**The Danish Ministry of Taxation (Skatteministeriet) File No 2020-9326**

**Draft**

**Bill**

to an

**Act amending the Act on Various Consumption Taxes and the Tax Collection Act**[[1]](#footnote-1))

(Introduction of tax on nicotine products and aggregation of tax rates on smokeless tobacco, etc.)

**§ 1**

The Act on Various Consumption Taxes, cf. Consolidation Act No 1445 of 21 June 2021, as amended by § 8 of Act No 1728 of 27 December 2018, § 1 of Act No 11382 of 8 June 2021 and § 11 of Act No 1240 of 11 June 2021, is amended as follows:

**1.** *Heading* of Title IX is replaced by the following:

**‘Title IX**

**Tax on smokeless tobacco, nicotine products, and nicotine-containing liquids’**.

**2.** *§ 13* is to be worded as follows:

**‘13.** For other smokeless tobacco which is legal to place on the market under the Act on tobacco goods, etc. a tax of DKK 461.37 per kilogram is payable.’

**3.** The following is inserted after § 13:

**‘§ 13a.** For nicotine products which are not taxable under § 13, § 13b(1) or the Tobacco Tax Act, a tax of 5.5 øre per mg nicotine is payable, cf. paragraph 2.

*Paragraph 2.* Nicotine products authorised by a marketing authorisation under the Medicines Act, or under EU law laying down Community procedures for the authorisation of medicinal products for human use, are not subject to tax.

**§ 13b.** Tax is payable on nicotine-containing liquids, cf. paragraph 2. The tax shall be paid at the following rates on the basis of the taxable volume:

1) Goods with a nicotine content not exceeding 12 mg of nicotine per millilitre

2) Goods with a nicotine content exceeding 12 mg of nicotine per millilitre

DKK 1.5 per millilitre

DKK 2.5 per millilitre

*Paragraph 2.* No tax is payable on the following:

1) Nicotine-containing liquids approved by a marketing authorisation under the Medicines Act or under EU law laying down community procedures for the authorisation of medicinal products for human use or placed on the market as medical devices bearing the CE marking in accordance with Order No 1263 of 15 December 2008 on medical devices.

2) Nicotine-containing liquids covered by Chapter 5 of the Act on Chemicals which are not covered by the Act on Electronic Cigarettes, etc.

**§ 13c.** The following goods covered by § 13, § 13a(1) or § 13b(1) shall be exempt from tax:

1) Goods delivered to another registered warehousekeeper, cf. § 13e(4).

2) Goods delivered abroad.

3) Goods which have been completely destroyed or irretrievably lost by a registered warehousekeeper or during transport to and from the enterprise.

*Paragraph 2.* The registered warehousekeeper shall be able to demonstrate that the goods are covered by paragraph 1.

**§ 13d.** Taxable goods covered by § 13, § 13a(1) or § 13b(1) must be packed in immediate packages no later than one month after the goods were manufactured in Denmark or the goods received from abroad, unless they are covered by § 13c(1)(2). Immediate packages shall be stamped when the goods contained therein are packaged, or on receipt from abroad at the latest if the taxable goods are received from abroad in immediate packages, unless they are covered by § 13c(1).

*Paragraph 2.* Payment of the tax must be made in connection with the ordering of stamps, unless the registered warehousekeeper has obtained security under § 13g(1).

*Paragraph 3.* Taxable goods covered by § 13, § 13a(1) or § 13b(1) may be sold for commercial purposes only in intact immediate packages.

*Paragraph 4.* Immediate packages containing taxable goods delivered by registered warehousekeepers as from 1 July 2022 must bear stamps. Enterprises which are not registered warehousekeepers may not sell taxable goods in Denmark for commercial purposes without stamps after three months have elapsed from the date of entry into force of the requirement for a stamp under the first sentence.

*Paragraph 5.* Enterprises which are not registered warehousekeepers shall not store taxable goods without stamps after 4 months have elapsed from the date of entry into force of the requirement for a stamp under the first sentence of paragraph 4.

*Paragraph 6.* Taxable goods delivered from a registered warehousekeeper and bearing stamps valid before the entry into force of a tax increase may not be sold for commercial purposes in Denmark after three months have elapsed from the date of entry into force of the tax increase.

*Paragraph 7.* Enterprises which are not registered warehousekeepers may not retain taxable goods bearing stamps valid before the entry into force of a tax increase after four months have elapsed from the date of entry into force of the tax increase.

**§ 13e.** Taxable goods covered by § 13, § 13a(1) or § 13b(1) must be packed in completely closed immediate packages.

*Paragraph 2.* Immediate packages must be equipped with an indication of the nature of the contents, the nicotine concentration, the quantity and the name and principal place of business of the manufacturer or payer of the tax. However, the Customs and Tax Administration may authorise the use of the name and principal place of business of a retailer or an anonymity mark. Packages for immediate packages sale of nicotine products or nicotine-containing liquids must also bear an indication of the nicotine concentration. In addition, in the case of nicotine-containing liquids, the tax class must be indicated on the stamp itself. The information referred to in points 1 to 3 may be affixed to the stamp instead of on the package itself, in accordance with detailed rules.

*Paragraph 3.* Wholesale packages must indicate the nature of the contents, the nicotine concentration, the quantity and the name and principal place of business of the manufacturer or importer. Wholesale packages of nicotine products and nicotine-containing liquids shall also bear an indication of the nicotine concentration.

*Paragraph 4.* A warehousekeeper registered in Denmark who manufactures taxable goods may be authorised by the Customs and Tax Administration to transfer taxable goods in wholesale packages to another registered warehousekeeper.

*Paragraph 5.* The Minister of Taxation may lay down detailed rules on the technical standards for stamps.

**§ 13f.** Enterprises which are not registered as warehousekeepers may not accept or retain taxable goods not packed in properly sealed and duly stamped packages.

**§ 13 g.** The Customs and Tax Administration may grant registered warehousekeepers credit on payment of the tax upon provision of full security, so that the tax must be paid within one month of the date on which the stamps are issued. If payment is not made in due time, the amount carries interest in accordance with § 7 of the Tax Collection Act. Where the stamps are to be affixed to packages in another EU country, the enterprise may receive an additional credit corresponding to the normal journey time of the stamps and the goods to and from that country. An extension of the credit period due to the affixing of stamps in another EU country can only take place with the authorisation of the Customs and Tax Administration.

*Paragraph 2.* If the last timely payment day referred to in paragraph 1 is not a business day, the next business day is deemed to be the last timely payment day.

*Paragraph 3.* The credit period referred to in paragraph 1 may, on request and in the case of exceptional circumstances, be extended.

*Paragraph 4.* The Customs and Tax Administration may lay down detailed rules for extending the credit period.

*Paragraph 5.* The Minister of Taxation may determine the additional credit period for the affixing of stamps in other EU countries in accordance with paragraph 1, third sentence.

**§ 13h.** Stamps are produced by the Customs and Tax Administration and provided by the Customs and Tax Administration to registered warehousekeepers, unless otherwise agreed with the Customs and Tax Administration. Registered warehousekeepers may use only the stamps which they have ordered and received.

*Paragraph 2.* The tax is repaid for unused stamps that are returned or destroyed. Also, the tax on stamps on packages is repaid, which at a registered warehousekeeper or during transportation to and from the enterprise have been completely destroyed or irretrievably lost.

*Paragraph 3.* The Customs and Tax Administration may determine the terms of the repayment.

**§ 13i.** It is a condition for registration as a warehousekeeper under § 14a(1) for taxable goods covered by § 13, § 13a(1) or § 13b(1) that the company or person has premises in Denmark which the Customs and Tax Administration has approved prior to registration.

*Paragraph 2.* Warehousekeepers must keep goods furnished with stamps in stock, separate from goods with no affixed stamps.

*Paragraph 3.* Enterprises trading in taxable goods must keep accounting records on which to determine whether the tax on the taxable goods has been paid and where the taxable goods were supplied from. The financial statements must indicate which goods have been delivered (type, quantity and price), the day on which the delivery took place, who has delivered of the goods, whether the goods have been paid for and the manner in which the payment was made. The accounting records must be kept in accordance with the rules laid down in the Bookkeeping Act, and § 55 of the VAT Act applies mutatis mutandis to enterprises trading in taxable goods.

*Paragraph 4.* The enterprise’s accounting records must be stored at the entity, unless it can be made available to the Customs and Tax Administration within five working days. However, delivery notes, receipts, invoice receipts, and invoice copies of taxable goods in a place of business must be kept at the establishment for at least three months.

*Paragraph 5.* Accounting records, including invoices, invoice copies, delivery notes, and statements must be kept for five years after conclusion of the financial year. However, retailers’ cash register tapes and corresponding internal documents must only be kept for one year from the date of signature of the financial statements.

*Paragraph 6.* The Customs and Tax Administration may order the taxable party to comply with the provisions laid down in paragraphs 2 to 5. The Customs and Tax Administration may impose on the taxable party daily penalty payments under § 13k until the order is complied with.

*Paragraph 7.* The order must include a reference to the relevant provision and an indication of the concrete actions or measures to be taken by the enterprise to comply with that provision. The order must be made in writing and state that, if it is not complied with within the specified time limit, the recipient may be subject to daily penalty payments until the order is complied with.

**§ 13j.** Warehousekeepers who import or receive taxable goods from abroad must issue an invoice when selling those goods to enterprises. The invoice must include a sequential number and the billing date and information on seller name, commercial registration number (CVR or SE number), and address as well as the name and address of the buyer and the nature, quantity, and price of the delivery.

*Paragraph 2.* In the event of any delivery of taxable goods to an enterprise, the supplier must issue a delivery note. If the delivery is paid in cash, the supplier must instead issue a receipt. The buyer shall keep delivery notes or receipts for at least three months at the place of business at which the sale of the goods to which the delivery note or receipt relates is made. Where the goods are distributed to different places of business in the buyer’s enterprise, the buyer must draw up internal delivery notes or the like for each batch of goods referring to the original delivery note or receipt. Delivery notes or receipts must contain the same information as invoices referred to in paragraph 1; however, prices need not be indicated on delivery notes. A copy of an invoice meeting the conditions set out in paragraph 1 may replace a delivery note if the invoice is delivered to the enterprise at the latest at the time of delivery.

*Paragraph 3.* The Customs and Tax Administration may lay down detailed rules on the following:

1) Transfer of goods between registered warehousekeepers in accordance with § 13e(4).

2) Invoice issuance.

3) Accounting.

*Paragraph 4.* To the extent that accounting and invoice records are used in electronic form, the accounting and invoice rules must apply *mutatis mutandis*.

*Paragraph 5.* The Customs and Tax Administration can issue an order to the taxable party to comply with the provisions set out in paragraphs 1, 2, and 4. The Customs and Tax Administration may impose on the taxable party daily penalty payments under § 13k until the order is complied with.

*Paragraph 6.* The order must include a reference to the relevant provision and an indication of the concrete actions or measures to be taken by the enterprise to comply with that provision. The order must be made in writing and state that, if it is not complied with within the specified time limit, the recipient may be subject to daily penalty payments until the order is complied with.

**§ 13k.** The Customs and Tax Administration may impose daily periodic penalty payments on the owner of the company or the responsible day-to-day management for failure to comply with orders under § 13i(6) and (7) and § 13j(5) and (6). The daily penalty payments must be at least DKK 1,000 and may be increased by the Customs and Tax Administration with one week’s prior written notice.

**§ 13l. §** 14a(2) to (7), § 15(1), (3) and (4), § 16a, § 21 and § 24(1) shall not apply to enterprises which manufacture, decant, repackage, import or receive from abroad goods which are subject to tax under § 13, § 13a(1) or § 13b(1), enterprises trading in such goods or persons who hold the goods.’

**4.** *In § 14a (1)*, the following new sentence is added after the first sentence:

‘Enterprises which repackage or decant goods covered by Title IX shall also be registered as warehousekeepers with the Customs and Tax Administration in accordance with the first sentence.’

**5.** In §*14a(2), first sentence,* the following is inserted after ‘paragraph 1’: ‘, first sentence,’.

**6.** After § 14a, the following is inserted:

‘**§ 14b.** An enterprise producing, repackaging, decanting or receiving from abroad goods subject to the tax under § 13, § 13a(1) or § 13b(1) may register as a warehousekeeper as from 1 April 2022. The same applies to enterprises that sell or facilitate the sale of goods subject to the tax in § 13, § 13a(1) or § 13b(1) by distance selling to Denmark from another EU country, on which the enterprise is liable to pay Danish VAT. It is a condition for obtaining registration as a warehousekeeper under the first sentence that the company or person has premises in Denmark which the Customs and Tax Administration has approved prior to registration. The enterprises which have registered as warehousekeepers under the first or second sentence may, upon provision of full security, order stamps to be affixed to immediate packages of goods subject to the tax in § 13, § 13a(1) or § 13b(1). Immediate packages of goods, cf. § 13, § 13a(1) or § 13b(1), may not be handed over from the registered warehousekeepers as from 1 July 2022. The tax on stamps issued up to and including 30 June 2022 shall become chargeable on 1 July 2022 and shall be paid no later than 15 July 2022. Therefore, 15 July 2022 shall be considered as the last due date of payment. If payment is not made in due time, the amount carries interest in accordance with § 7 of the Tax Collection Act.

*Paragraph 2.* Stamps ordered under (1), fourth sentence, must be produced by the action of the Customs and Tax Administration and delivered by the Customs and Tax Administration to the registered warehousekeepers, unless otherwise agreed with the Customs and Tax Administration. Registered warehousekeepers may only use the stamps which they have ordered and received.’

**7.** After § 16a, the following is inserted:

**‘§ 16b.** Consignees who are not traders and who receive from other EU countries goods covered by Title IX must indicate, on receipt of the goods, the quantity of goods for which tax must be paid to the Customs and Tax Administration. The declaration must be signed by the consignee. Payment must be made not later than the date of submission of the declaration referred to in the second sentence. § 3(2), §§ 5 to 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.

*Paragraph 2.* On import of goods covered by Title IX from outside the EU or from areas not covered by the tax territory of the said EU countries, the tax is paid on importation unless the goods are imported in accordance with the rules laid down in § 14a. The tax must be settled in accordance with the rules laid down in Chapter 4 of the Customs Act. The rules on declaration and payment under paragraph 1 apply *mutatis mutandis*.’

**8.** In *§ 17*, the new paragraphs are inserted after paragraph 5:

*‘Paragraph 6.* The material referred to in paragraph 1 must be handed out or submitted to the Tax and Customs Administration upon request.

*Paragraph 7.* Warehousekeepers registered for tax under § 13, § 13a(1) or § 13b(1) shall, for each quarter for statistical purposes, provide information to the Customs and Tax Administration on the purchase and, where appropriate, resale of taxable goods.’

Paragraph 6 subsequently becomes paragraph 8.

**9.** The following is inserted after § 17:

**‘§ 18.** If goods are transferred, acquired or used by a registered warehousekeeper in such a way that the tax which should have been paid under § 13, § 13a(1) or § 13b(1) has not been paid, the amount due shall be demanded for payment within 14 days of the demand for payment. If the amount due cannot be determined on the basis of the enterprise’s financial statements, the Customs and Tax Administration may estimate the amount. The provisions of §§ 6 and 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.

*Paragraph 2.* If the stock of taxable goods present is less than the stock after the accounts, the missing quantity shall be taxed, cf. §§ 13c(1) and 24(2) and (3).

**§ 18a.** Any enterprise which transfers, acquires, appropriates, stores or uses goods on which no tax has been paid which should have been paid under § 13, § 13a(1) or § 13b(1) shall be charged the amount due for payment within 14 days of the demand for payment. If the amount due cannot be determined on the basis of the enterprise’s financial statements, the Customs and Tax Administration may estimate the amount. The provisions of §§ 6 and 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.

**§ 18b.** If the Customs and Tax Administration finds taxable nicotine products on which no tax has been paid, cf. § 13a(1), and it is not possible to determine with sufficient certainty without further examination what the nicotine content of the goods is, the tax is calculated on the basis of a nicotine concentration of 7 % of the weight of the product. If the Customs and Tax Administration estimates that the actual nicotine concentration is higher than 7 % of the weight of the product, the tax is calculated on the basis of a determination of the nicotine concentration carried out by the Customs and Tax Administration.

*Paragraph 2.* If the Customs and Tax Administration finds taxable nicotine-containing liquids on which no tax has been paid, cf. § 13b(1), and it is not possible to determine with sufficient certainty without further examination what the nicotine content of the goods is, the tax shall be collected at the rate set out in § 13b(1)(2).

*Paragraph 3.* Paragraphs 1 and 2 shall apply mutatis mutandis if the Customs and Tax Administration finds that taxable goods have been sold without payment of tax, cf. §§ 13a(1) and 13b(1) and it is not possible to determine with sufficient certainty what the nicotine content of the goods is.’

**10.** In *§ 22(1)(2)*, the following is inserted after ‘infringes’: ‘§ 13d(1) or (3) to (7), §§ 13e or 13f, § 13i(2) to (5), § 13j(1) or (2)’.

**11.** The following is inserted as *paragraphs* *5 to 7* in *§ 22*:

*‘Paragraph 5.* When determining a fine for infringement of § 14a(1), first sentence, a higher fine shall be set in the event of an enterprise which imports or receives goods from abroad into Denmark covered by § 13, § 13a(1), or § 13b(1). The same shall apply to infringements of § 13i(2) to (5) or § 13j(1) or (2) if the infringement means that it is not possible to ascertain whether a tax has been paid under § 13, § 13a(1), or § 13b(1).

*Paragraph 6.* If someone has committed several infringements of § 14a(1), first sentence, in the case of an enterprise which imports into Denmark or receives from abroad goods covered by § 13, § 13a(1), or § 13b(1), as well as infringements of § 13i(2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto, and where the infringements entail penalties in the form of a fine, the financial penalty for each infringement shall be added together. If someone has infringed the first sentence of § 14a(1) in relation to an enterprise which imports into Denmark or receives from abroad goods covered by § 13, § 13a(1), § 13b(1), or has infringed § 13i(2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto and one or more other tax laws or the deposit legislation, and where the infringements entail penalties in the form of a fine, the penalty shall be added together for each infringement of this Act or regulations laid down pursuant thereto and the financial penalty for the infringement of the other tax laws or the deposit legislation.

*Paragraph 7.* The provisions of paragraph 6 may be deviated from where there are specific reasons for doing so.’

**§ 2**

In the Tax Collection Act, see Consolidation Act No 573 of 6 May 2019 as amended by § 3 of Act No 1587 of 27 December 2019, § 6 in Act No 168 of 29 February 2020, Act No 2061 of 21 December 2020, § 3 in Act No 2226 of 29 December 2020, and most recently § 2 in Act No 1182 of 8 June 2021, the following amendment is made:

**1.** *Annex 1, List A, point 9,* is worded as follows:

‘9) Act on Various Consumption Taxes, with the exception of Title IX.’

**§ 3**

Act No 1182 of 8 June 2021 on the Act amending the Act on Various Consumption Taxes and the Tax Collection Act (Introduction of tax on nicotine-containing liquids for e-cigarettes, etc.) is amended as follows:

**1.** *§ 1, points 1-4* and *6-10,* and *§ 2* shall be deleted.

**§ 4**

*Paragraph 1.* The Act shall enter into force on 1 January 2022, except as provided for in paragraphs 2 and 3.

*Paragraph 2.* § 1(1) to (5), and (7) to (11) and § 2 shall enter into force on 1 July 2022.

*Paragraph 3.* § 1, point 6, shall enter into force on 1 April 2022.

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# 1. Introduction

The main objective of the Bill is to strengthen public health in Denmark.

The aim of the Bill is to introduce a tax on nicotine products. The initiative is one of seven initiatives from the Government’s Action Plan on Strengthening Requirements and Enhanced Control of Tobacco Trade.

As the action plan shows, creativity is great when developing new addictive nicotine products. Thus, new nicotine products continue to emerge to supplement or replace traditional tobacco products and which are not taxed because, like e-cigarettes, they do not contain tobacco.

However, nicotine is addictive and harmful to health, regardless of its form. The Government therefore wishes to impose taxes on nicotine products.

The proposal is to be seen in the context of the introduction of a tax on liquids for e-cigarettes (also called e-liquids) as agreed by the government Social Democrats (Socialdemokratiet), Radical Liberal Party (Radikale Venstre), Socialist People’s Party (Socialistisk Folkeparti), Unity List (Enhedslisten) and the Alternative (Alternativet) in connection with the 2020 Finance Act. It is proposed that nicotine products be regulated in the same way as nicotine-containing liquids.

The Bill also proposes to merge the two tax categories for smokeless tobacco into one. This will result in simpler and more transparent legislation, whereby enterprises will no longer have to distinguish between different categories of tax which are not considered to be professionally justified for maintaining them.

In addition, smokeless tobacco is proposed to be subject to the same regulation as nicotine products and nicotine-containing liquids.

In addition, for regulatory reasons, it is proposed to repeal and re-adopt the agreed provisions on the tax on nicotine-containing liquids, which will enter into force on 1 July 2022. This part of the Bill does not contain any substantive changes to the previously adopted — but not yet in force — provisions relating to the tax on nicotine-containing liquids. The proposal is due to the fact that provisions which have not entered into force cannot be amended in strict legal terms.

# 2. Main points of the Bill

## 2.1. Introduction of a tax on nicotine products

2.1.1. Current law

The Act on Various Consumption Taxes (hereinafter the Consumption Tax Act) lays down provisions for tax on a number of different products, such as cigarette paper, chewing tobacco, and smokeless tobacco.

Under current law, nicotine products which do not contain tobacco are not subject to tax.

2.1.2. Considerations of the Ministry of Taxation and the proposed system

A proposal has been made to introduce a tax on nicotine products. The reason for the proposal is the Government’s Action Plan on Strengthened Requirements and Enhanced Control of Tobacco Trade. Today there are nicotine bags that look like chewing tobacco and snuff. The product does not contain tobacco but nicotine, flavourings, etc. Nicotine bags are often used in the same way as snuff and chewing tobacco by placing the bag under the lip.

The Bill is to be viewed in the context of Act No 1588 of 27 December 2019 on the increase of tobacco taxes, Act No 2071 of 21 December 2020 on the implementation of the national action plan against smoking by children and young people, and Act No 1182 of 8 June 2021 on the introduction of a tax on nicotine-containing liquids for e-cigarettes, etc., where the government is strongly committed to stopping and preventing smoking and nicotine dependence, especially in relation to children and young people who are very price-sensitive. By Act No 2071 of 21 December 2020, tobacco substitutes were subject to the same regulation as tobacco products as regards advertising rules, sponsorship, prohibition of visible placement and display, age limit, smoke-free school kitchens and smoke-free school hours, and health warnings on packets should be similar to those on e-cigarettes. In this context, tobacco substitutes are defined as a non-tobacco product that contains nicotine, cf. § 2(2) of the Act on Tobacco Products, etc., or an electronic cigarette, cf. § 2(1) of the Act on Electronic cigarettes, etc., and which has not been approved by a marketing authorisation under the Medicines Act or EU law laying down Community procedures for the authorisation of medicinal products for human use. In addition, devices intended to be used with the product are included.

A proposal has been made to set a tax of 5.5 øre per mg of nicotine. The tax on the product is therefore proportional to the nicotine content, which encourages the consumer to use nicotine products with a lower nicotine concentration.

Nicotine products describes all products containing nicotine that are not smokeless tobacco within the meaning of § 13 of the Consumer Tax Act, a nicotine-containing liquid within the meaning of § 13b(1) or a tobacco product covered by the Tobacco Tax Act. The definition is therefore proposed to cover all products containing nicotine, regardless of the subjective intention of the use of the nicotine product. The subjective intention of using the product or intended use of the product is therefore not decisive as to whether the product is taxable. The determining factor is whether or not the product contains nicotine. Thus, if a product contains nicotine, it will be subject to the tax, unless the nicotine product is covered by the proposed exemptions. As a result, the tax would cover all nicotine-containing products which are not directly exempted.

A proposal has been made to exempt nicotine products authorised by a marketing authorisation under the Medicines Act or under EU law laying down Community procedures for the authorisation of medicinal products for human use. This will be in line with the other tax legislation, in which medicinal products are also exempt. In this connection, reference may e.g. be made to the Chocolate Tax Act, in which nicotine chewing gum is exempt from tax.

It is proposed that the new tax be included in the Consumption Tax Act, which already includes taxes on smokeless tobacco and cigarette paper. As a result, the tax will be subject to the applicable rules in this Act, including, inter alia, the rules on registration, checks, and accounting, cf. general remarks of the Bill, points 2.4.1 and 2.4.2, applicable rules on penalties and the additional accounting and penal provisions proposed in the Bill, cf. general remarks of the Bill, points 2.4.3. and 2.4.4.

From experience, there is fraud in the tobacco sector, which is also expected to be the case for nicotine products.

In view of the risk of fraud, it is proposed to introduce special accounting and invoice provisions and rules on stricter fines for infringements of the registration and accounting rules and a stamp system similar to that applicable to nicotine fluids in order to reduce circumvention of the rules, cf. general remarks of the Bill, points 2.4.2, 2.4.3 and 2.4.4.

## 2.2. Merger of tax on smokeless tobacco

2.2.1. Current law

Under § 13(1) of the Consumer Tax Act, tax is payable on kardus chewing tobacco and snus for nasal use, which is lawfully marketed under the Tobacco Products Act, etc. The tax is calculated per kilogram and is DKK 113 per kilogram. Under paragraph 2 of that provision, tax is payable on other smokeless tobacco which is lawfully marketed under the Tobacco Products Act, etc. The tax is calculated per kilogram and amounts to DKK 410.76 per kilogram.

With the agreement on the Finance Act for 2020, the government, Radical Liberal Party, Socialist People’s Party, Unity List and the Alternative agreed to increase taxes on tobacco in two steps. Act No 1588 of 27 December 2019 provides that the tax on smokeless tobacco, together with the other tobacco taxes, is to be increased on 1 January 2022. The tax rate for kardus chewing tobacco and snus for nasal use, which is lawfully marketed under the Tobacco Products Act, etc., is DKK 126.93 per kilogram and the rate for other smokeless tobacco, which is lawfully marketed under the Tobacco Products Act, etc., is DKK 461.37 per kilogram, cf. § 2(3) of Act No 1588 of 27 December 2019.

2.2.2. Considerations of the Ministry of Taxation and the proposed system

A proposal has been made to amend § 13 of the Consumer Tax Act so that the provision, which is divided into two tax categories with different tax rates under current law, is merged into one tax category with the same tax rate. This helps to simplify and balance the tax with the new tax on nicotine products and does not incentivise substitution.

It is proposed that the new and total tax rate be set at the rate applicable as from 1 January 2022 to other smokeless tobacco, cf. § 2(3) of Act No 1588 of 27 December 2019. This means that under the provision, a tax of DKK 461.37 per kilogram will be payable for all types of smokeless tobacco as from 1 July 2022.

Smokeless tobacco describes, among other things, kardus chewing tobacco, snus for nasal use, chewing tobacco and other smokeless tobacco. The proposal is not intended to change the taxable product area for smokeless tobacco, which is thus unchanged. Any smokeless tobacco would, with what is proposed, be subject to the same tax rate in the future.

As regards the distinction between smokeless tobacco and the proposed tax on nicotine products, it should be noted that smokeless tobacco is to be understood as products containing tobacco in whole or in part, while nicotine products are to be understood as products which do not contain tobacco in whole or in part.

It is proposed that the new wording enters into force on 1 July 2022, cf. § 4(1) of the Bill.

The reason for the proposal is that it may be difficult to determine whether a product is to be regarded as kardus chewing tobacco, snus for nasal use, or other smokeless tobacco, and thus at which rate tax is payable. The merger of the two tax categories for smokeless tobacco achieves simpler and more transparent legislation in which enterprises will no longer have to distinguish between different tax categories. Moreover, there are no grounds justifying the maintenance of differentiated tax rates.

It is proposed that smokeless tobacco be subject to the same regulation as nicotine products and nicotine-containing liquids. This is partly because nicotine products such as nicotine bags are substitutable with smokeless tobacco such as chewing tobacco, and therefore it is considered appropriate that all three products (smokeless tobacco, nicotine products and nicotine-containing liquids) are subject to the same regulation. The proposal introduces, inter alia, specific accounting and invoice provisions, and rules on stricter fines for infringements of the registration and accounting rules, and a stamp system to reduce circumvention of the rules. At the same time, this means that the rules for declaring tax on smokeless tobacco will be amended as from 1 July 2022, so that enterprises will no longer have to submit a monthly return, but must declare the tax through the proposed stamp system, where the declaration and payment of the tax will in principle be made in connection with the ordering of stamps. Reference is also made to the general remarks of the Bill, points 2.4.2, 2.4.3 and 2.4.4.

**2.3. Tax on nicotine-containing liquids**

2.3.1. Current law

The Consumer Tax Act provides for a number of different products to be taxed, including, for example, cigarette paper, chewing tobacco, and smokeless tobacco.

By Act No 1182 of 8 June 2021, a new section was inserted into the Consumer Tax Act, Title IXa, Tax on nicotine-containing liquids, which contains ten new paragraphs, §§ 13a-13j. The rules on the tax on nicotine-containing liquids will enter into force on 1 July 2022.

As from 1 July 2022, nicotine-containing liquids are therefore subject to tax.

For technical reasons, the provisions on the tax on nicotine-containing liquids adopted, but not yet in force, are proposed to be repealed in this Bill, cf. § 3 of the Bill. The provisions are proposed to be reinstated in this Bill, cf. § 1(3) of the Bill and general remarks of the Bill, point 2.4.2.

This part of the Bill does not contain any substantive changes in relation to the regulation of the tax on nicotine-containing liquids adopted, but not in force. The proposal is due to the fact that provisions which have not entered into force cannot be amended in strict legal terms.

2.3.2. Considerations of the Ministry of Taxation and the proposed system

It is proposed to introduce tax on nicotine-containing liquids. The reason for the proposal is that the 2020 Finance Act contains an initiative to introduce a new tax on liquids for e-cigarettes. It was agreed that the tax would amount to 2 DKK per millilitre of e-liquid. Today, e-liquids are available both with and without nicotine. E-liquids with nicotine can either be bases without taste or be mixed with a flavoured liquid. E-liquids without nicotine will typically be flavoured liquids and can be mixed with the nicotine base, if the user wishes to use nicotine.

The Bill should i.a. be seen in the context of Act No 1588 of 27 December 2019 on the increase in taxes on tobacco and Act No 2071 of 21 December 2020 on implementing the national action plan against smoking by children and young people, where the government makes a strong effort to stop and prevent tobacco smoking and nicotine dependence, particularly in relation to children and young people who are very sensitive to prices. Act No 2071 of 21 December 2020 prohibits the sale of e-liquids with characteristic flavours other than menthol and tobacco in Denmark as from 1 April 2021. However, in the case of liquids produced before 1 April 2021, the prohibition does not apply until 1 April 2022.

It is proposed to set two tax rates. A tax of DKK 1.5 per millilitre of nicotine containing 12 mg or less of nicotine per millilitre, and a tax of DKK 2.5 per millilitre of nicotine containing more than 12 mg of nicotine per millilitre. It is proposed to introduce two tax rates, since the tax itself and the taxable product range only cover the nicotine-containing liquids. This means that, without differentiated tax rates, there would be tax incentives for consumers to buy nicotine-containing liquids with a high nicotine content and then mix/dilute the liquid to the desired concentration. The ratio between the two tax rates and the concentration of nicotine means that there will be no tax incentive to buy a liquid with 20 mg of nicotine per millilitre and dilute it rather than buy 12 mg of nicotine per millilitre.

Nicotine-containing liquids describes all liquids containing nicotine. It is therefore proposed that the definition should cover both nicotine-containing liquids that can be consumed directly in e-cigarettes and nicotine-containing liquids that can be used to produce liquids which can be consumed in e-cigarettes. Thus, nicotine-containing liquids will not necessarily be e-liquids. With the proposed definition, the subjective intention of the use of the liquid or the intended use of the liquid will not be decisive of whether the liquid is taxable. It is therefore proposed that the taxable product area be defined as ‘nicotine-containing liquids’. Thus, if a liquid contains nicotine, it will be subject to the tax, irrespective of whether it can be consumed or is intended for consumption in an e-cigarette, unless the liquid is covered by the proposed exemptions. This will cover all nicotine-containing liquids which are not directly exempted.

A proposal has been made to exempt nicotine-containing e-liquids authorised by a marketing authorisation under the Medicines Act or under EU law laying down community procedures for the authorisation of medicinal products for human use or placed on the market as medical devices bearing the CE marking in accordance with Order No 1263 of 15 December 2008 on medical devices. This will be in line with the other tax legislation, in which medicinal products are also exempt. In this connection, reference may e.g. be made to the Chocolate Tax Act, in which nicotine chewing gum is exempt from tax. In addition, a proposal has been made to exempt nicotine-containing e-liquids, which are covered by Chapter 5 of the Act on Chemicals (hereinafter the Chemicals Act). These are toxic or highly toxic substances and mixtures which are subject to a set of rules requiring requisition to purchase the substances and mixtures, unless you are directly exempted from the requisition requirement in the Chemicals Act.

It is proposed that the new tax be included in the Consumption Tax Act, which already includes taxes on smokeless tobacco and cigarette paper. As a result, the tax will be subject to the applicable rules in this Act, including, inter alia, the rules on registration, checks and accounting, cf. general remarks of the Bill, points 2.4.1 and 2.4.2, applicable rules on penalties and the additional accounting and penal provisions proposed in the Bill, cf. general remarks of the Bill, points 2.4.3 and 2.4.4.

The proposed tax level would mean that on average the price of goods would approximately double. It is therefore assumed that there will be an illegal market for these products and that there will be a strong incentive to evade the tax. The higher the tax, the greater the incentive to circumvent the rules.

In addition, there is experience of fraud in the tobacco sector, which is also expected to be the case for the e-liquid market. E-liquids do not take up much space and are easy to transport. Even relatively small amounts of liquid will have a large value and can cover a significant degree of consumption.

Finally, it is assessed that, at the retail stage, it can be relatively easy to mix (processed or manufactured) e-liquids. In order for electronic cigarettes and refill nicotine containers to be placed on the market in Denmark, notification must have been given of these in accordance with the provisions of the Act on Electronic Cigarettes. If the products have not been notified, they are not legal to place on the market. From a tax point of view, mixing e-liquids and hence the potential production of new e-liquids will immediately mean that retailers are regarded as producing or processing taxable nicotine-containing liquids. All enterprises wanting to manufacture or process nicotine-containing liquids must, as proposed, be registered as warehousekeepers with the Danish Tax Administration Authority (Skatteforvaltningen).

In light of the above on the incentive to circumvent the rules, a proposal has been made to introduce special accounting and invoice provisions and rules on stricter fines for infringements of the registration and accounting rules and a stamp system to reduce circumvention of the rules, cf. general remarks of the Bill, points 2.4.2, 2.4.3 and 2.4.4.

**2.4. Regulation of smokeless tobacco, nicotine products and nicotine-containing liquids**

2.4.1. Registration, de minimis threshold, checks, etc.

2.4.1.1. Current law

Enterprises that manufacture or receive from abroad goods which are taxable under the Consumer Tax Act, including smokeless tobacco, must in principle be registered as warehousekeepers with the Tax Administration Authority. The Tax Administration Authority will issue a certificate of registration, see § 14a(1) of the Consumption Tax Act. When an enterprise is registered, a number of rules apply to i.a. the declaration and payment of tax, checks, liability, etc. For declaration and payment, reference is made to the general remarks of the Bill, point 2.4.2.

§ 14a(2) lays down a de minimis threshold on when enterprises may refrain from registering as warehousekeepers and thus refrain from paying tax. Enterprises may refrain from registering as warehousekeepers and paying tax if the quantity of taxable goods corresponds to a tax not exceeding DKK 10,000 per year. The annual period is the financial year of the enterprise, up to a maximum of 12 consecutive months. This de minimis threshold applies to all taxes covered by the Consumer Tax Act, including the tax on smokeless tobacco.

§ 14a(8) provides that enterprises registered under § 47(1) of the VAT Act and which sell taxable goods in Denmark by distance selling must register as warehousekeepers. This means that an enterprise providing distance sales with, for example, smokeless tobacco must be registered for distance sales when it meets the conditions laid down in § 14a(8).

The Tax Administration Authority may allow tax payment for goods covered by § 3 of the Consumer Tax Act (incandescent light bulbs, etc.) and § 11 (coffee, etc.) and which are received from abroad for business purposes to be settled in accordance with the rules laid down in § 16a(1) to (7) of the Act. This means that enterprises that are not registered as warehousekeepers but which receive taxable goods from abroad must be registered as registered consignees, cf. § 16a(3) of the Consumer Tax Act. Notification for registration is made by the Tax Administration Authority. In practice, the Tax Administration Authority also allows tax payment for goods covered by § 13 of the Consumer Tax Act (smokeless tobacco) to be made in accordance with § 16a(1) to (7).

According to § 16a(8) of the Consumption Tax Act, there is also a de minimis threshold on when enterprises may refrain from registering as registered consignees and thus refrain from paying tax. On importation or receipt of taxable goods, an enterprise may refrain from registering as a registered consignee and refrain from paying tax if the quantity of taxable goods imported and received corresponds to a tax not exceeding DKK 10,000 annually. The annual period is the financial year of the enterprise, up to a maximum of 12 consecutive months.

