax without an exempt electricity authorisation or where it has used coal for the purposes exempt from tax without an exempt coal authorisation or where it has used natural gas for the purposes exempt from tax without an exempt natural gas authorisation, the Customs Office shall impose a fine on the business entity of up to a tax amount pertaining to the amount of used electricity, coal or natural gas. The minimum fine, however, shall be no less than SKK 10,000.

(3) Where a business entity has consumed electricity exempt from tax for purposes other than those specified in §7 or where it has consumed coal exempt from tax for purposes other than those specified in §19 or where it has consumed natural gas exempt from tax for purposes other than those specified in §31, the Customs Office shall impose a fine on the business entity in the amount of 50% of a tax amount pertaining to the amount of consumed electricity, coal or natural gas. The minimum fine, however, shall be no less than SKK 10,000.

(4) The Customs Office shall determine the amount of a fine pursuant to paragraphs (1) and (2) with regard to the severity, duration and the consequences of an unlawful conduct.

(5) The provisions of a separate regulation²⁵⁾ do not apply where the Customs Office has imposed a fine pursuant to paragraphs (2) or (3).

(6) The yield from penalties imposed pursuant to this Act constitute the yield of the state budget.

§ 44

Unless §3, 10, 11, 12, 22, 23, 24, 34, 35, 36, §41(2) and §43 stipulate otherwise, a separate regulation²⁶⁾ shall apply to the tax administration.

§ 45

This Act transposes the legal acts of the European Communities and the European Union listed in Annex 2.

§ 46

Unless this Act stipulates otherwise, tax pursuant to this Act pertains to electricity, coal and natural gas, in respect to which the tax liability arises as of 1 July 2008.

Transitional provisions

§ 47

(1) A legal person or a natural person registered as a business operator for the purposes of production, storage or processing of natural gas pursuant to existing regulations²⁷⁾ is considered a legal person or a natural person registered in accordance with §35.

(2) A legal person or a natural person becoming a tax debtor as of 1 July 2008 shall request tax debtor registration from the Customs Office in writing no later than by 31 March 2008.

(3) The application shall include

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, the birth certificate number shall be specified.

(4) An extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof shall comprise an annex to the application.

²⁵⁾ §35(1)(a) and §35(1)(g) of Act of the Slovak National Council No. 511/1992 Coll. as amended.

²⁶⁾ Act of the Slovak National Council No. 511/1992 Coll. as amended.

²⁷⁾ Act No. 98/2004 Coll. on excise tax on mineral oil as amended.

(5) A foreign entity becoming a tax debtor as of 1 July 2008 shall request tax debtor registration from the Bratislava Customs Office in writing by no later than 31 March 2008. The provisions of paragraphs (2) and (3) apply accordingly to the application.

§ 48

(1) A legal person or a natural person which intends to become an eligible consumer of electricity and who intends to use electricity exempt from tax as of 1 July 2008 shall request the Customs Office in writing to issue a registration of an eligible consumer of electricity, and, furthermore, if it intends to directly offtake electricity exempt from tax and has a separate offtake point¹⁶⁾ used solely for the offtake of electricity exempt from tax, it shall request the Customs Office to issue an exempt electricity authorisation no later than by 31 March 2008.

(2) An application for the registration of an eligible consumer of electricity and for the issuance of exempt electricity authorisation shall contain

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, then the birth certificate number shall be specified;
- c) the purpose of the use of electricity exempt from tax pursuant to this Act and the expected annual consumption amount in kilowatt-hours;
- d) the number of the separate offtake point¹⁶⁾ used solely for the offtake of electricity exempt from tax;
- e) the electricity supplier's identification data.

(3) The application shall contain the following annexes:

- a) extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof;
- b) description of the purpose and method of use of electricity exempt from tax which is necessary to assess the exemption eligibility and documents proving these facts;
- c) information on the total annual volume of electricity consumption and on the annual consumption volume of electricity for the purposes exempt from tax; where this information cannot be based on the actual electricity consumption in the previous calendar year, the applicant shall use the expected quantity of electricity consumption during the calendar year.

(4) Prior to the registration of the eligible electricity consumer and the issuance of exempt electricity authorisation, the Customs Office shall verify the applicant's data specified in the application pursuant to paragraph (2) and in its annexes pursuant to paragraph (3). If the said data is true, the Customs Office shall issue to the applicant a registration certificate and, if an applicant has a separate offtake point¹⁶⁾ used solely for the offtake of electricity exempt from tax, the Customs Office shall also issue the exempt electricity authorisation within 15 days from the date on which the application was submitted. If the applicant fails to demonstrate the authenticity of all data and the fulfilment of all conditions, the Customs Office shall issue a registration certificate along with an exempt electricity authorisation within 15 days from demonstrating the authenticity of all information and compliance with the last condition.

