



The Department of Immigration and  
Border Protection (**the Department**)

**Email: [licensingreview@border.gov.au](mailto:licensingreview@border.gov.au)**

30 December 2015

Dear Sir/Madam

**Submission in relation to the *Review of Customs licensing regimes***

Lion Pty Ltd (**Lion**) welcomes the opportunity to provide a submission to the Department in relation to its review of the licensing regimes under the *Customs Act 1901* (**the Review**).

Broadly, Lion supports any improvements that will improve the efficiency and effectiveness of the existing licensing arrangements and reduce the administrative costs to business. However, as a significant manufacturer and importer of alcoholic beverages, removing the duplication in licensing regimes for excisable and excise equivalent goods (EEGs) is a key area of opportunity.

Enclosed is our Submission which provides further detail on the above key area of opportunity, and refers to the relevant sections and/or questions in the Discussion paper.

Please do not hesitate to contact me on [REDACTED] should you require any further information or wish to discuss any aspects of Lion's Submission.

We look forward to participating further in the consultation process.

Yours faithfully,



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#### **4. Multiple licensing**

##### **EEG Warehouses**

- *How any duplication between the processes for excise and customs could be simplified or otherwise improved.*

Lion operates from multiple licensed storage warehouses covering different locations. As Lion is both an importer and local manufacturer of alcoholic beverages, it is required to ensure that **both** excise and customs licenses are maintained (by either Lion or third-party warehouse operators) in relation to the storage of its local products and EEGs under bond. In most cases, such licenses relate to the same physical storage area.

Given that the regulatory obligations and requirements in relation to excise and customs licenses, such as stock control, security, record keeping etc. are almost identical, Lion is proposing the introduction of a **one warehouse licensing system**. This would mean one warehouse license covering both locally produced goods and EEGs stored in the same area. One way this could be achieved is by bringing forward the point of excise control (as outlined below) such that only one excise licence is required.

The benefits of a one warehouse licensing system include:

- One licence application process
- No duplication in movement permissions i.e. one permission covers both local products and EEGs
- One licence fee
- One renewal period and renewal date.

More generally, we propose consistency and alignment between excise and customs licence renewal periods, renewal dates and fees. Where the same legal entity holds licenses in multiple locations, we also propose that these be consolidated into one licence.

- *Whether the requirement that importers of EEGs hold two licences under the Customs Act and Excise Act could be removed. For example, whether a single licence could meet the requirements of both an excise and a customs licence, or whether there are any other alternatives that would reduce the regulatory burden.*

##### **Current Framework**

As Lion is both an importer and local manufacturer of alcoholic beverages, it is required to report and account for its excise and customs duty obligations to both the ATO and Customs.

Under the current framework, importers of EEGs have the option of either paying customs duty upfront or deferring the payment of customs duty until the time good are delivered into home consumption using the Customs warehouse licencing system. For large importers, deferring the payment of customs duty provides a significant cash flow benefit and is the preferred option.

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However, where EEGs are also subject to **ad valorem** in addition to the excise equivalent amount, the customs duty calculation becomes more complex. The ad valorem component of this calculation is based on the customs value of the importation (which is generally the price for the goods plus freight and insurance), which can vary from shipment to shipment.

This generally results in a different ad valorem amount for each shipment which needs to be tracked until such time the goods are delivered into home consumption and the customs duty is paid. A detailed bond register that has the capability of recording inventory back to the original entry and its calculated duty must be maintained. Most standard inventory systems do not have this functionality.

As a result, importers need to use specialised systems to account for and calculate the total customs duty payable correctly. In Lion's case, a separate system to that used to calculate excise on locally produced goods is maintained.

#### ***Lion's proposed reform***

The key difference in the tax treatment of local products and EEGs is the ad valorem component on certain spirits. Although this is a minor component of the overall duty payable, it creates a significant administrative burden.

It is therefore **proposed** that importers have the **option** to pay the ad valorem component at the time of Customs clearance, and simply defer the excise equivalent amount. This could be achieved by ***bringing forward the point of excise control*** to the point of clearance by Customs i.e. as soon as the EEGs are cleared by Customs, the goods can be moved to an excise licensed warehouse and under excise control. We note that a similar process currently exists where imported goods are used in the manufacture of excisable goods. By lodging a specific entry and paying any relevant ad valorem at the time of the entry, the excise equivalent customs duty is extinguished and the manufactured goods are subject to excise control.

The above proposal thereby results in the same duty calculation for both local product and EEG's that are excise duty deferred, resulting in reduced complexity and costs of administration. Other benefits include:

- a single streamlined 'excise & customs duty' return for importers who operate on a 'periodic settlement permission' (**PSP**) i.e. the one calculation method for all products
- one excise payment
- one set of rules for drawbacks, remissions and refunds
- no requirement for a complicated bond register
- removal in the duplication of warehouse licenses, PSP's and movement permissions

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- *Whether there are inconsistencies in the treatment of EEGs and excise goods by the Department and the ATO.*

Lion supports a consistent treatment between excisable goods and EEGs in relation to entitlements for refunds, remissions and drawbacks. Specifically, the circumstances in which refunds are payable are inconsistent between the two regimes.

For example, the Customs Regulations do not provide for a refund of duty on goods that are returned to the owner/importer after they have left the control of Customs. Generally, such goods returned are re-sold. However, in some cases, for example due to changes in consumer demand, such returned goods may not be re-sold and may eventually deteriorate in condition. However, we note that the Excise Regulations do allow for a refund of excise duty paid on goods that are returned to the manufacturer or their authorized representative *“and destroyed or mixed with other products so that their identity is lost”*.

Lion supports a consistent treatment between excisable goods and EEGs and therefore proposes to allow for a refund of duty on all EEGs returned to a warehouse licenced under S79 of the Customs Act 1901.

Further consistency and improvements in administration could be achieved if EEGs are dealt with under the excise system as soon as they are cleared from Customs. Under Lion’s proposed reform (as outlined above) all refunds, drawbacks and remissions would be processed by the ATO and under the excise regime.