The Consumption Tax Act contains a number of provisions on how the tax is checked and on the possibilities for action by the Tax Administration Authority in the event of non-payment.

For consignees, the Tax Administration Authority has the option of requiring enterprises which repeatedly fail to pay the tax in due time to submit a declaration and pay tax on receipt of the goods, see § 16a(6). This means that the registered consignee cannot use monthly settlements, but must declare and settle for each consignment.

The Tax Administration Authority has the possibility of carrying out checks under § 17 of the Act. For example, if deemed necessary, the Tax Administration Authority has the right to carry out inspections of the enterprises covered by the Act at any time, with proper identification and without a court order, and to check the enterprise’s inventories, books of account, other accounting records, correspondence, etc., see § 17(1). Where the material referred to in paragraph 1 is available electronically, access by the Tax Administration Authority also includes that material, see paragraph 6. In addition, suppliers of materials or parts for the manufacture of the legally taxable goods must, at the request of the Tax Administration Authority, provide the administration with information on supplies to the legally taxable enterprises, see § 17(2). According to paragraph 3 of that provision, enterprises trading taxable goods are obliged, at the request of the Tax Administration Authority, to provide the administration with information on the purchase of such goods. Furthermore, the Tax Administration Authority is entitled to carry out inspections of goods during transport when the goods are sold commercially from abroad or transported commercially to persons other than warehousekeepers, see § 17(4). Finally, the Tax Administration Authority is entitled at any time, if deemed necessary, with proper identification and without a court order, to have access to carry out inspections of inventories and financial statements, etc., at the enterprises referred to in paragraphs 2 to 4, see paragraph 5. In addition, the Tax Administration Authority has the possibility of obtaining assistance from the police for the checks under § 17, see § 23.

If an enterprise does not comply in due time with an order to provide security, see § 11 of the Tax Collection Act, the Tax Administration Authority may withdraw the registration of the enterprise until security has been provided.

In relation to liability it is provided in § 21, in addition to the persons referred to in § 10 of the Tax Collection Act, the consignees referred to in § 16a(3) of the Consumption Tax Act and the party in possession of the goods are liable for payment of the tax in accordance with the provisions of this Act. This means that in addition to the enterprise, the foundation, association, etc., or the party who as owner, tenant, etc., runs the enterprise on own account, consignees and the party in possession of the goods are also liable for payment of the tax.

2.4.1.2. Considerations of the Ministry of Taxation and the proposed system

A proposal has been made that enterprises that manufacture or receive nicotine products or nicotine-containing liquids from abroad should be registered as warehousekeepers, cf. § 14a(1).

In addition, it is proposed that enterprises producing smokeless tobacco or receiving smokeless tobacco from abroad will have to be registered as warehousekeepers. Enterprises that will be subject to the new combined tax on smokeless tobacco will also be subject to accounting requirements, approval of premises, stamp system, etc.

In addition to the fact that enterprises that manufacture or receive smokeless tobacco, nicotine products, or nicotine-containing liquids from abroad will have to be registered as warehousekeepers, it is proposed to insert a provision in § 14a(1) to the effect that enterprises which repackage/decant taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) (smokeless tobacco, nicotine products and nicotine-containing liquids) will also have to be registered as warehousekeepers. In addition to extending the registration to enterprises that repackage/decant smokeless tobacco, nicotine products and nicotine-containing liquids, it is also proposed to introduce a requirement for the approval of premises so that a warehousekeeper’s premises must be approved by the Tax Administration Authority before the enterprise can obtain registration.

With the insertion of the proposed tax on nicotine products and nicotine-containing liquids into the Consumer Tax Act, enterprises selling taxable goods covered by the proposed §§ 13a(1) and 13b(1) (nicotine products and nicotine-containing liquids) will have to be registered as warehousekeepers under § 14a(8) of the Consumer Tax Act. It should be noted that the proposed premises requirement, as described in the general remarks of the Bill, point 2.4.1.2, will not apply to enterprises registered as warehousekeepers under § 14a(8). The premises requirement will thus apply only to enterprises that are to be registered for tax purposes under § 14a(1) for taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1).

A proposal has been made that the warehousekeeper registration should be the only registration option. This also applies to smokeless tobacco. The proposal would thus no longer make it possible to register as a consignee of smokeless tobacco. Thus, enterprises receiving taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) from abroad will not be able to register as consignees. This means that § 16a of the Consumer Tax Act is not proposed to apply to the proposed taxes on smokeless tobacco, nicotine products and nicotine-containing liquids. The reason for this is that it is considered most appropriate that there should be a requirement for the approval of premises, etc. In addition, it is based on the rules governing the tax on cigarettes and smoking tobacco in the Tobacco Tax Act, where there is also no possibility of registering as a consignee. Where registration as a consignee is no longer applicable to the tax on smokeless tobacco, and when registration as a consignee will not be possible for the new taxes on nicotine products and nicotine-containing liquids respectively, there will be no need for the rules in § 21 on liability for consignees to apply.

It should be noted that this means that importers of smokeless tobacco will henceforth be able to register only as warehousekeepers and that the possibility in practice for importers of smokeless tobacco to register as consignees is removed.

In addition to the fact that the rules on consignees will not apply, there are a number of other rules in the Consumption Tax Act which will not apply either. This concerns, i.a., the de minimis threshold rule laid down in § 14(2).

The reason for this is that if the de minimis threshold would apply to the proposed tax on nicotine-containing liquids, an enterprise would be able to introduce about 500 refill containers containing 10 ml of nicotine-containing liquid per refill container without having to register. As described above in the general remarks of the Bill, point 2.4.2, there will be a great incentive to evade tax, as the tax is high and the liquids do not take up much space and are easy to transport. Moreover, should the de minimis threshold apply, the registration requirement could be circumvented by importing relatively large quantities in several stages without having to register. It is therefore not considered appropriate that the de minimis threshold rules apply to the tax on nicotine-containing liquids under the proposed § 13a(1).

In addition, a de minimis threshold rule is found to be inappropriate, since it proposes to introduce stricter fines for non-registration as warehousekeepers in § 1(11) of the Bill. If there was a de minimis threshold, grey areas could arise as to when an enterprise should actually have registered as a warehousekeeper or would be subject to the de minimis rule in force. Reference is also made to the general remarks of the Bill, point 2.4.4, on increased fines.

Finally, it is proposed that § 21 on liability for consignees and persons in possession of the goods will not apply. The reason for this is that there is no need for the rule, as it relates to consignees and holders of the goods, and the registration of the goods is not proposed to apply to the tax on smokeless tobacco, nicotine products, or nicotine-containing liquids. For the sake of clarity, it is therefore proposed that the provision should not apply to the tax on smokeless tobacco, nicotine products, or nicotine-containing liquids. In this context, a proposal has been made to insert a new provision in the Consumer Tax Act according to which a person who transfers, acquires, appropriates, or uses taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) on which no tax has been paid for business purposes is to pay tax on the goods. This enables the Tax Administration Authority to be able to collect the tax from those enterprises when there are goods on which no tax has been paid. The liability rule, as the other liability rules of the tax legislation, would apply immediately and at any stage from the manufacturer or importer to the store in which the goods are located.

2.4.2. Settlement of tax and stamp system

2.4.2.1. Current law

Where an enterprise is registered for tax under the Consumption Tax Act as either warehousekeeper or consignee, a number of rules apply, i.a., to the declaration, payment and reimbursement of tax. For the rules on registration, checks and liability, reference is made to the general remarks of the Bill, point 2.4.1.

Under current law, warehousekeepers who are registered for tax under the Consumer Tax Act, including for products covered by § 13 (smokeless tobacco), must calculate the taxable quantity for the tax period on the basis of the quantity of taxable goods supplied by the business during the tax period, cf. § 14a(3). The taxable period is one month. § 14a(6) indicates which goods are to be deducted for the purposes of determining the taxable quantity. These are, for example, goods delivered to another warehousekeeper and goods delivered abroad. Warehousekeepers must, after the expiry of each tax period, indicate the quantity of goods on which the enterprise must pay tax and pay the tax to the Tax Administration Authority, see § 15(1). Enterprises that are subject to the de minimis threshold in § 14a(2) must keep accounts showing that the quantity of taxable goods corresponds to a tax not exceeding DKK 10,000 annually, see § 15(3).

In addition, warehousekeepers under § 14a(4) are entitled, without the tax being paid, to receive taxable goods from other warehousekeepers or from abroad. The Tax Administration Authority may lay down the detailed rules for the transfer of goods between warehousekeepers, see § 15(4).

On importation of goods from outside the EU or from areas not covered by the tax territory of the said Member States, the tax is payable on importation unless the goods are imported in accordance with the rules laid down in § 14a, see § 16a(1). The tax must be settled in accordance with the rules laid down in Chapter 4 of the Customs Act.

Consignees who are registered for tax under the Consumer Tax Act, including for products covered by § 13 (smokeless tobacco), shall, after the end of each tax period, declare the quantity of the goods received by the enterprise during the period and pay the tax to the Tax Administration Authority, cf. § 16(4).

For other consignees, the declaration and payment must be made in accordance with the rules laid down in § 9(2) to (4) of the Consumption Tax Act, see § 16a(5).

§ 24 regulates exemption and reimbursement. Paragraph 1 lays down that taxable goods delivered abroad by warehousekeepers are exempt from tax. The Tax Administration Authority may grant authorisation for the reimbursement of tax on goods for which tax has been paid, which are commercially supplied abroad. Registered consignees may, without authorisation after the expiry of each tax period, rather than apply to the Tax Administration Authority for reimbursement, instead declare the tax on goods delivered abroad for which tax has been paid, see § 16a(4), on the tax declaration, so that the tax subject to reimbursement is included in the calculation of the tax liability.

According to paragraph 2, it has been provided that goods imported or received from abroad are exempt from tax to the same extent and under the same conditions as those laid down for exemption under § 36(1)(1) to (3) of the VAT Act. Finally, paragraph 3 of that provision provides that no tax is payable on goods supplied to the diplomatic missions referred to in § 4 of the Customs Act, international institutions, etc., and to the persons attached thereto.

2.4.2.2. Considerations of the Ministry of Taxation and the proposed system

A proposal has been made to introduce a stamp system for the proposed tax on smokeless tobacco, nicotine products, and nicotine-containing liquids. This means that the general settlement rules for warehousekeepers, as laid down in §§ 14a(3) and (6) and 15(1), will no longer apply to the tax on smokeless tobacco and to the proposed taxes on nicotine products or nicotine-containing liquids. As stated in the general remarks of the Bill, point 2.4.1.2, it is proposed that the de minimis threshold rule in § 14a(2) should not apply and that it should not be possible to register as a consignee. This also means that § 15(3) (the accounting rule for enterprises covered by the de minimis threshold rules) and § 16a (the rules on consignees) will not apply.

A stamp is a mark affixed to a product subject to excise duty and which shows that tax has been paid on this particular product. Overall, the system operates in such a way that manufacturers/importers order the stamps from the Tax Administration Authority. The Tax Administration Authority then passes on the order to the printing office. Once the stamps have been printed, the enterprise may collect the stamps or have them delivered. Enterprises can then place the stamp on their goods, and the mark thus shows that the tax has been paid. The payment of the tax depends on whether the manufacturer/importer has provided security for the payment to the Tax Administration Authority. The system is known from cigarettes and smoking tobacco. However, it should be noted that the tax on cigarettes and smoking tobacco is a harmonised tax, whereas the proposed tax on smokeless tobacco, nicotine products, and nicotine containing liquids would be a national tax. This means that there will be differences in the two systems as e.g. the concept of ‘transition for consumption’ does not apply to the national taxes and because the tax will not be covered by the EU-harmonised rules for payment of tax, chargeability of the tax, etc. This is also the reason why the tax is not included in the Tobacco Tax Act, as this Act contains rules which apply to harmonised excise duties.

As with the current regime for cigarettes and smoking tobacco, a proposal has been made stipulating that it will not be possible for enterprises which only receive or import taxable goods covered by the proposed § 13, § 13a(1) and § 13b(1) (smokeless tobacco, nicotine products and nicotine-containing liquids) to register as consignees. This means that the Tax Administration Authority cannot in future allow tax payment for goods covered by § 13 of the Consumer Tax Act (smokeless tobacco) to be made in accordance with § 16a(1) to (7).

This means that enterprises and persons only will have the opportunity to register as warehousekeepers. The current system for cigarettes and smoking tobacco makes it possible to register as temporary consignee. However, this type of registration does not appear in the Consumption Tax Act.

It should be noted that it is proposed that a more severe fine for infringement of the obligation to register for warehousekeepers may be imposed when the infringement occurs in connection with the importation of taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1), cf. general remarks of the Bill, point 2.4.4.

A stamp system requires registered warehousekeepers to place an order for stamps with the Tax Administration Authority. As a rule, payment of the tax must be made in connection with the ordering of the stamps. However, it is proposed that enterprises should be given the opportunity to provide security. The security provision system will be optional and will provide the eligible enterprises with credit for the payment of the tax.

If an enterprise provides security, the enterprise will first place an order with the Tax Administration Authority. Accordingly, the Tax Administration Authority must ensure that the amount of the order is within the security provided. Thereafter, the Tax Administration Authority informs the printing office of the order. When the printing office is ready, they notify the enterprise, which then picks up the stamps – or has them sent. The printing office informs the Tax Administration Authority of the collection/shipment, and the Tax Administration Authority is responsible for collecting the tax. If an enterprise chooses to provide security, it is proposed that the enterprise should not pay tax until one month after the delivery of the stamps.

If an enterprise has not provided security, the tax must be paid before the Tax Administration Authority forwards the order to the printing office. This ensures that the stamps have been paid for before they are printed. The reason why the tax must be paid prior to the order is that some non-generic information will appear on the stamps. If an enterprise which has not provided security had stamps printed without paying, the stamps could not be used by other enterprises if said enterprise does not pay and collect.

The aim of the proposal to introduce a stamp system for smokeless tobacco, nicotine products, and nicotine-containing liquids is to meet the expectation that there will be a need for control focus in this area. This is due to, inter alia, the fact that the tax on nicotine-containing liquids is of such a level that illegal trade is expected to occur and this will facilitate checking by the Danish Tax Agency (Skattestyrelsen). A stamp system provides the best assurance that tax has been paid on the products, as the Tax Administration Authority is responsible for the individual orders of stamps and collects the tax specifically on the basis of the stamps.

In addition, a system of stamps will enable the enterprises which comply with the rules and are registered to demonstrate to consumers that they have paid tax on the product.

In addition to the order, payment and collection, it is also proposed to make a number of requirements on the time of stamping, the packages themselves, the information on the packages, the stamps and the handling of the stamps. In general, these rules correspond to the rules in force for the corresponding stamp system for cigarettes and smoking tobacco. However, there are differences between the products themselves; therefore, the systems, information, and requirements are not exactly the same.

A proposal has been made stipulating that the stamp requirement should apply only to immediate packages of smokeless tobacco, nicotine products and nicotine-containing liquids. This means that wholesale packages need not be stamped. Immediate packages shall include, inter alia, boxes, cans, packages, bags, special refill containers, disposable electronic cigarettes and cartridges as defined in § 2 of Order No 481 of 18 March 2021 on quality, labelling, age control system and advertising, etc. of electronic cigarettes and refill containers, etc. Wholesale packages shall include, inter alia, cans, kegs, tanks or other containers, that shall not be placed on the market for consumers.

In the manufacture of smokeless tobacco, nicotine products, or nicotine-containing liquids, the smokeless tobacco, the nicotine product, or the nicotine-containing liquid may be packaged/decanted directly into immediate packages or in wholesale packs, after which the product is subsequently repacked/decanted into immediate packages. Enterprises receiving smokeless tobacco, nicotine products, or nicotine-containing liquids may receive these products either in immediate packages or in wholesale packs, after which the product in question shall be subsequently repackaged/decanted into immediate packages.

It is proposed that the stamp should be affixed to immediate packages when the smokeless tobacco, nicotine product, or liquid containing nicotine is packaged/decanted in the immediate packages or at the latest on receipt from abroad if the product is received in immediate packages. If, after manufacture or receipt from abroad, the smokeless tobacco, nicotine product, or nicotine-containing liquid is not available in immediate packages, the company has one month to repackage/decant the smokeless tobacco, the nicotine product, or the nicotine-containing liquid into immediate packages. When the smokeless tobacco, nicotine product or nicotine-containing liquid is repackaged/decanted into immediate packages, the stamp shall be affixed to the package itself.

It is proposed that the smokeless tobacco, nicotine product and nicotine-containing liquid should be packed in completely closed immediate packages upon stamping.

It is proposed that immediate packages should bear an indication of the nature of the contents, the nicotine concentration, and the quantity and the name and principal place of business of the manufacturer or payer of the tax. In addition, packages for immediate packages sale of nicotine products or nicotine-containing liquids must bear an indication of the nicotine concentration. However, it is proposed that the Tax Administration Authority should be able to authorise the use of the name and registered office of the trader or the use of an anonymity mark. It is proposed that the above information may be affixed to the stamp. An anonymity mark describes a mark in which the name and registered office of the manufacturer, the payer of the tax, or the retailer do not appear. The Tax Administration Authority must allow the use of anonymity marks and therefore know the identity of the enterprise. The company is therefore only anonymous to the consumer. In addition, for nicotine-containing liquids, it is proposed that the tax class should appear on the stamp.

Since the stamp should only be affixed to immediate packages, a proposal has been made to introduce a special system for receiving wholesale packages.

Similarly, a system of authorisation is proposed for goods which have not been taxed and which are transferred between warehousekeepers. Thus, the Tax Administration Authority has the opportunity to have an overview of which enterprises transfer goods where stamps have not been affixed and thus not yet paid. It is proposed that wholesale packages should bear an indication of the nature of the contents, the concentration of nicotine and the quantity and the name and place of business of the manufacturer. In addition, wholesale packages of nicotine products or nicotine-containing liquids shall bear an indication of the nicotine concentration. The requirement to indicate the name and place of business of the manufacturer must be seen in the context of the rule of authorisation to transfer goods to other warehousekeepers. If the Tax Administration Authority finds wholesale packages during a check, information on the manufacturer’s name and place of business on the wholesale package will show from which business the wholesale package comes. Thus, the Tax Administration Authority will have the opportunity to see whether the manufacturer is allowed to transfer wholesale packages to others.

In addition, it is proposed to introduce specific rules on the reimbursement and repayment of tax on smokeless tobacco, nicotine products, and nicotine-containing liquids. As the tax is paid on the basis of the stamp, repayment and reimbursement must also be made on the basis of the stamp. It is proposed that the tax on the goods in question will be repaid for unused stamps that are returned or destroyed, or in instances where packages which are completely destroyed or irretrievably lost at a registered warehousekeeper or during transport to and from the company. Against this background, it is proposed that the applicable provision of § 24(1) will not apply, since the exemption and reimbursement of the tax are not based on a stamp system. However, it is proposed that there should be tax exemptions for goods imported or received from abroad to the same extent and under the same conditions as those laid down for tax exemption under § 36(1)(1) to (3) of the VAT Act, and for the goods supplied to the diplomatic missions referred to in § 4 of the Customs Act, international institutions, etc., and to the affiliated persons.

It is proposed that infringements of the proposed rules on the stamp system, packaging requirements, rules on the transfer of smokeless tobacco, nicotine products, or nicotine-containing liquids, etc., be punishable by a fine.

In addition to the settlement of the stamp system itself, a proposal has been made to introduce separate rules for declaration and payment in cases where individuals and other non-commercial consignees either import goods from third countries, receive goods from other EU countries, or carry goods across borders. A proposal has been made to insert separate rules for the settlement, declaration, and payment of tax in these situations. Settlement on imports of goods from third countries must be made in accordance with Chapter 4 of the Customs Act. Declarations and payments on imports from the third country and from other EU countries are proposed to comply with the rules laid down in § 9(2) to (4) of the Tax Collection Act. The regulation of travellers carrying goods into the Danish customs territory from another location within the customs territory of the EU and goods sent to private individuals in the Danish customs territory from another point in the customs territory of the EU is proposed to be covered by § 11 of the Customs Act.

2.4.3. Accounting and invoice provisions

2.4.3.1. Current law

It follows from § 15(2) of the Consumption Tax Act that warehousekeepers must keep accounts of the production of taxable goods, the supply of goods for which tax has not been paid, and the delivery of taxable goods. Furthermore, it follows from paragraph 3 that enterprises which are subject to the de minimis threshold rule laid down in § 14a(2) must keep records showing that the quantity of taxable goods corresponds to a tax that is not exceeding DKK 10,000 per year. Finally, paragraph 4 states that the Tax Administration Authority may lay down detailed rules for the transfer of goods between warehousekeepers in accordance with § 14a(4), invoice issuance and accounting. § 15(2) to (4) must apply mutatis mutandis to consignees.

Under current law, no rules on the issuance of invoices are laid down in the Consumption Tax Act for warehousekeepers or registered consignees.

Similarly, there are no rules on invoices, delivery notes, receipts, etc., for enterprises trading in taxable goods under the Consumption Tax Act. Enterprises trading in taxable goods could for instance be wholesalers or retailers. As a rule, these enterprises do not have to register or pay tax, since they neither import nor manufacture taxable goods but receive the goods where the tax has been settled by either the consignee or the warehousekeeper. Against this background, the starting point is that no accounting or invoice conditions are imposed on such enterprises, unless specific considerations so warrant.

2.4.3.2. Considerations of the Ministry of Taxation and the proposed system

It is proposed that the enterprises which are to be registered as warehousekeepers for the manufacture, importation, or repackaging/decanting of taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) (smokeless tobacco, nicotine products or nicotine-containing liquids) will have to keep accounts in accordance with the applicable rules of the Consumer Tax Act. As a result, the warehousekeepers will be required to keep records of the production of the taxable goods in question, the supply of the taxable goods and the delivery of the taxable goods, cf. § 15(2) of the Consumer Tax Act.

In addition, in view of the increased risk of circumvention of the tax on nicotine-containing liquids, cf. general remarks of the Bill, point 2.4.2, described above, a proposal has been made to include provisions on special accounting and invoice requirements to improve the tax administration’s ability to check smokeless tobacco, nicotine products and nicotine-containing liquids. It is proposed that the specific accounting and invoice requirements should be addressed to enterprises registered for tax on smokeless tobacco, nicotine products, or nicotine-containing liquids, and enterprises trading in smokeless tobacco, nicotine products or nicotine-containing liquids covered by the proposed system. It will thus be enterprises that manufacture, repackage/decant or receive smokeless tobacco, nicotine products, or nicotine-containing liquids from abroad that will have to be registered as warehousekeepers under § 14a(1). In addition, the rules will also apply to enterprises trading the taxable goods in question. These enterprises are not subject to the registration rules and could be, inter alia, wholesalers and retailers who trade smokeless tobacco, nicotine products, or nicotine-containing liquids in Denmark with e.g. other wholesalers or retailers, or consumers.

Thus, the proposed provisions will be directed both to enterprises subject to registration (warehousekeepers) but also to enterprises trading in taxable goods (e.g. wholesalers and retailers).

In concrete terms, it is proposed that accounting and invoice rules shall be established with:

* Requirements for current stock accounts in importing enterprises and registered warehousekeepers.
* Requirements for keeping cash journals and cash reconciliations in all enterprises trading in said taxable goods.
* Requirements for the design of invoices for trade in goods covered by the proposed system by registered enterprises and importing enterprises.
* Delivery note requirements for the supply of taxable goods from all enterprises trading in such goods.
* Requirements relating to the availability of accounting records (maximum five working days) in all enterprises trading in said taxable goods.
* Requirements for the storage of accounting records (at least five years for all records except cash register tapes which, on application to the Tax Administration Authority, are to be kept for only one year) in all enterprises trading in said taxable goods.

The stricter accounting and invoice rules will result in specific requirements being imposed on all enterprises trading in goods covered by the proposed § 13, § 13a(1) and § 13b(1) to be able to account on an ongoing and immediate basis for the purchase and sale of these taxable goods. This can be done on presentation of regular invoices and/or delivery notes and/or receipts. In addition, enterprises must be able to demonstrate that, in accordance with good accounting practice, cash reconciliations have been carried out daily and a cash journal has been kept on a regular basis.

It is estimated that these documents will be present as a result of other legislation, including, i.a., the VAT invoice rules and the rules in the Bookkeeping Act, and trading practice, and that these reconciliations will be performed in normal and lawful situations.

It is proposed that an infringement of the proposed accounting and invoice provisions should result in criminal liability in the form of penalty fines which may, under certain conditions, trigger a stricter fine, see the general remarks of the Bill below, point 2.4.4.

2.4.4. Stricter fines

2.4.4.1. Current law

§ 22(1) of the Consumption Tax Act provides for penalty fines for infringements referred to in points 1 to 5 of that provision if they are committed intentionally or with gross negligence. According to point 2 of that provision, the penalty fine may be applied, i.a., for infringements of § 16a(3), second sentence, which states that trading consignees must report to the Tax Administration Authority before dispatching the goods from abroad (admission or import), unless the enterprise has annual sales equal to a tax of less than DKK 10,000, see § 16a(8).

It follows from § 22(4) that criminal liability may be imposed on enterprises, etc., (legal persons) in accordance with the rules laid down in Chapter 5 of the Criminal Code.

The rules on criminal liability for legal persons are laid down in Chapter 5 of the Criminal Code, which means, i.a., that a legal person may be punished with a fine when it is determined by virtue of law, see § 25 of the Criminal Code.

§ 26(1) of the Criminal Code provides for the criminal liability of legal persons to any legal person, including public limited companies, limited companies, cooperatives, partnerships, associations, foundations, estates, municipalities and public authorities, unless otherwise provided. This is not an exhaustive list. The term ‘legal person’ thus includes all forms of organisation, etc., which may be legal, whether they are engaged in commercial or non-profit-making activities. Furthermore, under § 26(2) of the Criminal Code, provisions on the liability of legal persons include sole proprietorships insofar as they are comparable to the enterprises referred to in paragraph 1, having regard in particular to their size and organisation. It is clear from the comments to that provision, see the Official Report of Danish Parliamentary Proceedings 1995-96, Appendix A, page 4051 et seq., that it is an assumption for such liability that the sole proprietorship is organised in such a way that it is natural to equate it to a legal person and that the sole proprietorship employs approx. 10 to 20 employees or more at the time when the crime is committed.

It is a prerequisite for imposing criminal liability on a legal person that an infringement has been committed within its activities, ascribable to one or more persons connected to the enterprise or to the enterprise as such, see § 27(1) of the Criminal Code.

Sole proprietorships that employ no more than about 10-20 employees and thus are not subject to the rules in Chapter 5 of the Criminal Code on criminal liability for legal persons may also incur criminal liability, provided that, in this situation, it is the owner of the sole proprietorship who is punishable.

The provision relating to the liability of legal persons does not preclude the simultaneous or exclusive exercise of personal liability against the natural person responsible, in particular if he or she is in a superior position and has acted intentionally or with gross negligence. However, the starting point for the choice of the person to be charged is that an indictment is brought against the legal person, see the Public Prosecutor’s Notice No 5/1999.

Examples of cases where it may be appropriate to consider invoking liability against the liable natural person are those of small retailers operated in a corporate form, where the owner of the enterprise is in charge of the day-to-day operations.

It follows from § 22a of the Consumption Tax Act that the rules in §§ 18 and 19 of the Tax Collection Act apply mutatis mutandis to cases of infringement of the Consumption Tax Act.

It follows from § 1(1) of the Tax Collection Act that the Act applies to the collection of taxes and fees, etc., to which enterprises, companies, foundations or associations, etc., are or should have been registered with or reported to the Tax Administration Authority, insofar as no specific provisions are laid down in other legislation or in EU regulations. Furthermore, it follows from paragraph 3 that the Act also applies to the collection of taxes and fees, etc., other than those referred to in paragraph 1, insofar as other legislation refers to that Act.

§ 18 of the Tax Collection Act provides that the Tax Administration Authority – if a number of specified conditions are fulfilled – may issue administrative fine notices. It follows from § 18(1), first sentence, of the Tax Collection Act that if an infringement is deemed not to result in a penalty higher than a fine, the Tax Administration Authority may indicate to the said person, by means of a fine notice, that the case may be settled without legal proceedings if said person pleads guilty to the infringement and declares that it is prepared to pay, within a specified period, which may be extended upon application, a fine specified in the declaration.

It follows from § 18(1), second sentence, that § 752(1) of the Administration of Justice Act on rules for interviews of defendants apply to cases covered by § 18(1) of the Tax Collection Act. Furthermore, § 18(2) of the Tax Collection Act provides that the rules of the Administration of Justice Act on the requirements for the content of an indictment apply mutatis mutandis to the drawing up of a fine notice in the proceedings.

If the fine is paid in accordance with the fine notice in due time, or if it is recovered or served after its adoption, further proceedings lapse, see § 18(3)of the Tax Collection Act. Fines in cases dealt with administratively must be collected by the Tax Administration Authority, see paragraph 4.

If the conditions under which the case is concluded by the Tax Administration Authority are not met, the case must be handed over to the police for legal action.

It follows from § 19 of the Tax Collection Act that inspections in infringement cases covered by the Tax Collection Act are performed in accordance with the rules of the Administration of Justice Act in cases which may result in imprisonment under the Act.

By Act No 1059 of 17 December 2002, a legal basis for stricter fines was inserted into the Tobacco Tax Act, the Spirit Tax Act, the Beer and Wine Tax Act, the Chocolate Tax Act, and the Packaging Tax Act (hereinafter: the Coke legislation). The stricter penalty fine is applied where, due to non-compliance with accounting rules, said enterprise cannot prove that the tax has been paid on certain goods (e.g. due to lack of invoice or accounting irregularities), but where the actual level of the tax evasion is uncertain because it is a snapshot (sample check). By Act No 408 of 8 May 2006, the Coke legislation added additional powers to apply the stricter fine when said person did not register as a consignee prior to the import of the goods, and provided for an absolute cumulation, so that the fines for each infringement were aggregated, both within the individual Act and for infringements of several Acts at once, see more details below.

Infringements of several accounting rules in the Coke legislation are considered to be similar crimes, and violation of several rules on registration in the Coke legislation is considered to be equivalent crime. This means that an adjudicated infringement of, for example, an accounting rule in one Coke Act is attributed not only to effect of previous convictions in case of infringements of the same Act, but also to subsequent infringements of any accounting rules governed by the Coke legislation.

By Act No 1554 of 13 December 2016, the Danish Parliament (Folketinget) expressed a wish that the stricter fines for first-time offences amounted to DKK 10,000 and then increased by DKK 10,000 for each infringement, see the Official Record of Danish Parliamentary Proceedings 2016-2017, A, L 26 as tabled , pages 5 and 6. There was consequently a wish from the Danish Parliament that the fine should amount to DKK 20,000 for second-time offences, DKK 30,000 for third-time offences, DKK 40,000 for fourth-time offences, etc.

The Danish Customs and Tax Administration (previously called SKAT) at the time subsequently forwarded a number of cases to the police for the purpose of establishing a new fine procedure in accordance with the Danish Parliament’s statement through a test case procedure before the courts. On 16 November 2020, the attorney general announced that a sufficient number of test cases had been carried out before the courts to establish a uniform level of fines which, for first-time offences, could serve as a basis for issuing administrative fine notices.

It is clear from the penalties laid down in the individual Acts covered by the Coke legislation that there must be absolute cumulation of fines in cases where a party has committed several infringements of that Act, or one or more infringements covered by the Coke legislation, or one or more infringements of the said Act, or one or more infringements of other tax laws or the deposit legislation.

Moreover, it is clear from the penalties laid down in each of the Acts governed by the Coke legislation that the determination of fines in accordance with the principle of absolute cumulation can be undermined where there are specific reasons for doing so. There may be both aggravating circumstances and mitigating circumstances under §§ 81 and 82 of the Criminal Code.

The rules on stricter fines have not been included in the Consumption Tax Act and thus do not apply to the taxable product area under this Act.

2.4.4.2. Considerations of the Ministry of Taxation and the proposed system

It is proposed that a new provision should be included in the Consumption Tax Act, according to which a stricter fine may be fixed in certain situations. It is proposed that the rules on the setting of increased fines will apply only to enterprises that are registered for, or trade in, taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) (smokeless tobacco, nicotine products or nicotine containing liquids) and not those products which under current law are covered by the Consumer Tax Act.

It is proposed that a more severe fine for infringement of § 14a(1), first sentence, on the obligation to register warehousekeepers should be determined when the offence is committed in connection with the importation or receipt of goods from abroad covered by the proposed § 13, § 13a(1) or § 13b(1) (see general remarks of the Bill, point 2.4.1). This means that a higher fine could be calculated for enterprises that fail to register as warehousekeepers for smokeless tobacco, nicotine products or nicotine-containing liquids. Warehousekeepers are enterprises producing smokeless tobacco, nicotine products, or nicotine-containing liquids in Denmark or receiving them from abroad. It should be noted that the proposed provision on increased fines — in line with the other legislation on increased fines — would only have to cover the non-registration of goods imported into Denmark or the receipt of goods from abroad. If an enterprise manufactures goods covered by the proposed § 13, § 13a(1) or § 13b(1) in Denmark, or repackages or decants goods produced in Denmark without registering, a fine may be imposed only in accordance with the general provisions of § 22(1)(2). It should also be noted that it is proposed that the de minimis threshold rule in § 14a(2) will not apply to the tax on smokeless tobacco, nicotine products, or nicotine-containing liquids, see the proposed § 13l under § 1(3) of the Bill. This means that enterprises will not be able to refrain from registering as a warehousekeeper and pay the tax if the quantity of imported and received goods corresponds to a tax not exceeding DKK 10 000 per year. It is not only established enterprises that will be covered. It may also be a private individual who has made purchases abroad for commercial purposes and transports the goods in Denmark.

In addition, it is proposed that a higher fine be imposed for infringements of the accounting and invoice provisions which are proposed to apply to smokeless tobacco, nicotine products, and nicotine containing liquids (see general remarks of the Bill, point 2.4.3) if the infringement leads to the impossibility of ascertaining whether tax has been paid on the goods in question.

The determination of a stricter fine for infringements of the accounting and invoice regulations could be applied both to the registered enterprises (the warehousekeepers) and to enterprises trading in taxable goods. This will be the case, for example, if a warehousekeeper has failed to issue an invoice (see the proposed § 13j(1) under § 1(3) of the Bill) and it is not possible to ascertain whether tax has been paid on the goods on delivery. In addition, for example, there could be a retailer who, when dividing a consignment of goods, did not issue internal delivery notes, so that it would not be possible for the Tax Administration Authority to compare the goods at each point of sale with the goods purchased by the retailer. If, in this case, it is not possible to establish whether the tax has been paid, the Tax Administration Authority may impose a stricter fine on the retailer.

The proposed provision on increased fines would mean that a higher fine could be set for infringements similar to those which may lead to a higher fine under the Coke legislation, cf. general remarks of the Bill above, point 2.4.4.1.

It is assumed that the level of fines for stricter fines under the proposed § 22(5) will correspond to the level of fines which the Danish Parliament assumed through Act No 1554 of 13 December 2016 to apply to stricter fines under the Coke legislation, see the official Report of Danish Parliamentary Proceedings 2016-2017, A, L 26 as tabled, pages 5 and 6, and which has been used in a number of completed test cases, see the general remarks of the Bill above, point 2.4.4.1.

Thus, it is assumed that the fine will amount to DKK 10,000 in cases where an infringement is first committed under the stricter fines provision, provided that said person has not previously been fined – in the form of an agreed fine notice or by judgement – for infringement of the Coke legislation, see more details below. It is assumed that the fine will have to be increased by DKK 10,000 for each subsequent similar infringement of this Act, i.e. that the person concerned infringes the obligation to register as a warehousekeeper once again when the infringement occurs in connection with the importation of goods covered by the proposed § 13, § 13a(1) or § 13b(1) or again infringes the accounting and invoice provisions which are proposed to apply to nicotine containing liquids, nicotine products, and smokeless tobacco if the infringement results in it being impossible to establish whether tax has been paid on the goods in question. The fine will thus amount to DKK 20,000 for second-time offences, DKK 30,000 for third-time offences, DKK 40,000 for fourth-time offences, etc. It is provided that there will also be a repeat offence if said person commits an infringement covered by the proposed § 22(5), on stricter fines, and has previously received one or more stricter fines for similar infringements of the Coke legislation. If the person concerned e.g. receives a higher fine for infringement of the Chocolate Tax Act’s accounting rules, a subsequent infringement of the accounting rules covered by the proposed § 22(5) on stricter fines would constitute a second-time offence, which could thus trigger a fine of DKK 20,000. If the person concerned receives the fine of the DKK 20,000 and then commits a further infringement of the accounting rules covered by the proposed § 22(5) on increased fines, this would be a third-time offence, which could thus trigger a fine of DKK 30,000. The same repeated effect would occur if the person concerned was charged with a higher fine for infringement of the Coke Act’s rules on registration and subsequently commits an infringement of the registration rules covered by the proposed § 22(5) on increased fines.

