

Vaping Products Duty consultation



UK Vaping Industry Association

UK Vaping Industry Association Response

UK Vaping Industry Association Response

Vaping Products Duty Consultation

It is recommended that you read the full consultation document before completing your response. Please note that the text boxes used in this template can be expanded to accommodate additional text.

Guidance for respondents

- Please try to answer all questions (even if it is just to say that you do not have an opinion) as this will assist with our analysis.
- You are not limited to only answering the questions asked and we will also consider written submissions provided to the consultation.
- There is no word limit on responses.

Responses should arrive no later than **29 May 2024**, with early responses encouraged where possible.

For further information on how we handle your personal data, please read the Privacy Notice in Chapter 12 of the consultation document.

Please send your response to: vapingproductsduty@hmrc.gov.uk

Please enter "**Vaping Products Duty consultation response**" in the subject line.

Chapter 4: About you

Full Name (if responding on behalf of a business / organisation please include the business / organisation name):

UK Vaping Industry Association

Email address:

info@ukvia.co.uk

Address:

UK Vaping Industry Association
34 Smith Square
London
SW1P 3HL

1. Are you:

A business?*

An organisation? If so, please provide details (e.g. trade/health body):

Trade organisation

An individual

***If you answered 'a) a business' please specify which of the following describe your business:**

a UK producer of vaping products to which you own the brand

a UK producer of vaping products to which you do not own the brand

a UK packager of vaping products that someone else has produced

an overseas producer of vaping products

an importer of vaping products into the UK

a UK retailer

a UK wholesaler or distributor

a business providing goods or services that support the production, packaging, importation, or supply of vaping products in the UK – please provide details:

another type of business – please provide details:

2. If you are a business, where is your business established?

UK

Isle of Man

EU – please state country:

Non-EU – please state country:

3. If you are a business, how many staff do you employ?

Fewer than 10

10-100

101-500

More than 500

Tobacco industry declaration

As a party to the World Health Organization’s Framework Convention on Tobacco Control (FCTC), the UK has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

4. Do you have any direct or indirect links to, or receive funding from, the tobacco industry?

Yes

No

Structure of the duty

5. Do you agree that the rates and structure outlined in Chapter 3 will achieve the stated objectives of the duty?

Yes

No

Please provide any reasons for your answer.

The UKVIA does not agree with the rates and structure outlined above. This structure will place an unfair financial burden upon nicotine-dependent smokers who are trying to quit. Smokers are already significantly [overestimating the risks of vaping](#) compared to smoking, and a measure that will discourage the use of sufficient nicotine to facilitate a quit attempt is, therefore, likely to have the effect of decreasing the rate of successful quit attempts.

[Research has shown](#) that a successful quit attempt is dependent on smokers finding the right combination of device, flavour and nicotine concentration. Getting sufficient nicotine is vital for the prevention of cravings and relapse. Smokers who smoke more or are more nicotine-addicted need higher concentrations of nicotine, at least initially, and they should not be deterred from quitting by having to pay an extra premium to buy the higher-concentration nicotine e-liquids that they need.

This is something that is already recognised on the [NHS website](#), which notes that “E-liquids come in different nicotine strengths, so you control how much nicotine you need to help with cravings and other withdrawal symptoms, such as feeling irritable and having low mood”. And [studies have demonstrated](#) that smokers attempting to switch to vaping with lower strength e-liquids are at a higher rate of relapse to tobacco smoking.

Although vapers often need higher levels of nicotine when they start their quit attempt, many self report that patterns of device, favour and nicotine use all change over time, with [most tending to reduce](#) the nicotine concentration over time. The trend towards lower nicotine is borne out by the fact that 10-11 mg/mL nicotine is the most widely selling nicotine concentration, despite e-liquids being available with nicotine concentrations of up to 20mg/mL.

