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Q&A

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Tobacco Taxation: Frequently asked questions

What is the Tobacco Taxation Directive and why is the Commission proposing to update it?

The EU Tobacco Taxation Directive sets out harmonised minimum rates for manufactured tobacco products. Member States are free to apply excise duty rates above these minima, according to their own national needs. Overall, the Directive aims at fulfilling the twin objectives of protecting public health and ensuring the proper functioning of the Single Market.

However, the current rules and minimum rates in the Directive are outdated, as they were last updated in 2010. The [EU's 'Europe's Beating Cancer Plan'](#) has highlighted the pivotal role of taxation in reducing tobacco consumption and in deterring young people from smoking. Around 40% of the decline in smoking in the EU in the past decade can be attributed to taxation. But the current outdated framework is at odds with the EU's objective to create a tobacco free generation, where less than 5% of the population uses tobacco, by 2040.

Moreover, the current rules only cover traditional tobacco products. New products, such as e-cigarettes, nicotine pouches and heated tobacco, have become more common since 2010 and are not yet in scope of the Directive.

Finally, there is more and more evidence of clandestine tobacco factories in the EU. Fraud and illicit production in the EU cost Member States up to EUR 13 billion a year. Therefore, there is clearly a need to step up control of the raw tobacco trade in the EU to avoid its diversion to illicit cigarettes production.

In February 2020, the Commission published an [evaluation](#) of the current rules, which examined whether the excise duty rates on manufactured tobacco have protected public health and ensured the proper functioning of the Single Market. That evaluation showed that while the current rules work well in terms of predictability and stability for Member States' tax revenues, it is no longer as effective in deterring consumption. Subsequent [Council Conclusions](#), adopted unanimously by Member States, called on the Commission to table legislative proposals to address public health concerns, while taking into account the specific economic situations in the Member States themselves.

What are excise duties?

Excise duties are indirect taxes on the sale or use of specific products, such as alcohol, tobacco and energy. EU Member States have agreed on common EU minimum rates for excise duties on tobacco products, alcohol and energy. For tobacco, alcohol and energy products, common EU rules also apply to ensure that excise duties are applied in the same way and to the same products everywhere in the Union. This helps to prevent trade

distortions in the Single Market, ensures fair competition between businesses, and reduces administrative burdens for companies.

The [Excise Movement and Control System \(EMCS\)](#), a computerised system for monitoring the movement of excise goods within the EU, helping Member States to combat tax fraud on the products in-scope of the Tobacco Taxation Directive. It also provides simplified procedures for traders with a standardised, electronic system for the whole EU.

What is the current situation?

The overall excise duty rate applied to cigarettes in EU countries (which must combine a specific and a relative tax component) should currently be at least EUR 90 per 1000 cigarettes and 60% of the weighted average retail selling price. In practice, the average excise rate effectively applied in several Member States is almost twice the minimum.

The excise duty applied on other tobacco products must comply with different minimum rates according to their category, expressed as either a percentage of their retail price or in nominal terms or a combination of both. For example, the EU minimum rates on cigars and cigarillos are currently set at 5% of the retail selling price or EUR 12 per 1000 items.

These minimum rates are generally too low to have an impact on the prevalence of smoking, particularly in higher-income countries. But fixing a single minimum for excise duty on tobacco products is challenging because of differing income and general price levels across Member States. Any minimum that is the same for all Member States will have a different impact on affordability across the Union. That's why today's proposed rules take into account the specific economic situations of individual Member States.

What will happen to current minimum rates for traditional cigarettes?

Under the proposal, minimum rates would increase significantly, to EUR 215 per 1000 cigarettes and 63% of the weighted average retail selling price.

In practice, the EU minimum rate would be adjusted according to the economic situation in each individual Member State, based on general price levels. In so doing, citizens can be confident that their country's tax rules are more effective in achieving public health objectives.

The adjustment at country level will take into account price level indices in individual Member States (the so-called 'Purchasing Power Parities' approach). In simple terms, the newly proposed EU minimum rate (set at a baseline of EUR 215 per 1000 cigarettes) will partially be adjusted for each Member State against price levels in that particular Member State. This will ensure that the rates are more durable and have the desired effects on smoking prevalence.

Example:

In a Member State where the price level index is 110 (as compared to the EU average price level index set at 100), the new EU minimum rate that this Member State shall comply with would be EUR 222 per 1000 cigarettes. The excise duty rate shall also represent at least 63% of the weighted average retail selling price of cigarettes released for consumption in that particular Member State.

As is currently the case, each Member State would be able to decide on its own rate, provided that the minimum rate is respected. To avoid their obsolescence over time and to

preserve their real value, the fixed part of the EU minima will be updated every three years, to reflect changes in the consumer price index.

What will happen to current minimum rates for other tobacco products such as cigars and pipe tobacco?

The proposed rules define more precise product categories to ensure maximum clarity when it comes to products like cigars, cigarillos, fine-cut tobacco and waterpipe tobacco.

Heated tobacco, waterpipe tobacco and other manufactured tobacco now also have their own definitions and associated minimum tax rates. The new definitions should help to improve legal certainty and encourage Member States to adopt a more tailored tax regime.

