

# Tobacco Products Tax Manual

This document should be read in conjunction with Chapter 3 of Part 2 of the Finance Act 2005

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## Introduction

This is a Revenue Tax and Duty manual which provides information and guidance on Tobacco Products Tax.

## Part A - General

### 1 Associated Revenue Manuals

The following Revenue manuals contain instructions relating to the authorisation, control and administration of traders who may receive, store, manufacture, dispatch or deliver for home consumption, products subject to Tobacco Products Tax. This manual should be read in conjunction with any or all of the following as appropriate:

- [Authorisation of Warehousekeepers and Approval of Tax Warehouses](#)

This manual provides operational instructions for the information of staff with responsibility for investigating, evaluating and reporting on the authorisation of persons as warehousekeepers and the approval of premises as tax warehouses.

- [Administration and Control of Tax Warehouses Manual: Part 1 General Warehousing Provisions](#)

This manual provides operational instructions for the information of staff with responsibility for the administration and control of authorised warehousekeepers and approved tax warehouses.

- [Movement of Excisable Products](#)

This manual provides operational instructions for the information of staff on the following:

- The movement of excisable products under duty suspension to and from other EU Member States.
- The movement of excisable products under duty suspension within the State.
- The movement of duty-paid excisable products to and from other EU Member States.
- The approval of persons (other than authorised warehousekeepers) for specific functions relating to the movement of excisable products to and from other EU Member States.

## 2 Legislation

### 2.1 EU Law

EU legislation relating to tobacco products is set down in Council Directive 2011/64/EU of 21 June 2011. EU legislation relating to the general arrangements for excisable products is set down in Council Directive 2008/118/EC of 16 December 2008.

### 2.2 National Law

Excise legislation on tobacco products was consolidated and modernized by Chapter 3 of Part 2, Finance Act 2005 (as amended) (sections 71 to 86) and the Tobacco Products Tax Regulations 2006 (S.I. 261 of 2006).

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## 3 Classification

### 3.1 Excise

Tobacco products are classified as follows:

- Cigarettes
- Cigars or cigarillos
- Fine-cut tobacco for the rolling of cigarettes (Commonly known as 'Roll Your Own' or RYO tobacco)
- Other Smoking tobacco (for products containing smoking tobacco that do not fall into the above categories)

The above terms are defined in section 71 Finance Act 2005 (as amended). For ease of reference, definitions that appear in section 71 are reproduced at [Appendix 1](#) of this manual.

### 3.2 Excise Reference Numbers (ERNs)

Excise classification is categorised by the appropriate Excise Reference Number (ERN). The correct classification for excise purposes is important, as this will determine the rate of excise duty to be paid on a particular product.

Excise Reference Numbers (ERNs) are also used when paying Tobacco Products Tax when completing:

- Home Consumption Warrants (Form C&E 1115).
- Excise Duty Entries (EDEs) on receipt of tobacco products from other EU Member States.
- Single Administrative Documents (SADs) on receipt of tobacco products from countries which are not members of the EU.

A list of ERNs applicable to tobacco products is given in [Appendix 2](#).

### 3.3 Appealing a classification

Traders have the right of appeal under section 146 Finance Act 2001 (as amended), against a decision in relation to the classification of a product where the classification imposes a higher rate of duty on the product. In the event of such an appeal, the higher rate of Tobacco Products Tax will apply to the product pending the result of the appeal.

Information on the appeals process is available on the [Revenue website](#).



## 4 Tax Liability

### 4.1 Tobacco Products Tax

Section 72 Finance Act 2005 (as amended), provides for the charging of excise duty on tobacco products. The rates of tax are set down in Schedule 2 of the Finance Act 2005 (as amended). The current rates of tax are available on the [Revenue website](#).

Unmanufactured tobacco is not liable to Tobacco Products Tax but is subject to Revenue control. More information regarding unmanufactured tobacco is available in [section 5.1](#) of this manual.

### 4.2 Calculation of Tobacco Products Tax

The manner in which Tobacco Products Tax is calculated for each type of tobacco product is outlined below.

The rates of Tobacco Products Tax used in the examples given below are those in force from 10 October 2018. These rates are used for demonstration and clarification purposes in this manual and are subject to change. The correct rates of Tobacco Products Tax applicable at any given time may be obtained from the [Revenue Website](#).

#### 4.2.1 Cigarettes

Tobacco Products Tax on cigarettes consists of two separate elements:

- (i) an ad-valorem element, which is a percentage of the retail selling price.; plus
- (ii) a specific amount of tax calculated per 1,000 cigarettes.

For example, Tobacco Products tax payable on a pack of 20 cigarettes with a retail price of €12.70 will be calculated as follows:

$$\text{Specific Duty } (\text{€}327.10 \div 1000) \times 20 = \text{€}6.542 \text{ (A)}$$

$$\text{Ad Valorem Duty } \text{€}12.70 \times 9.04\% = \text{€}1.14808 \text{ (B)}$$

$$\text{Total Tobacco Products Tax due (A+B)} = \text{€}7.69$$

For example, Tobacco Products tax payable on 1,000 cigarettes (50 packs of 20 cigarettes) with a retail price per pack of €12.70 will be calculated as follows:

$$\text{Specific amount: } \text{€}327.10 \text{ (A)}$$

$$\text{Ad valorem amount: } \text{€}12.70 \times 9.04\% \times 50 = \text{€}57.40 \text{ (B)}$$

$$\text{Total Tobacco Products Tax (A+B): } \text{€}384.50$$

### 4.2.2 Cigars or Cigarillos

Tax is to be charged on the net weight of taxable product in kilograms per case. Rounding occurs depending on the weight of the taxable product per case.

