



# **Electronic cigarettes & other nicotine containing products**

***'further analyse the possibility of including e-cigarettes in the scope of excise duty on tobacco products.'***

**Meeting 18 February 2015**

# Agenda

- *Why?*
- *Existing definitions*
- *Questions*

## Why?

- Proper functioning of the internal market
    - Different approaches
  - Distortion of competition
    - Substitution
- avoid unnecessary administrative burden/cost;
- nothing has been decided.

## Study – Why (2)?

- *'Both tax authorities and economic operators expressed the need for clarity on the treatment of e-cigarettes';*
- *'Concerns about the competitive distortions caused by differentiated tax treatment between e-cigarettes and cigarettes given their substitutability';*



- *'In the light of the growing consumption and the increasing interest of traditional tobacco companies, the budgetary implications of not including e-cigarettes within the framework of the EU Directives may prove to be extremely significant'.*



## Existing definitions

For fiscal purposes (sales tax excluded)

- EU: Italy, Portugal → volume of liquid;
- US: North Carolina → 5ct/ml consumable product:

*'Any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.'*

## Existing definitions (2)

- US: Minnesota → liquid nicotine, cartridge, whole kit:

*'E-cigarettes are subject to the tobacco product tax. The cartridge containing nicotine is a component of the e-cigarette. The cartridge contains nicotine which is ordinarily derived from tobacco and is used by a person by smoking or inhaling.'*

## Existing definitions (3)

For other purposes (EU only)

- Article 2, paragraph 16&17 of the Tobacco Product Directive 2014/40/EU;

*'electronic cigarette' means a product that can be used for consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges;*

*'refill container' means a receptacle that contains a nicotine-containing liquid, which can be used to refill an electronic cigarette;*



## Existing definitions (4)

### CN codes

- CN 3824.90 (cartridge)
  - Miscellaneous chemical products;
    - Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included;
    - Other.

## Existing definitions (5)

- CN 8543.70 (device)
  - Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles;
  - Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter;
    - Other machines and apparatus.

# Questions

- Problems;
- Market size and development;
- Your opinion & new options;
- Fiscal equal treatment;
- Monitoring and control;
- Weaknesses.

# Questions?

*Thank you for your attention!*