Similarly, it is assumed that, in the case of infringements covered by the provisions on stricter fines laid down in the Coke legislation, there will be a repeat offence if the said person has previously been fined for infringements of similar provisions covered by the proposed § 22(5). For example, if the person concerned is granted a higher fine for infringement of the accounting rules covered by the proposed § 22(5) of the Consumer Tax Act, a subsequent infringement of the accounting rules covered by the provision on increased fines in the Chocolate Tax Act would constitute a second-time offence, which could thus trigger a fine of DKK 20,000. If the person concerned receives the fine of the DKK 20,000 and then commits an infringement of the accounting rules, for example, covered by the provision on increased fines in the Tobacco Tax Act, this would represent a third-time offence, which could thus trigger a fine of DKK 30,000. The same repeated effect will occur if the person concerned receives a higher fine for infringement of the registration rules covered by the proposed § 22(5) on increased fines and subsequently commits an infringement of the rules on registration laid down in the Coke Act, which are covered by the rules on increased fines.

Paragraph 6 of that provision proposes that the fines should be aggregated in accordance with the principle of absolute cumulation in the fixing of fines in cases in which several infringements are covered by the proposed provision of § 22(5), on stricter fines, or one or more infringements of that provision and other tax laws or the deposit legislation.

Paragraph 7 of that provision proposes that the aggregation of the penalty fine under the principle of absolute cumulation under the proposed paragraph 6, point 1 and 2, may be waived if there are specific reasons for doing so. Such special reasons could include aggravating or mitigating circumstances under §§ 81 and 82 of the Criminal Code.

Legal persons who commit infringements covered by the proposed provision in § 22(5) of the Consumption Tax Act may be liable to penalty fines in accordance with the rules laid down in Chapter 5 of the Criminal Code, see § 22(4) of the Consumption Tax Act.

The criminal procedural rules in §§ 18 and 19 of the Tax Collection Act will apply to the handling of criminal proceedings concerning infringements of the provisions. The Tax Administration Authority will thus have the power to close these criminal proceedings by way of a fine notice, provided that the conditions set out in § 18(1) are fulfilled, as well as the rules of § 18(2) to (4) and § 19 concerning the processing, etc., of these cases will apply.

2.4.5. Registration as a warehousekeeper prior to the introduction of the stamp requirement

2.4.5.1. Current law

Under current law, enterprises manufacturing or receiving from abroad nicotine products or nicotine-containing liquids are not required to register. Nor is there any requirement for stamps or settlement of tax.

Thus, enterprises which manufacture or receive from abroad nicotine products or liquids containing nicotine are not registered for excise duty with the Tax Administration Authority.

Smokeless tobacco shall be taxable under § 13 of the Consumer Tax Act. Therefore, for enterprises that manufacture or receive smokeless tobacco from abroad, registration is required. Enterprises shall in principle be registered as warehousekeepers in accordance with § 14a(1) of the Consumer Tax Act, but may in practice also be registered as consignees if the enterprise only receives goods from abroad, cf. § 16a(3). Enterprises declare and pay the tax every month in accordance with the rules of the Tax Collection Act. Enterprises are thus subject to a declaration system and no stamp is required.

2.4.5.2. Considerations of the Ministry of Taxation and the proposed system

As can be seen in the general remarks of the Bill, point 2.4.2, a proposal has been made that a stamp system be introduced. This means that when the stamp requirement is introduced on 1 July 2022, stamps will have to be affixed to smokeless tobacco, nicotine products, and nicotine-containing liquids sold in Denmark. The stamps can only be ordered by registered warehousekeepers. This means that as from 1 July 2022, enterprises that manufacture or receive nicotine products or liquids from abroad will have to register with the Tax Administration Authority as warehousekeepers — exactly as it applies to smokeless tobacco. In order to obtain registration as a warehousekeeper, it is proposed that a requirement for the approval of premises be introduced. This is due to the fact that warehousekeepers may have both goods on which the tax has been paid and goods on which the tax has not yet been paid.

It will therefore be a long process from the time the enterprise applies for registration until it can have stamps delivered.

Against this background, a proposal has been made to, inter alia, insert a provision whereby operators will be able to register as warehousekeepers as from 1 April 2022. This enables enterprises to initiate the registration process before introducing a tax on nicotine products and nicotine-containing liquids. It is proposed that this part of the Act should enter into force on 1 April 2022.

In addition, it is proposed to allow for the possibility of ordering and supplying stamps for smokeless tobacco, nicotine products, and nicotine-containing liquids upon provision of full security before the introduction of the tax and stamp requirement. Thus, enterprises that are already registered as a warehousekeeper for smokeless tobacco or which have been registered as a warehousekeeper for smokeless tobacco, nicotine products, or nicotine-containing liquids can make their taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) ready for 1 July 2022. It should be noted that the stamped immediate packages may not be handed out until 1 July 2022. This part of the Act is proposed to enter into force on 1 April 2022.

Finally, it is proposed that enterprises using the option to order stamps upon provision of full security before the taxes and stamp requirements are introduced will not have to pay the relevant tax until 1 July 2022. Thus, no tax is collected on nicotine products and nicotine-containing liquids until these goods become taxable, cf. § 1(3) of the Bill. In addition, the tax on smokeless tobacco is only collected through the stamp system when the merger of the tax rate in the proposed § 13 enters into force, cf. § 1(2) of the Bill.

2.4.6. Restrictions on the sale of smokeless tobacco, nicotine products, and nicotine-containing liquids

2.4.6.1. The introduction of a tax on nicotine products and liquids containing nicotine and the addition of tax rates on smokeless tobacco

2.4.6.1.1. Current law

Under current law, there are no restrictions on the sale of smokeless tobacco, nicotine products, or nicotine-containing liquids on the Ministry of Taxation’s remit.

As regards current law on provisions on penalties in the Consumption Tax Act, including the right of the Tax Administration Authority to close criminal proceedings administratively by way of a fine notice and the possibility of imposing criminal liability on legal persons, reference is made to point 2.4.4.

2.4.6.1.2. Considerations of the Ministry of Taxation and the proposed system

In order for the proposed taxes to be reflected in the price of nicotine products and nicotine-containing liquids quickly after the introduction of the taxes and, in the case of smokeless tobacco, as soon as the tax rates have been added, a proposal has been made to prohibit the sale of smokeless tobacco, nicotine products, and nicotine-containing liquids which have not been stamped after three months have elapsed since the introduction of the taxes and the merger. A proposal has also been made to introduce a ban on the storage of smokeless tobacco, nicotine products, and nicotine-containing liquids in the retail trade and wholesalers who do not bear stamps, after four months have elapsed since the introduction of the duties and the merger. The storage ban also applies to enterprises which have previously been registered as consignees of smokeless tobacco and which have not registered as warehousekeepers.

A proposal has been made that a penalty fine should be imposed if the prohibition is intentionally violated or violated with gross negligence.

It is assumed that the level of fines will amount to DKK 10,000 per infringement.

It is assumed that the level of fine of DKK 10,000 is to apply, regardless of whether it is a first-time offence or in case of repeat offences. It is also provided that, when the fine is fixed, absolute cumulation must take place, so that a fine of DKK 10,000 is fixed for each infringement, regardless of whether the adjudication or adoption takes place in one or more cases.

The fixing of the penalty will still depend on the court’s actual assessment in the individual instance of all circumstances in the case, and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, see the general rules on fixing a penalty in Chapter 10 of the Criminal Code.

Legal persons who commit the infringements may be fined in accordance with the rules laid down in Chapter 5 of the Criminal Code, see § 22(4) of the Consumption Tax Act.

The criminal procedural rules in §§ 18 and 19 of the Tax Collection Act will apply to proceedings for infringement of the prohibition, see § 22a of the Consumption Tax Act. This means, i.a., that the Tax Administration Authority – if a number of specified conditions are fulfilled – will be able to issue administrative fine notices for infringement of the prohibition.

2.4.6.1. In the event of future tax increases

2.4.6.1.1. Current law

Under current law, there are no restrictions on the sale of smokeless tobacco, nicotine products, or nicotine-containing liquids on the Ministry of Taxation’s remit. For a description of the current law on financial penalties, please refer to the general remarks of the Bill, point 2.4.4.

2.4.6.1.2. Considerations of the Ministry of Taxation and the proposed system

In order for any future tax increases in the proposed taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids to be reflected in the price of the products in question soon after a tax increase, it is proposed that only smokeless tobacco, nicotine products, and nicotine-containing liquids with stamps in force before the entry into force of a tax increase should be allowed for a limited period of three months from the entry into force of the tax increase. It is also proposed that smokeless tobacco, nicotine products, and nicotine-containing liquids with stamps in force prior to the entry into force of a tax increase should only be stored for a limited period of four months from the entry into force of the tax increase.

Finally, it is proposed that infringement of these rules be punished by fines. For a description of the level of fines, please refer to the special comments on § 1(10) of the Bill.

# 3. Economic and implementation impact on the public sector

## 3.1. Economic impact on the public sector

3.1.1. Introduction of a tax on nicotine products

The proposal to introduce a tax on nicotine products of 5.5 øre per mg of nicotine is estimated, with considerable uncertainty, to imply lasting immediate revenue of approximately DKK 165 million (2022 level) and revenue after returns and behaviour of approximately DKK 135 million, *see Table 3.1.* The financial impact in 2022 is estimated at approximately DKK 25 million, as the amendment is proposed to enter into force on 1 July 2022, and the ban on the sale of nicotine products without stamps is proposed to enter into force as of 1 October 2022.

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| **Table 3.1. Revenue implications of the introduction of a tax on nicotine products of 5.5 øre per mg nicotine content** |
| DKK millions (2022 level) | 2022 | 2023 | 2024 | 2025 | Lasting | Financial year2022 |
| Direct impact | 35 | 145 | 155 | 165 | 165 | 25 |
| Impact after returns | 35 | 145 | 155 | 165 | 165 | - |
| Impact after returns and behaviour | 30 | 120 | 125 | 135 | 135 | - |

Comments: The tax shall enter into force on 1 July 2022. After 2025 it is technically assumed that the revenue will increase in line with the GDP, which implies an indexation of the taxes and real growth in the base. Rounded to the nearest DKK 5 million.

The introduction of a tax on nicotine products is estimated to lead to a decrease in domestic sales of nicotine bags. The decrease in domestic sales reflects a decrease in the consumption of nicotine bags and the emergence of cross-border trade. In addition, it is expected that the tax on nicotine products will give rise to a smaller proportion of the consumption of nicotine bags switching to tobacco products (substitution).

The revenue impact is subject to considerable uncertainty. This is due, among other things, to the fact that nicotine bags have only been on the market for a few years, which means that several aspects of the sale of nicotine bags are not sufficiently highlighted. Revenue will depend on the distribution of nicotine bags, whether the product displaces traditional tobacco products, and the extent to which the tax results in traditional cross-border trade, e-border trade, and illicit trade.

3.1.2. Aggregation of tax rates on smokeless tobacco

The proposal to merge the two tax categories for smokeless tobacco into the Consumer Tax Act is estimated (with a degree of uncertainty) to imply lasting immediate revenue of approximately DKK 15 million (2022 level) and revenue after returns and behaviour of approximately DKK 10 million, *see Table 3.2.* The financial impact in 2022 is estimated to amount to approximately DKK 5 million, as the amendment is proposed to enter into force as of 1 July 2022.

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| **Table 3.2. Revenue implications of aggregating tax categories for smokeless tobacco** |
| DKK millions (2022 level) | 2022 | 2023 | 2024 | 2025 | Lasting | Financial year2022 |
| Direct impact | 5 | 15 | 15 | 15 | 15 | 5 |
| Impact after returns | 5 | 15 | 15 | 15 | 15 | - |
| Impact after returns and behaviour | 5 | 10 | 10 | 10 | 10 | - |

Comments: The tax shall enter into force on 1 July 2022. Real growth is expected in the base up to 2025. After 2025 it is technically assumed that the revenue will increase in line with the GDP, which implies an indexation of the taxes and real growth in the base. Rounded to the nearest DKK 5 million.

The merger of the two tax categories is estimated to lead to a decrease in domestic sales of smokeless tobacco, including as a result of cross-border trade.

3.1.3. Tax on nicotine-containing liquids

As a preliminary point, it should be noted that the tax on nicotine-containing liquids was adopted by Act No 1182 of 8 June 2021, but that, for technical reasons, the tax is proposed to be repealed and re-adopted in this Bill, cf. § 1(3) to (5) and (7) to (11) and § 3 of the Bill. The proposed repeal and re-adoption of the provisions on the tax on nicotine-containing liquids adopted — but not in force — have no economic impact on the public authorities. In other words, this Bill does not alter the financial impact on the public authorities of the introduction of a tax on nicotine-containing liquids, as stated when Act No 1182 of 8 June 2021 was adopted, cf. the Official Record of Danish Parliamentary Proceedings 2020-21, A, L 217, p. 15 and 16. Therefore, the following merely reproduces the economic impact on the public sector set out above.

The proposal to introduce a tax on nicotine-containing liquids in which liquids with a nicotine concentration of 12 mg per millilitre or less are subject to a tax of DKK 1.5 per millilitre, while liquids with a concentration above 12 mg per millilitre are subject to a tax of DKK 2.5 per millilitre, is estimated (with considerable uncertainty) to generate permanent immediate revenue of approximately DKK 110 million (2021 level) and proceeds after returns and behaviour of approximately DKK 50 million,  *see Table 3.3.* The financial impact in 2022 is estimated to amount to approximately DKK 10 million, as the amendment is proposed to enter into force on 1 July 2022, and the ban on the sale of nicotine-containing liquid without stamps will enter into force as of 1 October 2022.

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| **Table 3.3. Revenue impact of introducing a two-rate tax on nicotine-containing liquids at a low rate of 1.5 DKK per millilitre of liquid with a nicotine concentration up to 12 mg per millilitre and a high rate of DKK 2.5 per millilitre of liquid with a nicotine concentration above 12 mg per millilitre** |
| DKK millions (2021 level) | 2022 | 2023 | 2024 | 2025 | Lasting | Financial year2022 |
| Direct impact | 30 | 120 | 110 | 110 | 110 | 10 |
| Impact after returns | 30 | 120 | 110 | 110 | 110 | - |
| Impact after returns and behaviour | 10 | 50 | 50 | 50 | 50 | - |

Comments: The tax shall enter into force on 1 July 2022. No indexation or growth in the base is expected until 2025. After 2025 it is technically assumed that the revenue will increase in line with the GDP, which implies an indexation of the taxes and real growth in the base. Rounded to the nearest 10 million DKK.

The introduction of a tax on nicotine-containing liquids is estimated to lead to a significant reduction in domestic sales of nicotine-containing liquids. The decline in domestic sales reflects a decrease in the consumption of nicotine-containing liquids and that cross-border trade and illegal trade will occur. In addition, it is expected that the tax on nicotine-containing liquids will cause part of the consumption to switch to other tobacco products (substitution).

The revenue impact is subject to considerable uncertainty. This is partly due to the fact that e-cigarettes and e-liquids have not been on the market for a very long time, which means that several factors related to the sale of e-liquids are not well documented. In addition, the proposed tax, including VAT, is estimated to mean that the price of nicotine-containing liquids will be approx. doubled on average. The resulting consumption and cross-border trade effects increase with the amount of the tax, and it is to be expected that the behavioural effects will be significant. However, there is considerable uncertainty in assessing the impact of such large tax increases.

## 3.2. Implementation impact on the public sector

The Bill in isolation is estimated to entail administrative costs for the Tax Administration Authority of DKK 7.4 million in 2022, DKK 6.3 million annually in 2023-2025, and DKK 6.2 million annually as from 2026. The expenditure is primarily attributable to the administration of stamps and checks.

It should be noted that the tax on nicotine-containing liquids was adopted by Act No 1182 of 8 June 2021, but that, for technical reasons, the tax is proposed to be repealed and re-adopted in this Bill, cf. § 1(3) to (5) and (7) to (11) and § 3 of the Bill. The fact that the adopted — but not in force — provisions on the tax on nicotine liquids are proposed to be repealed and re-adopted has no implementation impact on the public authorities. In other words, this Bill does not alter the implementation impact on the public authorities of the introduction of a tax on nicotine-containing liquids, as stated when Act No 1182 of 8 June 2021 was adopted, cf. the Official Record of Danish Parliamentary Proceedings 2010-21, A, L 217, p. 16.

The principles of digitisation-ready legislation are deemed to be respected. This is primarily due to the fact that these are simple and clear rules in which taxes on smokeless tobacco, nicotine products and nicotine-containing liquids are determined on an objective basis, so that the taxable area of the goods is clearly defined. In addition, there is ongoing discussion about changes and the introduction of taxes in the tax administration’s existing IT systems, thus using the existing infrastructure in the Tax Administration Authority. Among other things, the Bill introduces two new taxes on nicotine products and nicotine-containing liquids. This necessitates changes in the existing systems of the Tax Administration Authority, including the Tax Office (Skattekontoen), SAP PS, the Business System (Erhvervssystemet), and the New Self-Service Business (Ny TastSelv Erhverv). Finally, stricter rules have been proposed on accounting, invoice and a stamp system for smokeless tobacco and nicotine products, which will help to prevent tax evasion. Checks of the tax are carried out on the basis of risk and materiality based on the knowledge and data of the Tax Administration Authority in this area.

# 4. Economic and administrative impact on business, etc.

## 4.1. Economic impact on business, etc.

The proposed tax on nicotine products and the merger of tax rates on smokeless tobacco will lead to an immediate tax burden on business, corresponding to the immediate revenue which may, however, be expected to be passed on to consumers in the form of higher prices. The tax is expected to lead to a decrease in domestic sales.

It should be noted that the tax on nicotine-containing liquids was adopted by Act No 1182 of 8 June 2021, but that, for technical reasons, the tax is proposed to be repealed and re-adopted in this Bill, cf. § 1(3) to (5) and (7) to (11) and § 3 of the Bill. The proposed repeal and re-adoption of the provisions on the tax on nicotine-containing liquids adopted — but not in force — have no economic impact on business. In other words, this Bill does not alter the economic impact on business, etc. of the introduction of a tax on nicotine-containing liquids, as stated in connection with the adoption of Act No 1182 of 8 June 2021, cf. the Official Record of Danish Parliamentary Proceedings 2010-21, A, L 217, p. 16.

## 4.2. Administrative impact on business, etc.

The Bill has administrative implications on business. The administrative impact is mainly that manufacturers and importers of certain products must affix stamps to the products before they are placed on the market. It is expected that the application of stamps will be part of an automated process and therefore the costs consist of conversion costs. The requirement for the application of stamps must be complied with by manufacturers and importers of smokeless tobacco and nicotine products.

It should be noted that the tax on nicotine-containing liquids was adopted by Act No 1182 of 8 June 2021, but that, for technical reasons, the tax is proposed to be repealed and re-adopted in this Bill, cf. § 1(3) to (5) and (7) to (11) and § 3 of the Bill. It does not entail any administrative impact on business, etc. that the adopted — but not in force — provisions on the tax on nicotine-containing liquids are proposed to be repealed and re-adopted. In other words, this Bill does not alter the administrative impact on business, etc. through the introduction of a tax on nicotine-containing liquids, as stated in connection with the adoption of Act No 1182 of 8 June 2021, cf. the Official Record of Danish Parliamentary Proceedings 2010-21, A, L 217, p. 16.

The total administrative impact on business resulting from this Bill are estimated to be less than DKK 4 million, which is why they are not quantified in more detail.

The Bill is not considered to have any significant other compliance impact on the business community.

The principles of agile enterprise-oriented regulation are not considered relevant, as the Bill does not affect enterprises in testing, developing, and using new digital enterprise models.

# 5. Administrative impact on citizens

The proposal has administrative impact on citizens to the extent that citizens import or receive taxable goods covered by § 13, § 13a(1), or § 13b(1) of the Consumer Tax Act (smokeless tobacco, nicotine products and nicotine-containing liquids) from abroad. In these situations, the citizen must declare the taxable quantity and pay the tax on the goods only to the extent that the seller is not registered as a warehousekeeper for distance selling and is therefore responsible for the payment of the tax.

# 6. Climate impact

The Bill is not found to have any climate impact.

# 7. Impact on the environment and nature

The Bill is not found to have any environmental and nature-related impact.

# 8. Relationship to EU law

The Bill does not contain any aspects of EU law.

# 9. Consulted government authorities/agencies and organisations, etc.

A draft legislative proposal containing the elements to regulate the number of cigarettes in a package, the introduction of the tax on nicotine products, and the merger of the tax rates for smokeless tobacco has been submitted for consultation to the following authorities and organisations, etc. between 17 September 2021 and 15 October 2021: The Danish Bar and Law Society (Advokatsamfundet), the Economic Council of the Labour Movement (Arbejderbevægelsens Erhvervsråd), Asthma-Allergy Denmark (Astma-Allergi Danmark), BECIG, the Head of Civil and Legal Security in the Tax Administration Authority (Borger- og retssikkerhedschefen i Skatteforvaltningen), CEPOS, Cevea, DADAFO, the Danish Chamber of Commerce (Dansk Erhverv), the Association of Danish Law Firms (Danske Advokater), The Federation of Retail Grocers in Denmark (De Samvirkende Købmænd), DI (Dansk Industri), the Agency for Digitisation (Digitaliseringsstyrelsen), the Danish Business Authority – Team Effective Regulation (Erhvervsstyrelsen – Team Effektiv Regulering), Finance Denmark (Finans Danmark), the Association of Danish Auditors (Foreningen Danske Revisorer), FSR – Danish Auditors (FSR – danske revisorer), Justitia, Kraka, the Danish Cancer Society (Kræftens Bekæmpelse), the National Tax Tribunal (Landsskatteretten), the Danish Lung Association (Lungeforeningen), the Danish Medical Association (Lægeforeningen), the National Association of Local Shops (Nærbutikkernes Landsforening), the Tax Appeals Agency (Skatteankestyrelsen), SRF Tax Association (SRF Skattefaglig Forening), the Tobacco Industry (Tobaksindustrien), and the Tobacco Manufacturers (Tobaksproducenterne).

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# 10. Summary table

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| --- | --- | --- |
|   | Positive impact/reduction in expenditures (if yes, please specify extent/if no, enter “None”) | Negative impact/additional expenditures (if yes, please specify extent/if no, enter “None”) |
| Economic impact on the State, municipalities, and regions | The proposal for a tax on nicotine products is estimated to imply lasting revenue of approximately DKK 135 million after returns and behaviour.The proposal to merge the two tax categories for smokeless tobacco is estimated to result in sustained revenue of approximately DKK 10 million after returns and behaviour. | None |
| Implementation impact on the State, municipalities, and regions | None | The Bill in isolation is estimated to entail administrative costs for the Tax Administration Authority of DKK 7.4 million in 2022, DKK 6.3 million annually in 2023-2025, and DKK 6.2 million annually as from 2026. The expenditure is primarily attributable to the administration of stamps and checks.  |
| Economic impact on business | None | The proposal is expected to result in an immediate additional cost to the business sector corresponding to the immediate additional revenue, which is expected to be passed on to consumers in the form of higher prices. |
| Administrative impact on business | None | The Bill is found to have an administrative impact on business. This impact is found to be less than 4 million DKK, which is why it is not quantified. |
| Administrative impact on citizens | None | The proposal has administrative impact on citizens to the extent that citizens import or receive taxable goods covered by § 13, § 13a(1) or § 13b(1) (smokeless tobacco, nicotine products and nicotine containing liquids) from abroad. In these situations, the citizen must declare the taxable quantity and pay the tax on the goods. |
| Climate impact | None  | None |
| Impact on the environment and nature | None | None |
| Relationship to EU law | The Bill does not contain any aspects of EU law. |
| Is contrary to of the principles for implementingEU regulation directed at businesses/goes beyond minimum requirements in EU regulation(put an X) |  Yes No X |

*Comments on the Bill’s individual provisions*

*On § 1*

On point 1

Under current law, nicotine products which do not contain tobacco are not subject to tax. This Bill proposes the introduction of a tax on nicotine products, cf. § 1(3) of the Bill. The tax on nicotine products is proposed to be inserted in Title IX of the Consumer Tax Act under § 13 as § 13a.

In addition, a new section is inserted by Act No 1182 of 8 June 2021 in the Consumer Tax Act, Title IXa, Tax on nicotine-containing liquids, which contains 10 new paragraphs, §§ 13a-13j. The rules shall enter into force on 1 July 2022. The section is proposed to be repealed for technical reasons, cf. § 3 of the Bill. The provisions are proposed to be reintroduced in this Bill, cf. § 1(3) of the Bill. It is proposed that §§ 13a-13j be inserted in Title IX, Tax on smear, and snus (smokeless tobacco) as §§ 13b-13l, cf. § 1(3) of the Bill. This part of the Bill has no material impact on the regulation of the tax on nicotine-containing liquids adopted, but not in force. The proposal is due to the fact that, for technical reasons, provisions which have not entered into force cannot be amended.

It is proposed that the heading of Title IX be replaced by the following: *Title IX, Taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids.*

Under this proposal, Title IX of the Consumer Tax Act would cover smokeless tobacco, nicotine products, and nicotine-containing liquids. Against this background, it is proposed that the heading of Title IX of the Consumer Tax Act be redrafted.

On point 2

Under § 13(1) of the Consumer Tax Act, tax is payable on kardus chewing tobacco and snus for nasal use, which is lawfully marketed under the Tobacco Products Act, etc. The tax is calculated per kilogram and is DKK 113 per kilogram. Under paragraph 2 of that provision, tax is payable on other smokeless tobacco which is lawfully marketed under the Tobacco Products Act, etc. The tax is calculated per kilogram and amounts to DKK 410.76 per kilogram.

A proposal has been made to amend § 13 of the Consumer Tax Act. It is proposed that the new wording enters into force on 1 July 2022, cf. § 4(1) of the Bill.

It is proposed in *§ 13,* that smokeless tobacco which is lawfully marketed under the Tobacco Products Act etc. will be subject to a tax of DKK 461.37 per kilogram. Reference is also made to the general remarks of the Bill, point 2.2.1.

Smokeless tobacco will include kardus chewing tobacco, snus for nasal use, chewing tobacco, and other smokeless tobacco.

With what is proposed, the provision on smokeless tobacco in § 13 of the Consumer Tax Act, which under the current law is divided into two tax categories with different tax rates, will thus be merged into one tax category with the same tax rate.

The proposal does not envisage a change in the taxable product area for smokeless tobacco, which is thus unchanged. However, any smokeless tobacco would, in the future, be subject to the same tax rate.

The reason for the proposed proposal is that it may be difficult to determine whether a product is to be categorised as kardus, snus for nasal use, or other smokeless tobacco and, consequently, what tax is payable. The merger of the two tax categories for smokeless tobacco achieves simpler and more transparent legislation in which enterprises will no longer have to distinguish between different tax categories which are not considered to be professionally justified for maintaining them.

As regards the distinction between smokeless tobacco and the proposed tax on nicotine products, it should be noted that smokeless tobacco is to be understood as products containing tobacco in whole or in part, while nicotine products are to be understood as products which do not contain tobacco in whole or in part.

On point 3

Under current law, no tax is payable on nicotine products.

It is proposed that the Consumer Tax Act introduces a tax on nicotine products. Against this background, a proposal has been made to insert § 13a after § 13 of the Consumer Tax Act. It is proposed in *§ 13a* to determine the taxable product area for nicotine products.

It is proposed in *paragraph 1, first sentence,* that nicotine products which are not taxable under § 13, § 13b(1) or the Tobacco Tax Act should be subject to a tax of 5 øre per mg of nicotine, cf. the proposed paragraph 2.

Nicotine products shall be understood as any product containing nicotine which is not smokeless tobacco within the meaning of § 13, nicotine-containing liquid within the meaning of § 13b(1), or a tobacco product under the Tobacco Tax Act.

As regards the distinction between smokeless tobacco and the proposed tax on nicotine products, it should be noted that smokeless tobacco is to be understood as products containing tobacco in whole or in part, while nicotine products are to be understood as products which do not contain tobacco in whole or in part.

The definition of nicotine products is therefore proposed to cover all products containing nicotine regardless of the subjective intention of the use of the nicotine product. The subjective intention of using the product, or intended use of the product, will therefore not determine whether the product is taxable. The determining factor is whether or not the product contains nicotine. Thus, if a product contains nicotine, it will be subject to the tax unless the nicotine product is covered by the proposed exemptions or if the product will have to be taxed as smokeless tobacco, see the proposed § 13 of the Consumer Tax Act under § 1(2) of the Bill, nicotine-containing liquids, see the proposed § 13b(1) of the Consumer Tax Act under § 1(3) of the Bill, or a tobacco product under the Tobacco Tax Act. Thus, the tax will cover all nicotine products which are not directly exempted or taxed under other provisions of the Consumer Tax Act or the Tobacco Tax Act.

This means that all products containing nicotine will in principle become subject to tax and nicotine products will become a product subject to excise duty as from 1 July 2022. With what is proposed, the taxable product area will cover all nicotine products which are not covered by § 13, § 13b(1) or the Tobacco Tax Act or which are not proposed to be exempt from tax, cf. the proposed § 13a(2). The tax would have to be calculated on the basis of the taxable amount per mg.

It is proposed in *paragraph 2,* that no tax will be payable on the nicotine products referred to in the proposed paragraph 2.

This means that the products referred to in the proposed paragraph 2 would be exempt from the tax under the proposed § 13a(1).

The reason for the proposal is that there are certain products which it is considered appropriate to exempt from taxation, as these products are used for purposes which should not be taxed.

It is proposed in *paragraph 2,* that no tax will be payable on nicotine products authorised by a marketing authorisation under the Medicines Act (hereinafter ‘the Medicinal Products Act’) or under EU law laying down Community procedures for the authorisation of medicinal products for human use.

This means that nicotine products which are medicinal products with marketing authorisation will have to be exempted from tax under the proposed paragraph 1.

The reason for this is that these products are used for purposes which should not be taxed.

In addition, it is proposed to repeal §§ 13a-13j of the Consumer Tax Act, cf. § 3 of the Bill. The provisions are proposed to be reintroduced in this Bill, such as §§ 13b-13l of the Consumer Tax Act. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provisions adopted — but not in force — with regard to the tax on nicotine-containing liquids.

Under current law, no tax must be paid on nicotine-containing liquids.

It is proposed in *§ 13b* to determine the taxable product area for nicotine-containing liquids.

It is proposed in *paragraph 1, first sentence,* that nicotine-containing liquids will be taxed.

This means that nicotine-containing liquids will initially be subject to tax and that as from 1 July 2022, nicotine-containing liquids will become a product subject to excise duty. With what is proposed, the taxable product area will cover all nicotine-containing liquids which are not proposed exempt from tax, see the proposed § 13b(2).

Nicotine-containing liquids describes all liquids containing nicotine. The definition covers both nicotine-containing liquids that can be consumed directly in e-cigarettes and nicotine-containing liquids that can be used to produce liquids which can be consumed in e-cigarettes. Thus, nicotine-containing liquids will not necessarily be e-liquids. With the proposed definition, the subjective intention of the use of the liquid or the intended use of the liquid will not be decisive of whether the liquid is taxable. It is therefore proposed that the taxable product group be defined as ‘nicotine-containing liquids’ and that it should cover all nicotine-containing liquids, with the exception of those for which exemptions are proposed. Thus, if a liquid contains nicotine, it will be subject to the tax, irrespective of whether it can be consumed or is intended for consumption in an e-cigarette, unless the liquid is covered by the proposed exemptions. This will cover all nicotine-containing liquids which are not directly exempted.

It is proposed in *paragraph 1, second sentence,* that the tax is paid at the rates laid down in paragraph 1(1) and (2) on the basis of the taxable volume.

This means that the tax is fixed on the basis of the volume of the nicotine-containing liquid and that the level of the tax is proposed to be differentiated.

The reason why it is proposed that the tax must be calculated on the basis of volume is that it is a liquid. The reason why the tax is proposed to be differentiated is that it is possible to mix liquids so that nicotine concentrations are lower when the liquid is consumed. In the absence of differentiated rates, the tax could be circumvented by purchasing 10 ml of nicotine containing 20 mg of nicotine per millilitre and mixing it with 10 ml of nicotine-free liquid. This would give you 20 ml of nicotine containing 10 mg/millilitre, where only the 10 ml tax has been paid. If the liquid had been purchased ready-mixed, the total amount of 20 ml would have been taxed. With differentiated rates, the tax would not create the same incentive for nicotine-containing liquids to be purchased with a high concentration of 20 mg per millilitre and then mixed with nicotine-free liquids.

A proposal has been made to introduce differentiated tax rates to reduce part of the incentive to dilute liquids with high concentrations of nicotine. The differentiation of the tax rate thus removes part of the incentive for this type of circumvention of the tax. As it appears from the proposed paragraph 1(1), a proposal is made to introduce a low rate for liquids with a concentration of nicotine of 12 mg per millilitre or less, and in paragraph 2, a proposal is made to introduce a higher tax for liquids with a nicotine concentration of more than 12 mg per millilitre.

It is proposed in *paragraph 1(1),* that goods with a nicotine concentration equal to or less than 12 mg of nicotine per millilitre should be subject to a tax of DKK 1.5 per millilitre.

This means that when the nicotine content of a nicotine-containing liquid is 12 mg per millilitre or lower, a tax of 1.5 DKK per millilitre of nicotine-containing liquids must be paid.

It is proposed in *paragraph 1(2),* that goods with a nicotine concentration higher than 12 mg of nicotine per millilitre should be subject to a tax of DKK 2.5 per millilitre.

This means that when the nicotine concentration of a nicotine-containing liquid is higher than 12 mg per millilitre, a tax of DKK 2.5 per millilitre of nicotine-containing liquids must be paid.

It is proposed in *paragraph 2,* that the nicotine-containing liquids referred to in the proposed paragraph 2 (1) and (2) will not be taxed.

This means that the liquids referred to in the proposed paragraph 2, points 1 and 2, will be exempt from tax under the proposed § 13b(1).

The reason for this proposal is that there are certain liquids which it is considered appropriate to exempt from tax, as these liquids are used for purposes which should not be taxed.

It is proposed in *paragraph 2(1),* that nicotine-containing liquids, which have been authorised by a marketing authorisation under the Medicines Act (hereinafter the Medicinal Products Act) or under EU law laying down community procedures for the authorisation of medicinal products for human use, or placed on the market as a medical device bearing CE marking in accordance with Order No 1263 of 15 December 2008 on medical devices, should not be subject to the tax.

This means that nicotine-containing liquids, which are medicinal products with marketing authorisation and nicotine-containing liquids placed on the market as medical devices bearing the CE marking, must be exempt from tax in accordance with the proposed paragraph 1.

The reason for this is that these liquids are used for purposes which should not be taxed.

§ 1(1) of the Act on Electronic Cigarettes, etc., includes electronic cigarettes and refill nicotine containers which have not been authorised by a marketing authorisation under the Medicinal Products Act or under EU law laying down community procedures for the authorisation of medicinal products for human use or placed on the market as medical devices bearing CE marking in accordance with Order No 1263 of 15 December 2008 on medical devices. This means that electronic cigarettes and refill nicotine containers can be applied for by means of a marketing authorisation in accordance with § 7(1) of the Medicinal Products Act or EU law for the establishment of Community procedures for the authorisation and supervision of medicinal products.

It is proposed in *paragraph 2(2),* that no tax should be paid on nicotine-containing liquids covered by Chapter 5 of the Chemicals Act, which are not covered by the Act on Electronic Cigarettes, etc.

This means that nicotine-containing liquids which, because of their classification as acutely toxic, are covered by Chapter 5 of the Chemicals Act and which, due to a content of more than 20 mg nicotine, are not covered by the Act on Electronic Cigarettes, etc., must be exempted from the tax liability in the proposed paragraph 1.

The reason why nicotine-containing liquids covered by Chapter 5 of the Chemicals Act are proposed to be exempt from tax is that these mixtures are classified as acutely toxic and are thereby labelled as toxic and consequently unfit for human consumption. The products are covered by the legislation on toxic substances and mixtures, etc., and will thus not be accessible to the ordinary citizen unless they have a requisition endorsed by the police. Some nicotine-containing liquids with a maximum nicotine concentration of 20 mg per millilitre are classified as acutely toxic on the basis of the underlying EU legislation. If these nicotine-containing liquids are marketed as liquids for e-cigarettes, they are covered by the Act on Electronic Cigarettes, etc., and will therefore also be covered by the proposed tax liability in § 13b(1) of the Consumption Tax Act. There is therefore parallelism in the legal codes.

With what is proposed, therefore, there will be two conditions under which nicotine-containing liquids will be exempted under the proposed § 13b(2)(2). First of all, it must be nicotine-containing liquids covered by Chapter 5 of the Chemicals Act and secondly that the liquid is not covered by the Act on Electronic Cigarettes, etc.

Chapter 5 of the Chemicals Act concerns the sale of toxic substances and mixtures, etc., § 24(1) of the Act stipulates that highly toxic and toxic substances and mixtures may only be sold against requisition. However, this does not apply to the enterprises, institutions, and persons listed in § 25(1) of the Act. These include hospitals, doctors, dentists, etc. In addition, they are enterprises which, under certain specified conditions, have the right to manufacture or sell such highly toxic or toxic substances and mixtures. The Minister for the Environment has also used the legal basis in § 24(4) of the Act to lay down rules that highly toxic and toxic substances and mixtures may only be imported by the enterprises, institutions, and persons referred to in § 25(1).