The following table illustrates the levels of allowances at various weights:

Weight of taxable product per case	Round Down To Nearest	e.g.
Less than 2kgs	0.02kgs	1.97kgs = 1.96kgs
Less than 4kgs but Not less than 2kgs	0.05kgs	3.97kgs = 3.95kgs
Less than 10kgs but Not less than 4kgs	0.1kgs	4.97kgs = 4.90kgs
Less than 25kgs but Not less than 10kgs	0.2kgs	15.97kgs = 15.80kgs
Not less than 25kgs	0.5kg	25.97kgs = 25.50kgs

When not packed in case, Tobacco Products Tax is to be charged at the rate of €375.058 per kilogram on the total net weight per brand computed to 0.02kg and any fraction of 0.02kg is to be disregarded.

For example, Tobacco Products tax payable on a case of cigars weighing 5.65kgs will be calculated as follows:

$$5.60\text{kg} \times \text{€}375.058 = \text{€}2,100.32$$

For example, Tobacco Products tax payable on a case of cigars weighing 15.97kgs will be calculated as follows:

$$15.80\text{kg} \times \text{€}375.058 = \text{€}5,925.92$$

### 4.2.3 Fine Cut Roll Your Own Tobacco

Tobacco Products Tax is to be charged at the rate of €360.827 per kilogram on the total net weight per case.

For example, Tobacco Products tax payable on a pouch of roll your own tobacco weighing 30g will be calculated as follows:

$$0.03\text{kg} \times \text{€}360.827 = \text{€}10.82$$

For example, Tobacco Products tax payable on a master case of roll your own tobacco weighing 6.48kg will be calculated as follows:

$$6.48\text{kg} \times \text{€}360.827 = \text{€}2,338.16$$

#### 4.2.4 Other Smoking Tobacco

Tobacco Products Tax is to be charged at the rate of €260.199 per kilogram on the total net weight per case.

For example, Tobacco Products tax payable on a 20kg box of tobacco not falling within any of the above classifications will be calculated as follows:

$$20\text{kg} \times \text{€}260.199 = \text{€}5,203.98$$

#### 4.3 Value Added Tax (VAT)

VAT at the standard rate should be applied to all tobacco products, on the excise inclusive price. VAT is not payable at the same time as Tobacco Products Tax and should be accounted for in VAT3 returns.

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## 5 Receipt, Production, Processing and Delivery of Tobacco Products

### 5.1 Unmanufactured Tobacco

Unmanufactured tobacco is not liable to Tobacco Products Tax but is subject to Revenue control measures. Section 78A of the Finance Act 2005 governs the importation and keeping of unmanufactured tobacco in the State. Where unmanufactured tobacco is found in the State, it must be shown to the satisfaction of Revenue that it is being kept and used for legitimate purposes. The burden of proof is placed on the trader in possession of the unmanufactured tobacco to prove how it is being used.

Traders are also required to maintain accounts of:

- All materials received
- All materials used in the manufacture of tobacco product
- All materials disposed of other than in the manufacture of tobacco products
- All tobacco refuse derived from manufacture
- All tobacco products manufactured

Traders must account to the satisfaction of Revenue for all materials received by them, and, in the case of materials not so accounted for, may be required to pay tax on the quantities of tobacco products as might reasonably be expected to be manufactured from such materials.

### 5.2 Manufactured Tobacco Products

#### 5.2.1 Tobacco products without tax stamps

Tobacco products, on which the duty has not been paid, may only be produced, processed and held in an approved tax warehouse. Any person wishing to produce, process or store tobacco products under duty suspension, should apply in writing to their local Revenue Office to become an authorised warehousekeeper and for their premises to be approved as a tax warehouse. They must also fulfil all conditions outlined in [Notice 1877](#).

#### 5.2.2 Tobacco products with tax stamps affixed

Tax stamps are labels issued by the Revenue Commissioners under section 73 Finance Act 2005 as amended for the purpose of collecting Tobacco Products Tax. The tax stamp system for cigarettes and fine cut tobacco is detailed in Part B.

### 5.3 Preservation of Records

Manufacturers are required to preserve all accounts, records, books and documents relating to the purchase, receipt, sale, disposal or manufacture of materials and tobacco products for a period of not less than six years from the date of the last entry therein.

## 6 Licences – Tobacco Growers’/Curers’/Re-handlers’ Licences

A licence is required to grow, cure or re-handle tobacco. Any person wishing to carry out any of these activities must apply to their local Revenue Office for a licence for these activities. Special instructions will be issued to applicants in each case.

## Part B – Tobacco Products Tax on “Specified Tobacco Products” (Cigarettes and Roll Your Own Tobacco)

### 7 Tax Stamps

#### 7.1 Design of Tax Stamps

Tobacco Products Tax on cigarettes and fine cut tobacco for the rolling of cigarettes (RYO) – described as “specified tobacco products” in section 71 Finance Act 2005 as amended - shall be payable by means of tax stamps issued by Revenue. Each pack of cigarettes or RYO, intended for sale, delivery or consumption in the State, must have a tax stamp affixed to it in respect of which the appropriate duty has been paid. Revenue shall issue tax stamps only on payment of an amount equivalent to the duty represented by such stamps. This amount is known as the tobacco tax stamp charge.

#### 7.2 Design of Tax Stamps

The design of the tax stamps is governed by Regulation 21 of The Tobacco Products Tax Regulations 2006 (S.I. 261/2006).

