

Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification)

CHAPTER 2

**DEFINITIONS**

*Article 2*

- 1 For the purposes of this Directive manufactured tobacco shall mean:
- a cigarettes;
  - b cigars and cigarillos;
  - c smoking tobacco:
    - (i) fine-cut tobacco for the rolling of cigarettes;
    - (ii) other smoking tobacco.
- 2 Products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria set out in Article 3 or Article 5(1) shall be treated as cigarettes and smoking tobacco.

Notwithstanding the first subparagraph, products containing no tobacco and used exclusively for medical purposes shall not be treated as manufactured tobacco.

- 3 Notwithstanding existing Union provisions, the definitions referred to in paragraph 2 of this Article and Articles 3, 4 and 5 shall be without prejudice to the choice of system or the level of taxation which shall apply to the different groups of products referred to in these Articles.

*Article 3*

- 1 For the purposes of this Directive cigarettes shall mean:
- a rolls of tobacco capable of being smoked as they are and which are not cigars or cigarillos within the meaning of Article 4(1);
  - b rolls of tobacco which, by simple non-industrial handling, are inserted into cigarette-paper tubes;
  - c rolls of tobacco which, by simple non-industrial handling, are wrapped in cigarette paper.
- 2 A roll of tobacco referred to in paragraph 1 shall, for excise duty purposes, be considered as two cigarettes where, excluding filter or mouthpiece, it is longer than 8 cm but not longer than 11 cm, as three cigarettes where, excluding filter or mouthpiece, it is longer than 11 cm but not longer than 14 cm, and so on.

*Article 4*

- 1 For the purposes of this Directive the following shall be deemed to be cigars or cigarillos if 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 a threshed blend filler and with 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, not including filter or mouthpiece, is not less than 2,3 g and not more than 10 g, and the circumference over at least one third of the length is not less than 34 mm.

2 By way of derogation from paragraph 1, the following subparagraph may continue to be applied by Germany and Hungary until 31 December 2014.

The following shall be deemed to be cigars or cigarillos if they can be smoked as they are:

- a rolls of tobacco made entirely of natural tobacco;
- b rolls of tobacco with an outer wrapper of natural tobacco;
- c rolls of tobacco with a threshed blend filler and with an outer wrapper of the normal colour of a cigar covering the product in full, including, where appropriate, the filter but not, in the case of tipped cigars, the tip, and a binder, both being of reconstituted tobacco, where the unit weight, not including filter or mouthpiece, is not less than 1,2 g and where the wrapper is fitted in spiral form with an acute angle of at least 30° to the longitudinal axis of the cigar;
- d rolls of tobacco with a threshed blend filler and with 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, not including filter or mouth-piece, is not less than 2,3 g and the circumference over at least one third of the length is not less than 34 mm.

3 Products which consist in part of substances other than tobacco but otherwise fulfil the criteria set out in paragraph 1 shall be treated as cigars and cigarillos.

#### *Article 5*

1 For the purposes of this Directive smoking tobacco shall mean:

- a tobacco which has been cut or otherwise split, twisted or pressed into blocks and is capable of being smoked without further industrial processing;
- b tobacco refuse put up for retail sale which does not fall under Article 3 and Article 4(1) and which can be smoked. For the purpose of this Article, tobacco refuse shall be deemed to be remnants of tobacco leaves and by-products obtained from tobacco processing or the manufacture of tobacco products.

2 Smoking tobacco in which more than 25 % by weight of the tobacco particles have a cut width of less than 1,5 millimetre shall be deemed to be fine-cut tobacco for the rolling of cigarettes.

Member States may also deem smoking tobacco in which more than 25 % by weight of the tobacco particles have a cut width of 1,5 millimetre or more and which was sold or intended to be sold for the rolling of cigarettes to be fine-cut tobacco for the rolling of cigarettes.

#### *Article 6*

A natural or legal person established in the Union who converts tobacco into manufactured products prepared for retail sale shall be deemed to be a manufacturer.