

Appendix A – Transposition Note

<p>Transposition Note setting out how Section 182 of the Finance Act 2013 and the Tobacco Products (Descriptions of Products) Amendment Order 2013 implement the requirements of Council Directive 2011/64/EU (OJ No. L 176, 5.7.11, p 24) (“The Directive”).</p>		
<p>Directive</p>		
<p>The Directive is a codification of other Directives including 95/59/EC (OJ No. L 291, 6.12.1995, p 40) concerning the structure and rates of excise duty on manufactured tobacco.</p>		
<p>Introduction</p>		
<p>The Directive provides harmonised rules for the structure, charging and collection of the excise duty on manufactured tobacco products. It includes provisions on the descriptions of tobacco products. Member States are required to transpose the Articles of this Directive into their national legislation.</p>		
<p>The Directive sets out to which tobacco products Member States should apply excise duty. It also extends the definition of those products to include products which consist in whole or in part of substances other than tobacco, but are still smoking products. There is an exception for non-tobacco smoking products that are used exclusively for medical purposes. They are not to be treated as manufactured tobacco and are not subject to excise duty.</p>		
<p>Currently the Directive has not been completely transposed in UK law as UK legislation allows an exemption for herbal smoking products which goes beyond that prescribed by the Directive.</p>		
<p>Section 182 of the Finance Act 2013 will complete the implementation by amending the Tobacco Products Duty Act 1979 to reflect the exemption as prescribed by the Directive.</p>		
<p>The Tobacco Products (Descriptions of Products) (Amendment) Order 2013 will also make the consequential amendments necessary to the terminology in the Tobacco Products (Descriptions of Products) Order 2003 (S.I. 2003/1471) to ensure that this is aligned with the Directive and the Tobacco Products Duty Act 1979.</p>		
<p>The legislation does not go beyond what is necessary to implement the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which it applies.</p>		
<p>In the Table below, any references to “the Act” are to the Tobacco Products Duty Act 1979. Any references to the Order are to the Tobacco Products (Descriptions of Products) Order 2003.</p>		
<p>ARTICLE Within 2011/64</p>	<p>PURPOSE</p>	<p>IMPLEMENTATION</p>
2.1	To define the products that are liable to excise duty.	Section 1(1) of the Act and Articles 4(2) and 7(2) of the Order.
2.2	To extend the definitions to include non-tobacco smoking products.	Section 1(1) of the Act.
2.2.	To provide an exemption for products used exclusively for medical purposes.	Section 1(1) of the Act.