The Tax Stamp shall include:

- A continuous background printing of the words 'The Revenue Commissioners' and 'Na Coimisinéirí Ioncaim';
- A representation of the (Official) Irish Harp containing 12 strings in a vertical plane encircled by a ring on which is printed the words 'Ireland', 'Éire', 'Excise Duty' and 'Dleacht Mháil',
- Three lines of encoding printed in black containing such combination of characters as Revenue have authorised for the tobacco products to which the stamp relates. At present the three lines of encoding should contain the following
- **Line 1 = Stamp Code consisting of:**
  - An Alpha denoting the trader
  - Three numerals denoting the quantity of cigarettes or fine cut tobacco for the rolling of cigarettes in each pack (i.e. 020 for a 20 pack of cigarettes and 300 for 30 grams of tobacco
  - A hyphen and two numerals denoting the retail selling price (RSP) of the cigarettes and whether the cigarettes are home produced or imported/ Numerals 01 to 69 are reserved for home produced cigarettes, 70 and above will indicate that the cigarettes are imported. The value represented by a specific stamp code will change from time to time in line with changes in the retail selling price of cigarettes.

- **Line 2 = Batch Number consisting of:**
  - The letter B and 5 numerals denoting the Batch no.
- **Line 3 = Stamp number consisting of:**
  - 5 numerals denoting the position of each stamp within the batch
- Such security or other features as Revenue may from time to time direct.

Each stamp measures 19.05 mm x 44.45 mm. Revenue reserve the right to alter the dimensions of the stamp, the encoding and the format of the encoding, required at any time.

### 7.3 Participation in the Tax Stamp System

Any trader who wants to manufacture or import tobacco products under duty suspension arrangements into the State must be authorised by Revenue as a tax warehousekeeper prior to the manufacture or importation taking place. Further information on how to register as a tax warehousekeeper is available in the [Authorisation of Warehousekeepers and Approval of Tax Warehouses manual](#). Traders must also be registered with Revenue as participants of the tax stamp system prior to tax stamps being issued to them. This is a separate application process and is administered by Revenue's Large Cases Division.

Authorisation by Revenue to become a tax warehousekeeper does not automatically entitle the trader to become a member of the tax stamp system.

The granting of permission to purchase and store stamps will be subject to the acceptance by the trader of any conditions, including security, laid down by Revenue.

### 7.4 Initial Application

For all initial applications to the tax stamp system, traders requiring tax stamps must apply in writing to **Large Cases Division, Ballaugh House, 73-79 Mount St. Lower, Dublin 2** giving details of his or her requirements. Once the application has been approved, a minimum of two months' notice is required before an initial delivery of stamps can be arranged. The application should contain the following particulars:

- Details of brands proposed to be manufactured/imported;
- If the brand is not an existing brand sold by retail in the State, a declaration of the proposed retail selling price;
- Details of anticipated volumes and frequency of importation if manufactured outside the State;
- The applicant's VAT number; and
- The Trader Account Number (TAN), if already registered under Revenue's Automated Entry Processing (AEP) system.

## 7.5 Ordering of Stamps

Traders must submit Form Ex. No. 804 setting out their projected usage of stamps for the next accounting period to Revenue not later than the first working day of the current month. The form is to be endorsed "NIL" if no stamps are required.

## 7.6 Delivery of Stamps

Stamps will normally be delivered by the printing contractor directly to the tobacco trader's secure store. Deliveries will be made monthly but additional deliveries may be arranged if required. Advanced notice of intended delivery times and dates will be given by the printing contractor to the tobacco trader and Revenue. Revenue control officers will attend to oversee the receipt of the stamps. Tax Stamps are supplied in sequentially numbered batches containing 30,000 numbered stamps.

## 7.7 Receipt of Stamps

Revenue officers will attend at deliveries of tax stamps to secure stores. On delivery of stamps an authorised company official of the trader and a Revenue Officer will compare the number and details of stamps received with the details contained in the delivery docket. Batches found to be incomplete or damaged are to be returned to the printing contractor and the delivery docket endorsed. Delivery dockets are to be signed by an authorised company official of the trader and the Revenue Officer.

## 7.8 Storage of Stamps

Traders must provide a secure store for stamps, which must be capable of being placed under Revenue lock. Access to the store is to be strictly controlled and restricted to authorised company officials of the trader. Responsibility for the security of stamps delivered to a trader's premises rests solely with the trader. Traders must notify Revenue's Large Cases Division if stamps are discovered to be damaged or unusable after receipt.

## 7.9 Release of Stamps

Traders may release stamps from the secure store by completing Form Ex. No. 806. This form is to be completed by an authorised company official of the trader numbered in an accounting period series (see paragraph 26) and submitted to the Revenue Officer. Stamps are to be released on a first in first out basis and in consecutive order. Only complete boxes of stamps may be released from the secure store. Traders who remove stamps from the secure store without completing Form Ex. No. 806 are advised that any such occurrence may result in the secure store being placed under Revenue lock and the release of stamps being restricted to times when the Revenue Officer is in attendance, or the withdrawal of the facility to store stamps locally.

## 7.10 Affixing of Stamps to Tobacco Packs

Stamps are to be affixed directly to tobacco packs, clearly visible for inspection beneath the cellophane wrapper and in a position on the pack that does not obscure



or interfere with health warnings or other markings required by law. Stamps must be affixed in such a way that the Stamp may be visually inspected in its entirety without the need to open, unfold or otherwise manipulate the packaging material which contains the tobacco products.

