

Ärende: VN/23855/2023

Begäran om utlåtande om utkastet till regeringens proposition till riksdagen med förslag till lag om ändring av lagen om tobaksaccis

Lausunnonantajan lausunto

Voitte kirjoittaa lausuntonne alla olevaan tekstikenttään

Nordic Nicotine Pouch Alliance (NNPA.EU) welcomes the opportunity to provide a statement to the Ministry of Finance's proposal to amend the law on tobacco tax.

The NNPA would like to begin by emphasizing that nicotine pouches are not the average nicotine product. The relative risk is significantly lower and on the completely opposite side of the risk spectrum compared to smoking cigarettes. As one example, in 2021, the Dutch National Institute for Public Health and the Environment (RIVM) published a report 'Nicotine products without tobacco for recreational use', which found that "[t]here is no evidence that nicotine has mutagenic or carcinogenic properties", "for users of tobacco products, nicotine pouches are probably a less harmful alternative" and "nicotine pouches could potentially play a role in reducing nicotine addiction."

We strongly advocate for a consideration of the low risk in taxation on nicotine pouches due to the potential benefits it offers to public health and the significant net effects it can provide to public finance.

Lowering taxes on these products, which have been scientifically proven to pose significantly lower health risks compared to consumption of combustible tobacco, can enable a shift towards better (and legitimate) alternatives as a part of a strategy to reduce harm from smoking tobacco.

Ministry of Finance's (MoF) draft proposal

The draft proposal by the Ministry of Finance concerns the taxation of nicotine pouches in Finland. The draft proposes that smokeless nicotine products would be subject to both an ad valorem tax based on the retail price, and a unit tax, be levied on smokeless nicotine products. The ad valorem tax would be 10 percent of the retail price of a smokeless nicotine product, and the unit tax would

be 10 cents per gram of smokeless nicotine product. In addition, the minimum tax on smokeless nicotine products would apply. The amount of tobacco tax on smokeless nicotine products would always be at least 14 cents per gram of smokeless nicotine product.

NNPA supports the proposal's aim to bring these products under taxation. NNPA welcomes the government's aim to reduce illegal trade as well as the grey import of unregulated products.

Despite its commendable objectives, the draft in its current form does not enable the achievement of the set goals. The high level of taxation and complex tax structure do not promote legal, taxable sales in Finland but may lead to continued trade through untaxed channels.

Comments on the Proposed Tax Amount

The proposed level of taxation is the highest in the EU. MoF's proposed tax would be between 140-160 euros/kg, which is about seven to eight times higher compared to neighboring Sweden, where the tax is 20 euros/kg. The tax proposed in the draft would – including VAT – increase the price of a can by about 2.5 euros. The government's intention is to set the tax rate for nicotine pouches at a low level, same as it was done for e-cigarettes, however, in the current proposal, the tax rates are much higher.

It is clear that a significantly higher price compared to neighboring countries will steer sales to channels outside of taxation, i.e., grey imports, traveler imports, and illegal trade, or dissuade existing smokers from trialing the category in a legitimate and controlled way. Channeling sales into untaxed alternatives will also reduce the state's tax revenues and cause societal harms both through crime and the consumption of unregulated products.

Comments on the Proposed Tax Structure

In addition to the level of tax, the proposed tax structure is challenging. The proposed value tax, in NNPA's view, is unnecessarily complex and weakens the predictability of tax revenues.

All EU member states that have brought nicotine pouches into the scope of tobacco taxation have chosen to tax these based on weight per unit, just like e-cigarettes, for instance. Finland has done the same not only for e-cigarette liquids but also for heated tobacco products, and this practice should continue for other new products entering the market as well. A divergent tax practice not only raises the level of taxation compared to similar countries but also increases administrative burden.

NNPA's Recommendations

To solve the challenges mentioned above and to achieve the goals set out in the government programme and the draft proposal, the NNPA recommends the following changes to the proposal:

To ensure the maximum benefit of tobacco harm reduction, the tax level should be set lower.

The member state with the absolutely lowest prevalence of tobacco related illnesses is Sweden. There would be several reasons to align taxes with neighboring countries as we will argue below but

in this case we are referring to best praxis and the proven success of a tax level taking low risk in consideration.

To ensure state tax revenue and reduce illegal and grey trade, the tax level should be set lower.

Most EU member states have left nicotine pouches outside the scope of tobacco taxation. Those that do tax these products have set the tax at a significantly more moderate level than what MoF's proposal suggests. Sensible regulation and a tax framework ensure that consumption occurs with taxable and quality-assured products.

Taxation should primarily ensure that consumption shifts to taxable products.

The main goal of taxing nicotine pouches should be, in addition to harm prevention, the establishment of a legal market, the creation of a stable tax base and the reduction of the demand for illegal trade. Since the product category is relatively new in the Finnish market, high excise taxes and sudden tax increases on legitimate domestic products may steer consumers to buy the product from channels where no tax is collected (such as traveler imports, grey imports, and illegal trade). Nicotine pouches can be seen as an alternative to traditional tobacco products and thus may play a key role in reducing the harms caused by smoking.

The tax should consist only of a weight-based unit tax.

A weight-based unit tax, like in other EU countries, would significantly reduce the administrative burden and improve the predictability of state tax revenues. Moreover, a simpler tax structure would be in line with Finland's general approach concerning new nicotine products.

A dedicated definition is necessary to ensure legal certainty.

Our proposal for the definition is the following: a nicotine pouch means a product for oral use which does not contain tobacco, contains nicotine that is mixed with plant fibers or similar material, and is offered in pouch portions, porous pouches or similar packaging.

This definition is about to be adopted by the Czech Ministry of Finance which is also including nicotine pouches in the excise framework. Harmonized definitions across the EU MS will support the smooth functioning of the internal market.

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