



Notification Number: 2019/1/UK

## New excise duty category for tobacco for heating.

Date received : 03/01/2019  
End of Standstill : 04/01/2019  
Issue of comments by : Commission  
Fiscal Measures : Yes

### Message

Message 001

Communication from the Commission - TRIS/(2019) 00002

Directive (EU) 2015/1535

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pieteikums - Pranešimas - Bejelentés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2019/0001/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201900002.EN)

#### 1. Structured Information Line

MSG 001 IND 2019 0001 UK EN 03-01-2019 UK NOTIF

#### 2. Member State

UK

#### 3. Department Responsible

Department for Business, Energy & Industrial Strategy  
EU Exit and Economic Partnership Directorate  
1 Victoria Street  
London, SW1H 0ET

Email: [technicalregulations@bis.gsi.gov.uk](mailto:technicalregulations@bis.gsi.gov.uk)

#### 3. Originating Department



HM Revenue & Customs  
Tobacco Policy - Excise & Environmental Taxes Policy Delivery,  
Customs & Indirect Tax, Customer Strategy & Tax Design,  
3rd Floor, Ralli Quays,  
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Manchester, M60 9LA

#### **4. Notification Number**

2019/0001/UK - X00M

#### **5. Title**

New excise duty category for tobacco for heating.

#### **6. Products Concerned**

Tobacco for heating is processed tobacco that is heated but not burned as in conventional products for smoking. There are different ways that this can be achieved but all products containing tobacco for heating use tobacco to produce or flavour vapour without combustion.

#### **7. Notification Under Another Act**

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#### **8. Main Content**

The draft legislation amends UK primary legislation to introduce a new category of tobacco product, called tobacco for heating. This is for tobacco products that are heated instead of combusted.

The draft legislation amends section 1(1) of the Tobacco Products Duty Act 1979 (TPDA) to add tobacco for heating to the existing list of tobacco products. It also amends the table in Schedule 1 to the TPDA to include the duty rate for tobacco for heating. We plan to switch on the duty for tobacco for heating on 1 July 2019. There is flexibility in the TPDA to include a revised duty rate, if it is amended in the future.

The draft legislation also provides for a description of tobacco for heating to be inserted into existing secondary legislation called The Tobacco Products (Descriptions of Products) Order 2003.

The draft legislation contains a power to make consequential amendments to other regulations, for example, in relation to the holding and movement of tobacco for heating.

#### **9. Brief Statement of Grounds**

For excise duty purposes, there are currently five categories of tobacco product in the UK: cigarettes, cigars, hand-rolling tobacco, other smoking tobacco and chewing tobacco. Other smoking tobacco and chewing tobacco are currently charged to duty at the same rate. These classifications don't specifically cover smokeless products (apart from chewing tobacco).

At present, a small number of products on the UK market use tobacco for heating and HMRC assesses these on a case-by-case basis to determine their liability to tobacco products duty. This is not efficient in the long term, particularly if the number of products on the market increases.



A consultation on the duty treatment of tobacco for heating was held over the summer of 2017. In the consultation, the government indicated that it was minded to introduce a new category and sought views on how the changes could be made. In March 2018, the government published a consultation response document setting out its intention to create a new duty category.

It is intended that the new category will give greater clarity to manufacturers and consumers over their tax treatment; reduce the complexity of the duty system by capturing products more efficiently; and reduce the incentive for manufacturers to design products which do not clearly fall under existing categories, in order to reduce duty liability.

If a heated product is considered to fall within an existing category of tobacco product, for example cigarettes, then it will be charged the duty under that category instead.

#### **10. Reference Documents - Basic Texts**

References of the Basic Texts: Primary UK legislation being amended: Tobacco Products Duty Act 1979 (TPDA) subsections 1(1) and 1(3) and Schedule 1 - copies of these provisions attached.

Relevant EU Directives: (1) Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco, in which tobacco for heating is outside the definition of manufactured tobacco and (2) Council Directive 2008/118/EC concerning the general arrangements for excise duty, Article 1.

#### **11. Invocation of the Emergency Procedure**

No

#### **12. Grounds for the Emergency**

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#### **13. Confidentiality**

No

#### **14. Fiscal measures**

Yes

#### **15. Impact assessment**

This is a fiscal measure that we expect to affect only a small number of tobacco manufacturers who are large companies and SME tobacco importers. We expect the administrative burden to be negligible. Businesses will incur one off costs, including familiarisation with the new rules. We do not expect these businesses to face any on-going costs.

#### **16. TBT and SPS aspects**

TBT aspect

No - The draft is not a technical regulation nor a conformity assessment

SPS aspect



**EUROPEAN COMMISSION**  
GROWTH DIRECTORATE-GENERAL

**Single Market for goods**  
Prevention of Technical Barriers

No - The draft is not a sanitary or phytosanitary measure

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European Commission

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