It is important that each stamp be affixed solidly to a pack so that it cannot be removed without damage to the stamp itself or to the packaging material which contains the tobacco products

### 7.11 Stocktaking

Revenue staff may carry out a stocktake of tax stamps in the secure store, as far as practical, in conjunction with the tobacco trader during each accounting period. Any discrepancies will be managed appropriately by Revenue.

Traders should perform a stocktake on the last working day of each accounting period of all tax stamps held outside the secure store which have not yet entered accounts, e.g. stamped product at production machinery, stamps in machines, etc. A stock check must also be completed at close of business on budget day (the day on which the Government presents its budget to Dáil Éireann) and on a day preceding a company price rise. All discrepancies discovered are to be fully investigated by the trader and Revenue notified of the results of such investigation.

### 7.12 Deferred Payment

Under section 74 of the Finance Act 2005, Revenue may, subject to compliance with conditions for securing the payment of Tobacco Products Tax allow payment of Tobacco Products Tax to be deferred.

The accounting period for Tobacco Products Tax on stamped tobacco products normally begins on the 4th last day of each month and ends on the 5th last day of the succeeding month. Deferment of the Tobacco Stamp Charge due in any accounting period will normally be allowed to the second last working day of the second succeeding calendar month.

An exception to this rule occurs in the period 28 October -27 December each year where payment of Tobacco Products Tax arising up to the period 30 November must be paid in full by 31 December of the same year and half the Tobacco Products Tax arising from 1 December to 27 December must also be paid by 31 December with the remainder due by 27<sup>th</sup> February in the following year. In practice, the payment date/debit date for December is between 19<sup>th</sup>-21<sup>st</sup> December to allow for payment to clear prior to the Christmas holiday period.

The following table outlines the accounting period and payment dates:

Period	Accounting Periods	Payment Days [1],[2]
1	28th December - 27th January	30th March
2	28th January - 24th February*	29th April
3	25th February** - 27th March	30th May
4	28th March - 26th April	29th June
5	27th April - 27th May	30th July
6	28th May - 26th June	30th August
7	27th June - 27th July	29th September
8	28th July - 27th August	30th October
9	28th August - 26th September	29th November
10	27th September - 27th October	19th/21st December ***
11	28th October - 30th November	19th/21st December ***
12	1st December - 27th December	19th/21st Dec. & 27th February ****

\* 25<sup>th</sup> February in leap years

\*\* 26<sup>th</sup> February in leap years

\*\*\* Payment/debit day is four working days in advance of 25th December

\*\*\*\* 28<sup>th</sup> February in leap years

### Notes

- 1 Where the payment day falls on a non-working day, the payment day is the previous working day.
- 2 End of month payment days will be the second last working day of the month. December payment is four working days in advance of December 25<sup>th</sup>.
- 3 Payment of October, November and half of December liability is due four working days in advance of December 25<sup>th</sup>.

### 7.13 Deferred Guarantees

In order to avail of deferred payment, security, by means of a financial institution guarantee is made available to Revenue through the Deferred Payment Bank Direct Debit Scheme. Application for participation in the scheme is to be made to, **AEP Accounts, Government Offices, Nenagh, Co. Tipperary**. A copy of the [application form](#) is available on the Revenue website. As Tobacco Products Tax paid by means of tax stamps is accounted for separately from tax on unstamped tobacco products, a separate Trader Account Number (TAN) will be required for accounting for tax stamp purchases under the financial institution's direct debiting scheme.

Traders already operating under a bond scheme may continue to do so until further notice. The bond penalty must provide security for all chargeable deliveries in any period of 3.2 months.

It is the responsibility of the trader to ensure that the amount of tax outstanding at any time does not exceed that which is secured by the guarantee or bond penalty. The trader is to keep suitable running totals for this purpose. If, at any point the liability is greater than the guarantee or bond in place, Revenue will insist on the immediate payment of the excess liability. Failure to immediately settle this account with Revenue may see authorisation of tax warehousekeeper status being revoked and revocation of the trader's status as a member of the tax stamp system.

Further information on the on the AEP System is available in the [Automated Entry Processing \(AEP\) System Payment Methods Manual](#).

### 7.14 Unused Stamps

Traders should, as a general rule, only release sufficient stamps to meet their production requirements during the accounting period. Unused stamps should be returned for secure destruction and will be credited as part of the normal accounting process, once Revenue is satisfied that all requirements of the destruction process have been met.

### 7.15 Destruction of Stamps and Repayment of Tobacco Products Tax

Section 77(1) Finance Act 2005 provides for a relief from Tobacco Products Tax, and section 77(2) Finance Act 2005 provides for repayment of Tobacco Products Tax in certain circumstances. Tobacco Products Tax or an amount paid or due on the issue of tax stamps may be repaid or remitted, inter alia, where it is shown to the satisfaction of Revenue that the tax stamps concerned have been destroyed or are damaged or are unsuitable for the use for which they were issued.

Revenue must be notified in advance if destructions are to take place. Failure to give adequate notice to Revenue prior to a destruction taking place may result in repayment claims being refused. Prior to destruction taking place Revenue will outline the requirements and conditions that need to be followed.

EU Law (Article 17 of Directive 2011 /64/EU) requires that destructions of manufactured tobacco must take place under administrative supervision in order for an exemption from Excise Duty or Refund of Excise Duty to be given. In cases where manufactured tobacco products are to be destroyed, Revenue must be present at destructions in order to comply with EU legislation.

Repayment will be effected by means of credits being allowed each month against deferred tax stamp charge liabilities. Claims for repayment are to be made on form Ex. No. 808. The claim forms are to be numbered in an accounting period series as per the table in paragraph 24 and submitted to the Revenue Officer.

