



HM Treasury



HM Revenue  
& Customs

Vaping Products Duty  
consultation response

**International Association on  
Smoking Control & Harm  
Reduction (SCOHRE)**

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## Chapter 4: About you

**Full Name (if responding on behalf of a business / organisation please include the business / organisation name):**

International Association on Smoking Control & Harm Reduction (SCOHRE)

**Email address:**

info@scohre.org

**Address:**

Michel Ange 12, B-1000 - Brussels, Belgium

**1. Are you:**

A business?\*

An organisation? If so, please provide details (e.g. trade/health body):

SCOHRE is an International scientific Association of independent experts on Smoking Control & Harm Reduction, who seek an open and constructive dialogue to help come up with a new approach to smoking control policies.

An individual

**\*If you answered 'a) a business' please specify which of the following describe your business:**

a UK producer of vaping products to which you own the brand

a UK producer of vaping products to which you do not own the brand

a UK packager of vaping products that someone else has produced

an overseas producer of vaping products

an importer of vaping products into the UK

a UK retailer

a UK wholesaler or distributor

a business providing goods or services that support the production, packaging, importation, or supply of vaping products in the UK – please provide details:

another type of business – please provide details:

**2. If you are a business, where is your business established?**

UK

Isle of Man

EU – please state country:

Non-EU – please state country:

**3. If you are a business, how many staff do you employ?**

Fewer than 10

10-100

101-500

More than 500

**Tobacco industry declaration**

As a party to the World Health Organization’s Framework Convention on Tobacco Control (FCTC), the UK has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

**4. Do you have any direct or indirect links to, or receive funding from, the tobacco industry?**

Yes

No

**Structure of the duty**

**5. Do you agree that the rates and structure outlined in Chapter 3 will achieve the stated objectives of the duty?**

Yes

No

*Please provide any reasons for your answer.*

The reason being that one of the objectives in Chapter 3 is “To ensure the introduction of the duty does not make smoking more attractive”. Anything that creates a burden for alternatives to cigarette smoking, such as higher prices on vaping products, reduces the viability of such products. This is particularly so when the higher nicotine vapes, which are likely to be the choice of those with a significant dependence, attract higher taxes.

**6. Do you agree that the rates and structure will encourage manufacturers to reduce the nicotine content of their products?**

Yes

No

*Please provide any reasons for your answer.*

**7. What do you think the likely impact the rate structure will have on consumers' vaping behaviours?**

Yes

No

*Please provide any supporting evidence.*

High prices discourage uptake, it is likely that consumers will choose lower potency in nicotine products. It remains to be proven based on real-world data. Higher tax on higher nicotine vaping products will also drive consumers back to cigarettes (or prevent switching from cigarettes) because the high nicotine products they are likely to seek have been rendered less pharmacologically viable. Plus the tax conveys the erroneous message that nicotine is a significant enough health risk to attract escalating taxation, hence undermining consumer appreciation that it is the smoke, not the nicotine, they need to be concerned about.

## Scope of the duty

**8. Should production of vaping products by individuals for their own use be within scope of the duty?**

Yes

No

*Please explain any reasons for your answer.*

The primary reason for that is the lack of a viable means to enforce such a law. It would be like trying to apply VAT to homemade pies. Unenforceable laws bring the administration of justice into disrepute.

**9. Are there any other factors concerning home production/blending that should be considered?**

Yes

No

*Please specify.*

Health safety issues. The whole notion of regulating self-produced vaping products is a concern because of policies like the proposed one that make legitimate products less viable. The primary concern should be in focusing on empowering people to get off lethal cigarettes rather than placing barriers in their way.

## **Chapter 5: Liability for the duty**

**10. Do you agree with the proposals on how liability would work?**

Yes

No

*Please provide any reasons for your answer.*

**11. Do you agree with HMRC's proposal for when products should be charged with the duty?**

Yes

No

*Please provide any reasons for your answer.*

**12. Do you have views on the extent to which premises used for further processing or packaging should be required to register or seek approval?**

Yes

No

*If so, please explain your answer.*

**13. Do you agree with the suggestion on who should be liable to pay the duty?**

Yes

No

*If not, do you think any other person should be held liable?*

**14. The government also welcomes evidence on the processes followed in the manufacture of vaping products, including any secondary processes that are carried out after initial manufacture, for example processing of semi-finished products or packaging.**