Minimum rates for the 'other tobacco products' chapter of the Directive will also be adjusted according to the Purchasing Power Parities principle, for rates of excise duty expressed in EUR/1000 items or kg. Again, each Member State will set its own excise duty rate, and it will need to ensure that these levels are above the EU minimum, when the new rules come into force or within four years for some products.

The individual minima will be updated every three years to reflect changes in the consumer price index.

The base rates that will be applicable EU-wide are:

Product category	Minimum rate
Cigars	40% of retail selling price or at least EUR 143 per 1000 items or kg
Cigarillos	40% of retail selling price or at least EUR 143 per 1000 items or kg
Fine-cut tobacco for the rolling of cigarettes	62% of the weighted average selling price or EUR215 per kg
Other smoking tobacco	50% of retail selling price including all taxes or EUR 143 per kg
Waterpipe tobacco	50% of retail selling price including all taxes or EUR 107 per kg
Heated tobacco	55% of the retail selling price including all taxes, or EUR 108 per 1,000 items if marketed in units; EUR 155 per kg – for other formats.
Other manufactured tobacco	50% of the retail selling price including all taxes or EUR 143 per kg

Why are you bringing new products in-scope of the rules and how will those products be taxed?

Since the last update of EU tobacco taxation rules in 2010, several other products that can pose health risks, prolong addiction and act as a gateway to cigarettes, such as e-cigarettes, heated tobacco products and nicotine pouches, have become more widespread in terms of market share.

Overall, heated tobacco products account for around 8% of the total tobacco market value in the EU, while some Member States have seen a 10% jump in their use over the last few years. Nicotine pouches are also gaining ground as an alternative to smoking. At the same time, independent studies have shown that e-cigarettes can act as a gateway to smoking, especially for young people.

All these products act as substitutes for traditional tobacco products, typically cigarettes. A majority of EU Member States already apply excise duty rules to such products. In that respect, certain Member States apply the same tax rates to heated tobacco products as they do to other smoking tobacco, while others apply product-specific taxation levels. Similarly, most EU Member States already tax e-cigarette liquids.

Harmonising the tax rules and introducing minimum rates for such products will tackle the current fragmentation of national regimes, while maintaining flexibility to EU Member States to adapt their taxation rules in line with market developments, and reduce their attractiveness as tobacco substitutes, particularly for young people.

The proposed revision therefore brings these products under the EU’s harmonised taxation rules for the first time. It sets minimum rates for these products, above which Member States will have to set their national rates. New products that come on the market in future will also need to be taxed at least at the applicable category rate.

Product category	Minimum rate
Liquid for e-cigarettes (up to 15mg nicotine per millilitre)	20% of retail selling price or at least EUR 0.12 per millilitre
Liquid for e-cigarettes (over 15mg nicotine per millilitre)	40% of retail selling price or at least EUR 0.36 per millilitre
Nicotine pouches	50% of retail selling price of EUR 143 per kilogramme
Other nicotine products (including those that can be chewed, dissolved, or inhaled)	50% of retail selling price including all taxes

Swedish snus continues to stay outside the scope of the Tobacco Taxation Directive. Its situation is defined in Sweden’s EU Accession Treaty, and this revision does not cover it.

What is the issue with raw tobacco and how does it contribute to fraud?

Recent evidence suggests a rapid rise in the number of illicit cigarette manufacturing facilities operating in the EU, with clandestine factories being detected in the majority of Member States. In most cases, those factories are relatively modern and high performing, equipped with full production lines, from tobacco cutting machinery to packaging equipment.

Often, they have a capacity comparable to large legal factories that can produce up to 4,000 cigarettes per minute.

Apart from the health risk, the rise in illegal cigarette factories also causes concern from the point of view of tax fraud and the financing of organised crime. Given the illegal nature of these products, no excise duty is charged when they are sold to consumers. Because raw tobacco is not covered in the scope of the Tobacco Taxation Directive, movements of this product to clandestine factories are not monitored by the [Excise Movement and Control System \(EMCS\)](#). Recent estimates suggest that Member States lose up to EUR 13 billion per year overall in tax revenues – a figure which includes the sale of counterfeit cigarettes, smuggling, as well as sales of illicit tobacco products made in illegal factories.

How will the new proposal address the current fraud risk in relation to illicit manufacturing in the EU?

The proposed revision will bring raw tobacco in-scope of the Tobacco Taxation Directive. Very few Member States currently tax raw tobacco – which cannot be smoked without transformation – , so the minimum rate to be applied to this product will be set at zero, to leave Member States the possibility to adapt actual rates to their needs. The added value is that movements of raw tobacco will now be subject to EU-wide monitoring, allowing Member State authorities to act more quickly on suspicious movements or transactions. This is expected to reduce fraud by approximately 10 %.

Won't this create burden on tobacco growers?

While the proposal brings raw tobacco in the scope of the Directive, an exemption for the movements from cultivation areas (where the tobacco is grown) to the first processing facility (where tobacco is first transformed) is foreseen. The new movement and control requirements foreseen by the proposal would therefore start applying when raw tobacco is eventually received by the first processor. This means that the initiative will generate no additional compliance and administrative costs for growers and their organisations.

