

Consultation strategy for the evaluation and impact assessment on the Tobacco Excise Duty Directive

1. Background of the initiative

Introduction and context

Directive 2011/64/EU¹ (the Directive) defines and classifies various types of manufactured tobacco products according to their characteristics. The structure of excise duties and minimum rates for the different categories of products is also established in the Directive.

The Commission would like to assess to which extent the current rates and structures helped and supported in (1) ensuring the proper functioning of the internal market (including competition), (2) providing a high level of health protection, (3) fighting against tax fraud, tax evasion and illegal cross border shopping. In addition, the Commission aims to fill the information gaps in order to determine the correct harmonized approach for taxation of Heated tobacco products and e-cigarettes.

Objectives

The consultation of various stakeholder categories aims at offering them the opportunity to contribute to the exercise and to collect their views on the current challenges and opportunities that the rates and structures of harmonized tobacco taxation offers.

The consultation activities also seek views on the tax treatment of e-cigarettes and heated tobacco products.

¹ Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco

2. Stakeholder identification & consultation tools

Stakeholder identification

As a first step, it is necessary to identify stakeholder groups who might be concerned by the current Directive and possible future amendments of the Directive.

Stakeholders' categories:

Public authorities: Politicians and national governments have a major influence on the functioning of the Directive in practice because the implementation and enforcement is in their hands. Especially tax authorities (enforcement), ministries of finance (revenue) and ministries of health (health effects of excise duties on tobacco) have a high interest. Due to the fact that harmonisation of national legislation on indirect taxation has to be agreed by the Council according to the unanimity rule, national governments have also a large influence on the (re)design of the Directive.

Industry/business/associations: This stakeholder group, active on the market of manufactured tobacco products covered by the Directive, has a high interest in the Directive. Operators releasing manufactured tobacco products for consumption are liable for the excise duties. They are affected by all subjects of the Directive, structure of rates, minimum rates, definitions, collection of excise duties, exemptions, derogations, refunds etc. For the same reasons, associations representing the interests of the industry will also have a high interest in the Directive. Amending the scope of the directive might limit or extend the group of affected stakeholders. This will be taken into account with the consultation. This group also includes operators involved in the industry value-chain, such as retailers, growers and processors.

NGOs: NGOs active in the health area have an interest in the Directive because the Union's fiscal legislation on tobacco products needs to ensure, besides the proper functioning of the internal market, a high level of health protection. A certain degree of convergence between the tax levels applied in the Member States could be helpful to reduce fraud, smuggling and ensure a high level of protection of human health within the EU. Also, the level of taxation plays an important role in the price of tobacco products which influences consumers' smoking habits.

Citizens/General Public: The general public is the largest stakeholder group. Even if not directly affected by the Directive, the structure and level of excise duties and the scope of the directive indirectly affects the general public. The level of taxation plays an important role in the price of tobacco products. Due to the more indirect relation, and as the Directive leaves Member States flexibility in implementation, the interest of the general public is often low. The influence of the general public on the Directive is also quite low.

Consultation tools

The Directive has already undergone an Open Public Consultation (OPC) in the context of the previous Impact Assessment Study (EA 2018). The previous OPC covered primarily the possible introduction of new harmonised categories for new products and raw tobacco. It also covered other revisions of structures and categories of tobacco products other than cigarettes. This new OPC complements the previous one, placing a greater focus on a possible revision of minimum rates and the taxation of cigarettes. It shall also relaunch the theme of new products harmonisation, in the light of the regulatory and market change occurred.

The following consultation activities are foreseen.

- **Open Public Consultation (OPC):** The OPC will be officially launched at the end of May 2018 and will remain open for 15 weeks until early September 2018
- **Targeted consultations:** In addition to the OPC, stakeholders such as relevant authorities from each Member State will be invited to complete a targeted questionnaire.
- **Interviews:** In-depth interviews with public authorities, industry representatives and public health stakeholders will take place, to collect additional information on the subject matter.

The table below provides more information by stakeholder type on the method of consultation, the consultation period, content and language.

Stakeholder type	Method of consultation	Consultation period	Content	Language regime
Public Authorities	Targeted questionnaires followed up by telephone and in-depth interviews as appropriate	May-July 2018	Views on the current challenges and opportunities that the rates and structures of harmonised tobacco taxation offers and the possible harmonised taxation of e-cigarettes and novel tobacco products	EN
Industry/business/associations	Targeted questionnaires followed up by telephone and in-depth interviews as appropriate	May-July 2018	As above	EN
NGOs	Targeted questionnaires followed up by telephone and in-	May-July 2018	As above	EN

	depth interviews as appropriate			
Citizens/General Public	Open public consultation	May – September 2018	As above	All EU languages except Irish

The Internet-based 15 week open public consultation will be an opportunity for stakeholders to provide their views on the current rates and structure of excise duty applied to manufactured tobacco as well as on the possible future changes to it. The launch of the open public consultation related to this initiative will be announced on the Commission's [Consultations webpage](#). The consultation will be available in all EU official languages (except Irish).

The targeted questionnaire will be distributed directly to the relevant stakeholders.

3. Next steps

The open public consultation will be launched in the 2nd quarter of 2018. If you would like to answer the questionnaire, please follow this [link](#).

A summary report of the results of the open public consultation will also be made available once the consultation period is over.

More information about the Commissions' plans related to this initiative can be found in the [evaluation roadmap](#).