

Shopping for alcoholic and tobacco products in another EU country

Fields marked with * are mandatory.

Introduction

Excise duties are indirect taxes on the sale or consumption of specific products such as alcohol beverages and tobacco products. The rules of excise duties on these products are harmonised at EU level. The purpose of these rules is to ensure the proper functioning of the internal market and a high level of health protection.

While the main rule for excise goods is taxation in the place of consumption, for private individuals who buy alcohol beverages and tobacco products for their own use and not for resale, the tax is paid in the country where they buy the goods. This is the case even if they bring these goods to another EU country. No further taxes are due. However, to determine if the goods were purchased by private individuals for their own use and not for resale, EU customs and excise authorities can look at several different elements such as, if the individual owns or works for a commercial business, how the goods are packaged and transported and the quantity transported.

To that purpose, EU countries can decide on guide levels for the maximum amount of tobacco products and alcoholic beverages that travellers can carry into the country. These limits serve only as a form of evidence when assessing the type of use. According to EU legislation, they cannot be lower than:

- 800 cigarettes (40 standard cigarette packs);
- 1 kg of smoking tobacco;
- 110 litres of beer (almost 14 crates of 24 x 33cl bottles);
- 90 litres of wine (120 x 75cl bottles)
- 10 litres of spirits (14 x 70cl bottles).

For both alcohol and tobacco products, the misuse of cross-border shopping rules for private individuals is a source of concerns for several EU countries due to lost revenues and the negative impact on the effectiveness of national public health policies.

The current EU rules of cross-border acquisitions of excise goods by private individuals are being reviewed to ensure that they remain fit for purpose to balance the objectives of public revenues and health protection.

The goal of this public consultation is to ensure that all relevant stakeholders have an opportunity to express their views on the current rules of cross-border shopping of alcohol beverages and tobacco products by private individuals and its future. This consultation will include questions on the effects of the

current system, along with possible changes.

The questionnaire takes about 15 minutes to complete. Please note that to participate in the public consultation you are not obliged to respond to all questions.

Some of the questions are conditional on the type of respondent you represent, so you might not see all the questions and the numbering will be interrupted.

You can contribute to this consultation by filling in this online questionnaire. If you are unable to use the online questionnaire, please contact us using the email address below. You can submit your responses in any official EU language and respondents have the ability to attach supplemental materials.

For reasons of transparency, organisations and businesses taking part in public consultations are asked to register in the EU's Transparency Register.

About you

* 1 Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian

- Spanish
- Swedish

* 2 I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* 3 First name

Anca

* 4 Surname

TOMA

* 5 Email (this won't be published)

anca.toma@smokefreepartnership.eu

* 9 Organisation name

255 character(s) maximum

SmokeFree Partnership (SFP)

* 10 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

11 Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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* 12 Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago

- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen

- Czechia
- Lebanon
- Saint Helena
Ascension and
Tristan da
Cunha
- Zambia
- Democratic
Republic of the
Congo
- Lesotho
- Saint Kitts and
Nevis
- Zimbabwe
- Denmark
- Liberia
- Saint Lucia

13 In what capacity are you responding to this questionnaire?

- As a consumer/member of the general public
- As a stakeholder/specialist with an interest in tobacco and alcohol products

14 Please indicate if you have links with the alcohol and/or tobacco industry

- Yes
- No

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* 16 Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

Content Questions

31 To what extent are you familiar with the following aspect of the taxation of alcohol beverages and tobacco products?

	Very familiar	Moderately familiar	Slightly familiar	Not familiar
Level of tax on alcohol beverages in your country	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Level of tax on tobacco products in your country	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Level of taxation on alcohol in the neighbouring countries	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Level of taxation on tobacco in the neighbouring countries	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The EU indicative limits	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The concept of own use*	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Own use refers to the rule that products purchased are for your own personal use and not for resale. Own use does not include purchases on behalf of another person, who will consume these products.