### Exemptions and reliefs

**15. Do you agree that products destined for general sale on the UK market should not qualify for any reliefs or exemptions from the duty?**

Yes

No

*If not, do you think there should be any exceptions to this, please explain why.*

**16. Are you aware of any examples of vaping products being used for purposes other than general sale on to the UK market that you feel ought to be eligible for relief or exemption?**

Yes

No

*If so, please provide any supporting evidence.*

## Chapter 6: UK manufacture: Registration, returns and other requirements

**17. Please provide information on how manufacturing supply-chains of vaping products currently operate.**

No information

**18. Are vaping products subject to additional processing on a different premises or by businesses other than the initial manufacturer?**

Yes

No

*If so, please explain your answer and provide any supporting evidence.*

No knowledge

**19. Are there any processes, including packaging of vaping products, that you feel should not be required to take place on premises registered or approved by HMRC?**

Yes

No

*If so, please explain what these are and why the relevant premises should not require approval from HMRC.*

No information

## Registration of premises, process and requirements

**20. Is there any other information that would be relevant for HMRC to consider an application for registration?**

Yes

No

*If yes, please explain your answer and provide any supporting evidence.*

No opinion

**21. Is there a need for joint registrations covering more than one legal entity that manufactures/or stores vaping products in the same premises?**

Yes

No

*If so, please explain your answer and provide any supporting information and evidence.*

No opinion

**22. Is there a need for registrations to cover more than one premises owned by a single entity?**

Yes

No

*If so, please explain your answer and provide any supporting evidence.*

No opinion

## Refusal/Revocation/Deregistration

**23. Do you agree these registration and deregistration provisions are appropriate?**

Yes

No

*If not, please explain your answer and provide any supporting evidence.*

These provisions are not appropriate when the tax itself would not pass a rational risk-benefit analysis when cigarette smoking remains the country's leading cause of preventable death.

**24. Please provide details of the one-off costs businesses may face for registering for the duty with HMRC.**

No opinion

## Filing returns and other requirements

**25. Please provide details of the expected one-off and ongoing costs to businesses of completing and filing a monthly online return and making payments of duty.**

No opinion

**26. Are these return and payment arrangements appropriate for UK manufacturers of vaping products?**

Yes

No

*If not, please explain your answer and provide any supporting evidence.*

No opinion

**27. How soon (number of days) after the end of a month should businesses be expected to submit their return and make payment to HMRC for the duty? Please explain your answer.**



No opinion

## Credits and repayments

**28. Are there any other circumstances where a claim to a repayment of duty should be permitted which has not been covered above?**

Yes

No

*If so, please explain your answer and provide any supporting evidence.*

No opinion

## Tax agents and intermediaries

**29. If you are a business, do you intend to use a third-party agent to help meet your obligations for the duty?**

Yes

No

*If so, please provide details on which obligations you would seek assistance with.*

**30. If you are a tax agent, what services relating to the duty do you expect to offer to your customers?**

No

## Records and accounts

**31. Will the record keeping requirements outlined above be straightforward for businesses to comply with?**

Yes

No

*If not, please provide details of any issues you expect.*

No opinion

## Chapter 7: Treatment of imports, exports, and duty suspension

**32. Is the proposed approach to imports appropriate for vaping products?**

Yes

No

*If not, please explain your answer and provide any supporting evidence.*

It would help drive the market to illicit supply, and the graduated tax on nicotine level furthers misinformation on nicotine being the health risk.

**33. Please provide information on how importation supply-chains of vaping products currently operate.**

No information

**34. Is there is a need for any additional arrangements covering other persons that may have a role in import processes? For example, agents or fulfilment houses.**

Yes

No

*If so, please explain your answer and provide any supporting evidence.*

No opinion

### Duty suspension arrangements

**35. Are the proposals related to duty suspension appropriate?**

Yes

No

*If not, please explain your answer and provide any supporting evidence.*

**36. Is there a commercial need for HMRC to permit duty suspended storage of imported products?**

Yes

No

*If so, please explain your answer and provide any supporting evidence.*

No opinion

**37. Do you agree that EMCS should be used for duty-suspended movements of vaping products in the UK?**

Yes

No

*If not, please explain any circumstances that you think are relevant.*

**38. If you are an importer of vaping products, how are they currently moved from overseas to the UK? Please provide details on packaging (individual pods, as bulk liquid or any other means) as well as any evidence you see as relevant.**