Applications for repayment of Tobacco Products Tax or the tobacco stamp charge in respect of tax stamps purchased will fall into a number of categories:

#### 7.15.1 Stamps damaged or rendered unusable while being held by the trader after purchase or during the application and packing process

Tax stamps damaged or otherwise rendered unusable during the packaging process are to be made available for inspection by the Revenue Officer when Form Ex. No. 808 is being submitted. Damaged stamps are to be affixed to paper or cardboard sheets by stamp code and in uniform lots before being produced for inspection. The damaged stamps must not be disposed of by the trader until he/she is authorised to do so. The quantity of waste stamps may be established by comparing stamps used with finished production during a given period and credit will be allowed against future tax stamp charge liabilities where stamps are shown to the satisfaction of Revenue to have been irretrievably lost during manufacture. It should be noted that claims in respect of stamps said to have been irretrievably lost during manufacture abroad will have to be supported by a reconciliation statement certified by the Financial Controller of the foreign manufacturing company to be a complete and accurate account and will be allowed solely at the discretion of Revenue.

When the Revenue Officer is satisfied as to the quantity of stamps damaged or rendered unusable, and has agreed the amount of duty to be repaid, the trader will be given a credit note. Suitable arrangements should then be made with Revenue for the destruction of the stamps.

#### 7.15.2 Stamps on products returned to the trader by customers, which will be destroyed

Where stamped tobacco packs are returned to the trader as being out of date or otherwise unfit for sale, repayment of Tobacco Products Tax may be allowed subject to the stamps being destroyed under official supervision and any conditions that Revenue may think fit to impose are complied with. The amount of the repayment will be equal to the amount of duty paid at the time of release of the product for consumption. Repayment may be allowed at the rate which would have been payable had the stamps been purchased three months prior to application. The

instructions relating to the submission of claims for repayment of duty set out in this paragraph are to be followed.

### 7.15.3 Stamps on products damaged after production, or which are found to be unsuitable for sale and which are being destroyed.

Where stamped tobacco packs are damaged after production, repayment of the Tobacco Products Tax may be allowed subject to the stamps being destroyed under official supervision and any conditions that Revenue may think fit to impose are complied with. The amount of the repayment will be equal to the amount of duty paid at the time of release of the product for consumption.

### 7.15.4 Stamps on products which are to be used as samples for quality control or delivered for experimental or research purposes.

Tobacco packs taken as samples after stamping are to be included in the trader's return of production.

### 7.15.5 Stamps on products which have been the subject of an irregularity in another Member State and where Tobacco Products Tax on such products has been paid in another Member State.

Traders should contact Revenue's Large Cases Division for further guidance.

## 7.16 Statutory Time Limits on Repayments

Section 105D Finance Act 2001 provides that claims for repayment must be made within a period of 4 years from the date of payment to which the claim relates or from the date of any other act or event giving rise to an entitlement to a repayment.

Repayment is based on the rate applicable at the time the tax was paid.

Further information on Repayments and the process involved can be found in Section 7 of the [Administration and Control of Tax Warehouses Manual \(Part 1: General Warehousing Provisions\)](#).

## 7.17 Tax Stamps as Security Feature (Directive 2014/40/EU)

Under Article 16 of Directive 2014/40/EU (The Tobacco Products Directive) and subsequent Delegated Acts and Implementing Regulations adopted under that Directive, all unit packets of cigarettes and roll-your own tobacco products placed on the EU market after 20 May 2019 will be required to carry a tamper-proof security feature composed of visible and invisible elements, enabling authorities and consumers to verify their authenticity.

Ireland is a Member State that operates a tax stamp or national identification mark for fiscal purposes. The use of such markers as security features is permitted by the Directive. Therefore the tax stamp, as issued under Section 73 of the Finance Act 2005, is allowed to be used as the tamper-proof security feature required by the Directive for cigarettes and roll-your own tobacco products on sale in Ireland after 20 May 2019.

## 8 Tax Stamp Accounts

### 8.1 Statutory Time Limits on Repayments

Traders who purchase tax stamps are obliged to maintain, in respect of each stamp code (as shown in the top line of encoding – see paragraph 7.2 above), records and accounts of:

- Stamps ordered
- Deliveries of stamps to the Trader's premises for storage under Revenue control
- Stamps released by the Trader from storage
- Stamps affixed to packages
- Stamps in respect of which Tobacco Products Tax was paid on release for consumption
- Stamps in respect of which remission or repayment has been allowed
- Stocks of unused stamps
- Amounts of tobacco products produced by brand and package size

and shall furnish returns to Revenue as may be directed from time to time.

Between the end of each accounting period (as defined in Paragraph 7.12) and the first day of the following calendar month (or the third last working day of December) the trader is required to agree the liability of tax stamp purchases with the Revenue Officer. Between the first and fifth day of the following calendar month the Trader will submit Form Ex No. 811 The liability will consist of the tax stamp charge less any duly authorised credits.

When reconciliation is complete, the tax stamp system maintained by the Revenue Officers will generate a tax stamp charge statement on form Ex. No. 811.

### 8.2 Home Consumption Warrant

Traders are required to provide details of cigarettes and RYO produced and/or imported by brand and pack size during the accounting period along with details of stamps used.

The Trader must forward these details to Large Cases Division.

Traders are also required to send both the Form Ex. No. 811 and the Home Consumption Warrant (Form C&E 1115) for the accounting period to the Revenue C&E Accounts Office, South City/Dún Laoghaire-Rathdown Customer Service District, 85-93 Lower Mount Street, Dublin 2.