32 To what extent do you agree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No opinion / Do not know
EU cross-border shopping of alcohol and tobacco products should be less regulated	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Custom authorities should be able to control the amount of alcohol or tobacco products people can buy in another country	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tax should be paid where you consume the products to contribute to the cost of associated health care	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The current limits are clear	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The current EU indicative limits are too high	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The limits should match average consumption for a specific period	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The limits should be mandatory and not an indicative amount	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The current EU rules for the cross-border purchase of alcohol beverages and tobacco products are not effective in fighting fraud and illegal activities (resale of products)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
National authorities have difficulties verifying if people actually purchase alcohol and tobacco products for their own use and not for resale	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

33 Please provide any further comments on your above responses

The issue of cross-border shopping of tobacco products, including illegal purchases, constitutes one of the strongest deterrents for MS from implementing higher excise duties on (alcohol and) tobacco products, despite fiscal policies being proven effective in improving public health.

The only way to effectively address issues related to cross-border shopping would be higher, upward convergence of excise duties and prices across the EU. We recognize that achieving convergence of tobacco tax and price across the EU is a longer-term objective of EU rules and within the scope of a different public consultation.

However SFP believes that in the short and medium term strengthening and clarifying the current rules for cross-border shopping for own use would significantly support MS in protecting their specific related fiscal and public health policies.

The main problems with the current rules are:

- the lack of clarity of the 'own use' concept;
- the legal uncertainty created by the indicative limits (as opposed to mandatory) for both the national authorities and consumers;
- the limits are too high and don't realistically reflect individual consumption;
- the current rules are difficult to enforce.

These problems further impact national fiscal and health policies through loss of revenues and limiting the effectiveness of tobacco control policies.

Forward looking questions

34 Which are the most important objectives that should be pursued by the EU legislation as regards the taxation of alcohol beverages and tobacco products for private individuals?

	1st place	2nd place	3rd place	4th place	5th place	6th place
Address competitive distortions due to the tax differences of alcohol and tobacco products in the EU countries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Establish clear and unambiguous common rules for the cross-border purchase of alcohol and tobacco products by private individuals	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Help EU countries to limit illegal cross-border trade of alcohol and tobacco products and tax fraud	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Contribute to a high level of public health protection	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensure the proper functioning of the internal market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other (please specify):	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

36 Please provide any further comments on your above responses

Tobacco taxation is the single most effective tool to reduce tobacco consumption and improve public health. The currently lax rules on cross-border shopping undermine public health objectives as well as member states' fiscal policies and reduce the perceived room for maneuver Member States have in raising their domestic excise duty levels.

Public health is already one of the main objectives of the current rules, and should remain at the center of any revision, especially in the context of the objectives of Europe's Beating Cancer Plan. Cross-border shopping rules should support and complement the specific rules on excise duties, and should not deter governments from utilising fiscal policy to improve public health.

It is crucial that any update of these rules envisages the smooth application of the other EU tobacco control laws and national fiscal and public health policies.

37 Do you think that the current EU legislation regarding the cross-border purchase of alcohol beverages and tobacco products by private individuals should be amended? Please indicate your preference for the following potential future options:

	Strongly in favour	In favour	Neither in favour nor against	Against	Strongly against	No opinion / Do not know
No EU policy change	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Reduce the indicative limits in line with the average consumption of private individuals	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Revise the rules to improve the legal certainty regarding the concept of own use by private individuals	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Add a frequency criterion for cross-border purchases of alcohol and tobacco products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Replace the EU indicative limits with lower mandatory limits. Purchases over these limits would be subject to taxation where the goods are actually consumed	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Allow an EU country to vary from the indicative limits to address disproportionate negative effects and notably on public health	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify):	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

38 Please specify:

Revision of the EU Tobacco tax directive 2011/64/EU to promote higher convergence of tobacco tax and prices across the EU should be the long-term objective to reduce the incentive for cross-border shopping.

