

Reducing the Minimum Indicative Levels for Tobacco Products

Who is likely to be affected?

Those members of the travelling public who bring tobacco products back from other EU Member States with the intention of selling them illegally.

Those bringing back tobacco for their own use will not be affected.

General description of the measure

The Minimum Indicative Levels (MILs), used to assist Border officials in determining whether importations of tobacco products from other EU Member States are for own use, will reduce from 3200 cigarettes and 3kgs of smoking (hand rolling) tobacco to 800 cigarettes and 1kg of smoking tobacco on 1 October 2011. These are the guideline quantities at which Border officials may generally start to query whether the goods are for own use only, and the change will act as a deterrent to those who currently bring in quantities between the new and old levels for resale.

Policy objective

The reduction in the MILs is a targeted measure to prevent abuse of EU cross border shopping, protecting the revenue raised by tobacco products duty and the Government health objective of reducing the prevalence of smoking through taxation.

Background to the measure

The measure forms part of the Government's revised strategy 'Tackling Tobacco Smuggling - Building on our Success' which was launched on 27 April 2011.

The draft amending regulation was published for comment on 10 June in line with the Government's Tax Consultation Framework. No formal consultation has taken place as this measure is aimed at those currently abusing the MILs

MILs are one of a number of factors used by UK Border Agency officials in determining whether tobacco products imported from the EU are for a person's own use or are for commercial use. They are not allowances - someone bringing in less than the MILs to resell is still breaking the law, and someone bringing in more than the MILs for their own use will be unaffected. All that is changing are the guide quantities.

Detailed proposal

Operative date

The measure will have effect for cigarettes and smoking tobacco imported on and after 1 October 2011.

Current law

The current MILs of 3200 cigarettes and 3kg of smoking tobacco are contained in Regulation 13(4)(h) of The Excise Goods (Holding, Movement and Duty Point) Regulations 2010, which in turn implements in UK legislation Article 32 3(a) of EU Council Directive 2008/118/EC.

The Directive and Regulations provide that excise goods acquired by a private individual for his own use and transported by him shall be charged with excise duty only in the country where they are bought. If they are used for commercial purposes in the UK, then UK duty is payable.

To help determine whether goods are intended for 'own use' Member States must consider a number of factors including the quantity of goods held. The guidelines set out in the European Directive for cigarettes and hand rolling tobaccos are 800 sticks and 1 kilogram respectively. The equivalent levels in the UK Regulations are currently 3,200 sticks and 3 kilograms.

Proposed revisions

To make changes through secondary legislation to reduce the MILs to 800 cigarettes and 1kg of smoking tobacco from 1 October 2011.

Summary of impacts

Exchequer impact (£m)	This measure supports the Exchequer in its commitment to protect the revenue raised by tobacco products duty.
Economic impact	A reduction in the MILs is likely to result in some travellers replacing the tobacco products they currently purchase in other EU Member States with UK duty paid products.
Impact on individuals and households	This measure will only impact on individuals and householders who are abusing the current limits to avoid paying excise duty on tobacco products which are subsequently resold. However, law-abiding individual and householder travellers who genuinely import goods for their own use will not be affected.
Equalities impacts	There are no equality impacts. The only people who will be adversely affected are those seeking to break the law. The measure will impact on any travellers attempting to bring quantities of tobacco products into the UK which are not for their own use regardless of who they are and whether they belong to an equality group or not.
Impact on business including civil society organisations	There will be a net benefit to UK businesses. Preventing illegal importation of tobacco products for resale without the payment of the excise duty will have a positive impact on compliant UK businesses through limiting competition from illegal operators. Successful interception of tobacco products being imported for resale without paying UK duty will help to level the playing field for law abiding businesses, including many small businesses who sell the same products with the UK duty properly paid.

	Some UK based businesses, in particular those carrying cross-border shoppers (ferries) within the EU may see a slight decrease in tobacco sales. However, it is important to note that the vast majority of sales to travellers who are buying tobacco products for their own use will be unaffected, whilst those buying tobacco products for resale are already acting illegally irrespective of the MILs.
Operational impact (£m) (HMRC or other)	Reducing the MILs will not in itself determine UKBA's approach to determining what is commercial or for a person's own use. The MILs are just one factor taken into account when attempting to determine the intentions of the traveller. As before, UKBA will be seeking to identify any imports of dutiable products which are intended for resale, and there should, therefore, be no resource impacts.
Other impacts	Restricting the supply of cheap tobacco products is in line with the Government's objective to improve health by driving down the prevalence of smoking. Removing smuggled tobacco products from sale which are undercutting legitimate traders as a result of duty evasion will help to level the playing field for compliant businesses.

Monitoring and evaluation

This policy will be monitored and evaluated alongside other measures in the Government's 'Tackling Tobacco Smuggling Together - building on our success' strategy. A range of indicators will be used to establish whether they have met their objective of tackling tobacco smuggling.

Further advice

If you have any questions about this change, please contact Bob Wales on 0161 827 0356 email: bob.wales@hmrc.gov.uk

Declaration

Justine Greening MP, Economic Secretary to the Treasury has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.