Where there is an excess payment at the end of any given period, in respect of stamps released from the stamp store but not released for home consumption within that period, the excess of that tobacco stamp charge will be placed on deposit.

## **Part C- Tobacco Products other than Specified Tobacco Products (Cigars/Cigarillos and Other Smoking Tobacco)**

### **9 Receipts of Cigars/Cigarillos**

A trader may elect to deposit home manufactured or imported cigars/cigarillos in an approved tax warehouse on the basis of standard net weights by making written application to their Revenue District requesting that the declared weights be accepted. The application must be supported by lists certified by the manufacturer of the standard net weights taken in kilograms to two decimal places per 1,000 cigars of each brand and type. If the manufacturer is unable to supply standard net weights for imported cigars, the warehousekeeper's declaration will be accepted subject to whatever controls and examination are deemed appropriate by the Revenue Officer.

The instructions of paragraph 4.2.2 are to be applied to the standard net weights thus established in order to determine the chargeable weight for excise duty purposes.

## 10 Deferment of Payment of Tobacco Products Tax for Cigars/Cigarillos/Other Smoking Tobacco

Deferment of Tobacco Products Tax may also be allowed on cigars, cigarillos and other smoking tobacco subject to compliance with conditions for securing payment of the tax as imposed by Revenue. Revenue will in all cases require a guarantee or bond to be entered into by the trader. Deferment of the tax charged in any month will normally be allowed to the second last working day of the following month. However, in the case of Tobacco Products Tax charged in December, half the balance of tax charged in December must be paid by 31 December and the payment of the remainder may be deferred to the second last working day of the following January.

It is the responsibility of the trader to ensure that the amount of tax outstanding at any time does not exceed that which is secured by the guarantee or bond penalty. The trader is to keep suitable running totals for this purpose. If, at any point the liability is greater than the guarantee or bond in place, Revenue will insist on the immediate payment of the excess liability. Failure to immediately settle this account with Revenue may see authorisation of tax warehousekeeper status being revoked.

Payments for Tobacco Products Tax for these types of products are collected as follows:

- 4 working days before 25 December in respect of tax payable in November
- 4 working days before for 25 December in respect of half of the estimated December liability
- The 2<sup>nd</sup> last working day of the succeeding month in respect of tax payable in all other circumstances.

Any trader applying to participate in the deferred duty scheme must agree to operate under the direct debiting scheme. Application to the scheme is to be made in writing to **AEP Accounts, Government Offices, Nenagh, Co. Tipperary**.

Traders already operating under a bond scheme may continue to do so until further notice.



## 11 Repayment of Tobacco Products Tax on Returned Cigars/Cigarillos/Other Smoking Tobacco

Where cigars, cigarillos or other smoking tobacco are returned to the trader as being out of date or otherwise unfit for sale, repayment of Tobacco Products Tax may be allowed subject to the goods being destroyed under Revenue supervision and any conditions that Revenue may think fit to impose being complied with. Revenue must be notified in advance if destructions are to take place. Failure to give adequate notice to Revenue prior to a destruction taking place may result in repayment claims being refused. Prior to destruction taking place Revenue will outline the requirements and conditions that need to be followed as required by section 77 (1) (a) of the Finance Act 2005.

The amount of repayment will be equal to the amount of Tobacco Products Tax paid at the time of release of the product for consumption. Repayment may be allowed at the rate which would have been payable had the product been released for consumption three months prior to application.

Separate claims are required in respect of home produced and imported tobacco products. The amount of the repayment will not exceed the lesser of the amount of Tobacco Products Tax actually paid or the amount of Tobacco Products Tax that would be chargeable on the returned goods at the time they are returned to warehouse. Repayment will be effected by means of credits being allowed each month against deferred payment liabilities (form number 768).

## **Part D -General Conditions applicable to all Tobacco Traders**

### **12 General Records to be kept**

Tobacco Traders whether trading in stamped or unstamped products or both are required under Section 83 of the Finance Act 2005 to keep records relating to their business. Schedule 2 to the Tobacco Products Tax Regulations 2006 lists the following records in addition to the records outlined above (Paragraph 8) regarding a trader's participation in the tax stamp programme.

1. Invoices, credit notes, debit notes, receipts and other records of payment
2. Records relating to all tobacco products received and delivered, including those in relation to imports and exports
3. Statements of account, profit and loss, trading and management accounts and reports, balance sheets and trading forecasts
4. Production schedules and reports, and other records relating to such schedules and reports
5. Product specifications and records of any analysis of tobacco products, or materials
6. Stock accounts and other stocktaking records
7. Records relating to any relief from, or repayment of, tax and to any claim for such relief or repayment
8. Internal and external auditor's reports
9. Any other record relating to tobacco products, which is kept for a business purpose.

The above returns must be furnished if requested by Revenue.

## 13 Consignments of Tobacco

### 13.1 Consignments of Tobacco from Other Member States of the EU

Consignments arriving from other EU member states must be accompanied by an Electronic Administrative Accompanying Document (EAAD) and should be dealt with as per [Notice 1877](#).

### 13.2 Consignments of Tobacco from Third Countries (Non-EU Member States)

Consignments arriving from Third Countries (Non-EU Member States) must be accompanied by a Single Administrative Document (SAD) and should be dealt with as per [A Guide to Customs Import Procedures](#)

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## Part E- Penalties for Non-Compliance

### 14 Offences and Penalties

#### 14.1 Production, Processing and Holding - General

Chapter 3 of Part 2 Finance Act 2001 provides for offences relating to production, processing and holding of excisable products. Chapter 4 of Part 2 of the Finance Act 2001 outlines the powers of authorised officers of Revenue to enter premises, examine, copy and remove records.

