

Expert opinion
of the Ministry of Finance of Ukraine on the legislative project as Article 27 of the Budget Code of Ukraine

1. Title of the legislative project

Draft Law of Ukraine "On Amendments to the Tax Code of Ukraine on the Revision of Excise Tax Rates on Tobacco Products" (Reg. No. 11090 of 18.03.2024), submitted by the Cabinet of Ministers of Ukraine.

2. Objectives of the legislative project

According to the explanatory note, the legislative project was developed to harmonize tax legislation of Ukraine with the EU legislation in order to implement the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States, in order to implement the provisions of Directive 2011/64/EU of 21.06.2011 on the structure and rates of excise duty applied to tobacco products (hereinafter — Directive 2011/64/EU).

By amending the Tax Code of Ukraine (hereinafter — the Code), the legislative project's provisions propose to establish:

1) the monetary unit of specific excise tax rates on tobacco products is to be measured in euros (starting from 01.07.2024, to avoid the negative impact of inflationary processes) and their gradual increase until 2028, namely:

for cigarettes in 2024 — by 20% (similar to the rates established by the current Code), in 2025 — by 22.5% (instead of 20% established by the current Code), in 2026–2028 — a further increase by 5% annually until the minimum excise tax liability reaches the level of EUR 90/1,000 units with a simultaneous equivalent increase in such rates for other tobacco products;

for heat-not-burn products (hereinafter referred to as HnB products) in 2024 — by 20% (similar to the standards established by the current Code), in 2025 — by 11% (instead of 20% established by the current Code), in 2026–2028 — a further increase by 0.5% annually until reaching the level of EUR 72/1,000 units;

2) peculiarities of the procedure for calculating the excise tax applied to tobacco products at the rates expressed in foreign currency;

3) for the period of martial law, easing restrictions on measures to accumulate tobacco products in warehouses before raising excise tax rates (anti-forestalling) by increasing the established average monthly volume of sales of tobacco products in the customs territory of Ukraine from 115 to 120 percent.

3. Assessment of the impact on budget figures

The implementation of the law will ensure additional revenues from the excise tax on tobacco products for the budget.

4. The value of the impact on budget figures

According to the explanatory note, implementing the law's provisions will bring a fiscal effect amounting to about UAH 612 million in 2025, UAH 5,001 million in 2026, UAH 9,379 million in 2027, and UAH 13,852 million in 2028.

According to the expert assessment of the Ministry of Finance of Ukraine, implementing the law's provisions on determining excise tax rates applied to tobacco products in foreign currency and their growth in 2025–2028 will help increase excise tax revenues for the budget. The table shows the calculations of potential excise tax revenues as a result of the legislative initiative based on the planned production volumes of tobacco products for 2024 (cigarettes — 27,000 million units, HnB products — 6,000 million units, cigarillos — 1,284 million units), the excise tax rates on tobacco products for 2025–2028 proposed in the draft law, and the official UAH to EUR exchange rate set by the National Bank of Ukraine on 28.11.2023 — UAH 39.66 per EUR 1.

Table

Estimates of potential revenues from the excise tax on tobacco products in 2025–2028 as a result of the implementation of the legislative initiative, in millions of UAH

Indexes	2025	2026	2027	2028
Excise tax revenues in accordance with the current legislation	99,658.93	99,658.93	99,658.93	99,658.93
Excise tax revenues after the implementation of the legislative project's provisions	100,271.32	104,658.98	109,037.65	113,511.50
Additional excise tax revenues	612.39	5,000.06	9,378.72	13,852.58

5. Proposals for financial arrangements for the bill in case of its adoption, in the according fiscal period

The implementation of the law's provisions will not require financial expenditures from national or local budgets.

6. Proposals for compliance with the laws governing budgetary relations

The legislative project's provisions do not contradict any laws governing budgetary relations.

7. Proposals for consideration of the bill

The implementation of the law's provisions is aimed at bringing the provisions of the Code on the gradual approximation of excise tax rates on tobacco products to the minimum levels set by Directive 2011/64/EU, which will help to fulfill Ukraine's obligations in the field of European integration.

In addition, the implementation of the proposed excise policy, namely in terms of excise tax rates for HnB products, will create the conditions for the gradual replacement of traditional cigarette smoking with less harmful alternative tobacco products, and will provide guaranteed tax revenues, since the market for HnB products, unlike cigarettes, is developing only in the legal segment.

In particular, a study by the independent non-governmental Growford Institute, "Excise Policy and Illicit Trade in Tobacco Products: In Search of Balanced Solutions", published in February 2024, noted that there is no illegal market for HnB products in Ukraine, as the production of heating sticks is a high-tech process that requires the installation of expensive modern equipment. This information is supported by the results of a study on the collection of empty discarded HnB packs conducted in the first quarter of 2024 in Ukraine by the independent international research agency Nielsen, according to which 99.9% of all collected HnB packs in Ukraine were marked with excise tax stamps in accordance with the requirements of the current legislation.

Similar statements were also made in a letter to the Ministry of Finance of Ukraine from the Polish-Ukrainian Chamber of Commerce, according to which the level of the counterfeit market (fake products) for HnB products in both Poland and Ukraine is very low due to the complexity and high cost of their production.

Taking into account the above, the Draft Law of Ukraine "On Amendments to the Tax Code of Ukraine on the Revision of Excise Tax Rates on Tobacco Products" (Reg. No. 11090 of 18.03.2024) is supported.

**Deputy Minister of Finance
of Ukraine**

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