The enterprises, institutions and persons listed in § 25(1) of the Chemicals Act are subject to public checks in various ways. The main aim of the requisition system is thus to check and limit the sale of these highly toxic and toxic substances and mixtures to private individuals. Individuals wishing to acquire such substances or mixtures must complete a requisition to be endorsed by the police. In this context, the purpose of the use must be indicated. Similarly, it applies to persons or enterprises not directly exempted from the requisition requirement, including e.g. a primary school teacher, who needs the toxic or highly toxic substance or mixture in his or her chemistry teaching. Only highly toxic and toxic substances and mixtures can legally be sold to private individuals who can present a police-endorsed requisition.

As the tax on nicotine products and nicotine-containing liquids will be included in the Consumer Tax Act, the tax, cf. the proposed § 13a(1) and § 13b(1), will become part of the current set of rules in the Consumer Tax Act on, inter alia, checks and penalties. The tax on smokeless tobacco is already covered by these rules.

As far as registration is concerned, enterprises manufacturing or receiving from abroad taxable nicotine-containing liquids will, as proposed, be registered as warehousekeepers with the Tax Administration Authority, which will issue a proof of registration, see § 14a(1) of the Consumption Tax Act. § 1(4) of the Bill proposes that enterprises which repackage or decant smokeless tobacco, nicotine products, or nicotine-containing liquids will also have to be registered as warehousekeepers for the proposed tax in § 13, § 13a(1), or § 13b(1). In addition, enterprises registered in accordance with § 47(1) of the VAT Act and selling taxable nicotine products or nicotine-containing liquids in Denmark by means of distance sales will also have to be registered as warehousekeepers, cf. § 14a(8) of the Consumer Tax Act.

§ 14a(2) lays down a de minimis threshold on when enterprises must register as warehousekeepers and pay the tax. However, this is not proposed to apply to warehousekeepers registered for tax under the proposed § 13, § 13a(1), or § 13b(1), cf. the special comments on the proposed § 13l.

As regards the payment of the tax, a proposal has been made to introduce a stamp system for the tax on smokeless tobacco, nicotine products, and nicotine-containing liquids. This should be viewed in the context of the fact that there are expected challenges in the area of nicotine-containing liquids and that the level of the tax on nicotine products is so significant that this will create an incentive for circumvention of the tax. In this context, reference is made to the description of the proposed stamp system under the proposed §§ 13d to 13h.

As regards checks, § 17 of the Consumer Tax Act will also apply to taxable nicotine products and nicotine-containing liquids. If deemed necessary, the Tax Administration Authority will, at any time, with proper identification and without a court order, gain access to carry out inspections in the enterprises that are covered by the Act, to check, i.a., the enterprises’ inventories, books of account and other accounting records. Reference is also made to § 1(8) of the Bill, which proposes to insert two new paragraphs in § 17 of the Consumption Tax Act.

As regards penalties, § 22 of the Consumer Tax Act will also apply to tax on nicotine products and nicotine-containing liquids. However, it is proposed below that provision should be made for increased fines, which will also be used for smokeless tobacco. This is because there is the expectation of a strong incentive to circumvent the tax on particularly nicotine-containing liquids due to the level of the tax. Reference is made to § 1(10) and (11) of the Bill.

It is proposed in *§ 13c,* that goods subject to tax in the proposed § 13, § 13a(1) or § 13b(1) would be exempt from tax in three situations; when they are delivered to another warehousekeeper (point 1) or abroad (point 2), or when they have been completely destroyed or irretrievably lost with the registered warehousekeeper, or during transport to and from the company (point 3).

In contrast to the proposed exemptions in § 13a(2) and § 13b(2), where the exempt goods will not be included in the taxable territory, the goods concerned in the proposed § 13c, even though they fall within the taxable area of goods, will be exempt from tax in the situations specifically mentioned.

It is proposed in *paragraph 1(1),* that no tax will be payable on goods subject to the tax in the proposed § 13, § 13a(1) or § 13b(1) supplied to another registered warehousekeeper, cf. the proposed § 13e(4).

This means that a registered warehousekeeper does not have to pay tax on goods subject to the tax in the proposed § 13, § 13a(1), or § 13b(1) which they supply to another registered warehousekeeper. The reference to the proposed § 13e(4) would require the registered warehousekeeper to have been authorised by the Tax Administration Authority to transfer taxable goods to other warehousekeepers.

In the case of wholesale packages, the goods will not be subject to the proposed stamp requirement and the warehousekeeper has 1 month from manufacture or receipt from abroad to affix the stamp. The warehousekeeper will be able, with authorisation under the proposed § 13e(4), to deliver goods tax-free to another warehousekeeper. The time limit laid down in the proposed § 13b(1) to repack/decant the nicotine-containing liquid within one month will not be reset at the time of such delivery to the other warehousekeeper.

It is proposed in § 13d(1), that immediate packages be stamped on the packaging of the goods contained therein or, at the latest, on receipt from abroad if the taxable goods are received from abroad in immediate packages. However, if the immediate packages are to be delivered to another warehousekeeper and thus fall under the proposed exemption in § 13c(1)(1), the immediate package will not have to be stamped under the proposed § 13d(1). The warehousekeeper will be able to deliver the nicotine-containing liquid tax-free to another warehousekeeper with an authorisation under § 13e(4). It will then be the warehousekeeper who receives the immediate packages who will have to affix the stamp.

It must be documented that the goods have been delivered or are to be delivered to another warehousekeeper, e.g. in the warehousekeeper’s accounts in the form of invoice, order confirmation, receipt, or delivery note. The reason for this is that the Tax Administration Authority must be able to verify during a check whether the correct tax has been paid and that there is consistency between the stocks and the accounts, see, i.a., the proposed § 18(2). If there is insufficient evidence for this, the Tax Administration Authority will be able to collect tax on the taxable goods, cf. the proposed § 13c(2).

It is proposed in *paragraph 1(2),* that no tax will be payable on goods subject to the tax in the proposed § 13, § 13a(1) or § 13b(1) supplied abroad.

This means that a registered warehousekeeper does not have to pay tax on taxable goods which he supplies abroad.

In the case of wholesale packages, the nicotine-containing liquid will not yet be covered by the proposed stamp requirement, and the warehousekeeper has one month from manufacture or receipt from abroad to affix the stamp

It is proposed in § 13d(1), that immediate packages be stamped on the packaging of the goods contained therein or, at the latest, on receipt from abroad if the taxable goods are received from abroad in immediate packages. However, if the immediate packages are to be delivered abroad and thus fall under the proposed exemption in § 13c(1)(2), the immediate package will not have to be stamped under the proposed § 13d(1).

Proof must be provided that the taxable goods have been delivered or are to be delivered abroad, e.g. in the warehousekeeper’s accounts in the form of invoice, order confirmation, receipt or delivery note. The reason for this is that the Tax Administration Authority must be able to verify during a check whether the correct tax has been paid and that there is consistency between the stocks and the accounts, see, i.a., the proposed § 18(2). If there is insufficient evidence for this, the Tax Administration Authority will be able to collect tax on the taxable goods, cf. the proposed § 13c(2).

It is proposed in *paragraph 1(3),* that no tax will be payable on goods subject to the tax in the proposed § 13, § 13a(1) or § 13b(1) which have been completely destroyed or irretrievably lost by the registered warehousekeeper or during transport to and from the company.

This means that nicotine-containing liquids which have been completely destroyed or irretrievably lost with the registered warehousekeeper or during transport to and from the registered warehousekeeper will not be subject to tax.

Proof must be provided that the taxable goods have been completely destroyed or irretrievably lost. ‘Completely destroyed or irretrievably lost’ describes the situation when the goods have been rendered unusable as goods. For example, one or more containers with nicotine-containing liquids may break during transport and the nicotine-containing liquid therefore flows out of the container and has therefore been irretrievably lost, or a fire has occurred in the warehousekeeper’s premises, with the result that smokeless tobacco, nicotine-containing products, or nicotine-containing liquids in the warehousekeeper’s premises have been completely destroyed. If parts of the goods continue to exist and have not been rendered unusable as goods, the exemption will not be applicable to this part of the lot.

Proof must be provided that the goods have been completely destroyed or irretrievably lost. If there is insufficient evidence for this, the Tax Administration Authority will be able to collect tax on the taxable goods, cf. the proposed § 13c(2). As sufficient documentation, the registered warehousekeeper will be able to present, inter alia, pictures or video material of the goods that have been completely destroyed or irretrievably lost, or logbooks, police reports, etc. describing the course of events that caused the complete destruction or irretrievable loss.

It is proposed in *paragraph 2, first sentence,* that the registered warehousekeeper must be able to prove that the goods are covered by paragraph 1.

This means that the registered warehousekeeper must be able to prove that the goods (1) are to be delivered to another registered warehousekeeper, (2) are to be delivered abroad or (3) have been completely destroyed or irretrievably lost at the registered warehousekeeper or during transport to and from the company.

For example, in the case of points 1 and 2, the documentation may be made in the warehousekeeper’s accounts in the form of invoice, order confirmation, receipt, or delivery note. In addition, paragraph 1 will also require the registered warehousekeeper to have an authorisation to send the goods tax-free to another warehousekeeper. In the case of point 3, the registered warehousekeeper will be able to present, inter alia, pictures or video material of the goods that have been completely destroyed or irretrievably lost, or logbooks, police reports, etc. describing the course of events that caused the complete destruction or irretrievable loss.

If the warehousekeeper cannot prove that the goods are covered by the proposed exemptions in § 13c(1)(1) to (3), the Tax Administration Authority will be able to collect tax on the goods if there is insufficient documentation.

This means, for example, that the Tax Administration Authority may collect tax on goods from the registered warehousekeeper if the registered warehousekeeper has not paid tax on the goods or has not packed them in immediate packages within the period of 1 month in the proposed § 13d(1) on the grounds that the goods must be sent to another warehousekeeper, but this is not sufficiently documented.

Similarly, the Tax Administration Authority will e.g. be able to collect tax on goods if the registered warehousekeeper cannot provide sufficient evidence that the goods have been completely destroyed or irretrievably lost.

A proposal has also been made to insert *§ 13d to h,* which will have to contain the rules on the proposed stamp system.

In view of the expected incentive for tax evasion and the expected challenges in the area of nicotine products and nicotine-containing liquids in general, a proposal has been made to introduce a stamp system. Nicotine products such as nicotine bags are particularly substitutable with smokeless tobacco such as chewing tobacco. It is therefore proposed that the tax on smokeless tobacco should also be included in the proposed stamp system. The system is known from cigarettes and smoking tobacco. However, it should be noted that the tax on cigarettes and smoking tobacco is a harmonised tax, whereas the tax on smokeless tobacco is a national tax, like the proposed taxes on nicotine products and nicotine-containing liquids respectively will be national taxes. This means that there will be differences in the two systems as e.g. the concept of ‘transition for consumption’ does not apply to the national taxes and because the tax will not be covered by the EU-harmonised rules for payment of tax, chargeability of the tax, etc. This is also the reason why the tax is not included in the Tobacco Tax Act, as this Act contains rules which apply to harmonised excise duties.

It is proposed that § *13d* lay down stamp requirements, time of payment of the excise duty, and rules on how the restriction on the sale and storage of smokeless tobacco, nicotine products, and nicotine-containing liquids is to work at the introduction of taxes (nicotine products and nicotine-containing liquids) and by tax increases (smokeless tobacco, nicotine products, and nicotine-containing liquids).

It is proposed in *paragraph 1, first sentence,* that taxable goods covered by § 13, § 13a(1), or § 13b(1) would have to be packed in immediate packages within one month of the manufacture of the goods in Denmark or the receipt of the goods from abroad.

This means that it is proposed to introduce a requirement that smokeless tobacco, nicotine products, and nicotine-containing liquids will have to be packed for immediate packages sale no later than 1 month after the smokeless tobacco, nicotine product, or nicotine-containing liquid is manufactured in Denmark or within 1 month of receipt of the smokeless tobacco, nicotine product, or nicotine-containing liquid from abroad. The proposed option would mean that smokeless tobacco, nicotine product, or nicotine-containing liquid by warehousekeepers, either on importation into Denmark or immediately after manufacture, can be stored in wholesale packages for up to one month, for example.

Thus, taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) which are manufactured in Denmark or received from abroad in wholesale packages will have to be repackaged into immediate packages no later than one month after manufacture or receipt. Thus, if the warehousekeeper manufactures or receives the smokeless tobacco, the nicotine product, or the nicotine-containing liquid in wholesale packs, the warehousekeeper will have one month to repackage them into immediate packages. In the month in which the taxable goods are stored in the wholesale packages, they will have to be stored in the warehousekeeper’s untaxed part of the warehouse, cf. the proposed § 13i.

Thus, if a warehousekeeper is to send the goods abroad, cf. the proposed § 13c(2), the goods will not be covered by the proposed repackaging requirement.

If, under the proposed § 13d(4), a warehousekeeper is authorised to transfer taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) to other warehousekeepers in Denmark, the time when the repackaging of the goods must have taken place will not be extended. This is because warehousekeepers would otherwise be able to send the goods back and forth between them without having them repacked.

Immediate packages of smokeless tobacco or nicotine products include, inter alia, boxes, cans, packs, and bags.

Immediate packages of nicotine-containing liquids will include refill containers, disposable electronic cigarettes and cartridges, as defined in § 2 of Order No 499 of 30 May 2016 on quality, labelling, age control system, and advertising, etc. of electronic cigarettes and refill containers, etc.

The reason for the proposal is that nicotine-containing liquids covered by the Act on Electronic Cigarettes may be marketed only in containers as defined in § 2 of Order No 499 of 30 May 2016 on quality, labelling, age control system, and advertising of electronic cigarettes, etc. Thus, the nicotine-containing liquid covered by the Act on Electronic Cigarettes may not be placed on the market in other containers.

It is proposed in *paragraph 1, second sentence,* that immediate packages must bear stamps on the packaging of the goods therein, or at the latest on receipt from abroad, if the taxable goods are received from abroad in immediate packages.

The proposed proposal would introduce a stamp requirement for immediate packages of smokeless tobacco, nicotine products and nicotine-containing liquids. The requirement to affix stamps occurs when the smokeless tobacco, the nicotine product or the nicotine-containing liquid is packed/decanted in the immediate package or, at the latest, on receipt of the immediate packages from abroad, if the taxable product is received in immediate packages. The requirement for stamps would therefore only apply to immediate packages. If the smokeless tobacco, the nicotine product or the nicotine-containing liquid is filled directly after manufacture, the requirement for a stamp will occur here. For example, if the smokeless tobacco, the nicotine product, or the nicotine-containing liquid are filled in wholesale packages directly after manufacture, the registered warehousekeeper will have 1 month to pack the product in/decant the liquid onto retail packaging. When the smokeless tobacco, the nicotine product, or the nicotine-containing liquid is repackaged/decanted from a wholesale pack to an immediate package, the stamp requirement will occur. The smokeless tobacco, the nicotine product, or the nicotine-containing liquid bearing the stamps will have to be stored in the taxed part of the warehousekeeper’s premises, cf. the proposed § 13i.

The proposed addition means that goods covered by the proposed § 13c would not have to bear stamps. Under the proposed § 13c, goods covered by § 13, § 13a(1) or § 13b(1) would be exempt from tax. It is proposed that there will be tax exemption for the following:

1) Goods delivered to another registered warehousekeeper.

2) Goods delivered abroad.

3) Goods which have been completely destroyed or irretrievably lost by a registered warehousekeeper or during transport to and from the enterprise.

With what is proposed, there will not be any requirement for stamps for these goods. However, as regards § 13c(1), point 1, the goods will have to be stamped with the other warehousekeeper. The deadline for repackaging/decanting in the proposed § 13d(1), first sentence, will not be extended as a result of the transfer.

The reason for the proposed introduction of a stamp requirement is that there is the expectation of an increased need for control on the market and that the proposed tax on nicotine products and nicotine-containing liquids, respectively, is expected to lead to illegal trade. With regard to smokeless tobacco, it is proposed to introduce a requirement for stamps as, inter alia, products such as chewing tobacco and nicotine bags are substitutable. It is therefore considered necessary to introduce stamps to ensure the best control. At the same time, it allows law-abiding and registered enterprises to show consumers that excise duty has been settled on the goods.

The reason why it is only the immediate packages that are proposed to be included in the stamp requirement is that nicotine-containing liquids covered by the Act on Electronic Cigarettes may be marketed only in containers as defined in § 2 of Order No 499 of 30 May 2016. Thus, the nicotine-containing liquid covered by the Act on Electronic Cigarettes may not be placed on the market in other containers.

If the stamp requirement for nicotine-containing liquids were not limited to immediate packages, wholesale packages would also have to be stamped. This would in practice mean that the warehousekeeper would have to order stamps for the wholesale packages. If the goods were to be repackaged/decanted into immediate packages, the warehousekeeper would also have to have stamps for those packages. The warehousekeeper must then request reimbursement of the stamp from the wholesale package. It is therefore considered most appropriate to limit the stamp requirement for nicotine-containing liquids to the immediate packages. It has been considered appropriate to also limit the stamping requirement to immediate packages in the case of smoking tobacco and nicotine products, as the area of nicotine products is not defined, and therefore there may be products which, for similar practical reasons that apply to nicotine-containing liquids, should not be subject to stamping requirements for wholesale packages.

The reason why the stamp is proposed to be affixed at the time of packaging of the product in the immediate package or, at the latest, on receipt of the immediate package, if the taxable goods are received from abroad in immediate packages, is that it is most appropriate that all stamps are affixed to immediate packages in Denmark, and that tax is thereby paid on them.

It is proposed in *paragraph 2*, that the tax should be paid in connection with the ordering of stamps, unless the registered warehousekeeper has provided security in accordance with the proposed § 13g(1).

This means that registered warehousekeepers who do not choose to provide security under the proposed § 13g(1) must pay the tax on ordering the stamps.

The registered warehousekeepers will, as proposed, send an order for stamps to the Tax Administration Authority. As proposed under § 13h(1), the stamps must be produced at the initiative of the Tax Administration Authority. This means that the Tax Administration Authority must in practice pass the order on to the printing office, so that the printing office can print the stamps on the basis of the order.

It is proposed in *§ 13g,* that registered warehousekeepers may choose to provide a guarantee in order to obtain credit for payment of the tax. The registered warehousekeepers who choose not to provide this security must, with what is proposed, pay the tax in connection with the actual ordering of the stamps from the Tax Administration Authority. This means that the stamps are not printed in such cases until the stamps ordered by the registered warehousekeeper have been paid. In practice, for example, the Tax Administration Authority sends back the registered warehousekeeper’s order email containing information on how the tax is to be paid.

The reason for the proposal is to avoid a situation in which stamps are printed which have neither been paid nor provided security for, and where the Tax Administration Authority has a claim against an enterprise that subsequently does not want to receive the ordered stamps or pay for them. The stamps will have to provide some information and will therefore be useless if the warehousekeeper who has ordered the stamps does not want the stamps after all. However, under the proposed system, registered warehousekeepers will be able to reimburse the tax in return for the unused stamps, see the proposed § 13h(2).

In this respect, it should be noted that this is a national excise duty. The rules governing the payment of the tax under the stamp system therefore do not necessarily correspond entirely to the corresponding system for cigarettes and smoking tobacco, where the stamps are supplied with a stamp value and the tax becomes chargeable only at the time of release for consumption. In the case of national excise duties, the term ‘transition for consumption’ does not apply, so the stamp system will not, i.a., be identical in this respect.

It is proposed in *paragraph 3,* that taxable goods covered by § 13, § 13a(1) or § 13b(1) may be sold only in intact immediate packages.

This means, for instance, that taxable nicotine-containing liquids covered by the proposed § 13b(1) may not be sold by tapping the liquid from a large can. The nicotine-containing liquid must therefore be packed on sale in a closed immediate package, that is duly stamped.

The reason for this is that the tax on smokeless tobacco, nicotine products, and nicotine-containing liquids is paid on the basis of nicotine concentration and/or quantity. For nicotine products and nicotine-containing liquids, it is not possible to see with the naked eye the nicotine concentration of a product or liquid. If a nicotine product or a nicotine-containing liquid is sold in anything other than intact immediate packages, it would not be possible for the Tax Administration Authority to determine the nicotine content and, therefore, whether the tax was correctly paid without sending a sample for technical examinations. In the case of smokeless tobacco, the tax is paid through the stamp system on the basis of quantity. If the smokeless tobacco is not in the container affixed to the stamp, it is not possible to ascertain whether the goods have been correctly taxed.

In order to avoid the situations mentioned above, a proposal is made to prohibit the sale of goods in anything other than intact immediate packages. Immediate packages include boxes, cans, packs, bags, special refill containers, disposable electronic cigarettes and cartridges for single use as defined in § 2 of Order No 499 of 30 May 2016 on quality, labelling, age control system, and advertising, etc. of electronic cigarettes and refill containers, etc. Reference is made to § 1(10) of the Bill, where a proposal has been made to introduce a penalty for infringing the proposed provision.

It is proposed in *paragraph 4, first sentence*, that immediate packages containing taxable goods which registered warehousekeepers deliver as from 1 July 2022 must bear stamps.

This means that all immediate packages of goods subject to the tax in § 13, § 13a(1), or § 13b(1) that registered warehousekeepers will hand over as from 1 July 2022 must bear a stamp. If a registered warehousekeeper has a stock of the taxable goods on that day, this warehouse will have to be stamped before the smokeless tobacco, nicotine product, or nicotine-containing liquid can be released from the registered warehousekeeper. If there are wholesale packs of smokeless tobacco, nicotine products, or nicotine-containing liquids in the warehouse, these will have to be repackaged/decanted into immediate packages before they can be supplied, cf. the proposed § 13d(1). Smokeless tobacco, nicotine products or nicotine-containing liquids produced, received or imported by the registered warehousekeeper as from 1 July 2022 will also have to be stamped on before the registered warehousekeeper can hand them out, cf. the proposed § 13d(1).

The reason for this is that the tax on nicotine products and nicotine-containing liquids is proposed to be introduced as of 1 July 2022 and should therefore be imposed on goods sold from warehousekeepers as of that date. The tax on nicotine products and nicotine-containing liquids is proposed to be subject to a stamp system, so payment of the tax is made on the basis of stamps. In this context, the tax on smokeless tobacco is also proposed under a stamp system, as smokeless tobacco such as chewing tobacco is interchangeable with nicotine products such as nicotine bags.

In the event of a breach of the proposed provision, the registered warehousekeeper who has sold the smokeless tobacco, the nicotine product, or the nicotine-containing liquid without a stamp will have transferred goods on which the tax which should have been due has not been paid.

It is proposed in *paragraph 4, second sentence,* that enterprises which are not registered warehousekeepers may not sell taxable goods in Denmark without stamps for commercial purposes after 3 months have elapsed from the date of entry into force of the requirement for a stamp after the entry into force of the first sentence.

This means that enterprises which are not registered as warehousekeepers may sell taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) only for a limited period of three months from the entry into force of the requirement for a stamp under the first sentence. The sale of smokeless tobacco, nicotine products, and nicotine-containing liquids for commercial purposes includes any enterprise which sells smokeless tobacco, nicotine products, or nicotine-containing liquids in the course of its trade, except where the enterprise is registered as a warehousekeeper. The provision thus covers, inter alia, wholesalers and retailers trading in goods subject to the tax in § 13, § 13a(1) or § 13b(1). Wholesalers and retailers, etc. have thus entered into force three months from the requirement for a stamp to sell smokeless tobacco, nicotine products, and nicotine-containing liquids which do not bear stamps. The said 3-month period will run from 1 July 2022 until 30 September 2022. The ban on the sale of smokeless tobacco, nicotine products, and nicotine-containing liquids without a stamp will therefore enter into force on 1 October 2022.

Only enterprises which sell smokeless tobacco, nicotine products, or nicotine-containing liquids in the course of their trade or profession may lawfully sell those products without a stamp for a period of three months after the entry into force of the requirement for a stamp under the first sentence. However, the provision does not cover registered warehousekeepers’ stocks of smokeless tobacco, nicotine products, or nicotine-containing liquids, as these will be covered by the proposed paragraph 4, first sentence.

In addition, the proposed provision means that wholesalers and retailers, etc., when 3 months have elapsed after the entry into force of the requirement for a stamp under the first sentence, are obliged to ensure that the taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) which they sell bear stamps and that the goods have thus been taxed.

In the event of a breach of the proposed provision, a person who has sold smokeless tobacco, nicotine products, or nicotine-containing liquids without stamps for commercial purposes will have transferred goods on which the tax which should have been due has not been paid.

If three months have elapsed since the entry into force of the requirement for a stamp under the first sentence, and it is established that a wholesaler, retailer, etc. covered by the provision continues to have taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) without stamps in the business premises, there will be a presumption — unless it is found in the immediate vicinity of the expiry of the three-month period — that the person concerned has sold the goods for commercial purposes after the expiry of the three-month period, thereby infringing the proposed provision in § 13d(4) of the Consumer Tax Act.

This means that, on the basis of § 83 of the Customs Act, the Tax Administration Authority will have the possibility, on a case-by-case basis, to detain the goods or to request that the goods in question be seized, even if only penalties are imposed for breach of the proposed § 13d(5) on storage.

It is proposed in *paragraph 5,* that enterprises which are not registered warehousekeepers may not store taxable goods without stamps after 4 months have elapsed from the entry into force of the requirement for a stamp under the first sentence of paragraph 4.

This means that enterprises which are not registered as warehousekeepers who, after the expiry of the three months referred to in the second sentence of the proposed paragraph 4, still have a stock of smokeless tobacco, nicotine products, or nicotine-containing liquids which do not bear stamps, have one month either to return these goods to the registered warehousekeeper or to destroy them. That provision covers, inter alia, wholesalers and retailers trading smokeless tobacco, nicotine products, or nicotine-containing liquids. It is the responsibility of each wholesaler and retailer to ensure that no unstamped smokeless tobacco, nicotine products, or nicotine-containing liquids are stored after the four months have passed. This means that smokeless tobacco, nicotine products, and nicotine-containing liquids put up for immediate packages sale without stamps as proposed may be stored from 1 July 2022 up to and including 31 October 2022. The ban on the storage of smokeless tobacco, nicotine products, and nicotine-containing liquids without stamps therefore applies as from 1 November 2022.

If four months have elapsed since the entry into force of the requirement for a stamp under the first sentence of paragraph 4, and it is established that a wholesaler, retailer, etc. covered by the provision continues to store taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) without stamps, there will be a presumption — unless it is found in the immediate vicinity of the expiry of the four-month period — that the person concerned has sold or attempted to sell the goods for commercial purposes and has thus evaded or attempted to evade tax.

It is proposed in *paragraph 6,* that taxable goods released from a registered warehousekeeper, bearing stamps that were valid prior to the entry into force of a tax increase may not be sold for commercial purposes in Denmark after three months have elapsed from the date of entry into force of the tax increase.

This proposed means that smokeless tobacco, nicotine products, or nicotine-containing liquids supplied by a registered warehousekeeper and bearing stamps that were valid before the entry into force of a tax increase may be sold for commercial purposes only for a limited period of three months from the entry into force of the tax increase. Stamps that were valid prior to the entry into force of a tax increase are stamps where the tax was calculated on the basis of the tax rates in force, before the increase in the tax came into force. The sale of smokeless tobacco, nicotine products, and nicotine-containing liquids for professional purposes includes any enterprise which sells smokeless tobacco, nicotine products., or nicotine-containing liquids supplied by a registered warehousekeeper in the course of its operations. That provision thus covers, inter alia, wholesalers and retailers trading in smokeless tobacco, nicotine products, or nicotine-containing liquids. Wholesalers and retailers will therefore have three months from the entry into force of a tax increase to sell smokeless tobacco, nicotine products, and nicotine-containing liquids bearing stamps that were valid prior to the entry into force of the tax increase. This means, for example, that if a tax increase enters into force on 1 January, the said three-month period will extend from 1 January until 31 March. The ban on the sale of smokeless tobacco, nicotine products, and nicotine-containing liquids with old stamps will therefore apply as from 1 April.

Only enterprises which sell smokeless tobacco, nicotine products, or nicotine-containing liquids in the course of their trade, supplied by a registered warehousekeeper, may lawfully sell smokeless tobacco, nicotine products, and nicotine-containing liquids with old stamps for a period of three months from the entry into force of the tax increase. On the other hand, that provision does not apply to stocks held by registered warehousekeepers of immediate packages of smokeless tobacco, nicotine products, or nicotine-containing liquids bearing stamps that were valid before the entry into force of a tax increase, but not issued before the entry into force of the tax increase.

The proposal also means that wholesalers and retailers, etc., when three months have elapsed after the entry into force of a tax increase, are obliged to ensure that the tax has been paid according to the rates applying after the entry into force of the tax increase on the nicotine-containing liquids which they sell. Wholesalers and retailers, etc., will, i.a., be able to ensure that the correct tax has been paid by checking the tax code of the goods.

In the event of a breach of the proposed provision, the person who sold the smokeless tobacco, the nicotine product, or the nicotine-containing liquid with old stamps for commercial purposes would have transferred goods on which the tax which should have been due has not been paid.

If three months have elapsed from the entry into force of a tax increase and it is found that a wholesaler, retailer, etc. covered by the provision continues to have taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) with old stamps in the business premises, there will be a presumption — unless it is found in the immediate vicinity of the expiry of the three-month period — that the person has sold the goods for commercial purposes after the expiry of the three-month period, thereby infringing the proposed provision of § 13d(6) of the Consumer Tax Act.

It is proposed in *paragraph 7*, that enterprises not registered as warehousekeepers may not retain taxable goods bearing stamps, which were valid before the entry into force of a tax increase, after four months have elapsed from the entry into force of the tax increase.

This proposed means that, three months after a tax increase has entered into force, enterprises which are not registered as warehousekeepers and which still have a stock of smokeless tobacco, nicotine products, or nicotine-containing liquid bearing stamps that were valid before the entry into force of the tax increase, have one month either to return these goods to the registered warehousekeeper or to destroy them. That provision covers, inter alia, wholesalers and retailers trading in smokeless tobacco, nicotine products, or nicotine-containing liquids. Stamps that were valid prior to the entry into force of a tax increase are stamps where the tax was calculated on the basis of the tax rates in force, before the increase in the tax came into force. The goods must be returned within four months of the entry into force of a tax increase. This means, for example, that if a tax increase enters into force on 1 January, then said period of four months will extend from 1 January to 30 April. The prohibition on the storage of goods bearing old stamps therefore applies as from 1 May.

It is the responsibility of each wholesaler and retailer to ensure that, four months after the entry into force of a tax increase, there is no smokeless tobacco, nicotine products, or nicotine-containing liquids in storage that bear stamps that were valid prior to the entry into force of the tax increase.

If four months have elapsed from the entry into force of a tax increase and it is established that a wholesaler, retailer, etc. covered by the provision continues to store taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) with old stamps, there will be a presumption — unless it is found in the immediate vicinity of the expiry of the four-month period — that the person concerned has sold or attempted to sell the goods for commercial purposes and has thus evaded, or attempted to evade, tax.

This means that, on the basis of § 83 of the Customs Act, the Tax Administration Authority will have the possibility, on a case-by-case basis, to detain the goods or to request that the goods in question be seized, even if only penalties are imposed for breach of the proposed § 13d(5) on storage.

It is proposed that *§ 13e* defines the requirements to be imposed on packages, including the information that shall appear.

It is proposed in *paragraph 1,* that taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) would have to be packed in fully closed immediate packages.

This means that the smokeless tobacco, the nicotine product, or the nicotine-containing liquid will have to be enclosed in the package so that the smokeless tobacco, nicotine product, or nicotine-containing liquid is not available without breaking the package. This may be, for example, if the product is in a container where the lid is enclosed in a plastic closure, which must be removed before the lid can be unscrewed. If the stamp is placed over the lid and container and thereby breaks when the lid is screwed off, this will also be considered to be completely closed. The same applies if the container is packed in a box where the stamp is placed over the closure.

The reason for the proposal is that it should not be possible to exchange, mix, or alter the contents of the container for which the registered warehousekeeper has provided and paid tax.

It is proposed in *paragraph 2, first sentence,* that immediate packages should bear the nature of the contents, the nicotine concentration, the quantity and the name and place of enterprise of the manufacturer or payer of the tax.

With what is proposed, each package of smokeless tobacco, nicotine product, and nicotine-containing liquid would have to bear an indication of the nature, quantity of the contents and the manufacturer or the name and place of business of the person who paid the tax. Quantity describes the product expressed in weight or volume. The information must be clear and clearly legible. Thus, if a warehousekeeper does not manufacture the goods but only receives them from abroad, it will be the name and registered office of the warehousekeeper who, as proposed, must appear on the package. The information must be presented on the individual package and not on, for example, the cargo box in which the liquids are stored when they are sold.

The reason for the proposal is that the information necessary for the Tax Administration Authority in connection with checks is shown in the taxable goods. In addition, it will also enable consumers to acquire information on the content contained in the packages. In addition, the Tax Administration Authority must be able to trace the packages back to the person who produced the goods or paid the tax.

It is proposed in *paragraph 2, second sentence,* that the Tax Administration Authority may, however, authorise the use of the name and registered office of a retailer or an anonymity mark.

This means that the Tax Administration Authority may authorise the use of the name and registered office of the manufacturer or payer of the tax. Instead, it may be the name and registered place of a retailer or an anonymity mark. This may, for example, be in cases where a trader has, contrary to the rules, imported taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) which the Tax Administration Authority has seized. If the trader wishes to obtain the taxable goods, the goods will have to be stamped on. In such cases, the use of a stamp bearing the name and registered office of the trader or an anonymity mark may be authorised. An anonymity mark describes a mark in which the name and registered office of the manufacturer, the payer of the tax, or the retailer do not appear. The Tax Administration Authority must allow the use of anonymity marks and therefore know the identity of the enterprise. The enterprise is therefore solely anonymous to the consumer.

It is proposed in *paragraph 2, third sentence,* that immediate packages of nicotine products or nicotine-containing liquids should also bear an indication of the nicotine concentration.

With what is proposed, each package of nicotine product and nicotine-containing liquid — in addition to the information referred to in the first paragraph — will also have to bear an indication of the nicotine concentration.

The reason for the proposal is that the information necessary for the Tax Administration Authority in connection with checks is shown in the taxable goods. In addition, it will also enable consumers to acquire information on the content contained in the packages. In particular, it must be seen from the fact that it is not possible to determine, on the basis of the product itself, the nicotine concentration of the specific product.

It is proposed in *paragraph 2, fourth sentence,* that for nicotine-containing liquids, the tax class will also have to be indicated on the stamp.

The reason for the proposal is that two tax rates are proposed for nicotine-containing liquids covered by § 13b(1). Thus, it will only be possible to determine whether the tax has been paid at the correct rate if the product shows the tax class according to which the tax was paid. The Tax Administration Authority will thus be able to compare the information required under paragraph 2, third sentence, on the concentration of nicotine and thus determine whether the tax has been paid at the correct rate. In view of the fact that, contrary to the nature, concentration and quantity of the product, the tax class of the product is not determined by the manufacturer/importer himself, it is most appropriate that this information be included in the stamp itself.

It is proposed in *paragraph 2, fifth sentence,* that the information referred to in points 1 to 3 may be affixed to the stamp instead of the package itself in accordance with detailed rules. This means that the information that a package is proposed to contain, in accordance with the first to third sentences of paragraph 2, may appear on the stamp instead of on the package itself.

The reason for this is that when the stamps are ordered, the nature and quantity (as well as the nicotine concentration for nicotine products and nicotine-containing liquids) of the taxable goods to which the stamp should be affixed will have to be indicated. This is because this information will be necessary to calculate the correct tax. As a starting point, this information will therefore appear on the stamp.

It is proposed in *paragraph 3, first sentence,* that wholesale packages must bear the nature of the contents, the quantity, and the name and place of business of the manufacturer. It is proposed in *paragraph 3, second sentence,* that wholesale packages of nicotine products, cf. § 13a(1) and nicotine-containing liquids, cf. § 13b(1), will also have to bear an indication of the nicotine concentration.

This means that taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) which are stored in unstamped wholesale packages will have to bear an indication of the nature, quantity, and name and place of establishment of the manufacturer. The proposed amendment also means that taxable nicotine products and liquids containing nicotine which are stored in unstamped wholesale packages — in addition to the information referred to in the first sentence — will also have to bear an indication of the nicotine concentration.

The reason for the proposal is that, as proposed, stamps should not be affixed to wholesale packages. Therefore, the above information must be applied to the wholesale package itself. Among other things, the proposal should be seen in the context of the proposed paragraph 4, according to which the transfer of smokeless tobacco, nicotine products, and nicotine-containing liquids to other warehousekeepers can only be carried out with the permission of the Tax Administration Authority. The proposed option allows the Tax Administration Authority to check whether the products come from a registered warehousekeeper who has a licence to transfer smokeless tobacco, nicotine products or nicotine-containing liquid under the proposed paragraph 4.

