

Council Directive (EU) 2020/262 of 19 December 2019
laying down the general arrangements for excise duty (recast)

CHAPTER V

Movement and taxation of excise goods after release for consumption

Section 4

Destruction and loss

Article 45

Destruction and loss

1 In the situations referred to in Article 33(1) and Article 44(1), in the event of the total destruction or irretrievable loss of the excise goods during their transport in the territory of a Member State other than the Member State in which they were released for consumption, as a result of unforeseeable circumstances, or force majeure, or as a consequence of an authorisation to destroy the goods by the competent authorities of that Member State, the excise duty shall not be chargeable in that Member State.

For the purposes of this Directive goods shall be considered totally destroyed or irretrievably lost when they are rendered unusable as excise goods.

2 In the event of partial loss due to the nature of the goods that occurs during their transport in the territory of a Member State other than the Member State in which they were released for consumption, excise duty shall not be chargeable in that Member State where the amount of loss falls within the common partial loss threshold for those excise goods set out in accordance with Article 6(9), unless a Member State has reasonable cause to suspect fraud or irregularity.

3 The total destruction or irretrievable loss, total or partial, of the excise goods as referred to in paragraph 1 shall be proven to the satisfaction of the competent authorities of the Member State where the total destruction or irretrievable loss, total or partial, occurred or, when it is not possible to determine where the loss occurred, where it was detected.

Where the total destruction or irretrievable loss, total or partial, of the excise goods is established, the guarantee lodged in accordance with point (a) of Article 35(2) or point (a) of Article 44(4) shall be released, fully or partially, as appropriate, upon the production of satisfactory proof.