

Notice to all Tobacco Traders in Ireland

Issued by the Revenue Commissioners in accordance with Articles 3, 4, and 6 of the Commission Implementing Decision (EU) 2018/576

Under Article 16 of Directive 2014/40/EU and Implementing Decision (EU) 2018/576, adopted under that Directive, all unit packets of tobacco products placed on the EU market are required to carry a tamper-proof security feature composed of visible and invisible elements. This requirement applies to cigarettes and roll-your own tobacco from 20 May 2019 and to all tobacco products from 20 May 2024.

This notice is particularly addressed to manufacturers and importers of cigarettes and roll-your own tobacco. Other tobacco products (for example, cigars) are not required to carry security features until May 2024 and further details relevant to those products will be provided in due course.

Tobacco Products subject to stamping

Ireland is a Member State that operates a tax stamp or national identification mark for fiscal purposes. The use of a tax stamp as the security feature is permitted by Directive 2014/40/EU, where the tax stamp fulfils the technical standards and functions required. Revenue is satisfied that the tax stamp, as issued under Section 73 of the Finance Act 2005, is compliant with Article 3 of Implementing Decision (EU) 2018/576 and Article 16 of Directive 2014/40/EU.

Revenue, as the competent authority for the implementation of the traceability and security features system in Ireland, has decided to allow the tax stamp, as issued in compliance with Section 73 of the Finance Act 2005, to be used as the tamper-proof security feature required by the Directive for cigarettes and roll-your own tobacco products on sale in Ireland after 20 May 2019. This means that tobacco products which carry a tax stamp will automatically carry the required security feature.

Therefore, manufacturers and importers of cigarettes and roll-your own tobacco whose product is subject to stamping are not required to do anything further in order to comply with the security feature requirements of Directive 2014/40/EU and Implementing Decision (EU) 2018/576.

Tobacco Products not subject to stamping

For tobacco products in respect of which tobacco products tax is not paid by means of the purchase of tax stamps issued under Section 73 of the Finance Act 2005 (for example, in the case of tobacco products sold duty free), manufacturers or importers are required to ensure that such unit packets bear a tamper proof security feature compliant with Article 3 of Implementing Decision (EU) 2018/576 and Article 16 of Directive 2014/40/EU. In particular:

- The security feature shall be irremovably printed or affixed, indelible and not hidden or interrupted in any form, including through tax stamps and price marks, or other elements imposed by legislation,
- The security feature shall be composed of no less than five types of authentication elements, as described in the Annex to Implementing Decision (EU) 2018/576,
- The security feature shall include at least one overt, one semi-covert, and one covert authentication element, as defined in Article 2 of Implementing Decision (EU) 2018/576,
- The security feature shall include at least one authentication element provided by an independent third-party provider, and
- A provider of authentication elements, and, where applicable, the providers subcontractor(s), shall be considered independent if the criteria set out in Article 8 of Implementing Decision (EU) 2018/576 are met.

Manufacturers and importers of tobacco products must apply to the Revenue Commissioners for approval of a security feature other than a tax stamp. Such applications must:

- Be made no less than two months before tobacco product is placed on the market,
- Be made in such form as the Revenue Commissioners may direct,
- Contain information as to the authentication element or combination of authentication elements to be used to compose the security feature,
- Contain information as to the how the security feature will be printed or affixed to unit packets of tobacco products,
- Contain information as to proposed third-party providers, and, where applicable, the providers subcontractor(s), of the authentication elements, and
- Contain information as to the means necessary to analyse each combination of authentication elements used to develop the security feature.

The Revenue Commissioners will consider applications for approval of a security feature other than a tax stamp for compliance with the contents of this notice and the requirements of Article 16 of Directive 2014/40/EU and Implementing Decision (EU) 2018/576. The Revenue Commissioners shall provide reasons where an application is refused. Where approval of a security feature other than a tax stamp is granted that approval will expire 3 years from the date of approval or on such other date as may be specified by the Revenue Commissioners.

In accordance with Article 6 of Implementing Decision (EU) 2018/576, the Revenue Commissioners may withdraw approval, for stated reasons, of a security feature other than a tax stamp at any time. Where the Revenue Commissioners withdraw approval of a security feature other than a tax stamp, that withdrawal shall have effect immediately or from such other date as may be specified by the Revenue Commissioners.

Transitional Provisions

This notice does not apply to:

- Cigarettes and fine-cut tobacco for the rolling of cigarettes that were manufactured in the European Union or imported into the European Union before 20 May 2019 which are placed on the market on or before 20 May 2020, or
- Tobacco products other than cigarettes and fine-cut tobacco for the rolling of cigarettes that were manufactured in the European Union or imported into the European Union before 20 May 2024 which are placed on the market on or before 20 May 2026.

Queries

All queries regarding the implementation of the traceability and security features system in Ireland should be directed tobacco@revenue.ie.

Legal Basis

Chapter 3 of Part 2 of the Finance Act 2005 (No. 5 of 2005);

Tobacco Products Tax Regulations 2006 (S.I. 261 of 2006);

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 (OJ No. L 127, 29.04.2014, p. 1 as affected by Corrigendum (OJ No. L 150, 17.6.2015, p. 24));

Commission Implementing Decision (EU) 2018/576 of 15 December 2017 on technical standards for security features applied to tobacco products (OJ No. L96, 16.4.2018, p 57);

European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016.

Dated

12 March 2019