It is proposed in *paragraph 4,* that a warehousekeeper registered in Denmark who manufactures taxable goods may be authorised by the Tax Administration Authority to transfer taxable goods to another registered warehousekeeper.

This proposal means that registered warehousekeepers producing smokeless tobacco, nicotine products, or nicotine-containing liquids would need to be authorised by the Tax Administration Authority to transfer these goods to other registered warehousekeepers.

The reason for the proposal is that goods transferred from one warehousekeeper to another warehousekeeper are proposed to be exempt from tax, cf. the proposed § 13c(1)(1). At the same time, the goods are proposed to be exempt from the stamp requirement, cf. the proposed § 13d(1), second sentence. Warehousekeepers who will transfer goods to other warehousekeepers will therefore be able to store the goods in immediate packages without stamps. If, during a check the Tax Administration Authority finds immediate packages which are not duly stamped under the proposed § 13d(1) on the grounds that the goods must be delivered to another warehousekeeper, the Tax Administration Authority will be able to collect the tax on the goods if the warehousekeeper does not have the authorisation from the Tax Administration Authority to deliver the goods to another warehousekeeper. Thus, the possibility of circumventing the tax by justifying the storage of goods in immediate packages by the fact that they have to be transferred to other warehousekeepers without the necessary authorisation would be limited. In addition to the authorisation, the warehousekeeper must be able to prove to the Tax Administration Authority that the goods must de facto be delivered to another warehousekeeper. This is because the warehousekeeper may have a warehouse where not all the nicotine-containing liquid should be transferred to other warehousekeepers or abroad, but some may be intended for sale in Denmark. Therefore, the registered warehousekeeper must be able to document which goods are covered by the proposed § 13a(2)(3) and (4) and which goods are not. Reference is also made to the comments on § 13a(2)(3-4).

In addition, the reason for the proposal is that smokeless tobacco, nicotine products, and nicotine-containing liquids stored in wholesale packets should not be taxed in the form of stamp stamps until they are repackaged/decanted into immediate packages. It is therefore considered most appropriate for such goods to be transferred between warehousekeepers in Denmark only with the permission of the Tax Administration Authority.

If a warehousekeeper is authorised to transfer taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) to other warehousekeepers in Denmark, the time when the repackaging of the goods must have taken place under the proposed § 13c(1) will not be extended in connection with the transfer of goods to other warehousekeepers.

It is proposed in *paragraph 5,* that the Minister of Taxation is able to lay down detailed rules on the technical standards for stamps.

The proposal means that the Minister of Taxation is authorised to lay down rules on the technical standards for stamps in an Order. The purpose of the authorisation is to issue a notice laying down rules similar to those laid down in Order No 1012 of 1 October 2019 on safety stamps for tobacco products. § 1 of the Order provides that safety stamps must be affixed to individual packages of tobacco products in such a way that they 1) are in no way concealed or broken by price marks or other elements required by law during the time a tobacco product is placed on the market and that 2) they are protected from being replaced, recycled, or modified in any way.

The Order applies only to safety stamps on tobacco products. The proposal offers a legal basis to issue an Order setting out similar requirements for the affixing of stamps to immediate packages of smokeless tobacco, nicotine product, and nicotine-containing liquid.

It is proposed in *§ 13f,* that non-registered enterprises may not receive or store taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) which are not packed in properly sealed and duly stamped packages.

This means that enterprises that are not registered as warehousekeepers may only receive and store smokeless tobacco, nicotine products, or nicotine-containing liquids packed in properly sealed packages with stamped stamps. For example, it could be wholesalers or retailers. In order to be properly sealed, packages must be closed in the manner described in the proposed § 13e. This means that the smokeless tobacco, the nicotine product, and the nicotine-containing liquid will have to be enclosed in the package so that the smokeless tobacco, nicotine product, or nicotine-containing liquid is not available without breaking the package. This may be, for example, if the nicotine-containing liquid is in a package where the lid is enclosed by a plastic closure which must be ripped off before the lid can be unscrewed.

The reason for the proposal is, on the one hand, that it should not be possible to exchange, mix, or alter the contents of the container on which the registered warehousekeeper has delivered and paid the tax on. Since it is not possible to see the contained nicotine concentration from the product itself, the proposed stamp system will enable the Tax Administration Authority and consumers to determine whether the tax has been paid on the said liquid and that it comes from a registered warehousekeeper. In addition, the proposed stamp system means that only registered warehousekeepers will be able to order the stamps. Thus, smokeless tobacco, nicotine products, or nicotine-containing liquids cannot be taxed if they are not stamped and the non-registered enterprises will not be able to order the stamps and to consequently pay the tax. Therefore, they shall also not receive or store smokeless tobacco, nicotine products, or nicotine-containing liquids which are not properly stamped.

It is proposed that the rules on credit time and payment of excise duty be set in § *13 g*.

It is proposed in *paragraph 1, first sentence,* that the Tax Administration Authority could grant registered warehousekeepers credit on payment of the tax upon provision of full security, so that the tax must be paid within one month of the date on which the stamps were issued.

This means that registered warehousekeepers have the possibility to provide security of payment of the tax and thereby obtain credit for the payment of the tax, so that the tax need not be paid until one month from the date of delivery of the stamps.

The credit period thus gives enterprises one month to pay the tax from the date on which the stamps have been handed over to the enterprise.

The reason for this is to allow enterprises to have time to collect/get sent the stamps and to sell the smokeless tobacco, nicotine product, or taxable nicotine-containing liquid before the tax will be due.

The stamps, cf. the proposed § 13h(1), are handed over by the Tax Administration Authority. It will therefore be from the time when the stamps are handed over to the registered warehousekeeper that the one-month time-limit begins to run.

The system will be voluntary. If registered warehousekeepers choose not to provide security, payment of the tax must be made in accordance with the rules laid down in the proposed § 13b(2). Under this provision, payment must be made in connection with the ordering of the stamps. The security providing system gives enterprises a degree of flexibility in ordering the stamps. The Tax Administration Authority will be handling and processing the orders.

It is proposed *in paragraph 1, second sentence,* that if payment is not made in due time, the amount will carry interest in accordance with § 7 of the Tax Collection Act.

This means that in accordance with § 7 of the Tax Collection Act, a monthly interest rate plus 0.7 percentage points must be paid from the latest timely payment date of the amount. The last timely payment day will be the day that falls one month after the delivery. The monthly interest rate is fixed for the calendar year and published no later than 15 December preceding the year in which it is to be applicable, see § 7(2) of the Tax Collection Act.

Thus, a registered warehousekeeper who has provided security and who has not paid the tax to the Tax Administration Authority one month after receiving the stamps, either from the printing office or the Tax Administration Authority, will be charged a monthly interest plus 0.7 percentage points. The interest is calculated from the day which is one month after the handover. Thus, if the stamps have been issued on 2 August, the tax must have been paid on 2 September, and from that date, interest will accrue on the amount according to the proposal.

It is proposed in *paragraph 1, third sentence,* that, if stamps are to be affixed to packages in another EU country, the enterprise will be able to obtain additional credit corresponding to the normal journey time of stamps and goods to and from said country.

The aim of what is proposed is to take account of the fact that some enterprises have goods produced in other EU countries. With what is proposed, therefore, there will be no discriminatory treatment of enterprises within the European Union. Enterprises must therefore be free to produce their goods in Denmark or in another EU country. If production takes place in another EU country and the goods are therefore to be dispatched after production, it will be possible, with what is proposed, to provide enterprises with a longer credit time corresponding to the normal shipping time of the stamps and the goods to and from that country. This means the time it normally takes to get the stamps to said country, and then get the goods to Denmark.

If production takes place in a third country, it will not, with what is proposed, be possible to obtain a longer credit period.

It is proposed in *paragraph 1, fourth sentence,* that the extension of the credit period, due to the affixing of stamps in another EU country, could only take place with the approval of the Tax Administration Authority.

The proposal means that a warehousekeeper who wants stamps to be affixed in another EU country must ask the Tax Administration Authority for authorisation to do so.

The reason for the proposal is that, in accordance with paragraph 1, fourth sentence, additional credit is given for the payment of the tax to enterprises which have the stamps affixed in another EU country.

It is proposed in *paragraph 2,* that if the last timely payment day in accordance with paragraph 1 is a non-banking day, the succeeding banking day should be regarded as the last timely payment day.

This means that if the last timely payment day is, for example, a Saturday, Sunday, a public holiday or other non-banking day, the last timely payment day should be considered the succeeding banking day. This would, i.a., entail that the limitation period for the claim only runs from that day.

It is proposed in *paragraph 3, first sentence,* that the credit period referred to in paragraph 1 may, on request and in the case of exceptional circumstances, be extended. This means that registered warehousekeepers may request an extension of the credit period in exceptional circumstances. The exceptional circumstances may, for example, be special storage times for goods due to, i.a., increased production for transfer to storage due to the replacement of production equipment.

When applying for an extension of the credit period, it may be noted that the enterprise's average stock turnover for smokeless tobacco, nicotine product or nicotine-containing liquid exceeds the credit period.

An application for an extension of the credit period must be sent to the Tax Administration Authority prior to the purchase of stamps, and the Tax Administration Authority may require, for example, that the application specifies the following:

The nature, type, and amount of the product, together with a detailed statement of the average stock turnover for smokeless tobacco, nicotine product nicotine-containing liquid for the most recent 12-month period.

It is proposed in *paragraph 4,* that the Tax Administration Authority should be able to lay down the detailed rules for extending the credit period.

With what is proposed, the Tax Administration Authority will be able to lay down the detailed rules for the extension in individual cases, so that the extension of the credit period is adapted to the specific needs of the enterprise, but that at the same time no extension is granted for longer than necessary.

It is proposed in *paragraph 5*, that the Minister of Taxation is authorised to fix the additional credit period for the affixing of stamps in other EU countries in accordance with paragraph 1, third sentence.

This means that the Minister of Taxation will be given the opportunity, in an Order, to provide for general extensions of the credit period for enterprises which have stamps affixed in other EU countries. This allows the extended credit period to be the same for all countries. In addition, it can be taken into account that the same credit period is given for countries where it takes an equal amount of time to transport stamps to the country, and then get the goods to Denmark.

It is proposed that the rules governing the manufacture, supply, and resale of stamps and reimbursement of the tax should be laid down in *§ 13h*.

It is proposed in *paragraph 1, first sentence,* that stamps must be produced by the Tax Administration Authority’s initiative and handed over by the Tax Administration Authority to registered warehousekeepers, unless otherwise agreed with the Tax Administration Authority.

This means that the printing office only produces stamps at the request of the Tax Administration Authority. The enterprises therefore cannot contact the printing office directly for the purpose of having stamps printed outside the Tax Administration Authority. The reason for this is that the payment of the tax is based on the stamp order and delivery. The Tax Administration Authority must therefore be involved in the orders. In addition, enterprises may provide security. In these cases, the Tax Administration Authority must be able to check whether the order is within the security framework.

In addition, this means that the stamps are handed over to registered warehousekeepers from the Tax Administration Authority, unless otherwise agreed with the Tax Administration Authority. It could be, for example, that the warehousekeeper personally wishes to handle the collection directly from the printing office. In these cases, the printing office must inform the Tax Administration Authority of the collection. The reason for this is that the time of payment is counted from the date of delivery, cf. the proposed § 13 g(1). Therefore, the Tax Administration Authority must have an overview of when the stamps for the smokeless tobacco, the nicotine product or the nicotine-containing liquid have been handed over to the enterprises.

It is proposed *in paragraph 1, second sentence,* that registered warehousekeepers may only use the stamps which they have ordered and received.

This means that the stamps ordered by registered warehousekeepers and handed over from the Tax Administration Authority may be used only by said warehousekeeper. A registered warehousekeeper may therefore use only his or her own stamps.

The reason for the proposal is that the stamps are for the sole use of the registered warehousekeeper and his or her goods, since it is through the stamps that the tax is paid. The registered warehousekeeper orders the stamps on the basis of the specific nicotine concentration of their products and/or the quantity in the containers depending on whether they are smokeless tobacco, nicotine products, or nicotine-containing liquids. If the registered warehousekeepers were to sell the stamps, the stamps would lose some of the controlling security, as the labels may be affixed to goods with a higher nicotine concentration and/or higher quantity.

It is proposed in *paragraph 2, first sentence,* that the tax should be repaid for unused stamps that are returned or destroyed.

Since the tax is settled on the basis of ordered stamps, enterprises should be allowed to return unused stamps or destroy them, and then recover the tax. It is proposed in paragraph 3, that the Tax Administration Authority should be able to lay down the detailed terms of the repayment, including the conditions for reimbursement in the event of destruction.

It is proposed in *paragraph 2, second sentence,* that the tax should also be repaid for stamps affixed to packages which have been completely destroyed or irretrievably lost in the premises of a registered warehousekeeper or during transport to and from the enterprise.

This means that enterprises can also be reimbursed for the tax on stamps affixed to packages which have been completely destroyed or irretrievably lost at the registered warehousekeeper or during transport to and from the enterprise.

The tax shall be repaid if the registered warehousekeepers can prove that the smokeless tobacco, nicotine product, or nicotine-containing liquid has been completely destroyed or irretrievably lost. ‘Completely destroyed or irretrievably lost’ describes the situation when the goods have been rendered unusable as goods. For example, one or more containers containing the product involved may break during transport.

It is proposed in *paragraph 3,* that the Tax Administration Authority should be able to lay down the detailed conditions for the repayment.

It may be, for example, that destruction must take place after authorisation by the Tax Administration Authority before the tax can be repaid.

It is proposed that it will be in *§ 13i,* that the increased accounting requirements for enterprises registered as a warehousekeeper or registered consignee of goods for tax under the proposed § 13, § 13a(1) or § 13b(1) and enterprises trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) are proposed.

This means introducing a provision setting out the specific stricter accounting requirements that it is proposed to introduce for registered warehousekeepers and enterprises trading in smokeless tobacco, nicotine products, or nicotine-containing liquids. The provisions are not proposed to be implemented for the enterprises registered for tax under the other provisions of the Consumption Tax Act, nor for enterprises which trade goods to which the current law applies. Enterprises trading taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) could, inter alia, be wholesalers and retailers who trade in smokeless tobacco, nicotine products, or nicotine-containing liquids in Denmark with e.g. other wholesalers, retailers, or consumers.

The reason for the proposal is that there an expected incentive to circumvent, inter alia, the proposed tax on nicotine products and nicotine-containing liquids. Reference is also made to the general remarks of the Bill, point 2.4.3.

It is proposed in *paragraph 1, first sentence,* that registration as a warehousekeeper under § 14a(1) for taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) will be a condition for obtaining registration as a warehousekeeper in Denmark, which the Tax Administration Authority has approved before registration.

This means that registration as a warehousekeeper under § 14a(1) for tax under the proposed § 13, § 13a(1) or § 13b(1) will only be obtained if the company or person has premises in Denmark. In addition, this means that, with what is proposed, a requirement for registration as a warehousekeeper will be approval of the premises by the Tax Administration Authority before registration. In this context, the Tax Administration Authority will emphasise, i.a., that the premises can be used for the purpose for which the enterprise wants to use the premises, including whether goods affixed with stamps can be kept separated from goods to which no stamps have been affixed.

It should be noted that the premises requirement will not therefore apply to enterprises registered as warehousekeepers under § 14a(8).

This means that enterprises registered as warehousekeepers for remote selling in Denmark need not have premises in Denmark before they can register as warehousekeepers. The reason for the proposal is that in order for remote sales to take place, the enterprise must be established in a country other than Denmark. It is therefore not possible to practise remote selling and to have premises in Denmark.

It is proposed in *paragraph 2,* that warehousekeepers store goods affixed with stamps separately from goods with no stamps affixed.

This means that registered warehousekeepers must be able to store smokeless tobacco, nicotine products, and nicotine-containing liquids affixed to stamps (and thus taxed) separate from smokeless tobacco, nicotine products, and nicotine-containing liquids which have not been stamped and are therefore not taxed.

The reason for the proposal is that warehousekeepers, as described above, have the right to accept goods where no tax has been paid, and to produce goods. Warehousekeepers will therefore typically have both goods on which tax has been paid and goods on which no tax has been paid. The aim of the proposal is to make it easier for the Tax Administration Authority to carry out their checks of the enterprise’s stock and the corresponding financial statements and to establish whether the correct tax has been calculated.

It is proposed in *paragraph 3, first sentence,* that enterprises trading in taxable goods should keep records on which to determine whether the tax on taxable goods has been paid and where the goods were supplied from.

This means that enterprises trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) will be required to keep accounts on which to determine whether the tax on the taxable goods has been paid and where the goods were supplied from.

The reason for this proposal is, inter alia, that the proposed tax on nicotine-containing liquids is such that it is expected to incentivise tax evasion. This implies the need for increased control pressure, which will target both registered enterprises and retailers. There is therefore a need for the Tax Administration Authority to have the necessary information for its checks. Reference is also made to the general remarks of the Bill, point 2.4.3.

Enterprises trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) could, among other things, be wholesalers and retailers who trade the goods in question in Denmark with, for example, other wholesalers or retailers, or with consumers. However, this provision also covers registered warehousekeepers. With what is proposed, these enterprises will be required to keep accounts which will serve as a basis for determining whether the tax on the taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) has been paid and where the goods were supplied from.

With what is proposed, the Tax Administration Authority can carry out checks in the non-registered enterprises more easily, as accounting requirements for these enterprises will be established. It is proposed in § 1(10) and (11) of the Bill, that if the enterprises do not keep the necessary accounts, the Tax Administration Authority can impose fines if it is found that the infringement has been committed intentionally, or with gross negligence. Reference is made to § 1(10) and (11) of the Bill and the general remarks of the Bill, point 2.4.4.

It is proposed in *paragraph 3, second sentence,* that the financial statements should indicate which goods have been delivered (type, quantity, and price), the day on which the delivery took place, who delivered the goods, whether the goods have been paid for and the way in which the payment was made.

This means that the financial statements referred to in the proposed first sentence must indicate which goods have been delivered (type, quantity, and price), the day on which the delivery took place, who delivered the goods, whether the goods have been paid for, and the way in which the payment was made.

With what is proposed, the Tax Administration Authority will be able to monitor the goods and determine who delivered them and if/how the goods have been paid. In this way, the Tax Administration Authority will therefore be able to ascertain whether the financial statements of the controlled enterprise are consistent with the financial statements of the enterprise which was responsible for the delivery.

It is proposed in *paragraph 3, third sentence,* that the accounts should be kept in accordance with the rules laid down in the Bookkeeping Act, and § 55 of the VAT Act will also apply to enterprises trading in taxable goods.

This means that the accounts in the proposed first and second sentences will have to be kept in accordance with the rules laid down in the Bookkeeping Act, and § 55 of the VAT Act will also apply to enterprises trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1).

All enterprises trading in taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) will, according to the proposal, be required to keep accounts in accordance with the Bookkeeping Act, including compliance with good accounting practices as described in the Bookkeeping Guidelines. In addition, all enterprises’ financial statements must comply with § 55 of the VAT Act. This means that financial statements must be kept which can, firstly, form the basis for the payment of the tax, but in addition, the reference to § 55 of the VAT Act means that rules issued under § 55 of the VAT Act will also apply. Under current law, this will include §§ 72 and 73 of Order No 808 of 30 June 2015 (the VAT Order).

This means that the enterprise’s transactions that are relevant to the financial reporting are entered in the accounting records as soon as possible, and that accounting records underlying the transactions are kept in a manner that reasonably ensures that the records are not lost. In addition, it is necessary that the individual documents can be found relatively easily. It is also necessary for retailers to have and use a cash register and to keep a cash journal, to provide evidence of purchases/sales and payments, and to carry out daily cash reconciliations. Provisions on inventory accounts, the presentation of documentation and its availability and rules on compliance with the Bookkeeping Act, including good accounting practice, will allow the Tax Administration Authority either to identify the enterprise that is liable to pay the tax under the Act (which will normally be the manufacturer or importer) or to fix and impose a fine on the enterprise, see § 22 of the Consumption Tax Act and § 1(10) and (11) of the Bill, whose financial statements are defective and that stores the taxable goods.

It is proposed in *paragraph 4, first sentence,* that the enterprise’s other accounting records must be kept in the enterprise, unless it could be made available to the Tax Administration Authority within five working days.

The proposed provision concerns where the accounting records of enterprises must be kept.

Following the proposal, the accounting records must be physically available within the enterprise, unless this can be made available to the Tax Administration Authority within five working days. This deadline is based on the assessment that if the accounting records are located with third parties (e.g. an auditor), a request for the provision of the accounting records should be possible within that period. It is only a question of making the accounting records available. Thus, the auditor or others need not be present.

It is proposed in *paragraph 4, second sentence,* that delivery notes, or invoice receipts or invoice copies for taxable goods located in a place of business should be kept at the place of business for at least three months.

This means that delivery notes, receipts, invoice receipts, or copies of invoices must be kept and directly accessible for at least three months for taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) which are present at the business premises or establishments.

With what is proposed, delivery notes and invoice copies used in connection with the delivery itself will have to be kept in the business premises until the goods leave the enterprise. However, as will be shown in the proposed § 13j(2), delivery notes, receipts, or invoice copies must be kept for at least three months from the date of issue. It means that even if the enterprise has sold the goods and therefore the goods are not present in enterprise, the enterprise must keep delivery notes, receipts, or invoice copies for at least three months after the issue. This ensures that the Tax Administration Authority can get the best possible overview when it is inspecting the place of business.

It is proposed in *paragraph 5, first sentence,* that the accounting records, including invoices, invoice copies, delivery notes, and statements should be kept for five years after the end of the financial year.

This means that enterprises which are required to keep accounts under the proposed § 13i(4) must keep these accounting records, including invoices, invoice copies, delivery notes, and statements for five years after the end of the financial year.

The proposed provision will therefore require that all enterprises trading in goods that are taxable under the proposed § 13, § 13a(1) or § 13b(1) will be required to keep the accounting material for five years after the end of the financial year. The provision must be seen in conjunction with the proposed paragraph 5, second sentence, and § 91 of Order No 808 of 30 June 2015 (the VAT Order).

It is proposed in *paragraph 5, second sentence,* that the cash register tapes and similar internal documents of retailers should be kept for only one year from the date of signature of the financial statements.

This means that retailers’ cash register tapes and corresponding internal documents will not be covered by the proposed retention requirement of accounting records for five years from the end of the financial year, as set out in paragraph 5, first sentence, but only for one year from the date of signature of the financial statements.

This rule is in accordance with § 91 of the VAT Order and must be applied in accordance with this provision. § 91 of the VAT Order states that the retailers must keep cash register tapes and corresponding internal documents for one year only from the date of signature of the financial statements. With what is proposed, there will be consistency between the requirements for keeping accounting records for enterprises in the fields of VAT and tax.

It is proposed in *paragraph 6, first sentence,* that the Tax Administration Authority could give the taxable person an order to comply with the provisions laid down in paragraphs 2-5.

It means that if the Tax Administration Authority finds out that an enterprise does not comply with the rules for the keeping of accounts set out in § 13i(2) to (5), the Tax Administration Authority will be able to give the taxable enterprise or person an obligation to comply with the provisions laid down in paragraphs 2 to 5.

The aim of what is proposed is to encourage enterprises to comply with the proposed rules on separation of stocks and the accounting rules.

With this proposal, the Tax Administration Authority will thus be able to issue an order to comply with the rule on the separation of goods taxed from goods not taxed (paragraph 2) and to comply with the accounting rules (paragraphs 3 to 5). If the Tax Administration Authority, during a check, does not find that the tax has been tampered with, but only that the accounting rules set out in the proposed paragraphs 2 to 5 have not been complied with, the Tax Administration Authority will be able to order the enterprise to comply with the rules.

It is proposed in *paragraph 6, second sentence,* that the Tax Administration Authority could impose daily penalty payments on the taxable person under § 13k, until the order is complied with.

This means that the Tax Administration Authority will be able to impose daily penalty payments under the proposed § 13k, until the order under the first sentence concerning infringement of one or more of the proposed provisions of paragraphs 2 to 5 is complied with.

The proposed daily penalty payments must be regarded as a means of exerting pressure to increase the incentive for enterprises to comply with the stricter accounting rules proposed. The need to comply with these accounting rules must be seen in particular in the light of the expected increased risk of circumvention of the tax on nicotine-containing liquids, see the general remarks of the Bill, point 2.4.1.

The penalty payment may be applied to an enterprise even if the Tax Administration Authority subsequently issues a fine notice for infringing the accounting rules (see § 1(10) of the Bill). In relation to this, it should be noted that a penalty payment is not a criminal penalty and must therefore be regarded as less intrusive than a fine notice. Notwithstanding this, however, it would not be necessary, in order to issue the fine notice, that the Tax Administration Authority, prior to the issue, had used daily penalty payments for the purpose of complying with the accounting rules.

It is proposed in *paragraph 7, first sentence,* that the order should contain a reference to the relevant provision and an indication of the specific actions or measures to be taken by the enterprise to comply with the said provision.

This means that the order which the Tax Administration Authority can issue under the proposed paragraph 6 will have to include a reference to the relevant provision order for the enterprise’s non-compliance and an indication of what specific actions or measures the enterprise must take in order to comply with that provision.

The proposal thus requires that the Tax Administration Authority, when issuing an order, must be able to explain what precise provisions the enterprise does not comply with. In addition, the Tax Administration Authority is required to indicate which specific actions or measures the Tax Administration Authority considers that the enterprise must implement to comply with the relevant provision. Thus, the Tax Administration Authority cannot generally proclaim that the enterprise does not comply with the accounting rules, but it must be able to identify the specific provisions that have not been complied with and provide a solution for how the enterprise can comply with the order.

It is proposed in *paragraph 7, second sentence,* that the order must be made in writing and the order must state that if the order is not complied with within the specified time limit, the recipient of the order may be subject to daily penalty payments, until the order is complied with.

This means that the Tax Administration Authority must give the order in writing. In addition, this means that the order must state that if the order is not complied with within the specified time limit, the recipient of the order may be subject to daily penalty payments until the recipient complies with the order.

With this proposal, the order will have to be made in writing. An oral statement by the Tax Administration Authority would not suffice to demonstrate that an order has been issued. In addition, the daily penalty payments may be imposed on the enterprise only if it fails to comply with the order within the specified period.

It is also proposed to insert *§ 13j,* in which the increased invoice requirements for enterprises registered as a warehousekeeper or registered consignee of goods and enterprises trading taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) are to be regulated.

It is porposed in *paragraph 1, first sentence,* that warehousekeepers importing or receiving taxable goods from abroad must issue invoices for sales of those goods to enterprises.

This means that enterprises or persons registered as warehousekeepers under § 14a(1) who import or receive taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) must issue invoices to the enterprises to which the warehousekeeper sells the taxable goods.

The proposal thus introduces an obligation for enterprises registered as warehousekeepers to account for tax on taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) to issue invoices on the sale of these goods. This will enable the goods to be followed from the date of delivery from a registered warehousekeeper.

It is proposed in *paragraph 1, second sentence,* that the invoice should bear consecutive numbers, date of invoice, details of the seller’s name, commercial registration number (CVR or SE number) and address, the name and address of the buyer, and the nature, quantity, and price of the delivery.

This means that warehousekeepers must issue invoices in accordance with paragraph 1(1), bearing consecutive numbers and invoice date and giving details of the seller’s name, commercial registration number (CVR or SE number) and address, the name and address of the buyer and the nature, quantity and price of the delivery.

The proposal is to be read in conjunction with the proposed second sentence of § 13i(3), which states that enterprises dealing in smokeless tobacco, nicotine products, or nicotine-containing liquids that are taxable under § 13, § 13a(1) or § 13b(1) will need to have information in their accounting material on which goods have been supplied (nature, quantity and price), on which day the delivery took place, who delivered the goods, whether the goods were paid, and in what way the payment was made. With what is proposed, the retail trade will thus obtain a number of the pieces of information which must be included in their accounting records from the invoice issued by registered warehousekeepers. In addition, it facilitates the checks by the Tax Administration Authority by verifying the conformity of invoices and financial statements. In addition, the proposed rules allow the Tax Administration Authority to keep track of the goods.

It is proposed in *paragraph 2, first sentence,* that, in the case of any supply of taxable goods to an enterprise, the supplier must issue a delivery note.

This means that all enterprises supplying goods covered by the proposed § 13, § 13a(1) or § 13a(1) will be required to issue delivery notes. Thus, the requirement does not apply only to enterprises registered or which import or receive the goods from abroad. For example, it may also be a wholesaler selling to a retailer. The proposal facilitates the Tax Administration Authority’s ability to monitor the movement of the goods. The Tax Administration Authority is thus given the opportunity to determine who is ultimately responsible for the payment of the relevant taxes.

If the delivery is made to a private individual, the proposal does not require a delivery note to be issued.

It is proposed in *paragraph 2, second sentence,* that if the delivery is paid in cash, the supplier must issue a receipt instead.

This means that a receipt will have to be issued for all supplies of taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) paid in cash.

With what is proposed, the requirement for delivery notes will thus apply to all deliveries paid in ways other than cash. If the delivery is paid in cash, a receipt for the delivery must be issued.

It is proposed in *paragraph 2, third sentence,* that the buyer, who is the enterprise delivering the taxable goods, must keep delivery notes or receipts for at least three months at the place of business where the sale of the goods to which the delivery note or receipt relates, takes place.

This means that the purchaser, who is the enterprise to whom the taxable goods are supplied (e.g. a retailer) must keep the delivery note or receipt for at least three months at the place where the sale of the taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) to which the delivery note or receipt relates takes place. In large store chains, for example, which have a common stock of goods, delivery notes and invoices will thus have to be located in their business premises/sales place (retail trade). This way, the Tax Administration Authority will be able to find the relevant delivery notes and receipts during their verification visits. At the same time, it is ensured that the accounting records necessary to determine tax liability will be present with the person liable to pay the tax.

It is proposed in *paragraph 2, fourth sentence,* that if the goods are distributed to different places of business in the buyer’s enterprise, the buyer must draw up internal delivery notes, etc., for each consignment of goods referring to the original delivery note or receipt.

This means that if the consignment of taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) to which a delivery note or receipt relates is distributed to different establishments in the buyer’s business, the buyer will have to draw up internal delivery notes or similar documentation for each consignment of goods. In this context, the buyer must be viewed as the enterprise which is supplied with the taxable goods.

The proposal takes into account the fact that an enterprise with several places of business/outlets not only stores delivery notes in a warehouse, but draws up material to demonstrate where in the enterprise each consignment of goods has been moved. It may be the case that e.g. a business chain, in the same enterprise, has a warehouse where goods are sent to each place of business as required. In these cases, the enterprise, the buyer, must prepare the material itself to follow the goods to the place where they are to be sold.

It is proposed in *paragraph 2, fifth sentence,* that delivery notes or receipts should contain the same information as invoices in accordance with the proposed paragraph 1, provided that prices may be avoided on delivery notes.

This means that receipts and delivery notes must bear consecutive numbers and invoice dates and include details of the seller’s name, commercial registration number (CVR or SE number) and address, the name and address of the buyer, and the nature, quantity, and price of the delivery. However, the price indication requirement will, as proposed, not apply to delivery notes.

It is proposed in *paragraph 2, sixth sentence,* that a copy of an invoice, meeting the conditions laid down in paragraph 1, may replace a delivery note if the invoice is delivered to the enterprise at the latest at the same time as the delivery date.

This will facilitate the requirement of enterprises in such a way that copies of invoices bearing consecutive numbers and invoice dates can be used and include details of the seller’s name, commercial registration number (CVR or SE number) and address, the name and address of the buyer, and the nature, quantity, and price of the delivery, instead of delivery notes. However, this is only valid to the extent that all goods covered by the invoice are delivered or sold to the same buyer/consignee no later than the time of delivery.

It is proposed in *paragraph 3,* that the Tax Administration Authority is able to lay down detailed rules on the following:

1) Transfer of goods between registered enterprises in accordance with § 13e(4).

2) Invoice issuance.

3) Accounting.

This means that the Tax Administration Authority is authorised to determine the detailed rules for the transfer of goods between registered enterprises, in accordance with the proposed § 13e(4), issuance of invoices and accounting, to the extent that the Tax Administration Authority considers it necessary. For example, it may be in the case of trade between two registered enterprises, where both enterprises claim that the other must pay the tax. In this case, the Tax Administration Authority may in future require the seller to state clearly on the invoice that no tax has been paid on the goods, whereby the buyer is obliged to pay the tax.

The reason for the proposal is that the Tax Administration Authority should be able to lay down the detailed rules on these matters if the Tax Administration Authority deems this necessary on the basis of experience gained from checks, etc.

It is proposed in *paragraph 4*, that, insofar as accounting and invoice records are used in electronic form, the accounting and invoice rules will apply mutatis mutandis.

This means that in cases where enterprises have accounting and invoice material in electronic form, the accounting and invoice rules in the proposed §§ 13i and 13j will apply accordingly.

The reason for the proposal is that it is necessary to take account of the fact that some enterprises have their accounting and invoice records in electronic form.

The rule implies that enterprises using electronic cash reconciliations must comply with the proposed accounting and invoice provisions. Delivery notes may be stored electronically from the date on which the consignment, to which the delivery note relates, has left the establishment. In other words, when the goods are in the enterprise, there must be a physical delivery note. Delivery notes are always physical and must be available at the time of checking when the goods are at the place of business. However, delivery notes may subsequently be scanned in and stored electronically when the goods are sold. The reason why delivery notes must be physically available is that it should not be possible for enterprises to obtain the necessary documentation after the Tax Administration Authority has conducted checks.

It is proposed in *paragraph 5, first sentence,* that the Tax Administration Authority should be able to give the taxable party an order to comply with the provisions laid down in paragraphs 1, 2 and 4.

This means that if the Tax Administration Authority finds out that an enterprise or person does not comply with the requirements of the proposed § 13j(1), (2) or (4), the Tax Administration Authority can impose on the taxable enterprise or person an order to comply with the provisions laid down in paragraphs 1, 2, and 4.

The reason for the proposal is to get enterprises to follow the proposed rules on stock separation and accounting rules.

With what is proposed, the Tax Administration Authority is thus able to issue an order to comply with the rules on invoices for registered warehousekeepers (paragraph 1), the rules on the delivery note by the supplier, etc., (paragraph 2), and the provision on electronic accounting and invoice records (paragraph 4). If, during a check, the Tax Administration Authority considers that the tax has not been tampered with, but only that the accounting rules set out in the proposed paragraphs 1, 2, or 4 have not been complied with, the Tax Administration Authority will be able to order the enterprise to comply with the rules.

It is proposed in *paragraph 5, second sentence,* that the Tax Administration Authority may impose daily penalty payments on the taxable person in accordance with § 13k, until the order is complied with.

This means that the Tax Administration Authority can impose daily penalty payments under the proposed § 13k, until the order under the first sentence for infringement of one or more of the proposed provisions of paragraphs 1, 2, and 4, is complied with.

The proposed daily penalty payments must be regarded as a means of exerting pressure to increase the incentive for enterprises to comply with the stricter accounting rules proposed. The need to comply with these accounting rules must be seen in particular in the light of the expected increased risk of circumvention of the tax on nicotine-containing liquids, see the general remarks of the Bill, point 2.4.1.

The penalty payment may be applied to an enterprise even if the Tax Administration Authority subsequently issues a fine notice for infringing the accounting rules (see § 1(10) of the Bill). In relation to this, it should be noted that a penalty payment is not a criminal penalty and must therefore be regarded as less intrusive than a fine notice. Notwithstanding this, however, it would not be necessary, in order to issue the fine notice, that the Tax Administration Authority, prior to the issue, had used daily penalty payments for the purpose of complying with the accounting rules.

It is proposed in *paragraph 6, first sentence,* that the order should contain a reference to the relevant provision and an indication of the specific actions or measures to be taken by the enterprise to comply with the said provision.

This means that the order which the Tax Administration Authority can give under paragraph 5 must contain a reference to the relevant provision order for non-compliance and an indication of the concrete actions or measures that the enterprise must take in order to comply with that provision.

The proposal therefore requires that, when issuing an order, the Tax Administration Authority must be able to explain which precise provisions the enterprise does not comply with. In addition, the Tax Administration Authority is required to indicate which specific actions or measures the Tax Administration Authority considers that the enterprise must implement in order to comply with the relevant provision. Thus, the Tax Administration Authority cannot generally say that the enterprise does not comply with the accounting rules, but must be able to identify the specific provisions that have not been complied with and provide a solution for how the enterprise can comply with the order.

It is proposed in *paragraph 6, second sentence,* that the order should be made in writing and it must be stated that if the order is not complied with within the specified period, it would be possible to impose daily penalty payments on the recipient until the order is complied with.

This means that the Tax Administration Authority must give the order in writing. In addition, this means that the order must state that if the order is not complied with within the specified time limit, the recipient of the order may be subject to daily penalty payments until the recipient complies with the order.

With what is proposed, it would not be possible to regard an oral statement by the Tax Administration Authority as an order. In addition, the daily penalty payments may be imposed on the enterprise only if it fails to comply with the order within the specified period.