Not applicable

## Duty-free allowances

**39. Should there be a quantitative personal allowance for vaping products?**

Yes

No

*Please provide evidence to support your answer where possible.*

No opinion

## Goods to be loaded as ship, train, or aircraft stores

**40. Should the government apply similar arrangements to vaping products shipped as stores as are applied currently for existing excise duties?**

Yes

No

*If not, please explain your answer and provide any supporting evidence.*

No opinion

## Chapter 8: Compliance and enforcement

**41. Are there any other specific compliance risks relating to the manufacture and importation of vaping products that may require bespoke compliance arrangements?**

Yes

No

*If so, please outline any scenarios that you anticipate may require bespoke compliance powers.*

No opinion

**42. Where is the nicotine used in the manufacture of vaping products generally sourced from (e.g. UK or imported)?**

No knowledge

**43. How do businesses know the nicotine content of vaping products they manufacture or import?**

No knowledge

**44. How easy is it to test the nicotine content and strength of vaping products? Please provide relevant information relating to costs and availability of tests.**

No knowledge

**45. Are there any industrial uses for nicotine, other than the manufacture of tobacco, vaping and smoking cessation products?**

Yes

No

*Please provide evidence where relevant.*

In pharmaceuticals

### Penalties

**46. Do you consider that the suggested approach to compliance and penalties is appropriate?**

Yes

No

*If not, please explain your answer and provide any supporting evidence.*

No opinion

## Track and Trace

**47. Should a track and trace system be introduced for vaping products?**

Yes

No

*Please explain any reasons for your answer.*

**48. Are there any other compliance tools, e.g. fiscal marks, which would be appropriate to introduce for vaping products?**

Yes

No

*If so, please outline these tools and explain how they would help ensure compliance with the requirements of the duty.*

No knowledge

## Chapter 9: Understanding commercial practices

**49. Unless already covered in your responses to other questions within this document, please tell us about how your business operates and how you think it would be impacted by the duty, including additional administrative burdens?**

Not applicable

**50. Are there any specific impacts on small and micro businesses that are not covered?**

Yes

No

*If so, please provide details of the anticipated one-off and on-going costs and burdens.*

No knowledge

**51. Are there any specific impacts on importers that are not covered?**

Yes

No

*If so, please provide details of the anticipated one-off and on-going costs and burdens.*

No knowledge

**52. If you manufacture or process vaping products, what type of businesses do you supply them to?**

Not applicable

**53. If you manufacture or process vaping products, how much of this product is sold domestically and how much is exported?**

Not applicable

**54. If you manufacture or process vaping products, please explain how the proposed levels of duty compare to the other costs involved in production/distribution. Do you expect an impact on profit margins?**

Not applicable

**55. If you are a business that supplies vaping products, to what extent do you expect to 'pass through' the new duty in prices that you charge to your customers?**

Not applicable

**56. If you manufacture or store vaping products, how long do you typically keep stock on hand before it goes out to sale?**

Not applicable

**57. Is there anything else you would like to add about how your business operates that may be relevant to the design of the new duty?**

Not applicable

**Alternative Nicotine Products**

**58. Do you believe the introduction of the new duty would lead to consumers switching to alternative nicotine containing products?**

Yes

No

*Please add which products you believe would be a realistic switch.*

## **Chapter 10: Assessment of Impacts**

**59. Unless already covered in your responses to other questions within this document, is there anything else you would like us to note about the impact of the duty?**

SCOHRE believes that the introduction of duties to nicotine products is not legitimate. Care should be taken to discourage youth from vaping, but not in ways that maintain higher levels of cigarette smoking.

A critical theme is that genuine concern for young people would not include recourse to measures that put the health and lives of their parents, grandparents and other adults at risk. Or measures that make it more likely young people would smoke cigarettes. There should, at a minimum, be a thorough risk-benefit analysis completed.

Cross-elasticities are really important in shaping demand. The lessening of the price gap between lethal combustibles and low risk substitutes can cause many unintended, but entirely predictable, consequences.