

Guidelines for Determining the Excise Duty Applicability on Imported Fragrance Products



Applicable Laws

- **Excise Act 2017 (B.E. 2560)**
Section 4
In this Act, 'goods' means items that are manufactured or imported and are specified in the Excise Tariff annexed to this Act
- **The Excise Tariff annexed to the Excise Act 2017 (B.E. 2560)**
Fragrance products' means perfumes, fragrance concentrates, and various fragrance-producing substances, but excludes:
 - (1) fragrance concentrates that can be used exclusively in the production of goods; and
 - (2) products as prescribed by the Minister.
- **Ministerial Regulations on Excise Tax Rates 2017 (B.E. 2560)**
Chapter 9
Fragrance and Cosmetic Products
09.01 Perfumes, Fragrance Concentrates, and Essential Oils
 - (1) Perfumes and fragrance concentrates, excluding those specified in item (3) Levied at an ad valorem rate of 8%
 - (2) Essential oils levied at an ad valorem rate of 0%
 - (3) Perfumes and fragrance concentrates that are native products produced domestically levied at an ad valorem rate of 0%

The Excise Department levies excise duty on perfumes and fragrance concentrates when these products are deemed finished goods, ready for sale to general consumers at the tax point. This assessment is based on whether the product is intended for use as a cosmetic applied to the human body. The scope of excise duty also extends to fragrance concentrates that exhibit properties or characteristics indicating their potential use in the manufacture of perfumes, cosmetics, or other general consumer or industrial products, irrespective of their name, labelling, declared HS code, or registration status under any other law.

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In cases where imported products are finished products ready for sale to general consumers

At the tax point, if the goods under consideration—whether perfume products or fragrance concentrates—are classified as finished goods, the principle of cosmetic use for application to the human body is applied. Consequently, for example, perfume products, being classified as cosmetics, are subject to excise duty. Conversely, products such as reed diffusers, which are not intended for application to the human body, are exempt from excise duty. However, the raw materials used in the production of reed diffusers may still be subject to excise duty, the reasoning for which will be explained in the following section.

2

In cases where the imported goods are finished goods but are intended to be used as raw materials or part in the production of the same or other types of goods

Importers who are uncertain about the classification of their imported goods, or whether such goods possess properties or characteristics indicative of potential use in the manufacture of perfumes, cosmetics, or other general consumer or industrial products, may submit product samples to the Excise Department Laboratory for analysis (i.e. liquid: 50 ml per SKU; cream/powder: 10 grams per SKU). If the analysis confirms that the samples exhibit physical and chemical properties consistent with use as perfume products or as raw materials for the manufacture of cosmetics or other general products, the imported goods shall be subject to excise duty, irrespective of their name, labelling, declared HS code, or registration status under any other law.

Tax Benefits in the Production of Excise Goods

Excise taxpayers are required to comply with excise tax laws, including registration and payment of excise duty. If they use an excise product as a raw material or component in the manufacture of specific goods—whether of the same type or a different type—that are also subject to taxation under this Act, they may be entitled to certain excise tax benefits. These include the ability to apply for tax deductions under Section 105 or tax exemptions under Section 106. Conversely, excise taxpayers who use fragrance concentrates in the production of goods that are not classified as excise goods are not entitled to the excise tax benefits mentioned above.



Guidelines for Determining the Excise Duty Applicability on Imported Fragrance Products (Continued)

The exemption of excise duty

"Fragrance products" means perfumes, fragrance concentrates, and various fragrance-producing substances, but excludes:

- (1) fragrance concentrates that can be used exclusively in the production of goods; and
- (2) products as prescribed by the Minister.

(1) fragrance concentrates that can be used exclusively in the production of goods.

- In this context, the term "goods" refers specifically to excise goods, such as alcoholic beverages or tobacco products, and does not include general consumer or industrial goods.
- The phrase "can be used exclusively in" implies that the chemical composition or formulation of the product objectively limits its use exclusively to the production of excise goods. This determination is based on the inherent properties of the product, rather than the intended use stated by the manufacturer or importer.
- Accordingly, if a fragrance concentrate is formulated with specific characteristics—such as the inclusion of certain denaturants or concentrations—that render it unsuitable for use in any products other than excise goods, it qualifies for an exemption from excise duty.
- The above exception indicates that the Excise Department levies excise duty on fragrance concentrates that do not possess specific properties or characteristics restricting their use solely to the production of excisable goods, irrespective of their name, labelling, declared HS code, or registration status under any other law.

Note: The Act provides exceptions for the use of excisable goods in the production of other excisable goods and also grants tax privileges in certain cases where excisable goods are used in the manufacturing process. This reflects a clear legislative intent, since the Act's entry into force in 2017, to impose excise duty on finished goods used as raw materials or components in manufacturing.

(2) **products as prescribed by the Minister** At present, no products have been prescribed by the Minister for this purpose.

The exemption from the obligation to register and excise duty

- ❑ For those wishing to exercise the right to exemption from excise registration and excise duty in the case of importing fragrance concentrates with specific properties or characteristics that restrict their use exclusively to the production of excise goods, the following obligations must be fulfilled.
- ❑ The importer should contact the local excise office where their head office is located to present reliable documentation, evidence, analyses, or research findings demonstrating that the imported fragrance concentrate possesses properties or characteristics that restrict its use exclusively to the production of excise goods and prevent its use in the manufacture of non-excise products.
- ❑ For subsequent imports, the importer shall prepare a certificate stating that the imported goods are not considered excise goods, accompanied by supporting documents specifying the type of excise goods that the imported goods are intended to be used in the production of, and the quantity involved. Alternatively, if the goods are sold to another party for the production of excise goods, the documents must detail the type and quantity of those goods. This information shall be used in the preparation of the import declaration. The Excise Office in the area where the importer's head office is located shall notify the relevant Customs Checkpoint to proceed with the goods release procedures.

Note: In cases where it is determined that the product does not possess the specific characteristics that restrict its use exclusively to the production of excise goods, or does possess such characteristics but is instead used in the manufacture of non-excise goods, the fragrance concentrate shall be subject to excise duty and may also be liable to fines, surcharges, and penalties in accordance with the provisions of the Act.

Interpretation of the Term "Fragrance Concentrate" and Other Translated Terms

- Notwithstanding the use of the term "fragrance concentrate" as the English translation of the Thai term "Hua Nam Hom" (pronounced: Hoo-ah Nahm Horm) in this document, the Excise Department reserves the right to interpret this and similar terms in accordance with Thai legal and cultural context. This principle shall likewise apply to the English translations of all other Thai terms contained herein.
- In the Thai language and customary usage, the term "Hua Nam Hom" (pronounced: Hoo-ah Nahm Horm) is employed as a generic designation for highly concentrated aromatic substances, which may be mixed or diluted for use in the manufacture of cosmetics, general consumer goods, or other industrial products requiring a fragrance. It does not denote a specific substance, as may be the case under scientific classifications or English-language conventions.
- In general, Thai usage does not distinguish such substances by their principal components or scientific nomenclature. Accordingly, the term "fragrance concentrate", as used in this document, shall be construed as a broad and non-specific term, and shall not be interpreted as referring to any particular substance or formulation.
- This interpretation is consistent with the original legislative intent and shall govern all references to "Hua Nam Hom" (pronounced: Hoo-ah Nahm Horm), and other similarly translated terms, within the scope of this document and any relevant regulatory or legal framework.