Next, it is proposed to insert a new provision such as § 13k, which is intended to regulate the issue by the Tax Administration Authority of daily periodic penalty payments for orders under § 13i (6) and (7) and § 13j(5) and (6).

It is proposed in the *first sentence,* that the Tax Administration Authority may impose daily penalty payments on the owner of the enterprise or its day-to-day management for non-compliance with orders, in accordance with § 13g(6) and (7) and § 13h(5) and (6).

This means that the Tax Administration Authority will be able to impose daily periodic penalty payments on enterprises which do not comply with an order under the proposed § 13i(6) and (7) or § 13j(5) and (6). The daily penalty payments must be given to the owner of the enterprise or to the responsible day-to-day management entity. The proposed orders in § 13i(6) and (7) concern non-compliance with the proposed provisions of § 13i(2) to (5). These provisions relate to the stricter accounting requirements that are proposed for warehousekeepers, registered consignees of goods, and enterprises trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) (e.g. wholesalers or retailers). The proposed orders in § 13j(5) and (6) concern non-compliance with the proposed provisions in § 13j(1), (2), and (4). These provisions concern, inter alia, the stricter invoice requirements which are proposed for warehousekeepers, registered consignees of goods and enterprises trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) (e.g. wholesalers or retailers).

The proposed daily penalty payments must be regarded as a means of exerting pressure to increase the incentive for enterprises to comply with the stricter accounting and invoice provisions proposed. The need to comply with these provisions must be seen in particular in the light of the expected increased risk of circumvention of the tax on nicotine-containing liquids, see the general remarks of the Bill, point 2.4.1.

As can be seen from the proposed § 13i(7) and §13j(6), the notification of the daily periodic penalty payments would have to be given at the same time as the order. The notice must contain information on the amount of the penalty payment and reservations must be made for any subsequent increase of the penalty payment (usually a doubling).

It is proposed in *paragraph 2,* that daily penalty payments must be of at least DKK 1,000 and could be increased by the Tax Administration Authority at one week’s written notice.

This means that the daily penalty payments which the Tax Administration Authority can impose under the proposed § 13i(6) and (7) and § 13j(5) and (6) must amount to at least DKK 1,000 and that daily penalty payments may be increased by the Tax Administration Authority at one week’s written notice.

The proposal sets a minimum limit on the amount of daily penalty payments, but the amount of the penalty payment is also based on a specific estimate. There is a general principle of proportionality in relation to daily penalty payments. This means that the amount of daily penalty payments must not be disproportionate to the actual omission, i.e., the nature of the omission. In fixing the penalty payment, account must also be taken of the financial capacity of the party responsible for providing information, so that the pressure is effective. If the fixed penalty payment has not been effective, the Tax Administration Authority will be able to increase the penalty payment at one week’s written notice, as proposed.

One daily penalty payment could be calculated, e.g., at the minimum amount of DKK 1,000 per day, regardless of the number of circumstances. The daily penalty payments will be granted for each calendar day, i.e. seven days a week, independent of the enterprise’s opening hours, activity, etc.

Once the order is complied with, the daily fines paid by the party responsible for providing the information will not be repaid, while unpaid daily fines will be cancelled. This is because daily penalty payments are a means of exerting pressure and not a punishment.

Finally, a new provision is proposed in the form of § 13l. Under the current law, enterprises may refrain from registering as warehousekeepers and may not pay tax under § 14a(1) if the quantity of taxable goods corresponds to a tax not exceeding DKK 10,000 per year, cf. § 14a(2).

Enterprises that choose not to register under § 14a(2) must keep current accounts under § 15(3), documenting that the quantity of taxable goods corresponds to a tax not exceeding DKK 10,000 annually.

In addition, enterprises may refrain from registering as a registered consignee within the meaning of § 16a(3), second sentence, if the quantity of imported and taxable goods received corresponds to a tax not exceeding DKK10,000 annually, see § 16a(8).

It is proposed in § *13l,* that the rules laid down in § 14a(2) to (7), § 15(1), (3) and (4), § 16a, § 21 and § 24 of the Act shall not apply to enterprises which manufacture, decant, repackage, import or receive from abroad goods which will be taxed on the basis of the proposed § 13, § 13a(1) or § 13b(1), enterprises trading such goods, or persons in possession of these goods.

This means that the de minimis rules in § 14a(2) and § 15(3) and the settlement and accounting rules in § 14a(3) to (7) and § 15(1) and (4) for registered warehousekeepers are not proposed to apply to enterprises which manufacture, import, or receive from abroad taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1), enterprises trading in such goods, or persons in possession of the goods. This concerns, i.a., the de minimis threshold for registration as a warehousekeeper in § 14a(2) of the Consumption Tax Act. Reference is also made to the general remarks of the Bill, point 2.4.1.

Under the proposal, all enterprises producing or receiving taxable goods from abroad would have to register as warehousekeepers, regardless of the amount of taxed smokeless tobacco, nicotine product, or nicotine-containing liquid produced or received by the enterprise. This must be seen in the context of the proposal to introduce a penalty for non-registration as a warehousekeeper in § 1(10) of the Bill. Therefore, it should not be possible to circumvent registration by remaining below the de minimis threshold. In addition, the proposed rules for the settlement and calculation of the tax would not have to apply to the proposed tax. This must be seen in the context of the proposed introduction of a stamp system whereby the tax is paid in connection with the ordering of stamps, unless the enterprise has provided security.

In addition, the proposal should be seen in conjunction with the proposed system of stamps, whereby the settlement of the tax is proposed on the basis of ordering stamps and thus not as a monthly declaration and payment.

It should be noted that § 15(2) of the Consumption Tax Act, according to which warehousekeepers must keep accounts of the manufacture of taxable goods, the supply of bonded goods, and the supply of taxable goods, is proposed to still apply. The reason for this is that the registered warehousekeepers for smokeless tobacco, nicotine products, and nicotine-containing liquids are also proposed to keep records of the production of goods subject to tax, the supply of bonded goods, and the supply of taxable goods.

In addition, the proposal means that the rules on registration as consignees under § 16a will not apply either. This should be seen in the context of the proposal for a stamp system. In the case of cigarettes and smoking tobacco, it is not possible to be registered as a consignee. It is proposed that this will also not be possible for the proposed taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids. As it is proposed that there should be no possibility of registration of goods, § 21 of the Consumer Tax Act will also not be relevant to the proposed taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids. § 21 provides that, in addition to the persons referred to in § 10 of the Tax Collection Act, the consignees and persons in possession of the goods referred to in § 16a(3) of the Consumption Tax Act are also liable. Reference is also made to § 1(9) of the Bill on the proposed liability rules for taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1).

Finally, it is proposed that the reimbursement rule in § 24(1) of the Consumption Tax Act will not apply. The reason for the proposed provision is that a specific compensation system for smokeless tobacco, nicotine products, and nicotine-containing liquids based on the stamp system is proposed in § 13h. The reimbursement of the proposed taxes on nicotine products and nicotine-containing liquids and the tax on smokeless tobacco would thus have to be made on the basis of returned or destroyed stamps.

On point 4

According to § 14a(1), first sentence, of the Consumption Tax Act, enterprises manufacturing or receiving goods from abroad must be registered as warehousekeepers with the Tax Administration Authority. A certificate of registration must be issued under the second sentence. Enterprises producing or receiving from abroad coffee, incandescent light bulbs, cigarette paper or smokeless tobacco must thus, under current law, be registered as warehousekeepers under the Consumption Tax Act. Once the enterprise is registered, it receives a registration certificate from the Tax Administration Authority.

It is proposed that § 14a(1), second sentence, of the Consumer Tax Act, which enters into force on 1 July 2022, be repealed, cf. § 3 of the Bill. The provision is proposed to be reintroduced as § 14a(1), second sentence, of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provision adopted, but not in force, with regard to the tax on nicotine-containing liquids.

It is proposed to insert a new sentence in *§ 14a(1)*, according to the first sentence of the provision, as the second sentence, according to which enterprises decanting or repackaging goods covered by Title IX will also be registered as warehousekeepers with the Tax Administration Authority under § 14a(1), first sentence. The second sentence thus becomes the third sentence.

It is proposed in § 1(3) of the Bill to insert a provision in the Consumption Tax Act, as § 13e(4). This provision will allow warehousekeepers to transfer smokeless tobacco, nicotine products, and nicotine-containing liquid to other warehousekeepers. The transfer of the smokeless tobacco, the nicotine product, or the nicotine-containing liquid under that provision will therefore be carried out only between enterprises in Denmark. The enterprises receiving the smokeless tobacco, the nicotine product, or the nicotine-containing liquid will have received the product from abroad.

Smokeless tobacco, nicotine products and nicotine-containing liquid stored in wholesale packages will, in accordance with the proposed § 13, § 13a(1), or § 13b(1) under § 1(3) of the Bill, have to be repackaged/decanted into immediate packages no later than 1 month after manufacture or receipt from abroad.

This means that there may be situations where enterprises receive smokeless tobacco, nicotine products, or nicotine-containing liquid from another enterprise in Denmark. After repackaging/decanting, these enterprises must affix stamps on the immediate packages. Therefore, it is proposed that also enterprises that only repackage/decant smokeless tobacco, nicotine products, or nicotine-containing liquids will have to be registered as warehousekeepers.

On point 5

According to § 14a(1), first sentence, of the Consumption Tax Act, enterprises manufacturing or receiving goods from abroad must be registered as warehousekeepers with the Tax Administration Authority.

It is clear from § 14a(2) of the Consumer Tax Act that enterprises covered by paragraph 1 may, however, refrain from registering as warehousekeepers and paying tax if the quantity of goods subject to tax corresponds to a tax not exceeding DKK 10,000 per year.

By Act No 1182 of 8 June 2021, it was decided to clarify the reference in § 14a(2), first sentence, so that reference is made to paragraph 1, first sentence, and not just paragraph 1. The clarification will enter into force on 1 July 2022. A proposal has been made to repeal the clarification, which has not yet entered into force, for technical reasons, cf. § 3 of the Bill. The clarification is proposed to be reintroduced in the first sentence of § 14a(2) of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provision of clarification on the tax on nicotine-containing liquids adopted, but not in force.

A proposal has been made to clarify the reference in *§ 14a(2), first sentence*, so that reference is made to paragraph 1, first sentence, and not just paragraph 1.

The reason for this is that § 1(3) of the Bill proposes to introduce a provision such as § 13l of the Consumer Tax Act, according to which certain provisions of Title X — Common provisions will not apply to the proposed taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids. One of these provisions is § 14a(2) of the Consumer Tax Act.

This means that enterprises that have to register under § 1(6) of the Bill, proposed § 14a(1), second sentence, under the proposed Act, will not be able to refrain from registering under § 14a(2) of the Consumer Tax Act.

It is therefore proposed to clarify the reference to § 14a(1) of the Consumer Tax Act in paragraph 2 of that provision, so as to refer to § 14a(1), first sentence, of the Consumer Tax Act.

It should be noted that enterprises that manufacture or receive smokeless tobacco, nicotine products, or nicotine-containing liquids from abroad and therefore have to register under § 14a(1), first sentence, of the Consumer Tax Act will not be able to benefit from the de minimis threshold rule in § 14a(2) in conjunction with the proposed § 13l under § 1(3) of the Bill.

On point 6

According to the Consumer Tax Act, a number of taxable goods are subject to tax. The rules on registration as a warehousekeeper and the payment of the tax are regulated in § 14a of the Consumption Tax Act. According to § 14a(1), first sentence, of the Consumption Tax Act, enterprises that manufacture or receive taxable goods from abroad must be registered as warehousekeepers with the Tax Administration Authority. A certificate of registration must be issued under the second sentence. Enterprises producing or receiving from abroad coffee, incandescent light bulbs, cigarette paper or smokeless tobacco must thus, under current law, be registered as warehousekeepers under the Consumption Tax Act. Once the enterprise is registered, it receives a registration certificate from the Tax Administration Authority.

§ 14a(3) requires warehousekeepers to calculate the taxable quantity for a tax period on the basis of the quantity of taxable goods released from the enterprise, during the tax period.

Warehousekeepers must, in accordance with current law, declare and pay the tax by indicating the taxable quantity for the tax period, which is the month.

There is no tax under current law on nicotine products or liquids containing nicotine, nor is there a stamp system in the Consumer Tax Act.

This Bill proposes the introduction of a tax on nicotine products and the reintroduction of tax on nicotine-containing liquids, cf. § 1(3) of the Bill. A stamp system is also proposed for smokeless tobacco, nicotine products, and nicotine-containing liquids. In addition, it is proposed that enterprises repackaging and decanting taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) will also have to be registered as warehousekeepers.

It is also proposed that § 14b of the Consumer Tax Act, which enters into force on 1 April 2022, be repealed, cf. § 3 of the Bill. The provision is proposed to be reintroduced as § 14b of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provision adopted, but not in force, with regard to the tax on nicotine-containing liquids

A proposal has been made to insert a new provision in the Consumer Tax Act such as the Act’s § *14b*, which proposes the introduction of a transitional provision allowing enterprises to register as warehousekeepers for goods under the proposed § 13 (smokeless tobacco), § 13a(1) (nicotine products), and § 13b(1) (nicotine containing liquids) and order stamps for the goods concerned before the entry into force of the stamp requirement on 1 July 2022.

It is proposed in *paragraph 1, first sentence,* that enterprises which manufacture, repackage, decant, or receive from abroad smokeless tobacco, nicotine products, or nicotine-containing liquids which, as from 1 July 2022, become subject to the tax under § 13, § 13a(1), or § 13b(1) may register as a warehousekeeper as from 1 April 2022.

The proposal thus allows enterprises to register as warehousekeepers as from 1 April 2022. This will allow enterprises to prepare themselves for future taxes and stamp requirements.

The reason for this is that the process of obtaining the warehousekeeper registration may take some time, since the enterprise’s premises must be approved by the Tax Administration Authority before registration according to the proposed paragraph 1, second sentence. In addition, the actual process for ordering stamps, printing the stamps, etc., may also take some time. It is therefore proposed that enterprises be given some time, before the tax enters into force, to approve premises, obtain registration, order stamps and have the stamps affixed.

Under this proposal, enterprises registered as warehousekeepers or consignees for smokeless tobacco before 1 April 2022 would have to be re-registered. The new registration will be possible as from 1 April 2022 onwards and thus a company will be able to be double registered between 1 April 2022 and 30 June 2022 inclusive. This allows enterprises both to settle the products sold up to and including 30 June 2022 (as per standard practice up to this point), and to order stamps for the products sold as from 1 July 2022. Enterprises registered as warehousekeepers or consignees of smokeless tobacco before 1 April 2022 will have their registration unregistered as from 1 July 2022 and shall, on their own initiative, request re-registration as warehousekeepers.

The new registration implies, inter alia, that warehousekeepers for smokeless tobacco will have to have approved their premises by the Tax Administration Authority before they can obtain registration, cf. the proposed § 14b(1), third sentence.

It is proposed in *paragraph 1, second sentence,* that enterprises which sell or facilitate the sale of goods subject to the tax in § 13, § 13a(1), or § 13b(1) by distance selling to Denmark from another EU country, on which the enterprise is liable to pay Danish VAT, and enterprises covered by the first sentence, may register as warehousekeepers as from 1 April 2022.

It is proposed in *paragraph 1, third sentence,* that it would be a condition for obtaining registration as a warehousekeeper that the enterprise or person has premises in Denmark which were approved by the Tax Administration Authority, prior to registration.

With what is proposed, enterprises that opt for the option of registering as warehousekeepers between 1 April 2022 and 30 June 2022 inclusive must have approved their premises by the Tax Administration Authority before they can obtain registration. In this context, the Tax Administration Authority will emphasise, i.a., that the premises can be used for the purpose for which the enterprise wants to use the premises, including whether goods affixed with stamps can be kept separated from goods to which no stamps have been affixed.

The condition corresponds to the one proposed to be inserted in the proposed § 13i(1), cf. § 1(3) of the Bill.

The Tax Administration Authority cannot carry out any inspection of the premises or approve any plans for approval of premises until as from 1 April 2022, when the provision enters into force.

The reason for the proposal is that, as from 1 July 2022, it will also be a requirement for registration as a warehousekeeper that the enterprise has had its premises approved by the Tax Administration Authority. By allowing this to happen even before 1 July 2022, enterprises will have the opportunity to prepare for the introduction of charges on 1 July 2022.

It is proposed in *paragraph 1, fourth sentence,* that enterprises which have registered as warehousekeepers in accordance with the first sentence will be able to, upon provision of full security, order stamps for placing on immediate packages of smokeless tobacco, nicotine products, or nicotine-containing liquids which, as from 1 July 2022, will be subject to the tax under § 13, § 13a(1), or § 13b(1) of the Act.

This means that as from 1 April 2022 until the introduction of the tax on smokeless tobacco, nicotine products, and nicotine-containing liquids on 1 July 2022, enterprises which choose to register as warehousekeepers will be able to order stamps for the goods which will be subject to the tax under § 13, § 13a(1), or § 13b(1) of the Act, upon provision of full security, as from 1 July 2022. The proposal should be viewed in conjunction with the proposed paragraph 1, fifth sentence, which proposes that payment for the stamps ordered during that period should not be made until 1 July 2022. It will be optional for enterprises that have chosen to register as warehousekeepers before 1 July 2022 to use this option to order stamps before the entry into force of the tax.

The reason for the proposal is that no tax can be collected on goods which are not yet subject to tax. However, it is most appropriate to allow enterprises to prepare for the sale, as from 1 July 2022, of stamped smokeless tobacco, nicotine products and nicotine-containing liquids only. Enterprises can thus order and affix stamps on goods so that they are prepared for the introduction of taxes on nicotine products and nicotine-containing liquids and the introduction of stamp requirements for smokeless tobacco, nicotine products, and nicotine-containing liquids.

It is proposed in *paragraph 1, fifth sentence,* that immediate packages of smokeless tobacco, nicotine products, or nicotine-containing liquids with stamps may not be delivered by the registered warehousekeepers until 1 July 2022.

This means that the stamps that enterprises can order and obtain before 1 July 2022, and thus before the introduction of the tax and the stamp requirement respectively, can be affixed to the smokeless tobacco, nicotine product, or nicotine-containing liquids before 1 July 2022, but can only be sold from the enterprise as of 1 July 2022.

It is proposed in *paragraph 1, sixth sentence,* that the tax on stamps issued up to and including 30 June 2022 becomes chargeable on 1 July 2022 and must be paid no later than 15 July 2022.

This means that the stamps issued prior to the introduction of the tax should not be paid until the tax has entered into force and thus has been introduced. Thus, a credit is granted to the enterprises. The proposal must be seen in the context of the fact that, in accordance with paragraph 1, third sentence, the proposal will require full security for the ordering of the stamps.

The proposal thus gives enterprises the opportunity to prepare for the introduction of the tax and stamp requirement, while the actual payment of the tax can only be made when the smokeless tobacco, the nicotine product, and the nicotine-containing liquid become taxable under the proposed § 13, § 13a(1) or § 13b(1) as from 1 July 2022.

It is proposed in *paragraph 1, seventh sentence,* that 15 July 2022 will be considered the last due day of payment.

This means that enterprises have the possibility to pay the tax from 1 July 2022 until 15 July 2022 inclusive and that the tax must be paid by 15 July 2022 at the latest in order to be considered as paid on time.

It is proposed in *paragraph 1, sixth sentence,* that if payment is not made in due time, the amount will carry interest in accordance with § 7 of the Tax Collection Act.

This means that in accordance with § 7 of the Tax Collection Act, a monthly interest rate plus 0.7 percentage points must be paid from the latest timely payment date of the amount. The last timely payment date is 15 July 2022. The monthly interest rate is fixed for the calendar year and published no later than 15 December preceding the year in which it is to be applicable, see § 7(2) of the Tax Collection Act.

It is proposed in *paragraph 2, first sentence,* that stamps ordered under paragraph 1 must be produced at the Tax Administration Authority’s initiative and handed over by the Tax Administration Authority to the registered warehousekeepers, unless otherwise agreed with the Tax Administration Authority.

This means that the printing office only produces stamps at the request of the Tax Administration Authority. The enterprises therefore cannot contact the printing office directly for the purpose of having stamps printed outside the Tax Administration Authority. The reason for this is that the payment of the tax is based on the stamp order and delivery. The Tax Administration Authority must therefore be involved in the orders. In addition, under the proposed paragraph 1, enterprises must provide security for payment of the tax. The Tax Administration Authority must therefore be able to check whether the order is within the scope of the security.

In addition, this means that the stamps are handed over to registered warehousekeepers from the Tax Administration Authority, unless otherwise agreed with the Tax Administration Authority. It could be, for example, that the warehousekeeper personally wishes to handle the collection directly from the printing office. In these cases, the printing office must inform the Tax Administration Authority of the collection.

It is proposed in *paragraph 2, second sentence,* that registered warehousekeepers may only use the stamps which they have ordered and received.

This means that the stamps ordered by the registered warehousekeeper, and handed over by the Tax Administration Authority, may only be used by said warehousekeeper. A registered warehousekeeper may therefore use only his or her own stamps.

The reason for the proposal is that the stamps are for the sole use of the registered warehousekeeper and his or her goods, since it is through the stamps that the tax is paid. The registered warehousekeeper orders the stamps on the basis of the specific nicotine concentration of their products and/or the quantity in the containers depending on whether they are smokeless tobacco, nicotine products, or nicotine-containing liquids. If the registered warehousekeepers were to sell the stamps, the stamps would lose some of the controlling security as the labels may be affixed to smokeless tobacco, nicotine products, or nicotine-containing liquids with a higher nicotine concentration and/or other quantity.

On point 7

Under current law there is no tax on nicotine products or liquids containing nicotine and therefore no tax is collected on the importation or receipt of such goods by private individuals.

Where goods subject to excise duty comprised by the Consumption Tax Act are imported from outside the EU or from certain areas not covered by the tax territory of the said Member States, the tax is paid on importation, unless the goods are imported in accordance with the rules set out in § 14a, see § 16a (1), first sentence. § 14a contains the rules on registration as a warehousekeeper. When the goods are imported by these enterprises, payment of the tax is made in accordance with the rules laid down in §§ 14a and 15. This means that the warehousekeeper determines the taxable quantity on the basis of the quantity of taxable goods delivered from the enterprise during the tax period, see § 14a(3). When the goods are imported in other cases, the tax is settled against Chapter 4 of the Customs Act, see § 16a(1), second sentence. This means that the Tax Administration Authority collects the duties on goods imported into the Danish customs territory.

Under § 16a(3), the tax is paid in other cases in connection with the receipt of goods in Denmark, unless the goods are received in accordance with the rules laid down in § 14a. Cases covered by § 16a(3) may, for example, be when the goods are received from other EU countries.

§ 16a(5) provides that the declaration and payment of the tax for consignees other than the registered warehousekeepers and consignees must be subject to the rules laid down in § 9(2) to (4) of the Tax Collection Act.

§ 1(2) of the Tax Collection Act provides that § 9 of the Act applies only to the extent that it is provided for in § 9. § 9(1) of the Tax Collection Act refers to the Acts in Annex 1, List A, which are covered by this provision (the harmonised laws on excise duty). § 9(2) of the Tax Collection Act refers to the Acts in Annex 1, List A, which are covered by this provision (the national laws on excise duty). This means that the provision only covers the laws specifically referred to.

The Consumption Tax Act is a national law on excise duty and is mentioned in Annex 1, List A, point 9. § 9(2) of the Tax Collection Act refers, inter alia, to Annex 1, List A, point 9, and thus to the Consumption Tax Act. Under § 9(2) of the Tax Collection Act, consignees who are not traders and who receive goods from other EU countries, etc., who are taxable under the tax laws listed in Annex 1, List A, points 5, 6, 9 to 16 and 31, are required, on receipt of the goods, to indicate the quantity of goods for which tax must be paid to the Tax Administration Authority. The declaration must be signed by the consignee.

It appears from § 9(3) that the consignees, referred to in paragraph 2, must pay the tax to the Tax Administration Authority at the latest at the time of submission of the declaration referred to in paragraph 2, and that § 3(2) and §§ 5 to 7 and § 8(2) and (3) apply mutatis mutandis. It means, i.a., that the Tax Administration Authority can grant permission that the statement is submitted through electronic data transfer (§ 3(2)), that if erroneous information has been provided and consequently too little or too much tax has been paid, then the remaining amount must be subsequently collected or repaid (§ 5(1)), that the Tax Administration Authority can make provisional determinations (§ 5(2)), that the Tax Administration Authority can determine that an enterprise uses a state-authorised or registered accountant (§§ 5a-5g), that a charge can be imposed on reminders (§ 6), that interest may be imposed (§ 7), and that exemption may be granted for payment of the fee under § 6 and interest under § 7 (§ 8(1)(2) and (3)).

It should be noted that said consignees are not liable for payment of the tax if the goods are purchased by an enterprise which, under § 14a(8) of the Consumption Tax Act, is required to register as a warehousekeeper because the enterprise is registered under § 47(1) of the VAT Act and sells taxable goods through remote selling, and on that basis the enterprise must pay the tax.

In cases where the goods are carried by travellers when entering the Danish customs territory from another point in the customs territory of the EU, or where goods are sent to private individuals in the Danish customs territory from another point in the customs territory of the EU, § 11 of the Customs Act applies. According to paragraph 1 of that provision, the Tax Administration Authority must collect excise duties on goods subject to tax which travellers carry on entering the Danish customs territory from another point in the customs territory of the EU, in addition to what may be considered to have been imported for their own use. Similarly, paragraph 2 states that the Tax Administration Authority collects excise duty on goods subject to excise duty which are sent to private individuals in the Danish customs territory from elsewhere in the customs territory of the EU. Paragraph 2 thus takes into account the fact that private individuals would otherwise be able to circumvent paragraph 1 by simply having the goods sent.

The Tax Administration Authority may determine what is to be considered as own consumption, see paragraph 4. This is reflected and stipulated on the website skat.dk; it is personal consumption when it is only the person, members of their household or private guests using the goods. It is not personal consumption if e.g. you sell the goods in a sports club or at a workplace. If you do that, you must pay the tax.

It is proposed that § 16b of the Consumer Tax Act, which will enter into force on 1 July 2022, be repealed, cf. § 3 of the Bill. The provision is proposed to be reintroduced as § 16b of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provision adopted, but not in force, with regard to the tax on nicotine-containing liquids.

It is proposed to insert a new provision in the Consumer Tax Act, such as the Act’s § *16b*, which will have to lay down the rules for the payment of the tax on importation and receipt of taxable goods by private individuals covered by the proposed § 13, § 13a(1) or § 13b(1).

It is proposed in *paragraph 1, first sentence,* that, on receipt of the goods, consignees who are not traders and who receive from other EU countries goods covered by Title IX, must indicate the quantity of goods for which tax is payable to the Tax Administration Authority. It is proposed in *paragraph 1, second sentence,* that the declaration should be signed by the consignee. It is proposed in *paragraph 1, third sentence,* that payment should be made no later than the date on which the declaration, referred to in the second sentence, must be submitted. It is proposed in *paragraph 1, fourth sentence,* that § 3(2) and §§ 5 to 7 and § 8(2) and (3) of the Tax Collection Act should apply mutatis mutandis.

This means that, in these situations, non-commercial consignees must indicate the quantity of goods received that are subject to tax to the Tax Administration Authority. The declaration must be made on receipt of the goods and be signed by the consignee. In addition, the proposal suggests that the payment of the tax will have to be made no later than at the time of submission of the declaration. It must therefore be no later than the date of receipt of the goods. Finally, the proposed effect would be that § 3(2), §§ 5 to 7, and § 8(2) and (3) of the Tax Collection Act should apply mutatis mutandis. This means, i.a., that the Tax Administration Authority can grant permission that the statement is submitted by electronic data transfer (§ 3(2)), that if erroneous information has been provided and consequently too little or too much tax has been paid, the remaining amount must be subsequently collected or repaid (§ 5(1)), that the Tax Administration Authority can make provisional determinations (§ 5(2)), that the Tax Administration Authority can determine that an enterprise uses a state-authorised or registered accountant (§ 5a-g), that a charge can be imposed for reminders (§ 6), that interest can be imposed (§ 7), and that exemption can be granted for payment of the fee under § 6 and interest under § 7 (§ 8(1)(2) to (3)).

This rule corresponds to the one laid down in § 9(2) and (3) of the Tax Collection Act. However, § 1(1) of the Bill proposes that the rules of the Tax Collection Act will not apply to tax covered by Title IX of the Consumer Tax Act. Since § 9(2) and (3) of the Tax Collection Act applies only to the laws referred to, the provision will not apply to the taxes covered by Title IX, i.e. taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids, cf. § 1(2) and (3) of the Bill. It is therefore proposed to insert the wording of that provision into the Consumption Tax Act itself.

It should be noted that the non-commercial consignee does not have to pay the tax if the business from which the non-trader consignee purchased the goods is registered as a warehousekeeper for remote selling with the taxable goods in question under § 14a(8) of the Consumer Tax Act and therefore has to pay the tax on the goods.

It is proposed in *paragraph 2, first sentence,* that goods covered by Title IX from outside the EU or from areas not covered by the tax territory of the said Member States must be subject to tax on importation, unless the goods are imported in accordance with the rules laid down in § 14a. It is proposed in *paragraph 2, second sentence,* that the tax should be settled in accordance with the rules laid down in Chapter 4 of the Customs Act. It is proposed in *paragraph 2, third sentence,* that the rules in the proposed paragraph 1 on the declaration and payment should apply mutatis mutandis.

The proposal means that if smokeless tobacco, nicotine products, or nicotine-containing liquids are imported into non-registered warehousekeepers from outside the EU or from areas not covered by the tax territory of those EU countries, the tax would be payable upon importation. In addition, the proposed tax must be settled in accordance with the rules laid down in Chapter 4 of the Customs Act. Finally, the proposal provides that the declaration and payment of the tax must be made in accordance with the rules set out in the proposed paragraph 1. This means that the quantity of taxable goods must be declared on receipt, that the declaration must be signed by the consignee, and that § 3(2) and §§ 5 to 7 and § 8(2) and (3) of the Tax Collection Act will apply mutatis mutandis.

Areas not covered by the tax territories of the said Member States should be understood as, i.a., the island of Heligoland, the territories of Büsingen, Ceuta, Melilla, and Livigno.

The reason for this is that § 16a is not proposed to apply to the tax on smokeless tobacco, nicotine products, and nicotine-containing liquids, as the provision concerns the registration of goods. It is therefore necessary to regulate separately the imports of smokeless tobacco, nicotine products, and nicotine-containing liquids from outside the EU or from areas not covered by the fiscal territory of those EU countries.

It should be noted that the non-commercial consignee does not have to pay the tax if the enterprise from which the non-commercial consignee purchased the goods is registered as a warehousekeeper for distance sales of smokeless tobacco, nicotine products, or nicotine-containing liquids under § 14a(8) of the Consumer Tax Act and therefore has to pay the tax on the goods.

On point 8

§ 17 of the Consumption Tax Act lays down the rules governing the checks by the Tax Administration Authority and the obligations of enterprises to provide and communicate information for the purposes of such checks.

In accordance with paragraph 1, if deemed necessary, the Tax Administration Authority may at any time, with proper identification and without a court order, carry out inspections of the enterprises covered by the Act and to check the enterprises’ inventories, books of account, other accounting records, and correspondence, etc. On request, the enterprises and authorities must provide any information for the checks of the taxes.

This means that the Tax Administration Authority has the authority to carry out a physical check of the enterprise and to check its inventories, books of account, etc., when the Tax Administration Authority is carrying out physical checks.

It is proposed that § 17(6) and (7) of the Consumer Tax Act, which enters into force on 1 July 2022, be repealed, cf. § 3 of the Bill. The provisions are proposed to be reintroduced as § 17(6) and (7) of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provisions adopted, but not in force, with regard to the tax on nicotine-containing liquids.

A proposal has been made to insert two new paragraphs in *§ 17*, following paragraph 5; paragraph 6 then becomes paragraph 8.

It is proposed in *paragraph 6*, that the material referred to in the first sentence of paragraph 1 will be provided or submitted to the Tax Administration Authority on request.

The proposal means that the Tax Administration Authority has the opportunity to request that the enterprises’ inventories, books of account, other accounting records and correspondence, etc., be provided or submitted. This will make it possible for the Tax Administration Authority to carry out checks of these matters without being physically present at the enterprises’ sites.

The reason for the proposal is that the other laws on excise duty already provide such legal basis. The proposal will thus bring the Consumption Tax Act in line with other excise duty legislation. In addition, the proposal gives the Tax Administration Authority the option to request, where appropriate, that they be provided with the material rather than needing to appear physically. This could reduce the need for physical checks to the extent that the material submitted by the enterprises is deemed to be sufficient in relation to the actual check.

It is proposed in *paragraph 7,* that warehousekeepers registered for tax purposes under the proposed § 13, § 13a(1) or § 13b(1) for each quarter for statistical purposes will be required to provide the Tax Administration Authority with information on the purchase and possible resale of taxable goods.

This means that enterprises producing, repackaging, decanting, or receiving from abroad taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) must submit a quarterly statement of the enterprise’s purchases of the taxable goods in question and any resale of the taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1). The information will be included in the accounting records that the enterprise must keep in accordance with § 15(2) of the Consumption Tax Act.

In this way, the Tax Administration Authority will have an overview of how much taxed smokeless tobacco, nicotine product, or nicotine-containing liquid enterprises buy and sell. The data is to be used for statistical purposes only.

On point 9

Under current law, there are no rules under which the Tax Administration Authority may collect the tax from persons other than the registered enterprises in the Consumption Tax Act.

It is proposed that §§ 18-18b of the Consumer Tax Act, which enter into force on 1 July 2022, be repealed, cf. § 3 of the Bill. The provision is proposed to be reintroduced as §§ 18-18b of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provisions adopted, but not in force, with regard to the tax on nicotine-containing liquids.

A proposal has been made to insert a new provision in the Consumer Tax Act under § 17 of the Act as § *18,* to regulate the situation where a registered warehousekeeper transfers, acquires, or uses taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) in such a way that the correct tax has not been paid.

The reason for the provision is that the rules of the Tax Collection Act will not apply to the tax proposed in § 1(2) and (3) of the Bill on smokeless tobacco, nicotine products, or nicotine containing liquids covered by the proposed § 13, § 13a(1) or § 13b(1). This means that, i.a., § 5 of the Tax Collection Act on the submission of false declaration or reporting and estimation will not apply. In order for the Tax Administration Authority to be able to estimate the tax liability in situations where it is not possible to establish the specific tax liability, it is proposed to include a provision to this effect in the Consumption Tax Act. The reason why the rules of the Tax Collection Act will not apply is that a system of stamps is proposed.

It is proposed in *paragraph 1, first sentence,* that if goods are transferred, acquired, or used by a registered warehousekeeper in such a way that the tax which should have been paid under § 13, § 13a(1) or § 13b(1) has not been paid, the amount due shall be demanded for payment within 14 days of the demand for payment.

This means that if e.g. during a check at a registered warehousekeeper, the Tax Administration Authority finds that goods have been transferred, acquired, or used in such a way that the tax that should have been paid under the proposed § 13, § 13a(1) or § 13b(1) under § 1(2) and (3) of the Bill, has not been paid, the amount due may be claimed for payment within 14 days of the tax administration’s decision on liability. This may be the case e.g. if the company has immediate packages of smokeless tobacco, nicotine products, or nicotine-containing liquid standing, which are not duly stamped in accordance with the proposed § 13d, under which immediate packages of smokeless tobacco, nicotine product, or nicotine-containing liquid must be stamped on the package of the product contained therein or, at the latest, on receipt from abroad, if the taxable goods are received from abroad in immediate packages. It may also be that stamps with an incorrect value have been affixed, including e.g. stamps with tax under the proposed § 13b(1)(1) on liquids with a nicotine concentration of more than 12 mg per millilitre.

It is proposed in *paragraph 1, second sentence,* that if the size of the amount due is not calculated on the basis of the enterprise’s financial statements, the Tax Administration Authority may estimate the amount.

This means that if, for example, in connection with a check at a registered warehousekeeper, the Tax Administration Authority finds that the tax that should have been paid, under the proposed § 13, § 13a(1) or § 13b(1) under § 1(2) and (3) of the Bill, has not been paid, and it is not possible to calculate the basis of unpaid tax on the basis of the company’s accounts, the tax administration will be able to estimate the amount. This may be, for example, if there are deficiencies in the enterprise’s financial statements.

It is proposed in *paragraph 1, third sentence,* that the provisions of §§ 6 and 7, and § 8(2) and (3) of the Tax Collection Act should apply mutatis mutandis.

This means that the Tax Administration Authority can charge a fee for reminders (§ 6 of the Tax Collection Act), that interest may be charged (§ 7 of the Tax Collection Act) and that exemption from payment of the fee under § 6 and interest under § 7 (§ 8(1)(2) and (3) of the Tax Collection Act) may be granted.

It is proposed in *paragraph 2,* that if the stock of taxable goods present is less than the stock after the accounts, the missing quantity is taxed, cf. § 13e(4) and § 24(2) and (3).