(5) A legal person or a natural person which intends to become an eligible consumer of coal and which intends to use coal exempt from tax as of 1 July 2008 shall request the Customs Office in writing to issue a registration of an eligible consumer of coal and an exempt coal authorisation no later than by 31 March 2008.

(6) The application for the registration of an eligible coal consumer and for the issuance of exempt coal authorisation shall include

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, the birth certificate number shall be specified;
- c) the purpose of the use of coal exempt from tax in accordance with this Act and the expected amount of annual consumption in tonnes.

(7) The application shall contain the following annexes:

- a) extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof;
- b) description of the purpose and method of use of coal exempt from tax, which is necessary to assess the exemption eligibility, and documents proving the said facts.

(8) Prior to the registration of the eligible coal consumer and the issuance of exempt coal authorisation, the Customs Office shall verify the applicant's data specified in the application pursuant to paragraph (6) and in its annexes pursuant to paragraph (7). If the said data is true, the Customs Office shall issue a registration certificate together with the exempt coal authorisation to the applicant within 15 days from the date on which the application was submitted. In the event the applicant fails to demonstrate the authenticity of all data and the fulfilment of all conditions, the Customs Office shall issue a registration certificate together with an exempt coal authorisation within 15 days of the date of the authentication of all data and fulfilment of the last condition.

(9) A legal person or a natural person who intends to become an eligible consumer of natural gas and who intends to use natural gas for purposes exempt from tax as of 1 July 2008 shall request the Customs Office in writing to issue a registration of an eligible consumer of natural gas and, furthermore, if it has a separate offtake point²⁰⁾ used solely for the offtake of natural gas

exempt from tax, it shall request the Customs Office to issue an exempt natural gas authorisation no later than by 31 March 2008.

(10) The application for the registration of an eligible consumer of natural gas and for the issuance of exempt natural gas authorisation shall include

- a) the applicant's identification data and the addresses of establishments, if these are not identical to the applicant's registered office or permanent residence;
- b) the applicant's tax identification number; if the applicant was not assigned a tax identification number, then the birth certificate number shall be specified;
- c) the purpose of the use of natural gas exempt from tax in accordance with this Act and the expected amount of annual consumption in kilowatt-hours;
- d) the number of a separate offtake point²⁰) used solely for the offtake of natural gas exempt from tax;
- e) the identification data of the natural gas supplier.

(11) The application shall contain the following annexes:

- a) extract from the Commercial Register or the Trade Licence Register or from another record of business licences pursuant to a separate regulation no older than 30 days or an authenticated copy thereof, or a document no older than 30 days proving that the legal person is not established or incorporated for business purposes or an authenticated copy thereof;
- b) description of the purpose and method of use of natural gas exempt from tax which is necessary to assess the exemption eligibility and documents proving these facts;
- c) indication of the total annual volume of natural gas consumption and of the annual consumption volume of natural gas for purposes exempt from tax; where this indication cannot be based on the actual natural gas consumption in the previous calendar year, the applicant shall use the expected quantity of natural gas consumption during the calendar year.

(12) Prior to the registration of the eligible consumer of natural gas and the issuance of an exempt natural gas authorisation, the Customs Office shall verify the applicant's data specified in the application pursuant to paragraph (10) and in its annexes pursuant to paragraph (11). If the said data is true, the Customs Office shall issue to the applicant a registration certificate; if the applicant has a separate offtake point²⁰) used solely for the offtake of natural gas exempt from tax, the Customs Office shall also issue the exempt natural gas authorisation within 15 days from the date on which the application was submitted. In the event the applicant fails to demonstrate the authenticity of all the information and the compliance with all requirements, the Customs Office shall issue a registration certificate along with an exempt natural gas authorisation within 15 days from the date of demonstrating the authenticity of all information and compliance with the last condition.

(13) A legal person or a natural person which was granted an exempt electricity authorisation, an exempt coal authorisation or an exempt natural gas authorisation shall submit the exempt electricity authorisation, exempt coal authorisation or exempt natural gas authorisation to its electricity, coal or natural gas supplier without delay.

Article II of Act No. 609/2007

Act No. 98/2004 on the Excise Duty on Mineral Oil as amended by Act No. 667/2004, Act No. 223/2006, and Act No. 672/2006 is amended and supplemented as follows:

1. In § 4(2), item b) has the following wording:

"b) goods of the combined nomenclature code 2706 to 2715, except for goods of the combined nomenclature code 2711 11, 2711 21, 2711 29 and solid hydrocarbons of the combined nomenclature code 2706 to 2715,".

2. The words "or natural gas" shall be omitted from § 4(4).

3. § 4(6) has the following wording:

- "(6) For the purposes of this Act, mineral oils do not comprise
- a) electricity, coal, and natural gas subject to excise duty pursuant to special regulation,^{2a)}
 - b) fuel wood and charcoal of the combined nomenclature codes 4401 and 4402,
 - c) peat of the combined nomenclature code 2703."