Why don't you propose to tax new products at the same level as cigarettes?

Aside from heated tobacco, which is presented in sticks like cigarettes, it is very difficult to have common tax levels for the other products (e-cigarettes and nicotine pouches), as they are sold in completely different formats. The minimum rates and tax structures proposed reflect Member States' practices and is based on overall health considerations as for liquids for e-cigarettes with high nicotine concentration are taxed more. Concerning heated tobacco, consideration was given to consumption patterns, current prices and tax rates in EU Member States for the elaboration of the proposed EU minimum rate. The general intent is to progressively close the current gap in excise duty rates applicable to substitute products. Based on the forthcoming revision of the Tobacco Product Directive, the Commission will examine whether further rate increases are required with a view to a possible equalisation.

Is this proposal justified on health grounds?

The current provisions for traditional tobacco products, last updated in 2010, have lost their traction on the fiscal policies of most Member States and related revenue generation. In addition, a number of other products that can pose health risks, prolong addiction and act as a gateway to cigarettes, such as e-cigarettes, heated tobacco products and nicotine

pouches, have become more widespread in terms of market share. Harmonising the tax rules and introducing minimum rates for such products will allow for better control, give flexibility to EU Member States to adapt their taxation rules in line with market developments, and reduce their attractiveness as tobacco substitutes, particularly for young people.

According to the World Health Organisation, taxation is one of the most effective instruments in curbing tobacco consumption. The revision of the Directive will therefore make a key contribution to achieving the objective of Europe's Beating Cancer Plan for a tobacco-free generation, where less than 5% of the population uses tobacco by 2040.

What will be the average increase of taxes?

With regard to the proposed increase of minimum rates for cigarettes, six Member States already tax cigarettes at a higher level and therefore are already compliant. However, it is estimated that 21 Member States would need to raise current tax levels to meet new requirements. The effect on actual cigarette prices is difficult to anticipate as it depends on Member States policies, brands strategies and general market circumstances. In practice, it would generally translate in a 1 to 2 euro increase on the price of a pack of cigarettes.

Importantly, the approach proposed for the calculation of the minimum rates actually applicable in each Member States which is partially based on purchasing power parities, will better distribute the impact among Member States, mitigating the burden for countries where, in real terms, excise duties are already above the EU average.

Will there be transition periods?

The revised Directive shall apply from 2028. For cigars, cigarillos, other smoking tobacco, waterpipe tobacco and other manufactured tobacco, significant increases of EU minima are proposed to reduce the gap between them and the rate set for cigarettes with a view to achieve a progressive convergence between products and minimise the risk of cross-product substitution. A four-year transitional period is therefore envisaged, with an excise duty increase after two years corresponding to 50% of the minimum excise duty rates, allowing Member States to adapt smoothly, thus limiting possible side effects.

The same approach is followed for nicotine pouches and other nicotine products, which are not currently taxed in a number of Member States.

A similar approach is followed for heated tobacco, where the rate will progressively increase in two steps, to reach the target rate set by the Directive.

Why do you propose to make tobacco taxation an EU Own Resource and which part will go to the EU budget?

Smoking is an EU-wide health policy challenge. To support the relevant health policies and given the competition-distorting cross-border shopping in these products, driven by differentials in taxation, it is appropriate that a small part of the revenue stemming from the application of those harmonised minimum rates to the products released for consumption is established as an own resource. Member States will also benefit from the reduced level of illicit tobacco manufacturing and cross border trade that the current lack of control and harmonisation generates. 15% of the minimum EU rate applicable to each product will go to

the EU budget, the rest will contribute to the budget of the country where goods are placed in consumption.

How much money do Member States collect in total on tobacco taxation today?

Based on the excise duty revenue reported by Member States, the total revenue from tobacco taxation amounts to EUR 80 billion. Cigarettes account for the bulk of revenue yields, namely 87% of the total. Fine-cut tobacco for the rolling of cigarettes and other smoking tobacco accounts for 12%, while all the other products currently make a negligible contribution to overall revenue generation.

Over the 2020- 2022 period, revenue continued increasing in nominal terms, moving from EUR 77.3 billion to over EUR 78.9 billion. However, the rate of increase has been much smaller than inflation rate for the same period so, in real terms the total amount of receipts actually declined. This can mostly be attributed to a decline in consumption.

Won't this proposal facilitate tobacco smuggling from third countries?

Economic research indicates that there is no direct proportionality between tax levels and the level of illicit trade. For example, several countries with expensive cigarettes do not have a large illicit trade problem, whereas others do. High prices and high taxes appear more as an enabler, or pre-condition, of the illicit trade in tobacco products rather than a determinant. The supply of illicit tobacco, rather than the price of tobacco, makes a key contribution to tax evasion, with other notable factors being enforcement capacity and the geographical proximity with illicit trade routes.

With regard to illicit tobacco smuggling from third countries, the proposal recognises that the EU and the Member States should step up their efforts. The 2018 EU action plan to fight illicit tobacco trade contained a number of actions to address illicit tobacco trade, including the approximation of excise duties by third countries.