This means that if the quantity of taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1) which is at the warehousekeeper’s premises is less than the quantity shown in the company’s accounts, the Tax Administration Authority will be able to collect tax on the missing quantity under § 1(2) and (3) of the Bill, § 13, § 13a(1), or § 13b(1) cf. the proposed § 13c(1) and § 24(2) and (3).

Under § 13c(1), goods covered by § 13, § 13a(1) and § 13b(1) are exempt from tax when the goods are 1) to be delivered to another warehousekeeper, 2) to be delivered abroad or 3) have been completely destroyed or irretrievably lost. If the enterprise can demonstrate that this is the reason for the lack of quantity, no tax can be collected under the provision.

Similarly, goods imported or received from abroad are exempt from tax to the same extent and under the same conditions as those laid down for tax exemption under § 36(1)(1) to (3) of the VAT Act, see § 24(2) of the Consumption Tax Act. This means that, i.a, the importation of goods from outside the EU is exempt from tax where there is duty-free treatment on temporary import or duty-free treatment for supplies, etc., carried by ships and aircraft on arrival from outside the EU, or when no customs debt is incurred because the goods have been destroyed or handed over to the state, or when duty-free treatment is granted for returned goods, see § 36(1)(1) of the VAT Act, in accordance with EU rules on tax-free importation. The Minister of Taxation may lay down detailed rules for the implementation of the tax exemption, cf. § 36(1)(2) of the VAT Act, and where tax is to be declared in accordance with the import system in Chapter 16, and where the individual VAT identification number for the use of this special system, granted to the supplier or the intermediary acting on his behalf, in accordance with the provisions laid down by the Minister of Taxation, cf. § 66u, has been notified to the competent customs office in the Member State of importation at the latest upon submission of the import declaration, cf. § 36(1)(3) of the VAT Act. In addition, § 24(3) of the Consumption Tax Act does not require the payment of tax on goods supplied to the diplomatic missions referred to in § 4 of the Customs Act, international institutions, etc., and the affiliated persons.

In addition, it is proposed to insert a new provision such as the Consumer Tax Act *§ 18a.* It is proposed in the *first sentence,* that any enterprise which transfers, acquires, appropriates, stores, or uses goods on which no tax has been paid which should have been paid under § 13, § 13a(1), or § 13b(1) is also proposed to be charged for payment within 14 days of the demand for payment.

This means that any enterprise which transfers, acquires, stores, appropriates, or uses taxable goods for which tax would have been paid under the proposed § 13, § 13a(1) or § 13b(1) will be able to claim the amount due for payment within 14 days of the tax administration’s decision on liability. The proposal introduces joint and several liability at any stage of the trade chain from the manufacturer or importer to the shop where the goods are located. It is strict liability and it will therefore not have to be taken into account whether the enterprise which purchased the goods free of tax acted in good faith and, therefore, whether the enterprise should have known that no tax had been paid.

The proposal implies, i.a., that the enterprise which may have actually received the goods from another enterprise in Denmark, but which cannot or will not prove the origin of the goods, may be charged the tax on the goods. In addition, the attachment and payment rules are immediate and apply at any stage from the manufacturer or importer to the shop in which the goods are located. For generally legally run enterprises, it is quite unproblematic to discharge this burden of proof on the basis of accounting material, including invoices in particular.

It may be that the invoice and other evidence of the purchase are false and that it is not possible to identify the supplier in any way. However, this situation is very unusual, not least when the buyer is not otherwise able to identify his or her supplier. The starting point, therefore, is that the enterprise is liable for the tax.

If the Tax Administration Authority finds goods in the retail trade for which correct tax has not been paid, the Tax Administration Authority is able to collect the tax from the retailer. This is proposed to apply regardless of how the goods were acquired.

It is proposed in *paragraph 1, second sentence,* that if the size of the amount due is not calculated on the basis of the enterprise’s financial statements, the Tax Administration Authority may estimate the amount.

This means that if the Tax Administration Authority finds that the tax that should have been paid under the proposed § 13, § 13a(1), or § 13b(1) under § 1(2) and (3) of the Bill, has not been paid, and it is not possible to determine the basis of unpaid tax on the basis of the company’s accounts, the tax administration will be able to estimate the amount. This may be, for example, if there are deficiencies in the enterprise’s financial statements.

It is proposed in *paragraph 1, third sentence,* that the provisions of §§ 6 and 7, and § 8(2) and (3) of the Tax Collection Act should apply mutatis mutandis.

This means that the Tax Administration Authority can charge a fee for reminders (§ 6 of the Tax Collection Act), that interest may be charged (§ 7 of the Tax Collection Act) and that exemption from payment of the fee under § 6 and interest under § 7 (§ 8(1)(2) and (3) of the Tax Collection Act) may be granted.

It is proposed in § *18b(1), first sentence*, that if the Tax Administration Authority finds taxable nicotine products for which tax that should have been paid under the proposed § 13a(1) under § 1(3) of the Bill, has not been paid, and it is not possible to determine with sufficient certainty and without further examination what the nicotine content of the goods is, the tax is calculated on the basis of a nicotine concentration of 7 % of the weight of the product.

This proposal means that if the Tax Administration Authority cannot determine with sufficient certainty what the nicotine content of the goods is from the information on the package without further examination, the tax would have to be calculated on the basis of a nicotine concentration of 7 % of the weight of the product.

The tax administration will thus be able to collect tax on the basis of a nicotine concentration of 7 % of the weight of the product in cases where the Tax Administration Authority finds nicotine products where the correct tax has not been paid and the nicotine concentration is not indicated, and it is not possible, without further examination, to determine with sufficient certainty what the nicotine content is.

The reason for this is that, in situations where it is not possible to determine the nicotine content, the Tax Administration Authority will be able to send the nicotine product for technical examination, which entails costs for the Tax Administration Authority. However, the proposal authorises the Tax Administration Authority to collect tax on the basis of a nicotine concentration of 7 % of the weight of the product when it is not possible to determine with sufficient certainty the nicotine content on the basis of the information on the package without further examination, including e.g. in the form of a technical sample. This may be, for instance, in cases where the liquid is contained in a container without a label, or a container with a label without any indication of the nicotine content. If the nicotine content is written on the container in handwriting or with a label that is not an official label, this will not be sufficient certainty. With what is proposed, it will be possible to avoid spending money, in these situations, on a technical test to confirm the nicotine content. This also gives incentive to comply with the proposed provision under § 1(3) of the Bill on the indication of nicotine concentration on the package.

It is proposed in § *18b(1), second sentence*, that if the Tax Administration Authority estimates that the actual content of nicotine is higher than 7 % of the weight of the product, the tax is calculated on the basis of a determination of the nicotine concentration made by the Tax Administration Authority. This proposal means that if the Tax Administration Authority considers that the actual nicotine content of the nicotine product is higher than 7 % of the weight of the product, the tax would have to be collected on the basis of a determination of the nicotine concentration carried out by the Tax Administration Authority without carrying out any further examinations, including e.g. in the form of a technical sample.

The reason for what is proposed is that the Tax Administration Authority should be able to collect tax that is higher than if the tax is collected on the basis of a nicotine concentration of 7 % of the weight of the product after the first sentence, in situations where the Tax Administration Authority estimates that the actual nicotine content of a nicotine product is higher than 7 % of the weight of the product. Otherwise, if the nicotine concentration of the product is higher than 7 % of the product’s weight, there is scope for not paying tax or indicating the nicotine concentration of the product. The proposal therefore gives the Tax Administration Authority the legal basis for collecting tax on the basis of a nicotine concentration of more than 7 % of the weight of the product, including the determination of the nicotine concentration on which the tax will be collected.

It is proposed in § *18b(2), first sentence,* that if the Tax Administration Authority finds nicotine-containing liquids for which tax that should have been paid under the proposed § 13b(1) under § 1(3) of the Bill, has not been paid, and it is not possible without further examination to determine with sufficient certainty what the nicotine content of the goods is, the tax would have to be collected at the rate laid down in the proposed § 13b(1)(2) under § 1(3) of the Bill.

The proposal means that if, on the basis of the information on the package, the Tax Administration Authority cannot establish with sufficient certainty the nicotine content of the goods, the tax at the rate laid down in the proposed § 13b(1)(2) under § 1(3) of the Bill, must be collected. The Tax Administration Authority will thus be able to charge the highest tax rate in cases where the Tax Administration Authority finds nicotine-containing liquids, where the correct tax has not been paid and the nicotine concentration is not indicated, and it is not possible, without further examination, to determine with sufficient certainty what the nicotine content is.

The reason for the proposal is that, in situations where it is not possible to determine the nicotine content, the Tax Administration Authority can send the nicotine-containing liquid for technical examination, which entails costs for the Tax Administration Authority. With what is proposed, therefore, the Tax Administration Authority obtains the authority to charge the highest tax rate when, on the basis of information on the package, it will not be possible without further examination, including e.g. a technical test, to establish with sufficient certainty the nicotine content. This may be e.g. in cases where the liquid is contained in a container without a label, or in a container with a label that does not indicate the nicotine content. If the nicotine content is written on the container in handwriting or with a label that is not an official label, this will not be sufficient certainty.

The purpose of what is proposed is to ensure an incentive to comply with the proposed provision in the Consumer Tax Act under § 1(3) of the Bill on the indication of nicotine concentration on the package. It would also mean that, in the above situations of lack of information, the Tax Administration Authority would be able to save costs for technical tests in order to confirm the nicotine content of a given product and to ensure that the missing tax was clarified more quickly.

It is proposed in *paragraph 3,* that paragraphs 1 and 2 apply mutatis mutandis if the Tax Administration Authority finds that taxable goods have been sold without payment of tax, cf. § 13a(1) or § 13b(1), and it is not possible to determine the goods’ nicotine content with sufficient certainty.

Thus, if the Tax Administration Authority finds that taxable goods covered by the proposed §§ 13a(1) or 13b(1) have been sold without payment of tax, and it is not possible to determine with sufficient certainty what the nicotine team is, the Tax Administration Authority will collect the tax on the basis of a nicotine concentration of 7 % of the weight of the nicotine product (nicotine products) or at the rate in § 13b(1)(2) (nicotine-containing liquids). The tax rate referred to in § 13b(1)(2) shall be the highest tax rate.

The reason for the proposal is that situations may arise in which the Tax Administration Authority finds that no tax has been paid but cannot find the goods. In these situations, there are no goods to send for technical examinations. Therefore, it should be possible for the Tax Administration Authority to charge the highest rate. In addition, enterprises are also given an incentive to comply with the proposed provision under § 1(3) of the Bill on the indication of nicotine concentration on the package.

On point 10

The penalty provisions of the Consumption Tax Act are set out in § 22. § 22(1)(1) to (5) contains a number of infringements punishable by a fine if committed intentionally or with gross negligence. Point 2 deals with infringements of § 14a(1), § 15(1) to (3), or § 16a(3), second sentence.

From § 22(1)(2), it follows that a fine may be imposed for infringements of the registration rules for warehousekeepers (§ 14a(1)), the accounting rules for the taxable quantity for warehousekeepers (§ 15(1)), requirements for keeping accounts for warehousekeepers (§ 15(2)), the de minimis threshold rules for warehousekeepers (§ 15(3)), and the registration rules for registered consignees (§ 16a(3)(2)).

It follows from § 22(4) that criminal liability may be imposed on enterprises, etc., (legal persons) in accordance with the rules laid down in Chapter 5 of the Criminal Code.

The rules on criminal liability for legal persons are laid down in Chapter 5 of the Criminal Code, which means, i.a., that a legal person may be punished with a fine when it is determined by virtue of law, see § 25 of the Criminal Code.

§ 26(1) of the Criminal Code provides for the criminal liability of legal persons to any legal person, including public limited companies, limited companies, cooperatives, partnerships, associations, foundations, estates, municipalities and public authorities, unless otherwise provided. This is not an exhaustive list. The term ‘legal person’ thus includes all forms of organisation, etc., which may be legal, whether they are engaged in commercial or non-profit-making activities. Furthermore, under § 26(2) of the Criminal Code, provisions on the liability of legal persons include sole proprietorships insofar as they are comparable to the enterprises referred to in paragraph 1, having regard in particular to their size and organisation. It is clear from the comments to that provision, see the Official Report of Danish Parliamentary Proceedings 1995-96, Appendix A, page 4051 et seq., that it is an assumption for such liability that the sole proprietorship is organised in such a way that it is natural to equate it to a legal person and that the sole proprietorship employs approx. 10 to 20 employees or more at the time when the crime is committed.

It is a prerequisite for imposing criminal liability on a legal person that an infringement has been committed within its activities, ascribable to one or more persons connected to the enterprise, or to the enterprise in and of itself, see § 27(1) of the Criminal Code

Sole proprietorships that employ no more than about 10-20 employees and thus are not subject to the rules in Chapter 5 of the Criminal Code on criminal liability for legal persons may also incur criminal liability, provided that, in this situation, it is the owner of the sole proprietorship who is punishable.

The provision relating to the liability of legal persons does not preclude the simultaneous or exclusive exercise of personal liability against the natural person responsible, in particular if he or she is in a superior position and has acted intentionally or with gross negligence. However, the starting point for the choice of the person to be charged is that an indictment is brought against the legal person, see the Public Prosecutor’s Notice No 5/1999.

Examples of cases where it may be appropriate to consider invoking liability against the liable natural person are those of small retailers operated in a corporate form, where the owner of the enterprise is in charge of the day-to-day operations.

It follows from § 22a of the Consumption Tax Act that the rules in §§ 18 and 19 of the Tax Collection Act apply mutatis mutandis to cases of infringement of the Consumption Tax Act.

It follows from § 1(1) of the Tax Collection Act that the Act applies to the collection of taxes and fees, etc., to which enterprises, companies, foundations or associations, etc., are or should have been registered with or reported to the Tax Administration Authority, insofar as no specific provisions are laid down in other legislation or in EU regulations. Furthermore, it follows from paragraph 3 that the Act also applies to the collection of taxes and fees, etc., other than those referred to in paragraph 1, insofar as other legislation refers to that Act.

§ 18 of the Tax Collection Act provides that the Tax Administration Authority – if a number of specified conditions are fulfilled – may issue administrative fine notices. It follows from § 18(1), first sentence, of the Tax Collection Act that if an infringement is deemed not to result in a penalty higher than a fine, the Tax Administration Authority may indicate to the said person, by means of a fine notice, that the case may be settled without legal proceedings if said person pleads guilty to the infringement and declares that it is prepared to pay, within a specified period, which may be extended upon application, a fine specified in the declaration.

It follows from § 18(1), second sentence, that § 752(1) of the Administration of Justice Act on rules for interviews of defendants apply to cases covered by § 18(1) of the Tax Collection Act. Furthermore, it is clear from § 18(2) of the Tax Collection Act that the rules of the Administration of Justice Act on the requirement for the content of an indictment applies mutatis mutandis to the drawing up of fine notices in the legal proceedings.

If the fine is paid in accordance with the fine notice in due time, or if it is recovered or served after its adoption, further proceedings lapse, see § 18(3)of the Tax Collection Act. Fines in cases dealt with administratively must be collected by the Tax Administration Authority, see paragraph 4.

If the conditions under which the case is concluded by the Tax Administration Authority are not met, the case must be handed over to the police for legal action.

It follows from § 19 of the Tax Collection Act that inspections in infringement cases covered by the Tax Collection Act are performed in accordance with the rules of the Administration of Justice Act in cases which may result in imprisonment under the Act.

It is proposed that the reference in § 22(1)(2) of the Consumer Tax Act to § 13b(1) and (3) to (7), § 13c or § 13d, § 13 g(2) to (5) or § 13h(1) and (2), which enters into force on 1 July 2022, is deleted, cf. § 3 of the Bill. The reference is proposed to be reintroduced in the Consumer Tax Act as a reference to § 13d(1) and (3) to (7), § 13e or § 13f, § 13i(2) to (5), or § 13j(1) and (2) in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provisions adopted, but not in force, with regard to the tax on nicotine-containing liquids.

It is proposed that a reference to the proposed § 13d(1) and (3) to (7), 13e or 13f, § 13i(2) to (5) or § 13j(1) and (2) under § 1(3) of the Bill be inserted in the penalty provisions of the Consumption Tax Act, so that intentional or grossly negligent infringements of these provisions may be punishable by a fine under § 22(1)(2).

This means that anyone who intentionally or grossly negligently infringes the requirement for a stamp proposed in § 1(3) of the Bill, the rule that taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) may be sold only in intact immediate packages, and the regulation of the sale and storage of smokeless tobacco, nicotine products, and nicotine-containing liquids in connection with future tax increases (§ 13d(1) and (3) to (7), requirements for packages and information on packages (§ 13e), the requirements concerning which enterprises may receive and store smokeless tobacco, nicotine products, and nicotine-containing liquids (§ 13f), accounting provisions (§ 13i(2) to (5)) or invoice provisions (§ 13j(1) and (2)) shall be punishable by a fine.

The reason for the proposed provision is that there is a proposal to insert in § 1(3) of the Bill a number of provisions in the Consumer Tax Act, which are intended to regulate enterprises registered for or trading in taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1). It is proposed in § 13d(1), that packages of smokeless tobacco, nicotine products, or nicotine-containing liquids to be sold in Denmark must carry a stamp. It is proposed in § 13b(3), that loose sales of taxable goods should be prohibited. It is proposed in § 13d(4) to (7), that a number of requirements be imposed on the sale and storage of smokeless tobacco, nicotine products, and nicotine-containing liquids in connection with the introduction of taxes on nicotine products and nicotine-containing liquids and in connection with future tax increases on smokeless tobacco, nicotine products, and nicotine-containing liquids. It is proposed in § 13e, that the goods should be packed in fully sealed packages at the time of stamping, and stipulates requirements as to which information the packages must bear. It is proposed in § 13f, that non-registered enterprises should not accept or retain taxable goods which are not packed in properly sealed packages and duly stamped. It is proposed in § 13i(2) to (5), that more stringent accounting requirements be imposed on enterprises that are registered for or trade in smokeless tobacco, nicotine products, or nicotine-containing liquids, which are proposed to be covered by the tax liability in the proposed § 13, § 13a(1) or § 13b(1). In § 13j(1) and (2), some invoice requirements are proposed for enterprises that are registered for or trade in smokeless tobacco, nicotine products, or nicotine-containing liquids, which are proposed to be subject to the tax in the proposed § 13, § 13a(1) or § 13b(1).

With what is proposed, an infringement of the proposed § 13d(1) and (3) to (7), § 13(e-f), § 13i(2) to (5) or § 13j(1) or (2) would result in the Tax Administration Authority being able to issue a fine to the person who committed the infringement if the infringement was committed intentionally or with gross negligence, cf. § 18 of the Tax Collection Act. This is in line with the other tax legislation and the Consumption Tax Act, where infringements of similar provisions are also punished.

If there is an infringement of § 13i(2) to (5) or § 13j(1) or (2) and the infringement means that it is not possible to determine whether a tax has been paid under § 13, § 13a(1), or § 13b(1), the infringement will be covered by the proposed provision in § 22(5) on increased financial penalties. For a description of the proposed level of fines for infringements covered by the proposed provision of § 22(5), reference is made to the comments on § 1(11) of the Bill.

If there is an infringement of § 13i(2) to (5) or § 13j(1) or (2) and it is possible to establish, despite the infringement, whether a tax has been paid under § 13, § 13a(1), or § 13b(1), the infringement will not be covered by the proposed provision in § 22(5). This may be the case, for example, if infringements of the accounting rules only affect the control of revenue having been correctly determined, but does not prevent the establishment of whether the tax has been paid.

It is assumed that the level of fines for gross negligence or intentional infringements of the proposed § 13i(2) to (5) or § 13j(1) or (2) must amount to DKK 5,000 per infringement if the infringements are not covered by the proposed provision in § 22(5). Similarly, it is assumed that the level of fines for grossly negligent or intentional infringements of the proposed §§ 13d(1), 13e or 13f shall amount to DKK 5,000 per infringement.

For gross negligence or intentional infringements of the proposed § 13b(2) to (5), it is provided that the level of fines must be DKK 10,000 per infringement.

It is assumed that the penalty level of DKK 5,000 and DKK 10,000 will apply, regardless of whether it is a first-time offence or a repeat offence. It is also provided that when the fine is fixed there must be absolute cumulation, so that a fine of 5,000 DKK or 10,000 DKK is fixed for each infringement, regardless of whether the judgement or adoption takes place in one or more cases.

|  |  |  |
| --- | --- | --- |
| Infringement | First-time offence | Repeat offence |
| § 13d(1), § 13e, § 13f, § 13i(2) to (5), or § 13j(1) or (2) | DKK 5,000 | DKK 5,000 |
| § 13i(2) to (5), cf. § 22(5) or § 13j(1) or (2), cf. § 22(5) | DKK 10,000 | + DKK 10,000 for each subsequent similar infringement |
| § 13d, paragraphs 3 to 7 | DKK 10,000 | DKK 10,000 |

The fixing of the penalty will still depend on the court’s actual assessment in the individual instance of all circumstances in the case, and the specific penalty level may be departed from in an upward or downward direction if, in the actual case, there are aggravating or mitigating circumstances, see the general rules on fixing a penalty in Chapter 10 of the Criminal Code.

Legal persons who commit these infringements may be fined in accordance with the rules laid down in Chapter 5 of the Criminal Code, see § 22(4) of the Consumption Tax Act.

The criminal procedural rules in §§ 18 and 19 of the Tax Collection Act will apply to the handling of cases concerning the above infringements, see § 22a of the Consumption Tax Act. This means, i.a., that the Tax Administration Authority – if a number of specified conditions are fulfilled – can issue administrative fine notices as a result of the infringements.

On point 11

§ 22(1) of the Consumption Tax Act provides for penalty fines for infringements mentioned in points 1 to 5 if they are committed intentionally or with gross negligence. According to point 2, the penalty fine may be imposed otherwise for infringements of § 14a(1), first sentence, which states that enterprises manufacturing or receiving taxable goods must declare themselves to the Tax Administration Authority as warehousekeepers, unless the enterprise has annual sales equal to a tax of less than DKK 10,000, see § 14a(2).

It follows from § 22(4) that criminal liability may be imposed on enterprises, etc., (legal persons) in accordance with the rules laid down in Chapter 5 of the Criminal Code.

The rules on criminal liability for legal persons are laid down in Chapter 5 of the Criminal Code, which means, i.a., that a legal person may be punished with a fine when it is determined by virtue of law, see § 25 of the Criminal Code.

§ 26(1) of the Criminal Code provides for the criminal liability of legal persons to any legal person, including public limited companies, limited companies, cooperatives, partnerships, associations, foundations, estates, municipalities and public authorities, unless otherwise provided. This is not an exhaustive list. The term ‘legal person’ thus includes all forms of organisation, etc., which may be legal, whether they are engaged in commercial or non-profit-making activities. Furthermore, under § 26(2) of the Criminal Code, provisions on the liability of legal persons include sole proprietorships insofar as they are comparable to the enterprises referred to in paragraph 1, having regard in particular to their size and organisation. It is clear from the comments to that provision, see the Official Report of Danish Parliamentary Proceedings 1995-96, Appendix A, page 4051 et seq., that it is an assumption for such liability that the sole proprietorship is organised in such a way that it is natural to equate it to a legal person and that the sole proprietorship employs approx. 10 to 20 employees or more at the time when the crime is committed.

It is a prerequisite for imposing criminal liability on a legal person that an infringement has been committed within its activities, ascribable to one or more persons connected to the enterprise or to the enterprise as such, see § 27(1) of the Criminal Code.

Sole proprietorships that employ no more than about 10-20 employees and thus are not subject to the rules in Chapter 5 of the Criminal Code on criminal liability for legal persons may also incur criminal liability, provided that, in this situation, it is the owner of the sole proprietorship who is punishable.

The provision relating to the liability of legal persons does not preclude the simultaneous or exclusive exercise of personal liability against the natural person responsible, in particular if he or she is in a superior position and has acted intentionally or with gross negligence. However, the starting point for the choice of the person to be charged is that an indictment is brought against the legal person, see the Public Prosecutor’s Notice No 5/1999. Examples of cases where it may be appropriate to consider invoking liability against the liable natural person are those of small retailers operated in a corporate form, where the owner of the enterprise is in charge of the day-to-day operations.

It follows from § 22a of the Consumption Tax Act that the rules in §§ 18 and 19 of the Tax Collection Act apply mutatis mutandis to cases of infringement of the Consumption Tax Act.

It follows from § 18(1) of the Tax Collection Act that if an infringement is deemed not to result in a penalty higher than a fine, the Tax Administration Authority may indicate to said party, by means of a fine notice, that the case may be settled without legal proceedings if said party pleads guilty of the infringement and declares that they are prepared to pay a fine specified in that declaration, within a specified period which may be extended upon application. § 752(1) of the Administration of Justice Act applies mutatis mutandis. If the conditions under which the case is concluded by the Tax Administration Authority are not met, the case must be handed over to the police for legal action. As regards the declaration of the Tax Administration Authority, the provision on the charge against a person provided for in § 895 of the Administration of Justice Act applies mutatis mutandis, and if the fine is paid in due time or if it is recovered or served after its adoption, further proceedings lapse, see § 18(2) and (3) of the Tax Collection Act.

It is proposed that § 22(5) and (7) of the Consumer Tax Act, which enters into force on 1 July 2022, be repealed, cf. § 3 of the Bill. The provision is proposed to be reintroduced as § 22(5) and (7) of the Consumer Tax Act in this Bill. The reason for the proposal is that provisions which have not entered into force cannot be amended. This part of the Bill has no material impact on the provisions adopted, but not in force, with regard to the tax on nicotine-containing liquids.

It is proposed that three new paragraphs in § 22 as paragraphs 5 to 7 should be inserted in the Consumption Tax Act, according to which a stricter fine can be fixed in certain situations.

It is proposed in *paragraph 5, first sentence,* that an increased fine under § 22(1)(2) may be imposed for infringement of § 14a(1), first sentence, in the case of an enterprise which imports or receives from abroad goods covered by the proposed § 13, § 13a(1), or § 13b(1) (cf. § 1(2) and (3) of the Bill).

This means that an increased fine may be imposed on enterprises which, despite being obliged to do so, do not register as a warehousekeeper under § 14a(1), first sentence, where the infringement concerns enterprises that import or receive from abroad goods covered by the proposed § 13, § 13a(1), or § 13b(1) under § 1(2) and (3) of the Bill.

It is not only established enterprises that will be covered. It may also be a private individual who has made purchases abroad for commercial purposes and either transports the goods personally or has the goods transported on their own behalf to the country.

The reason for the proposal is that there is a great risk of enterprises importing or receiving taxable goods from abroad without registering as warehousekeepers for tax in Denmark, in order to avoid having to pay tax.

The proposed fine could be increased if an enterprise has not registered as a warehousekeeper prior to the importation or receipt of smokeless tobacco, nicotine products, or nicotine-containing liquids from abroad. In this connection, it should be noted that, according to the proposal, the de minimis threshold rule in § 14a(2) would not apply to warehousekeepers registered for tax under the proposed § 13, § 13a(1) or § 13b(1) under § 1(2) and (3) of the Bill, see the proposed § 13l under § 1(3) of the Bill, so that enterprises which import or receive smokeless tobacco, nicotine products, or nicotine-containing liquids from abroad will not be able to avoid registration as warehousekeepers.

Furthermore, in the second sentence of paragraph 5, it is proposed that a higher fine may be imposed for infringements of the provisions proposed to be introduced as § 13i (2) to (5) or 13j(1) or (2), cf. § 1(3) of the Bill, if the infringement means that it is not possible to determine whether a tax has been paid under § 13, § 13a(1), or § 13b(1).

This means that a severe fine may be imposed where an enterprise cannot prove that tax has been paid on the smokeless tobacco, the nicotine product, or the nicotine-containing liquid, since the new accounting and invoice rules relating to taxable goods covered by the proposed § 13, § 13a(1) or § 13b(1) which are proposed to be inserted as § 13i and § 13j, cf. § 1(3) of the Bill have not been complied with, but where it is uncertain how large the tax evasion is actually because it is a snapshot (sample check).

The proposed § 22(5), which provides for stricter penalty fines, will allow a stricter fine to be fixed for infringements corresponding to the infringements which may result in a stricter fine under the Tobacco Tax Act, the Spirit Tax Act, the Beer and Wine Tax Act, the Chocolate Tax Act, and the Packaging Tax Act (Coke legislation), see the general remarks of the Bill above, point 2.4.4.

It is assumed that the level of fines for stricter fines under the new provision will be equal to the level of fines which the Danish Parliament assumed would apply to stricter fines under the Coke legislation, see the official Report of Danish Parliamentary Proceedings 2016-2017, A, L 26 as tabled, pages 5 and 6, see Act No 1554 of 13 December 2016.

Thus, it is assumed that the fine will amount to DKK 10,000 in cases where an infringement is first committed under the stricter fines provision, provided that said person has not previously been fined – in the form of an agreed fine notice or by judgement – for infringement of the Coke legislation, see more details below. It is assumed that the fine will have to be increased by DKK 10,000 for each subsequent similar infringement of this Act, i.e. that the person concerned reoffends by failing to register as a warehousekeeper when the offence is committed in connection with the importation of goods from abroad or the receipt of goods from abroad covered by the proposed § 13, § 13a(1) or § 13b(1) or reoffends by violating the accounting and invoice provisions which are proposed to apply to smokeless tobacco, nicotine products and nicotine-containing liquids, if the infringement means that it is not possible to determine whether tax has been paid on the goods in question. The fine will thus amount to DKK 20,000 for second-time offences, DKK 30,000 for third-time offences, DKK 40,000 for fourth-time offences, etc.

It is assumed that there will also be a repeat offence if the said person commits an infringement covered by the proposed § 22(5) on stricter fines and has previously received one or more stricter fines for similar infringements of the Coke legislation. If the person concerned e.g. receives a higher fine for infringement of the Chocolate Tax Act’s accounting rules, a subsequent infringement of the accounting rules covered by the proposed § 22(5) on stricter fines would constitute a second-time offence, which could thus trigger a fine of DKK 20,000. If the person concerned receives the fine of the DKK 20,000 and then commits a further infringement of the accounting rules covered by the proposed § 22(5) on increased fines, this would be a third-time offence, which could thus trigger a fine of DKK 30,000. The same repeated effect would occur if the person concerned was charged with a higher fine for infringement of the Coke Act’s rules on registration and subsequently commits an infringement of the registration rules covered by the proposed § 22(5) on increased fines.

Similarly, it is assumed that, in the case of infringements covered by the provisions on stricter fines laid down in the Coke legislation, there will be a repeat offence if the said person has previously been fined for infringements of similar provisions covered by the proposed § 22(5). For example, if the person concerned is granted a higher fine for infringement of the accounting rules covered by the proposed § 22(5) of the Consumer Tax Act, a subsequent infringement of the accounting rules covered by the provision on increased fines in the Chocolate Tax Act would constitute a second-time offence, which could thus trigger a fine of DKK 20,000. If the person concerned receives the fine of the DKK 20,000 and then commits an infringement of the accounting rules, for example, covered by the provision on increased fines in the Tobacco Tax Act, this would represent a third-time offence, which could thus trigger a fine of DKK 30,000. The same repeated effect will occur if the person concerned receives a higher fine for infringement of the registration rules covered by the proposed § 22(5) on increased fines and subsequently commits an infringement of the rules on registration laid down in the Coke Act, which are covered by the rules on increased fines.

It is proposed in *paragraph 6, first sentence,* that if someone has committed several infringements of § 14a(1), first sentence, of the Consumer Tax Act, in the case of an enterprise which imports into Denmark, or receives from abroad, goods covered by the proposed § 13, § 13a(1), or § 13b(1), as well as infringements of § 13i(2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto, and the infringements entail a penalty in the form of a fine, the penalty for each offence shall be added together.

This means that if someone has committed several infringements of § 14a(1), first sentence, where the infringement concerns enterprises that import into Denmark, or receive from abroad, taxable goods covered by the proposed § 13, § 13a(1), or § 13b(1), cf. § 1(2) and (3) of the Bill, as well as infringements of § 13i (2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto, and the infringements entail penalties in the form of a fine, the penalty for each offence shall be added together.

In addition, the second sentence of paragraph 6 proposes that if someone has infringed § 14a(1), first sentence, and it is an enterprise that imports into the country or receives from abroad goods covered by the proposed § 13, 13a(1), or 13b(1), or has infringed § 13i(2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto and one or more other tax laws or the deposit legislation; and the offences shall entail a penalty in the form of a fine, the penalty shall be added together for each infringement of this Act or regulations laid down pursuant thereto, and the financial penalty for the infringement of the other tax laws or the deposit legislation.

This means that if someone has violated § 14a(1), first sentence, and the infringement concerns enterprises that import into Denmark or receive smokeless tobacco, nicotine products, or nicotine-containing liquids from abroad within the scope of the proposed under § 13, § 13a(1), or § 13b(1) under § 1(2) and (3) of the Bill, or have infringed the proposed § 13i(2) to (5) or § 13j(1) or (2) under § 1(3) of the Bill or regulations laid down pursuant thereto and one or more other tax laws or the deposit legislation, and the offences entail penalties in the form of a fine, shall be added together for each infringement of this Act or regulations laid down pursuant thereto and the financial penalty for the infringement of the other tax laws or the deposit legislation.

The provisions of § 22(6), first and second sentences, will result in an aggregation of the fines in accordance with the principle of absolute cumulation in the fixing of fines in cases in which someone has committed one or more infringements covered by the proposed § 22(5) on stricter fines, and one or more other on tax laws or the deposit legislation.

It is proposed in *paragraph 7*, that the provision in § 22(6) may be waived where there are specific reasons for doing so.

This means that the proposed aggregation of fines in § 22(6), in accordance with the principle of absolute cumulation in cases in which someone has committed one or more infringements covered by the proposed § 22(5), on stricter fines and one or more of the other tax laws or the deposit legislation, may be waived where there are specific reasons for this. Such special reasons could include aggravating or mitigating circumstances under §§ 81 and 82 of the Criminal Code.

*On § 2*

The Tax Collection Act contains provisions on the collection of taxes and refers to an Annex to the Act (Annex 1, List A), which contains a list of the tax laws that are governed by the Tax Collection Act, including the Consumption Tax Act (see Annex 1, List A, point 9).

Through § 2 of Act No 1182 of 8 June 2021, the reference to the Consumer Tax Act in Annex 1, List A, point 9, to the Tax Collection Act was redrafted, so that it is clear from 1 July 2022 that the Tax Collection Act applies to the Consumer Tax Act, with the exception of the new Title IXa.

It is proposed that the reference to the Consumption Tax Act in *Annex 1, List A, point 9*, should be rewritten so that it is clear in future that the Act applies to the Consumption Tax Act, with the exception of Title IX.

The amendment is related to § 3 of the Bill, where the redrafting of Annex 1, List A, point 9 of the Tax Collection Act, as adopted by § 2 of Act No 1182 of 8 June 2021, is proposed to be repealed for legal technical reasons. The amendment is also linked to § 1(3) of the Bill, which proposes, among other things, to insert a number of new provisions in Title IX of the Consumer Tax Act, which will have to regulate taxes on smokeless tobacco, nicotine products, and nicotine-containing liquids. It is proposed that the tax should be settled on the basis of stamps. Therefore, the rules of the Tax Collection Act on declaration and payment will not apply to these taxes.

*On § 3*

By Act No 1182 of 8 June 2021, the provisions of §§ 13a to 13j of the Consumer Tax Act, § 14a(1), first sentence, § 14b, § 16b, § 17(6) and (7), §§ 18 to 18b and 22(5) to (7), concerning the introduction of a tax on nicotine-containing liquids, were inserted. For reasons of legislative technique, a proposal has been made to repeal the adopted provisions which have not yet entered into force. It is proposed that §§ 13a to 13j be reintroduced as §§ 13b to 13l, with the amendments incorporated in § 1(3) of the Bill, and that § 14a(1), first sentence, § 14b, § 16b, § 17(6) and (7), §§ 18 to 18b and § 22(5) to (7), be reintroduced as § 14a(1), first sentence, § 14b, § 16b, § 17(6) and (7), §§ 18 to 18b and § 22(5) to (7), with the amendments incorporated in § 1(4), (5) and (8) to (13) of the Bill.

The amendments concern the proposed tax on smokeless tobacco and on nicotine products, cf. § 1(2) and (3) of the Bill.

This part of the Bill has no material impact on the provisions on the taxation of nicotine-containing liquids adopted, but not in force. The reason for the proposal is that provisions which have not entered into force cannot be amended.

*On § 4*

It is proposed in *paragraph 1,* that the Act enter into force on 1 January 2022, except as provided for in paragraphs 2 and 3. This means that § 3 of the Act will enter into force on 1 January 2022. § 3 of the Act concerns the repeal of the provisions on the taxation of nicotine-containing liquids adopted, but not in force.

It is proposed in *paragraph 2,* that § 1(6) of the Act enters into force on 1 April 2022. § 2(8) of the Act concerns the possibility for enterprises to register and order stamps before the tax on nicotine products and liquids containing nicotine and the stamp requirement is introduced. It is considered most appropriate that such options should be given to enterprises, as the enterprises must have both approved premises and affix the stamps before they are ready to sell smokeless tobacco, nicotine products, and nicotine-containing liquids covered by the proposed § 13, § 13a(1) or § 13b(1) by 1 July 2022.

