

POSITION PAPER

Vaping and the revision of the Tobacco Excise Directive

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IEVA

INDEPENDENT EUROPEAN
VAPE ALLIANCE

VAPING AND THE REVISION OF THE TOBACCO EXCISE DIRECTIVE

E-cigarettes are not included in the scope of the Council Directive on the structure and rates of excise duty applied to manufactured tobacco (2011/64/EU).

However, with the upcoming review of the Council Directive 2011/64/EU, it is becoming clear that several Member States seek further harmonization of excise duties for electronic cigarettes. This was confirmed by the Annex I of the 2nd June Council Conclusions¹ concerning the structure and rates of excise duty applied to manufactured tobacco. A number of Member States already levy some form of excise duty on e-cigarettes.

From an EU perspective, e-cigarettes are currently subject to VAT, but not additional excise duties. IEVA is of the view that this approach should be maintained, as it allows for proper differentiation between cigarettes and vaping products.

IEVA's position

We support the inclusion of electronic cigarettes in the EU framework to the extent that it does not provoke any additional excise duty, nor lead to an unjustified equation between vaping and traditional cigarettes.

The differences between combustible cigarettes and e-cigarettes must be recognized when reviewing the Directive. Electronic cigarettes are less harmful and are a useful switching tool for smokers who cannot quit.

- **E-cigarettes need to remain accessible and affordable for smokers from all socio-economic backgrounds who wish to quit smoking.**
- **Electronic cigarettes do not contain tobacco and therefore cannot be included in the definition of "novel tobacco products". Electronic cigarettes are a stand-alone category and should be treated as such.**
- **Member States that have imposed an excise duty on electronic cigarettes have experienced a number of unintended consequences:**
 1. **The existing market became distorted because of illegal trade.** BOTEC Analysis state that *"A second major disadvantage of high tobacco taxes (...) is the creation of opportunities for illicit enterprise"*².
 2. **Small and medium-sized enterprises (SMEs) have suffered** as larger companies, usually those already selling excisable goods such as combustible cigarettes, took market share.
 3. **New taxes have resulted in very limited additional tax revenues.** According to the World Bank, *"Data on revenues in those jurisdictions which introduced excise taxes for e-cigarettes are rather limited. They revealed that e-cigarettes excise revenue is very small compared with excise revenue from traditional tobacco products"*³.
- **The inclusion of electronic cigarettes and "novel tobacco products" (such as heated tobacco products) should not result in enhanced regulatory burdens on the small and medium sized companies that make up the majority of this sector.**

For these reasons, the Independent European Vape Alliance (IEVA)...

- ... If further harmonisation of excise duties is considered, IEVA calls on legislators to bear in mind the internal market objective and uphold cross-border distance sales provisions of TPD 2⁴ in order to avoid trade distortion and ensure that operators are not penalised by artificial price differences across the EU.
- ... supports the fight against illegal trade of electronic cigarettes and e-liquids. Adequate legislation across the EU and proper enforcement is crucial to avoid the development of a black market for vaping products.
- ... suggests to further facilitate the switch from cigarettes to vaping for smokers by differentiating their respective taxation.
- ... believes and stresses that, in first instance, there should not be excise duties for electronic cigarettes, as they are a means for smokers to switch to less harmful alternatives.
- ... recommends that if further harmonization of excise duties is considered, legislators take into consideration the significant differences in risk profile between tobacco cigarettes and electronic cigarettes and apply the excise duties methodology accordingly, i.e. proportionality to the harm reduction benefits brought about by tobacco replacement products.

Available Data

- **E-cigarettes offer smokers an alternative which is 95% less harmful than smoking**, a view shared by Public Health England⁵ and the Royal College of Physicians⁶. Switching from tobacco to vapor has positive individual, social and economic implications and should be encouraged, not penalized by the tax system.
- **An excise tax that increases e-cigarette price by 10% would reduce the successful quitting rate by 10%**, estimated the authors of a Working Paper distributed by the National Bureau of Economic Research⁷ (a US nonprofit research organization).
- **EU public health expenditures on treating smoking related diseases was estimated at around €25.4 billion in 2009⁸**. These costs are in addition to the productivity losses caused by absenteeism and economic inactivity, estimated to have cost the EU economy around €7.3 billion in 2009. A 2017 a report from the UK Parliament⁹ estimated that investment aimed at doubling the rate of decline in smoking would return £1.1 billion over five years in the UK. If replicated across the EU, the number would be significantly higher.
- **The costs of producing vaping devices are significantly higher than that of factory-made cigarettes** with fine-cut tobacco. This is due to the design and assembly costs, as well as the high number of components and safety requirements that are part of the production costs.
- Several studies have shown that **an increase in the price of e-cigarettes drives the sales of e-cigarettes down and can lead to increased sales of traditional cigarettes**. “Based on static models, every 10% increase in e-cigarette prices is associated with a drop in e-cigarettes sales of approximately 8.2% (...) E-cigarettes and regular cigarettes are substitutes, with higher cigarette prices being associated with increased e-cigarette sales. Making combustible cigarettes more expensive compared to e-cigarettes could be effective in moving current combustible smokers to e-cigarettes, which might have positive health effects.”¹⁰

¹ <https://www.consilium.europa.eu/media/44235/st08483-en20.pdf> Point 6 “REITERATES that it is therefore urgent and necessary to upgrade the EU regulatory framework, in order to tackle current and future challenges in respect of the functioning of the internal market by harmonising definitions and tax treatment of novel products (such as liquids for e-cigarettes and heated tobacco products)” | ² <http://botecanalysis.com/wp-content/uploads/2019/01/The-Impact-of-E-Cigarette-Regulation-on-the-Illicit-Trade-in-Tobacco-Products-in-the-European-Union.pdf> | ³ <http://documents.worldbank.org/curated/en/356561555100066200/pdf/E-Cigarettes-Use-and-Taxation.pdf> | ⁴ See Article 18 and Article 20 of the Tobacco Products Directive | ⁵ <https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report> | ⁶ <https://222.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report> | ⁷ <http://www.nber.org/papers/w24212.pdf> | ⁸ <https://ec.europa.eu/comm/frontoffice/publicopinion/index.cfm/ResultDoc/download/DocumentKy/79002> | ⁹ www.ash.org.uk/APPG | ¹⁰ <https://academic.oup.com/ntr/article/18/10/1973/2223112>