#### 14.2 Tobacco - General

**Section 119 Finance Act, 2001 (as amended)** provides for an offence of evading excise duty by taking possession, custody, transporting or concealing excisable products with intent to defraud the State of Excise Duty.

Persons found guilty of an offence under this section are liable on summary conviction to a fine of €5,000 or a term of imprisonment of 12 months or both. On indictment, a person found guilty of an offence under this section is liable to a fine of €126,970 or where the value of the excisable goods concerned, including any duties or taxes chargeable on them is greater than €250,000, the maximum penalty is three times the value of those products.

The Courts also have discretion in imposing a prison sentence of up to five years.

**Section 121 Finance Act, 2001 (as amended)** provides for an offence of failing to comply with the rules and regulations relating to the production, processing and holding of excisable products.

**Section 122 Finance Act, 2001 (as amended)** provides for an offence of submitting a fraudulent claim, return, statement or accounts or to furnish any incorrect information.

**Section 123 Finance Act 2001 (as amended)** provides that any person who resists, obstructs or impedes an officer of Revenue in the exercise of these powers shall be guilty of an offence

The penalty for an offence committed under Sections 121-123 on summary conviction is €5,000.

**Section 124A Finance Act 2001 (as amended)** provides that any authorised warehousekeeper who contravenes or fails to comply with any condition or requirement imposed on him by legislation is liable to a penalty of €1,500 for each contravention or failure.

**Section 125 Finance Act 2001 (as amended)** provides that any excisable products in respect of which an offence has been committed (or any goods packed with and/or

vehicles used in concealing the excisable products in question) are liable to forfeiture.

**Section 136 Finance Act, 2001 (as amended)** provides that an authorised officer of Revenue may at all reasonable times enter premises on which the manufacture of tobacco products is reasonably believed by the officer to be carried on, and may there make such search and investigation and take such samples of materials, tobacco products and partially manufactured tobacco products as the officer shall think proper, and may inspect and take copies of or extracts from any books or other documents there found and reasonably believed by the officer to relate to the manufacture of tobacco products.

### 14.3 Tax Stamp Offences

Cigarettes and fine-cut tobacco for the rolling of cigarettes and any other tobacco products in respect of which an order under **section 73 of the Finance Act, 2005** (as amended) has been granted which are brought into the State for commercial purposes are required to have an Irish Tax Stamp affixed. Products without such a Tax Stamp are liable to be seized.

**Section 78(3) Finance Act, 2005 (as amended)** provides that any person who in the State offers for sale or delivery, other than under a duty-suspension arrangement, cigarettes otherwise than in a pack or packs to which a tax stamp, on which Tobacco Products Tax at the appropriate amount has been paid, is affixed in the prescribed manner, is guilty of an offence and shall be liable on summary conviction to a fine of €5,000 and/or a maximum of twelve months imprisonment, or on conviction on indictment to fine of up to €126,970 and/or a maximum of five years imprisonment. The cigarettes in respect of which an offence has been committed and any goods packed with or used to conceal the said cigarettes and any vehicle or conveyance in which the said cigarettes are found in, on, or in any manner attached to, are also liable to forfeiture.

**Section 78(4) Finance Act, 2005 (as amended)** provides that any person who counterfeits, alters or otherwise makes fraudulent use of, or who is knowingly concerned in holding, selling or dealing in counterfeited or altered tax stamps is guilty of an offence and shall be liable on summary conviction to a fine of €5,000 and/or a maximum of twelve months imprisonment, or on conviction on indictment to fine of up to €126,970 and/or a maximum of five years imprisonment.

**Section 79 Finance Act 2005 (as amended)** provides that any person who offers to treat, offers for sale or sells by retail any packet of cigarettes at a price higher than, in the case of cigarettes sold or to be sold by means of a coin-operated vending machine, the nearest multiple of five cent to the price, or in all other cases, the retail price, shall be guilty of an offence and shall be liable on conviction to an excise penalty of €60 in respect of each such offence.

## 14.4 Illicit Manufacture of Tobacco Products

**Section 78A Finance Act 2005 (as amended)** provides that any person who produces or possesses any illicit tobacco product or attempts to produce or process is guilty of an offence.

An illicit tobacco product is one that has not been produced or processed in the State in a tax warehouse contrary to section 108A Finance Act 2001.

It is also an offence to knowingly deal in any illicit tobacco product, to keep prohibited goods on any premises or other land or on any vehicle or to deliver or to be in the process of delivering, any illicit tobacco product or prohibited goods. Penalties for these offences can be up to a maximum of €5,000 or 12 months imprisonment on summary conviction or €126,970 or 5 years in prison on indictment.

Illicit tobacco products are liable to forfeiture and if they are found within a vehicle, the vehicle is also liable to forfeiture.

Where any unmanufactured tobacco is found in the State and where that unmanufactured tobacco is not shown to the satisfaction of Revenue to be kept or in the course of delivery under a customs procedure, for use as raw material for the production of tobacco products in a tax warehouse, for use as raw material for the production of any product or thing other than a tobacco product or for any other use that is not contrary to the legislation, it shall be presumed until the contrary is proved that the unmanufactured tobacco is prohibited goods.

