No. 1426

MINISTRY FOR FINANCE

Explanatory Notes[1]

1. Introduction

Title of the legal instrument	Excise Duty Act (Amendment of the Fifth and Sixth Schedules) Regulations, 2025
Purpose of the legislation	To regulate smokeless tobacco products
Responsible entity	Ministry for Finance (Malta Tax and Customs Administration, Customs Operations)

2. Summary and background

These amendments are being introduced pursuant to the Manufacture, Presentation and Sale of Tobacco and Related Products (Amendment) Regulations, 2025 (L.N.178 of 2025) which amended the Manufacture, Presentation and Sale of Tobacco and Related Products Regulations (S.L. 315.10). Those amending regulations provided for a definition for "heated tobacco product" as a novel tobacco product that is heated to produce an emission containing nicotine and other chemical substances, which is then inhaled by the user, and that, depending on its characteristics, is a smokeless tobacco product or a tobacco product for smoking and also make it clear that heated tobacco products which depending on their characteristics are smokeless tobacco products shall be regulated by the provisions of Article 12 of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC. Additionally, these regulations provide for market restrictions and compliance by which manufacturers and importers of heated tobacco products must comply with the same legal provisions as for other tobacco products in accordance with the Manufacture, Presentation and Sale of Tobacco and Related Products Regulations (S.L. 315.10).

Therefore, following the publication of the Manufacture, Presentation and Sale of Tobacco and Related Products (Amendment) Regulations, 2025 (L.N.178 of 2025), the Excise Duty Act (Cap. 382) necessitates parallel amendments to introduce the necessary regulatory framework accordingly.

3. Overview of the structure of the instrument

Regulation 1: Citation
Regulation 2: Adds new Schedule Five J to the principal Act
Regulation 3: Adds Part L of the Sixth Schedule to the principal Act.

4. Commentary

Regulation 2 introduces the new applicable taxation rates.

Regulation 3 is adding smokeless tobacco products to Sixth Schedule and is introducing the relative regulatory framework applicable to these products and aligning them with other product categories in the same Schedule. Additionally the definition of "smokeless tobacco product" is being added in alignment with the Manufacture, Presentation and Sale of Tobacco and Related Products Regulations (S.L. 315.10).

5. Concluding section

All the provisions of these Regulations shall enter into force on the date of their publication in the Government Gazette.

[1]These Explanatory Notes are in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

Although these provisions have been classified as having an impact on Small Businesses, given that they consist of a fiscal measure, they are exempt from the standard two-month suspension period from publication under the Small Business Act (Exemptions) Regulations (S.L. 512.01).

For further information, please contact the Customs Operations via email at malta.customs@gov.mt or by phone at +356 23783310, 23783311, or 23783312.

N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

12th September, 2025

User Guidelines for Heated Tobacco Products Regulations

1. Introduction

These guidelines are issued pursuant to the Excise Duty Act and are intended to assist stakeholders in understanding and complying with the newly introduced regulatory framework for heated tobacco products (HTPs). The Malta Tax and Customs Administration (MTCA) has implemented these measures to ensure fiscal transparency, product traceability, and alignment with EU Directive 2014/40/EU.

2. Scope of Application

These guidelines apply to all heated tobacco products placed on the market in Malta, including:

- Products containing tobacco or reconstituted tobacco
- Products containing tobacco substitutes, including herbal blends intended for inhalation

Excluded from this definition are chewing tobacco, nasal tobacco, and tobacco for oral use.

3. Excise Duty Rates

Effective from the date of publication, the following excise duty rates apply:

Product Category | HS Code(s) | Excise Duty Rate

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Tobacco or reconstituted tobacco | 2404110010, 2404110090 | €140/kg

Tobacco substitutes (including herbal products) | 2404191000 | €140/kg

4. Excise Stamp Requirements

All HTPs must be sealed with an excise stamp prior to release for consumption. The following rules apply:

- Excise stamps must be affixed within five (5) working days of purchase.
- Products without a valid excise stamp shall be subject to forfeiture.
- A fine of €100 per offence shall apply for non-compliance.

Note: Herbal products, although exempt from the Track and Trace regime, are still required to bear an excise stamp.

5. Track and Trace Compliance

All entities involved in the supply chain of tobacco-based HTPs must register with the Track and Trace system. This includes:

- Manufacturers
- Importers
- Distributors
- First retail Outlets

Responsibilities include:

- Scanning and reporting product movement
- Ensuring unique identifiers are properly recorded

Penalties for non-compliance:

- €10 per unique identifier
- Minimum fine of €100

6. Record-Keeping Obligations

Authorised tax warehouse keepers must submit monthly statements detailing:

- Inventory and acquisitions
- Sales and disposals
- Manufacturing output
- Offal quantities

Failure to comply may result in administrative penalties of up to €25,000.

7. Retail Restrictions

No person shall acquire, possess, or sell HTPs unless:

- The product bears a valid excise stamp
- The product complies with Track and Trace requirements (where applicable)

8. Enforcement and Penalties

MTCA shall enforce these regulations through inspections, audits, and digital monitoring. Penalties include:

- Fines
- Product forfeiture
- Suspension of tax warehouse authorisation

9. Further Information

Stakeholders are encouraged to consult the full legal notice and supporting documents.