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The footnote to reference 2a has the following wording:

^{2a)} Act No. 609/2007 on the Excise Duty on Electricity, Coal, and Natural Gas amending and supplementing Act No. 98/2004 on the Excise Duty on Mineral Oil as amended."

4. The words "except for goods of the combined nomenclature codes 2711 11 00, 2711 21 00, and 2711 29 00" shall be omitted from § 4(8)(d).

5. Item (g) shall be omitted from § 6(1).

6. The last sentence shall be omitted from § 6(2).

7. In § 6(5)(a), the word "48/100" shall be replaced by the word "47/100" and the word "7.2%" shall be replaced by the word "7.05%".

8. In § 10(1)(b), first item, the word "and" after the word "corps" shall be replaced by a colon and the following words shall be added: „and for aircraft for the needs of the Fire and Rescue Service^{4b)} when performing tasks according to special regulation^{4c)}“.

The footnotes to references 4b and 4c have the following wording:

„4b) § 4(1) of Act No. 315/2001 on Fire and Rescue Service as amended.

4c) For example, § 3 of Act No. 315/2001 as amended by Act No. 438/2002.“.

9. In § 10(1), item d) has the following wording:

"d) in mineralogic processes classified in NACE Rev. 2 nomenclature in code 23 "Manufacture of other non-metallic mineral products" pursuant to special regulation^{4d)}“.

The footnote to reference 4d has the following wording:

„4d) Council Regulation (EEC) 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (Special Edition of the EU OJ, Chapter 2/Vol. 4, EC OJ L 293, 24 October 1990) as amended.“.

10. In § 10(1)(g), the words “for aircraft and ships” shall be inserted after the word “fuel”.

11. Items h) and i) shall be added to § 10(1), which shall read as follows:

- “h) for electricity generation,
- i) for combined generation of electricity and heat.”.

12. Item (j) shall be omitted from § 10(2).

13. § 10(3) has the following wording:

“(3) Tax exemption also applies to mineral oil that is a liquefied gaseous hydrocarbon of the combined nomenclature code 2711 12 00 to 2711 19 00, intended for use, offered for use, or used as a fuel.”.

14. Paragraph (16) shall be inserted to § 11, which shall read as follows:

“(16) A user company may use the labelled gas oil also to drive rented machinery or to drive a service provider’s machinery exclusively for works of manufacturing nature or for services in agricultural production³⁾ pursuant to § 7(1)(b), second item, namely on the basis of a machinery lease contract, a project contract, or another similar contract for the provision of a service made with another user company. The user company is obliged to inform the customs authority on the use of the labelled gas oil pursuant to the first sentence in writing on the day of such use at the latest. The written information includes identification information of the user companies making the respective contract, numbers of their consumption vouchers, and a list of machinery rented or a list of machinery used for the service provided. This written information shall be enclosed with a copy of the machinery lease contract or the project contract or of another similar service provision contract.”.

15. In § 12(2), item b) has the following wording:

“b) delivery or on the day of using the tax-exempt mineral oil for a purpose other than the intended purpose,”.

16. Paragraph 4 shall be omitted from § 12.

17. In § 13(2), item b) has the following wording:

“b) delivered for use or used the tax-exempt mineral oil for a purpose other than the intended purpose,”.

18. Paragraph 4 shall be omitted from § 13.

19. In § 14(2), first sentence, the comma and the words “operator of a company producing, processing, or storing natural gas (§ 34a), operator of a natural gas distribution network pursuant to special regulation^{7a)}” shall be omitted and in the second sentence, after the words “has not arisen”, the comma shall be replaced by a period and the words “except for the operator of a company producing, processing, or storing natural gas and the operator of a natural gas distribution network.^{7a)}”.

The footnote to reference 7a shall be omitted.

20. The words “if the biogenic substance was produced by this tax warehouse operator,” shall be omitted from § 19(6)(a).

21. The words “except for natural gas” shall be omitted from § 29(1), second sentence, and from paragraph 2, first sentence.

22. § 34a shall be omitted.

23. In § 41(1), a comma and the words “operators of companies producing, processing, or storing natural gas and operators of natural gas distribution networks” shall be omitted after the word “oil”.

24. The words “or in § 6(1)(f), second item” shall be omitted from § 42(4).

25. § 46c shall be inserted after § 46b that – including its heading – shall read as follows:

“§ 46c

Transitional provisions to amendments in effect as of 1 July 2008

(1) All deadlines that started to run before 1 July 2008 as well as all deadlines stemming therefrom for the exercise of rights and performance of obligations shall be treated according to existing regulations until expiration.

- (2) Tax proceedings not effectively completed by 30 June 2008 shall be completed pursuant to former regulations.
- (3) Natural gas supplied and consumed by 30 June 2008 shall be subject to former regulations.”.

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Art. III

This Act shall become effective as of 1 January 2008 except for the provisions of Art. I, Sections 1 to 46, Art. II(1) to (7), (9) to (13), (15) to (19), and (21) to (25), which shall become effective as of 1 July 2008.