## Part F – Forms

### 15 Forms for Tax Stamps

Stock No.	Short Description
Ex. No. 804	Monthly Projection
Ex. No. 805	Revenue Order form
Ex. No. 806	Release Form
Ex. No. 808	Claim for Repayment of Tobacco Products Tax on Cigarettes and RYO
Ex. No. 809	Advice of Over-statement of Stamp Waste
Ex. No. 810	Adjusting Debit (Waste) [System produced]
Ex. No. 811	Accounts Summary [System Produced]
C&E 1115	Home Consumption Warrant

### 16 Other Forms

Stock No.	Short Description
Ex. No. 767	Notice of Intention to Dispose of Tobacco Refuse
Ex. No. 768	Claim to repayment of Tobacco Products Tax on tobacco products brought back to tobacco products manufacturers' warehouse after delivery for home use
Ex. No. 769A	Repayment of Tobacco Products Tax under section 77(2) of the Finance Act 2005 (as amended)

Traders should note that when claiming repayments using forms Ex. Nos. 808 and 768 listed above, references to "Excise Duty" on the forms should be suitably amended to read "Tobacco Products Tax" on forms Ex. No. 808 and 768.

## Appendix 1 – Definitions

“cigarettes” means—

- (a) rolls of tobacco capable of being smoked as they are and which are not cigars or cigarillos,
- (b) rolls of tobacco which, by simple non-industrial handling, are inserted into cigarette paper tubes or wrapped in cigarette paper,
- (c) products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria set out in paragraph (a) or (b),

and to which Council Directive 95/59/EC of 27 November 1995<sup>1</sup> and Council Directive 2010/12/EU of 16 February 2010<sup>2</sup> relate;

“cigars or cigarillos” mean any of the following products provided they can be and, given their properties and normal consumer expectations, are exclusively intended to be smoked as they are—

- (a) rolls of tobacco with an outer wrapper of natural tobacco,
- (b) rolls of tobacco with—
  - (i) a threshed blend filler, and
  - (ii) an outer wrapper of the normal colour of a cigar, of reconstituted tobacco, covering the product in full, including where appropriate the filter but not, in the case of tipped cigars, the tip,

where the unit weight, excluding the filter or mouthpiece, is not less than 2.3 grammes and not more than 10 grammes, and the circumference over at least one-third of the length is not less than 34 millimetres,

- (c) products consisting in part of substances other than tobacco but otherwise conforming to the criteria set out in paragraph (a) or (b),

and to which Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010 relate;

“fine-cut tobacco for the rolling of cigarettes” means smoking tobacco in which more than 25 per cent by weight of the tobacco particles have a cut width of less than 1.5 millimetres, and to which Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010 relate;

“illicit tobacco product” means any tobacco product that has, contrary to the requirements of section 108A of the Finance Act 2001, been produced or processed in the State otherwise than in a tax warehouse;

“materials” means tobacco in any form and any other substance to be used for incorporation in tobacco products;

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<sup>1</sup> O.J. No. L291 of 6.12.1995, p. 40

<sup>2</sup> O.J. No. L50, 27.2.2010, p. 1.



“prohibited goods” means any machinery, apparatus, equipment, vessel, materials, substance or other thing which is being used, or was used, or is intended to be used, in the production or processing of any illicit tobacco product;

“reconstituted tobacco” means tobacco (whether or not on a backing) that is made by agglomerating tobacco dust or finely divided tobacco derived from tobacco leaves or tobacco refuse and is generally put up in the form of rectangular sheets or strip;

“smoking tobacco” means—

(a) tobacco which has been cut or otherwise split, twisted or pressed into blocks and which is capable of being smoked without further industrial processing,

(b) tobacco refuse which is put up for retail sale and can be smoked and is not a cigar, cigarillo or cigarette,

(c) products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria set out in paragraph (a) or (b),

and to which Council Directive 95/59/EC of 27 November 1995 and Council Directive 2010/12/EU of 16 February 2010 relate;

“specified tobacco products” means cigarettes and fine-cut tobacco for the rolling of cigarettes and any other tobacco products in respect of which an order under section 73 of this Chapter relates;

“tobacco products” means cigarettes, cigars, cigarillos, fine-cut tobacco for the rolling of cigarettes or other smoking tobacco except where such products contain no tobacco and are either—

(a) used exclusively for medical purposes, or

(b) products commonly known as herbal cigarettes or herbal smoking mixtures.

“unmanufactured tobacco” means anything that falls to be classified as such under the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987<sup>3</sup>;

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<sup>3</sup> OJ No. L256, 7.9.1987, p.1

## Appendix 2 – Excise Reference Numbers

COMBINED NOMENCLATURE CODE (CN CODE)*	DESCRIPTION	EXCISE REFERENCE NUMBER (ERN)
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	
2402 10	-Cigars, cheroots and cigarillos, containing tobacco	2304; 1304
2402 20	-Cigarettes containing tobacco	1201 , 1202
2402 20 10	--Containing cloves	1111
2402 20 90	--Other	1111
2402 90	-Other	2304; 2222; 1304; 1111
2403	Other manufactured tobacco and manufactured tobacco substitutes; 'homogenised' or 'reconstituted' tobacco; tobacco extracts and essences	1701; 1951;
2403 11	--Water-pipe tobacco specified in subheading note 1 to this chapter	
2403 19	--Other	
2403 19 10	---In immediate packings of a net content not exceeding 500g	1701;

\* All goods imported into or exported from the EU must be classified for Customs purposes. Each separate product is assigned a particular classification code. The Combined Nomenclature (CN) sets out the general rules for the classification of goods to an eight-digit level and is updated on a yearly basis