39 Please provide any further comments on your above responses

The current rules need to be amended to address the undermining effect of cross-border shopping on health and fiscal policies. The limits for own use should be reduced and rendered mandatory and purchases over these limits should indeed be subject to the country of consumption level of taxation. The concept of 'own use' should be clarified through explicit, binding conditions (such as frequency, etc.). In addition, EU MS who wish to go beyond these rules (for example, by imposing lower limits) in order to better protect their public health policies, should be allowed to do.

Member States may also consider implementing domestic policies (e.g. retail licensing, limit on retailers' volumes of sales to a single customer, policies to combat oversupply in the market).

40 Think about the option that you prefer the most. What impacts do you expect it to cause? Please specify if you agree or disagree with the following statements:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No opinion / Do not know	Not applicable
The option will assist EU countries in fighting fraud and illegal cross-border trade of alcohol and tobacco products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The option will address competitive distortions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The option will improve the level of public health protection	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The option will be administratively more simple to enforce than the current rules	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The option will contribute to the proper functioning of the internal market	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify):	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

42 Please provide any further comments on your above responses

Replace the EU indicative limits with lower mandatory limits. Purchases over these limits would be subject to taxation where the goods are actually consumed .

This solution would have some immediate impact in deterring cross-border purchases. SFP continues to believe that in the medium and long term the most sustainable solution to the market and public health distortions caused by cross-border shopping of excisable goods is the convergence of prices, and this objective should be pursued at EU or sub-regional level (e.g. between neighbouring countries).

In the document attached, SFP also proposes additional options for enforcing these limits:

1. The tracking and tracing data should be used to investigate the oversupply of markets. Manufacturers, distributors and retailers should be penalized if they engage in such behavior.
2. The tracking and tracing data should be used to detect and investigate unusual surges in sales with a focus on border regions between countries with tax and price differentials.
2. The Illicit Trade Protocol (Art 6 (3) (b) (viii); Art 7 (1) (b) ; and Art 10 (1) (b)) requires Parties to implement supply chain measures in order to avoid oversupply of tobacco products in their market. Such measures, for example, could include Member States limiting the releases for consumption to amounts commensurate with consumption rates and legal cross-border shopping in their jurisdiction, based on smoking rates and consumption trends. This could be achieved through restrictions on the numbers of tax stamps (or equivalent) issued, or through the numbers of unique identifiers released to manufacturers or importers through the tracking and tracing system. Data from the EU tracking and tracing system could help in identifying and investigating oversupply particularly in border regions.

Final comment to all respondents

43 Do you have any other additional comments?

SFP draws attention to the need for consistent implementation of Article 5.3 of WHO FCTC and its Guidelines requiring Parties to protect public health policies from the vested interests of the tobacco industry. We commend the inclusion of a declaration of interests in the questionnaire, which should contribute to the Commission's ability to identify feedback more accurately.

In the interest of transparency, we urge the Commission, in the future, to

- 1) Request declarations of interest from stakeholders it engages with in order to identify those with links to the tobacco industry
- 2) Only meet with stakeholders registered in the EU Transparency Register
- 3) Limit interactions with the tobacco industry and affiliated entities (i.e. those involved in the growing, processing, distribution, manufacturing or selling of tobacco products and entities funded directly or indirectly by the tobacco industry) to the strictly necessary, as defined in the Guidelines to Article 5.3 of the WHO FCTC
- 4) Ensure the transparency of all interactions with the tobacco industry and its affiliated entities in the process of reviewing its excise duty legislation by publishing lists and minutes of these interactions.

In addition, we respectfully point out that in the interest of transparency, the standard offer of anonymity should not be an option for replies to public consultations related to tobacco control policies.

44 If you wish to upload a complementary document, please use the upload button below:

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

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/finalwithendorsements_position_paper_Article_32_Final___experts.pdf

Contact

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