It is proposed in *paragraph 3,* that § 1(1) to (5), and (7) to (11) and § 2 of the Act enter into force on 1 July 2022. This means that the introduction of the tax on nicotine products and the merger of the tax rates for smokeless tobacco will enter into force on 1 July 2022 at the same time as the provisions on nicotine-containing liquids adopted, but not in force, cf. Act No 1182 of 8 June 2021. At the same time, the proposal maintains that the tax on nicotine-containing liquids will be introduced as of 1 July 2020, as agreed in the agreement on the 2020 Finance Act.

The Act is neither applicable to the Faeroe Islands nor Greenland, since the Acts that are proposed to be amended do not apply to the Faeroe Islands or Greenland and do not contain a legal basis to bring the acts into force for the Faeroe Islands or Greenland.

**Annex 1**

**The Bill compared to current law**

|  |  |
| --- | --- |
| *Current wording* | *The Bill* |
|  | **§ 1**The Act on Various Consumption Taxes, cf. Consolidation Act No 1445 of 21 June 2021, as amended by § 8 of Act No 1728 of 27 December 2018, § 1 of Act No 82 of 8 June 2021, and § 11 of Act No 1240 of 11 June 2021, is amended as follows: |
| **Title IX****Tax on chewing tobacco and snus (smokeless tobacco)** | **1.** *Heading* of Title IX is replaced by the following:**‘Title IX****Tax on smokeless tobacco, nicotine products, and nicotine-containing liquids’**. |
| **§ 13.** A tax of DKK 113 per kilogram shall be paid on kardus chewing tobacco and snus for nasal use, which is lawfully marketed under the Tobacco Products Act, etc.*Paragraph 2.* For other smokeless tobacco which is legal to place on the market under the Act on tobacco goods, etc. a tax is paid of DKK 410.76 per kilogram. | **2.** *§ 13* is to be worded as follows: **‘13.** For other smokeless tobacco which is legal to place on the market under the Act on tobacco goods, etc. a tax is paid of DKK 461.37 per kilogram.’  |
|  | **3.** The following is inserted after § 13:**‘§ 13a.** For nicotine products which are not taxable under § 13, § 13b(1) or the Tobacco Tax Act, a tax of 5.5 øre per mg nicotine is payable, cf. paragraph 2.*Paragraph 2.* No tax shall be payable on: nicotine products authorised by a marketing authorisation under the Medicines Act or in accordance with EU law laying down Community procedures for the authorisation of medicinal products for human use.**§ 13b.**  Tax is payable on nicotine-containing liquids, cf. paragraph 2. The tax shall be paid at the following rates on the basis of the taxable volume:

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| 1) Goods with a nicotine content not exceeding 12 mg of nicotine per millilitre2) Goods with a nicotine content exceeding 12 mg of nicotine per millilitre | DKK 1.5 per millilitreDKK 2.5 per millilitre |

*Paragraph 2.* No tax is payable on the following: 1) Nicotine-containing liquids approved by a marketing authorisation under the Medicines Act or under Union law laying down community procedures for the authorisation of medicinal products for human use or placed on the market as medical devices bearing the CE marking in accordance with Order No 1263 of 15 December 2008 on medical devices. 2) Nicotine-containing liquids covered by Chapter 5 of the Act on Chemicals which are not covered by the Act on Electronic Cigarettes, etc.**§ 13c.** The following goods covered by § 13, § 13a(1) or § 13b(1) shall be exempt from tax:1) Goods delivered to another registered warehousekeeper, cf. § 13e(4).2) Goods delivered abroad.3) Goods which have been completely destroyed or irretrievably lost by a registered warehousekeeper or during transport to and from the enterprise.*Paragraph 2.* The registered warehousekeeper shall be able to demonstrate that the goods are covered by paragraph 1. The Customs and Tax Administration may collect tax on the goods if there is insufficient documentation.**§ 13d.** Taxable goods covered by § 13, § 13a(1) or § 13b(1) must be packed in immediate packages no later than one month after the goods were manufactured in Denmark or the goods received from abroad, unless they are covered by § 13c(1)(2). Immediate packages shall be stamped when the goods contained therein are packaged, or on receipt from abroad at the latest if the taxable goods are received from abroad in immediate packages, unless they are covered by § 13c(1).*Paragraph 2.* Payment of the tax must be made in connection with the ordering of stamps, unless the registered warehousekeeper has obtained security under § 13g(1). *Paragraph 3.* Taxable goods covered by § 13, § 13a(1) or § 13b(1) may be sold for commercial purposes only in intact immediate packages. *Paragraph 4.* Immediate packages containing taxable goods delivered by registered warehousekeepers as from 1 July 2022 must bear stamps. Enterprises which are not registered warehousekeepers may not sell taxable goods in Denmark for commercial purposes without stamps after three months have elapsed from the date of entry into force of the requirement for a stamp under the first sentence.*Paragraph 5.* Enterprises which are not registered warehousekeepers shall not store taxable goods without stamps after 4 months have elapsed from the date of entry into force of the requirement for a stamp under the first sentence of paragraph 4. *Paragraph 6.* Taxable goods delivered from a registered warehousekeeper and bearing stamps valid before the entry into force of a tax increase may not be sold for commercial purposes in Denmark after three months have elapsed from the date of entry into force of the tax increase.*Paragraph 7.* Enterprises which are not registered warehousekeepers may not retain taxable goods bearing stamps valid before the entry into force of a tax increase after four months have elapsed from the date of entry into force of the tax increase.**§ 13e.** Taxable goods covered by § 13, § 13a(1) or § 13b(1) must be packed in completely closed immediate packages.*Paragraph 2.* Immediate packages must be equipped with an indication of the nature of the contents, the nicotine concentration, the quantity and the name and principal place of business of the manufacturer or payer of the tax. However, the Customs and Tax Administration may authorise the use of the name and principal place of business of a retailer or an anonymity mark. Immediate packages of nicotine products or nicotine-containing liquids must also bear the nicotine concentration. In addition, in the case of nicotine-containing liquids, the tax class must be indicated on the stamp itself. *Paragraph 3.* Wholesale packages must indicate the nature of the contents, the nicotine concentration, the quantity and the name and principal place of business of the manufacturer or importer. Wholesale packages of nicotine products and nicotine-containing liquids shall also bear an indication of the nicotine concentration.*Paragraph 4.* A warehousekeeper registered in Denmark who manufactures taxable goods may be authorised by the Customs and Tax Administration to transfer taxable goods in wholesale packages to another registered warehousekeeper.*Paragraph 5.* The Minister of Taxation may lay down detailed rules on the technical standards for stamps. **§ 13f.** Enterprises which are not registered as warehousekeepers may not accept or retain taxable goods not packed in properly sealed and duly stamped packages.**§ 13 g.** The Customs and Tax Administration may grant registered warehousekeepers credit on payment of the tax upon provision of full security, so that the tax must be paid within one month of the date on which the stamps are issued. If payment is not made in due time, the amount carries interest in accordance with § 7 of the Tax Collection Act. Where the stamps are to be affixed to packages in another EU country, the enterprise may receive an additional credit corresponding to the normal journey time of the stamps and the goods to and from that country. An extension of the credit period due to the affixing of stamps in another EU country can only take place with the authorisation of the Customs and Tax Administration.*Paragraph 2.* If the last timely payment day referred to in paragraph 1 is not a business day, the next business day is deemed to be the last timely payment day. *Paragraph 3.* The credit period referred to in paragraph 1 may, on request and in the case of exceptional circumstances, be extended. *Paragraph 4.* The Customs and Tax Administration may lay down detailed rules for extending the credit period.*Paragraph 5.* The Minister of Taxation may determine the additional credit period for the affixing of stamps in other EU countries in accordance with paragraph 1, third sentence.**§ 13h.** Stamps are produced by the Customs and Tax Administration and provided by the Customs and Tax Administration to registered warehousekeepers, unless otherwise agreed with the Customs and Tax Administration. Registered warehousekeepers may use only the stamps which they have ordered and received.*Paragraph 2.* The tax is repaid for unused stamps that are returned or destroyed. Also, the tax on stamps on packages is repaid, which at a registered warehousekeeper or during transportation to and from the enterprise have been completely destroyed or irretrievably lost. *Paragraph 3.* The Customs and Tax Administration may determine the terms of the repayment.**§ 13i.** It is a condition for registration as a warehousekeeper under § 14a(1) for taxable goods covered by § 13, § 13a(1) or § 13b(1) that the company or person has premises in Denmark which the Customs and Tax Administration has approved prior to registration.*Paragraph 2.* Warehousekeepers must keep goods furnished with stamps in stock, separate from goods with no affixed stamps.*Paragraph 3.* Enterprises trading in taxable goods must keep accounting records on which to determine whether the tax on the taxable goods has been paid and where the taxable goods were supplied from. The financial statements must indicate which goods have been delivered (type, quantity and price), the day on which the delivery took place, who has delivered of the goods, whether the goods have been paid for and the manner in which the payment was made. The accounting records must be kept in accordance with the rules laid down in the Bookkeeping Act, and § 55 of the VAT Act applies mutatis mutandis to enterprises trading in taxable goods.*Paragraph 4.* The enterprise’s accounting records must be stored at the entity, unless it can be made available to the Customs and Tax Administration within five working days. However, delivery notes, receipts, invoice receipts, and invoice copies of taxable goods in a place of business must be kept at the establishment for at least three months.*Paragraph 5.* Accounting records, including invoices, invoice copies, delivery notes, and statements must be kept for five years after conclusion of the financial year. However, retailers’ cash register tapes and corresponding internal documents must only be kept for one year from the date of signature of the financial statements.*Paragraph 6.* The Customs and Tax Administration may order the taxable party to comply with the provisions laid down in paragraphs 2 to 5. The Customs and Tax Administration may impose on the taxable party daily penalty payments under § 13k until the order is complied with.*Paragraph 7.* The order must include a reference to the relevant provision and an indication of the concrete actions or measures to be taken by the enterprise to comply with that provision. The order must be made in writing and state that, if it is not complied with within the specified time limit, the recipient may be subject to daily penalty payments until the order is complied with.**§ 13j.** Warehousekeepers who import or receive taxable goods from abroad must issue an invoice when selling those goods to enterprises. The invoice must include a sequential number and the billing date and information on seller name, commercial registration number (CVR or SE number), and address as well as the name and address of the buyer and the nature, quantity, and price of the delivery.*Paragraph 2.* In the event of any delivery of taxable goods to an enterprise, the supplier must issue a delivery note. If the delivery is paid in cash, the supplier must instead issue a receipt. The buyer shall keep delivery notes or receipts for at least three months at the place of business at which the sale of the goods to which the delivery note or receipt relates is made. Where the goods are distributed to different places of business in the buyer’s enterprise, the buyer must draw up internal delivery notes or the like for each batch of goods referring to the original delivery note or receipt. Delivery notes or receipts must contain the same information as invoices referred to in paragraph 1; however, prices need not be indicated on delivery notes. A copy of an invoice meeting the conditions set out in paragraph 1 may replace a delivery note if the invoice is delivered to the enterprise at the latest at the time of delivery. *Paragraph 3.* The Customs and Tax Administration may lay down detailed rules on the following:1) Transfer of goods between registered warehousekeepers in accordance with § 13e(4).2) Invoice issuance.3) Accounting.*Paragraph 4.* To the extent that accounting and invoice records are used in electronic form, the accounting and invoice rules must apply *mutatis mutandis*.*Paragraph 5.* The Customs and Tax Administration can issue an order to the taxable party to comply with the provisions set out in paragraphs 1, 2, and 4. The Customs and Tax Administration may impose on the taxable party daily penalty payments under § 13k until the order is complied with.*Paragraph 6.* The order must include a reference to the relevant provision and an indication of the concrete actions or measures to be taken by the enterprise to comply with that provision. The order must be made in writing and state that, if it is not complied with within the specified time limit, the recipient may be subject to daily penalty payments until the order is complied with.**§ 13k.** The Customs and Tax Administration may impose daily periodic penalty payments on the owner of the company or the responsible day-to-day management for failure to comply with orders under § 13i(6) and (7) and § 13j(5) and (6). The daily penalty payments must be at least DKK 1,000 and may be increased by the Customs and Tax Administration with one week’s prior written notice.**§ 13l. §** 14a(2) to (7), § 15(1), (3) and (4), § 16a, § 21 and § 24(1) shall not apply to enterprises which manufacture, decant, repackage, import or receive from abroad goods which are subject to tax under § 13, § 13a(1) or § 13b(1), enterprises trading in such goods or persons who hold the goods.’ |
| **§ 14 a.** Enterprises manufacturing or receiving goods from abroad must be registered as warehousekeepers with the Customs and Tax Administration. A certificate of registration must be issued to warehousekeepers. | **4.** *In § 14a (1)*, the following new sentence is added after the first sentence:‘Enterprises which repackage or decant goods covered by Title IX shall also be registered as warehousekeepers with the Customs and Tax Administration in accordance with the first sentence.’ |
| *Paragraph 2.* Enterprises covered by paragraph 1 may however refrain from having themselves registered as stockists and paying tax if the quantity of taxable goods calculated in accordance with paragraph 3 is equivalent to a tax not exceeding DKK 10,000 annually. The annual period is the financial year of the enterprise, up to a maximum of 12 consecutive months. As regards the annual period for newly formed enterprises whose first accounting period exceeds 12 months, but not more than 18 months, cf. § 15(2) of the Financial Statements Act, the annual period shall be deemed to have started when the enterprise was set up.*Paragraphs 3 to 8.* --- | **5.** In §*14a(2), first sentence,* the following is inserted after ‘paragraph 1’: ‘, first sentence,’. |
|  | **6.** After § 14a, the following is inserted: ‘**§ 14b.** An enterprise producing, repackaging, decanting or receiving from abroad goods subject to the tax under § 13, § 13a(1) or § 13b(1) may register as a warehousekeeper as from 1 April 2022. The same applies to enterprises that sell or facilitate the sale of goods subject to the tax in § 13, § 13a(1) or § 13b(1) by distance selling to Denmark from another EU country, on which the enterprise is liable to pay Danish VAT. It is a condition for obtaining registration as a warehousekeeper under the first sentence that the company or person has premises in Denmark which the Customs and Tax Administration has approved prior to registration. The enterprises which have registered as warehousekeepers under the first or second sentence may, upon provision of full security, order stamps to be affixed to immediate packages of goods subject to the tax in § 13, § 13a(1) or § 13b(1). Immediate packages of goods, cf. § 13, § 13a(1) or § 13b(1), may not be handed over from the registered warehousekeepers as from 1 July 2022. The tax on stamps issued up to and including 30 June 2022 shall become chargeable on 1 July 2022 and shall be paid no later than 15 July 2022. Therefore, 15 July 2022 shall be considered as the last due date of payment. If payment is not made in due time, the amount carries interest in accordance with § 7 of the Tax Collection Act.*Paragraph 2.* Stamps ordered under (1), fourth sentence, must be produced by the action of the Customs and Tax Administration and delivered by the Customs and Tax Administration to the registered warehousekeepers, unless otherwise agreed with the Customs and Tax Administration. Registered warehousekeepers may only use the stamps which they have ordered and received.’ |
|  | **7.** After § 16a, the following is inserted:**‘§ 16b.** Consignees who are not traders and who receive from other EU countries goods covered by Title IX must indicate, on receipt of the goods, the quantity of goods for which tax must be paid to the Customs and Tax Administration. The declaration must be signed by the consignee. Payment must be made not later than the date of submission of the declaration referred to in the second sentence. § 3(2), §§ 5 to 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis. *Paragraph 2.* On import of goods covered by Title IX from outside the EU or from areas not covered by the tax territory of the said EU countries, the tax is paid on importation unless the goods are imported in accordance with the rules laid down in § 14a. The tax must be settled in accordance with the rules laid down in Chapter 4 of the Customs Act. The rules on declaration and payment under paragraph 1 apply *mutatis mutandis*.’ |
|  | **8.** In *§ 17*, the new paragraphs are inserted after paragraph 5: *‘Paragraph 6.* The material referred to in paragraph 1 must be handed out or submitted to the Tax and Customs Administration upon request.*Paragraph 7.* Warehousekeepers registered for tax under § 13, § 13a(1) or § 13b(1) shall, for each quarter for statistical purposes, provide information to the Customs and Tax Administration on the purchase and, where appropriate, resale of taxable goods.’Paragraph 6 subsequently becomes paragraph 8. |
|  | **9.** The following is inserted after § 17: **‘§ 18.** If goods are transferred, acquired or used by a registered warehousekeeper in such a way that the tax which should have been paid under § 13, § 13a(1) or § 13b(1) has not been paid, the amount due shall be demanded for payment within 14 days of the demand for payment. If the amount due cannot be determined on the basis of the enterprise’s financial statements, the Customs and Tax Administration may estimate the amount. The provisions of §§ 6 and 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.*Paragraph 2.* If the stock of taxable goods present is less than the stock after the accounts, the missing quantity shall be taxed, cf. §§ 13e(4) and 24(2) and (3).**§ 18a.** Any enterprise which transfers, acquires, appropriates, stores or uses goods on which no tax has been paid which should have been paid under § 13, § 13a(1) or § 13b(1) shall be charged the amount due for payment within 14 days of the demand for payment. If the amount due cannot be determined on the basis of the enterprise’s financial statements, the Customs and Tax Administration may estimate the amount. The provisions of §§ 6 and 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.**§ 18b.** If the Customs and Tax Administration finds taxable nicotine products on which no tax has been paid, cf. § 13a(1), and it is not possible to determine with sufficient certainty without further examination what the nicotine content of the goods is, the tax is calculated on the basis of a nicotine concentration of 7 % of the weight of the product. If the Customs and Tax Administration estimates that the actual nicotine concentration is higher than 7 % of the weight of the product, the tax is calculated on the basis of a determination of the nicotine concentration carried out by the Customs and Tax Administration.*Paragraph 2.* If the Customs and Tax Administration finds taxable nicotine-containing liquids on which no tax has been paid, cf. § 13b(1), and it is not possible to determine with sufficient certainty without further examination what the nicotine content of the goods is, the tax shall be collected at the rate set out in § 13b(1)(2). *Paragraph 3.* Paragraphs 1 and 2 shall apply mutatis mutandis if the Customs and Tax Administration finds that taxable goods have been sold without payment of tax, cf. §§ 13a(1) and 13b(1) and it is not possible to determine with sufficient certainty what the nicotine content of the goods is.’ |
| **§ 22.**A fine is imposed on the party who intentionally or with gross negligence:1) ---2) infringes § 14a(1), § 15(1) to (3), or § 16a(3) second sentence, 3-5) ---*Paragraphs 2 to 4.* --- | **10.** In *§ 22(1)(2)*, the following is inserted after ‘infringes’: ‘§ 13d(1) or (3) to (7), §§ 13e or 13f, § 13i(2) to (5), § 13j(1) or (2)’.  |
|  | **11.** The following is inserted as *paragraphs* *5 to 7* in *§ 22*:*‘Paragraph 5.* When determining a fine for infringement of § 14a(1), first sentence, a higher fine shall be set in the event of an enterprise which imports or receives goods from abroad into Denmark covered by § 13, § 13a(1), or § 13b(1). The same shall apply to infringements of § 13i(2) to (5) or § 13j(1) or (2) if the infringement means that it is not possible to ascertain whether a tax has been paid under § 13, § 13a(1), or § 13b(1).*Paragraph 6.* If someone has committed several infringements of § 14a(1), first sentence, in the case of an enterprise which imports into Denmark or receives from abroad goods covered by § 13, § 13a(1), or § 13b(1), as well as infringements of § 13i(2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto, and where the infringements entail penalties in the form of a fine, the financial penalty for each infringement shall be added together. If someone has infringed the first sentence of § 14a(1) in relation to an enterprise which imports into Denmark or receives from abroad goods covered by § 13, § 13a(1), § 13b(1), or has infringed § 13i(2) to (5) or § 13j(1) or (2) or regulations laid down pursuant thereto and one or more other tax laws or the deposit legislation, and where the infringements entail penalties in the form of a fine, the penalty shall be added together for each infringement of this Act or regulations laid down pursuant thereto and the financial penalty for the infringement of the other tax laws or the deposit legislation.*Paragraph 7.* The provisions of paragraph 6 may be deviated from where there are specific reasons for doing so.’ |
|  | **§ 2**In the Tax Collection Act, see Consolidation Act No 573 of 6 May 2019 as amended by § 3 of Act No 1587 of 27 December 2019, § 6 in Act No 168 of 29 February 2020, Act No 2061 of 21 December 2020, § 3 in Act No 2226 of 29 December 2020 and most recently § 2 in Act No 1182 of 8 June 2021, the following amendment is made: |
| **Annex 1**List A1-8) ---9) Act on Various Consumption Taxes.10-30) ---List B1) --- | **1.** *Annex 1, List A, point 9,* is worded as follows: ‘9) Act on Various Consumption Taxes, with the exception of Title IX.’ |
|  | **§ 3**Act No 1182 of 8 June 2021 on the Act amending the Act on Various Consumption Taxes and the Tax Collection Act (Introduction of tax on nicotine-containing liquids for e-cigarettes, etc.) is amended as follows: |
| **§ 1**The following amendments are made to the Act on Various Consumption Taxes, see Consolidation Act No 126 of 22 February 2018, as amended by, i.a., § 5 of Act No 1431 of 5 December 2018, § 8 of Act No 1728 of 27 December 2018, and § 12 of Act No 1126 of 19 November 2019, and most recently by § 2 of Act No 1588 of 27 December 2019:**1.** The following is inserted after § 13:**‘Title IX a** **Tax on nicotine-containing liquids****§ 13a.** Nicotine-containing liquids are subject to tax, cf. paragraph 2. The tax shall be paid at the following rates on the basis of the taxable volume:1) Goods with a nicotine content of 12 mg or less per millilitre of nicotine - DKK 1.5 per millilitre.2) Goods with a nicotine content higher than 12 mg of nicotine per millilitre - DKK 2.5 per millilitre.*Paragraph 2.* No tax is payable on the following:1) Nicotine-containing liquids approved by a marketing authorisation under the Medicines Act or under Union law laying down community procedures for the authorisation of medicinal products for human use or placed on the market as medical devices bearing the CE marking in accordance with Order No 1263 of 15 December 2008 on medical devices.2) Nicotine-containing liquids covered by Chapter 5 of the Act on Chemicals which are not covered by the Act on Electronic Cigarettes, etc.3) Nicotine-containing liquids delivered to another registered warehousekeeper, see § 13c(4).4) Nicotine-containing liquids delivered abroad, see § 13c(4).5) Nicotine-containing liquids which have been completely destroyed or irretrievably lost in the enterprise, or during transport to and from the enterprise.**§ 13b** Goods subject to tax within the meaning of § 13a(1) must be packed in immediate packages within one month of the manufacture of the goods in Denmark or the receipt of the goods from abroad. The immediate packages must be supplied with a stamp on the packaging of the goods therein or at the latest on receipt from abroad, if the taxable goods are received from abroad in immediate packages.*Paragraph 2.* Payment of the tax must be made in connection with the ordering of stamps, unless the registered warehousekeeper has provided security under § 13e(1).*Paragraph 3.* Taxable goods covered by § 13a(1) may be sold for commercial purposes only in intact immediate packages.*Paragraph 4.* Immediate packages containing taxable goods delivered by registered warehousekeepers as from 1 July 2022 must bear stamps. Enterprises which are not registered warehousekeepers may not sell, for commercial purposes, taxable goods in Denmark without stamps after three months have elapsed from the date of introduction of the tax.*Paragraph 5.* Enterprises which are not registered warehousekeepers may not retain taxable goods without stamps after four months have elapsed from the date of introduction of the tax.*Paragraph 6.* Taxable goods delivered from a registered warehousekeeper and bearing stamps valid before the entry into force of a tax increase may not be sold for commercial purposes in Denmark after three months have elapsed from the date of entry into force of the tax increase.*Paragraph 7.* Enterprises which are not registered warehousekeepers may not retain taxable goods bearing stamps valid before the entry into force of a tax increase after four months have elapsed from the date of entry into force of the tax increase.**§ 13c.** **The taxable goods within the meaning of § 13a(1) must be packed in completely sealed immediate packages in connection with the stamping.***Paragraph 2.* On immediate packages, there must be indication of the nature of the contents, the concentration of nicotine, the quantity, and the name and principal place of business of the manufacturer or payer of the tax. However, the Customs and Tax Administration may authorise the use of the name and principal place of business of a retailer or an anonymity mark. The tax class of the goods must be indicated on the stamp itself.*Paragraph 3.* Wholesale packages must indicate the nature of the contents, the nicotine concentration, the quantity and the name and principal place of business of the manufacturer or importer.*Paragraph 4.* A warehousekeeper registered in Denmark who manufactures taxable goods may be authorised by the Customs and Tax Administration to transfer taxable goods to another registered warehousekeeper or to deliver those goods abroad.*Paragraph 5.* The Minister of Taxation may lay down detailed rules on the technical standards for stamps.**§ 13 d.** Enterprises which are not registered as warehousekeepers may not accept or retain taxable goods not packed in properly sealed and duly stamped packages.**§ 13 e.** The Customs and Tax Administration may grant registered warehousekeepers credit on payment of the tax upon provision of full security, so that the tax must be paid within one month of the date on which the stamps are issued. If payment is not made in due time, the amount carries interest in accordance with § 7 of the Tax Collection Act. Where the stamps are to be affixed to packages in another EU country, the enterprise may receive an additional credit corresponding to the normal journey time of the stamps and the goods to and from that country. An extension of the credit period due to the affixing of stamps in another EU country can only take place with the authorisation of the Customs and Tax Administration.*Paragraph 2.* If the last timely payment day referred to in paragraph 1 is not a business day, the next business day is deemed to be the last timely payment day.*Paragraph 3.* The credit period referred to in paragraph 1 may, on request and in the case of exceptional circumstances, be extended.*Paragraph 4.* The Customs and Tax Administration may lay down detailed rules for extending the credit period.*Paragraph 5.* The Minister of Taxation may determine the additional credit period for the affixing of stamps in other EU countries in accordance with paragraph 1, third sentence.**§ 13f.** Stamps are produced by the Customs and Tax Administration and provided by the Customs and Tax Administration to registered warehousekeepers, unless otherwise agreed with the Customs and Tax Administration. Registered warehousekeepers may use only the stamps which they have ordered and received.*Paragraph 2.* The tax is repaid for unused stamps that are returned or destroyed. Also, the tax on stamps on packages is repaid, which at a registered warehousekeeper or during transportation to and from the enterprise have been completely destroyed or irretrievably lost.*Paragraph 3.* The Customs and Tax Administration may determine the terms of the repayment.**§ 13g.** It is a condition for obtaining registration as a warehousekeeper within the meaning of § 14a(1) for taxable goods covered by § 13a(1) that the enterprise or person has premises in Denmark which the Customs and Tax Administration has approved before the registration. This condition does not apply to enterprises registered as warehousekeepers under § 14a(8).*Paragraph 2.* Warehousekeepers must keep goods furnished with stamps in stock, separate from goods with no affixed stamps.*Paragraph 3.* Enterprises trading in taxable goods must keep accounting records on which to determine whether the tax on the taxable goods has been paid and where the taxable goods were supplied from. The financial statements must indicate which goods have been delivered (type, quantity and price), the day on which the delivery took place, who has delivered of the goods, whether the goods have been paid for and the manner in which the payment was made. The accounting records must be kept in accordance with the rules laid down in the Bookkeeping Act, and § 55 of the VAT Act applies mutatis mutandis to enterprises trading in taxable goods.*Paragraph 4.* The enterprise’s accounting records must be stored at the entity, unless it can be made available to the Customs and Tax Administration within five working days. However, delivery notes, receipts, invoice receipts, and invoice copies of taxable goods in a place of business must be kept at the establishment for at least three months.*Paragraph 5.* Accounting records, including invoices, invoice copies, delivery notes, and statements must be kept for five years after conclusion of the financial year. However, retailers’ cash register tapes and corresponding internal documents must only be kept for one year from the date of signature of the financial statements.*Paragraph 6.* The Customs and Tax Administration may order the taxable party to comply with the provisions laid down in paragraphs 2 to 5. The Customs and Tax Administration may impose on the taxable party daily penalty payments under § 13i until the order is complied with.*Paragraph 7.* The order must include a reference to the relevant provision and an indication of the concrete actions or measures to be taken by the enterprise to comply with that provision. The order must be made in writing and state that, if it is not complied with within the specified time limit, the recipient may be subject to daily penalty payments until the order is complied with.**§ 13 h.**  Warehousekeepers importing or receiving taxable goods from abroad must issue an invoice when selling these goods to enterprises. The invoice must include a sequential number and the billing date and information on seller name, commercial registration number (CVR or SE number), and address as well as the name and address of the buyer and the nature, quantity, and price of the delivery.*Paragraph 2.* In the event of any delivery of taxable goods to an enterprise, the supplier must issue a delivery note. If the delivery is paid in cash, the supplier must instead issue a receipt. The buyer shall keep delivery notes or receipts for at least three months at the place of business at which the sale of the goods to which the delivery note or receipt relates is made. Where the goods are distributed to different places of business in the buyer’s enterprise, the buyer must draw up internal delivery notes or the like for each batch of goods referring to the original delivery note or receipt. Delivery notes or receipts must contain the same information as invoices referred to in paragraph 1; however, prices need not be indicated on delivery notes. A copy of an invoice meeting the conditions set out in paragraph 1 may replace a delivery note if the invoice is delivered to the enterprise at the latest at the time of delivery.*Paragraph 3.* The Customs and Tax Administration may lay down detailed rules on the following:1) Transfer of goods between registered warehousekeepers under § 13c(4).2) Invoice issuance.3) Accounting.*Paragraph 4.* To the extent that accounting and invoice records are used in electronic form, the accounting and invoice rules must apply *mutatis mutandis*.*Paragraph 5.* The Customs and Tax Administration can issue an order to the taxable party to comply with the provisions set out in paragraphs 1, 2, and 4. The Customs and Tax Administration may impose on the taxable party daily penalty payments under § 13i until the order is complied with.*Paragraph 6.* The order must include a reference to the relevant provision and an indication of the concrete actions or measures to be taken by the enterprise to comply with that provision. The order must be made in writing and state that, if it is not complied with within the specified time limit, the recipient may be subject to daily penalty payments until the order is complied with.**§ 13i.** The Customs and Tax Administration may impose daily penalty payments on the owner of the enterprise or its day-to-day management for non-compliance with the obligations under § 13g(6) and (7) and § 13h(5) and (6). The daily penalty payments must be at least DKK 1,000 and may be increased by the Customs and Tax Administration with one week’s prior written notice.**§ 13j.** § 14a(2) to (7), § 15(1), (3), and (4), §§ 16a, § 21 and § 24(1) do not apply to enterprises which manufacture, decant, repack, import or receive from abroad products that are to be taxed under § 13a(1), enterprises trading in such goods or persons in possession of the goods.’**2.** *In § 14a (1)*, the following new sentence is added after the first sentence:‘Enterprises decanting or repackaging goods covered by Title IXa must also be registered as warehousekeepers with the Customs and Tax Administration in accordance with the first sentence.’**3.** In §*14a(2), first sentence,* the following is inserted after ‘paragraph 1’: ‘, first sentence,’.**4.** After § 14a, the following is inserted:‘**§ 14b.** Enterprises that manufacture, repackage, decant, or receive from abroad goods subject to the tax in § 13a(1) may be registered as a warehousekeeper as from 1 April 2022. It is a condition for obtaining registration as a warehousekeeper that the enterprise or person has premises in Denmark, which the Customs and Tax Administration has approved before the registration. The enterprises which have registered as warehousekeepers under paragraph 1 may, upon provision of full security, order stamps to be affixed to immediate packages with nicotine-containing liquids which, as from 1 July 2022, will be subject to the tax in § 13a(1). Immediate packages with nicotine-containing liquids with stamps may not be delivered from the registered warehousekeepers until 1 July 2022. The tax on stamps issued up to 30 June 2022 falls becomes chargeable on 1 July 2022, and the last due date is 15 July 2022. If payment is not made in due time, the amount carries interest in accordance with § 7 of the Tax Collection Act.*Paragraph 2.*Stamps ordered pursuant to paragraph 1 must be produced by the measure of the Customs and Tax Administration and delivered by the Customs and Tax Administration to registered warehousekeepers, unless otherwise agreed with the Customs and Tax Administration. Registered warehousekeepers may only use the stamps which they have ordered and received.’**5. ---****6.** After § 16a, the following is inserted:**‘§ 16b.** Consignees who are not traders and who receive from other EU countries goods covered by Title IXa must indicate, on receipt of the goods, the quantity of goods from which tax must be paid to the Customs and Tax Administration. The declaration must be signed by the consignee. Payment must be made not later than the date of submission of the declaration referred to in the second sentence. § 3(2), §§ 5 to 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.*Paragraph 2.* On import of goods covered by Title IXa from outside the EU or from areas not covered by the tax territory of the said EU countries, the tax is paid on importation unless the goods are imported in accordance with the rules laid down in § 14a. the tax must be settled in accordance with the rules laid down in Chapter 4 of the Customs Act. The rules on declaration and payment under paragraph 1 apply *mutatis mutandis*.’**7.** In *§ 17*, the following are inserted as new paragraphs after paragraph 5:*‘Paragraph 6.* The material referred to in paragraph 1 must be delivered or submitted to the Customs and Tax Administration upon request.*Paragraph 7.* Warehousekeepers registered for tax under § 13a(1) must, for statistical purposes, provide information to the Customs and Tax Administration on purchases and, where appropriate, resale of taxable goods for each quarter.’Paragraph 6 subsequently becomes paragraph 8.**8.** The following is inserted after § 17:**‘§ 18.** Where goods are transferred, acquired, or used by a registered warehousekeeper in such a way that the tax which should have been paid under § 13a(1) has not been paid, the amount due is demanded for payment within 14 days of the formal notice. If the amount due cannot be determined on the basis of the enterprise’s financial statements, the Customs and Tax Administration may estimate the amount. The provisions of §§ 6 and 7 and § 8(2) and (3) of the Tax Collection Act apply mutatis mutandis.*Paragraph 2.*If the present stock of taxable goods is less than the stock according to the financial statements, the missing quantity is subject to tax, see § 13a(2)(3) to (5) and § 24(2) and (3).**§ 18a.** Any enterprise which transfers, acquires, appropriates, stores or uses goods for which no tax has been paid which should have been paid under § 13a(1) must pay tax on the goods.**§ 18b.** If the Customs and Tax Administration finds goods on which no tax has been paid, see § 13a(1) and it is not possible to determine with sufficient certainty the nicotine content of the goods without detailed examination, the tax will be collected at the rate laid down in § 13a(1)(2). The same applies if the Customs and Tax Administration finds that taxable goods have been sold without any tax having been paid, see § 13a(1), and it is not possible to establish with sufficient certainty what the nicotine content of the goods is.’**9.** In *§ 22(1)(2)*, the following is inserted after ‘infringes’: ‘§ 13b(1) and (3) to (7), § 13c or 13d, § 13g(2) to (5), § 13h(1) or (2)’.**10.** The following is inserted as *paragraphs* *5 to 7* in *§ 22*:‘*Paragraph 5.* In the case of a fine for infringement of § 14a(1), first sentence, a stricter fine will be fixed in the case of an enterprise which imports or receives products covered by § 13a(1), in Denmark. The same applies to infringement of § 13g(2) to (5) or § 13h (1) or (2), if the infringement results in it being impossible to establish whether the tax has been paid in accordance with § 13a(1).*Paragraph 6.* If a party has committed more infringements of § 14a(1), first sentence, in relation to an enterprise within Denmark that imports or receives goods covered by § 13a(1), and infringements of § 13g(2) to (5) or § 13h(1) or (2), or regulations laid down thereunder, and if the infringements result in a penalty in the form of a fine, the penalty fine is aggregated for each infringement. If a party has violated § 14a(1), first sentence, in relation to an enterprise within Denmark that imports or receives goods covered by § 13a(1) or has violated § 13g(2) to (5) or § 13h(1) or (2), or regulations laid down thereunder, and one or more other tax laws or the deposit legislation, and if the violations result in a penalty in the form of a fine, the penalty fine is aggregated for each infringement of this Act or regulations laid down thereunder, and the penalty fine for the infringement of this or the other tax laws or the deposit legislation.*Paragraph 7.* The provisions of paragraph 6 may be deviated from where there are specific reasons for doing so.’**§ 2**In the Tax Collection Act, see Consolidation Act No 573 of 6 May 2019 as amended by § 3 of Act No 1587 of 27 December 2019, § 6 in Act No 168 of 29 February 2020, Act No 2061 of 21 December 2020, § 3 in Act No 2226 of 29 December 2020 and Act No 204 of 13 February 2020, the following amendment is made:**1.** *Annex 1, List A, point 9* is worded as follows:‘9) Act on Various Consumption Taxes, with the exception of Title IXa.’ | **1.** *§ 1, points 1-4* and *6-10,* and *§ 2* shall be deleted. |

1. A draft of parts of this Act has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification). [↑](#footnote-ref-1)