



Council of the European Union  
General Secretariat

**Brussels, 19 November 2025**

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**Interinstitutional files:  
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**WK 15797/2025 INIT**

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## **MEETING DOCUMENT**

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<b>From:</b>	General Secretariat of the Council
<b>To:</b>	Working Party on Tax Questions (Indirect Taxation – Excise duties/Energy taxation) Fiscal Counsellors / Attachés
<b>Subject:</b>	Proposal for a Council Directive on the structure and rates of excise duty applied to tobacco and tobacco related products (recast) - Examination of the proposal = presentation

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Delegations will find enclosed the Presidency presentation on the above subject displayed at the Working Party on tax questions (Indirect taxation) on 18 November 2025.

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# Examination of the proposal *Discussion on acquisitions by private individuals*

Working Party On Tax Questions (Indirect  
Taxation – Excise duties/Energy Taxation)  
18 November 2025

**The current legislation  
- Article 32 in the  
Horizontal Directive**



# Article 32(1) and (2)



## *Article 32*

### **Acquisition by a private individual**

1. Excise duty on excise goods acquired by a private individual for his or her own use, and transported from the territory of one Member State to the territory of another Member State by this private individual, shall be charged only in the Member State in which the excise goods are acquired.
2. To determine whether the excise goods referred to in paragraph 1 are intended for the own use of a private individual, Member States shall take account at least of the following:
  - (a) the commercial status of the holder of the excise goods and the reasons for holding them;
  - (b) the place where the excise goods are located or, if appropriate, the mode of transport used;
  - (c) any document relating to the excise goods;
  - (d) the nature of the excise goods;
  - (e) the quantity of the excise goods.

# Article 32(3) and (4)

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3. For the purposes of applying point (e) of paragraph 2, Member States may lay down guide levels, solely as a form of evidence. These guide levels may not be lower than: Agenda point 2: Discussion on ...

- (a) for tobacco products:
  - cigarettes: 800 items,
  - cigarillos (cigars weighing not more than 3 g each): 400 items,
  - cigars: 200 items,
  - smoking tobacco: 1,0 kg;
- (b) for alcoholic beverages:
  - spirit drinks: 10 l,
  - intermediate products: 20 l,
  - wines: 90 l (including a maximum of 60 l of sparkling wines),
  - beers: 110 l.

4. Member States may also provide that excise duty shall become due in the Member State of consumption on the acquisition of mineral oils already released for consumption in another Member State if such products are transported using atypical modes of transport by a private individual or on behalf of a private individual.

For the purposes of this paragraph, 'atypical mode of transport' means the transport of fuels other than in the tanks of vehicles or in appropriate reserve fuel canisters and the transport of liquid heating products other than by means of tankers used on behalf of economic operators.

**Current framework**



# Concerns and possible solutions

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## Concerns

- Some delegations have expressed that they would like to look at article 32.

## Possible solutions:

- Reversing the burden of proof.
- Change guide levels to be fixed.
- Adding frequency.
- Lower to guide levels for traditional products.
- If the guide level for cigarettes was changed to one month of consumption, the guide level would be halved. If all the guide levels for traditional products is halved, the guide levels could be:
  - Cigarettes: 400 items.
  - Cigarillos: 200 items.
  - Cigars: 100 items.
  - Smoking tobacco: 0,5 kg.

# Guide levels for new categories



# Data driven approach



## Approach:

- Use average consumption and an agreed timeframe as benchmark for new guide levels.

## Guide levels:

- Heated tobacco sticks: 650 items.
- Heated tobacco product (bulk): 300 g.

## Issue:

- Finding relevant data.

# Practical approach

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## Approach:

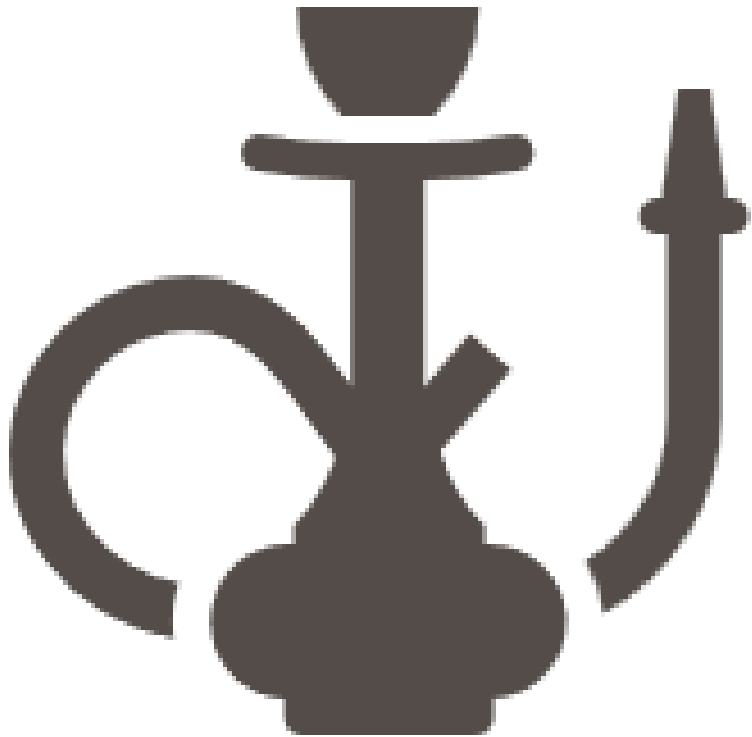
- Place new categories under the current guide levels.
- Introduce guide levels for tobacco related products equivalent to 40 standard packs of cigarettes with 20 items.

## Guide levels:

- Cigarettes and heated tobacco sticks: 800 items combined.
- Cigarillos: 400 items.
- Cigars: 200 items.
- Smoking tobacco, waterpipe tobacco, HTP (bulk) and other manufactured tobacco: 1 kg combined.
- Liquids for electronic cigarettes: 80 ml.
- Nicotine pouches and other nicotine products: 560 g combined.



# Waterpipe tobacco – maintain the status quo



## Issue:

- Waterpipe tobacco is currently treated as smoking tobacco. Member States will lose the possibility to set guide levels on waterpipe tobacco.

## Possible solution:

- Add waterpipe tobacco to the guide level for smoking tobacco to maintain status quo.

**Thank you for your  
kind attention**

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