The vast majority of vapers in the United Kingdom are former smokers. According to Action on Smoking and Health UK, of the 4.7 million vapers in the Great Britain last year, 93% were either ex or current smokers ([ASH](#)). As smokers are disproportionally from lower socioeconomic backgrounds, the effect of introducing an excise duty for nicotine-containing vapes, the most appealing form of e-cigarette for smokers, will be dramatic and potentially fatal. This conclusion is supported HM Revenue and Customs Research Report Number

740, '[Understanding the Vaping Market](#)', which found less affluent adults were 'more likely than average' to report being current vapers and revealed that 32% of current vapers are motivated to use these products over cigarettes due to cost savings.

The UKVIA suggests that a specific sales tax on all vaping products and nicotine levels at the rate of £1.00 per 10ml would be more effective in achieving the duty's stated objectives. Far from reducing the number of non-smokers and young people that vape, this duty will unfairly target current and ex-smokers attempting to kick their habit.

6. Do you agree that the rates and structure will encourage manufacturers to reduce the nicotine content of their products?

Yes

No

Please provide any reasons for your answer.

The UKVIA knows that the rates and structures outlined above will not encourage manufacturers to reduce the nicotine content of their products. The nicotine concentration of vaping products is solely determined by market pressures which have already resulted in vapes of lower nicotine concentrations (10/11mg) being the highest selling amongst many of our members.

However, it is important to note that higher nicotine product concentration vapes also have a vital role to play in helping smokers to quit and it is crucial that these remain on the market. Vapes containing 20mg of nicotine are often the products that most users start with to help them quit, as noted by Emma Ward in her [2020 journal entry](#) in Tobacco Use insights. It is clear, therefore, that e-liquids and vape products with higher levels of nicotine play a vital role in helping smokers to quit and it is crucial that these remain on the market.

There is a risk that if these products were not readily available smokers will try to quit using lower concentration vapes which may result in them vaping more to achieve the level of nicotine that they crave. Alternatively, many of these smokers may move to black market alternatives to achieve the level of nicotine they need, or at worst, find themselves able to quit and return to smoking.

A study by [Dawkins et al.](#), showed that when nicotine concentrations are low, vapers tend to compensate by vaping more or changing their puffing patterns, which has the effect of exposing them to more toxicants. Because they have to consume more e-liquid to get the nicotine they need, they are exposed to higher levels of formaldehyde and acetaldehyde. Although it should be noted that these levels are still significantly lower than any exposure from tobacco smoke.

UKVIA members and the industry more broadly, encourage the Government not to unfairly discriminate against nicotine-containing vapes, which are most popular devices for a reason. It would be far more valuable for the Government to invest in a vape licensing scheme, to create a sustainable and viable funding base for enforcement and inspection functions relating to the vape sector. This is something that the UKVIA has [long called for](#).

7. What do you think the likely impact the rate structure will have on consumers' vaping behaviours?

Yes

No

Please provide any supporting evidence.

This rates and structure that the Treasury are proposing to introduce, will likely have negative impacts upon vaping behaviours. Smokers smoke primarily [because of the addictive effects of nicotine](#) and therefore require products with sufficient nicotine to successfully quit. We already know that smokers attempting to quit with lower strength e-liquids are at a [higher rate](#) of relapse to smoking. Making higher-concentration nicotine products more expensive is therefore unlikely to have the desired effect. HMRC [research report 740](#) finds that doubling the price of vaping could result in 62% of current users reducing how much they vape – it is predicted that the proposed duty could increase the cost of some products by upwards of 300%, with increases being higher for bottles of e-liquid which are more popular with refillable pod and tank system users.

Pushing would-be quitters to use e-liquids with lower levels of nicotine will likely have the effect of reducing quit rates and increasing relapse and/or forcing vapers to look to the black market to get the products they need at a reasonable price.

The '[Understanding the Vaping Market](#)' study suggests that there is 'little consumer appetite' for illicit products as compliant, legitimate options are already 'cheap and affordable'. Based on this, it would be reasonable to assume that significant increases to the cost of vaping will result in more adult users turning to underground sellers. Chapter 3 of this consultation readily accepts the existence of a 'significant number of illegal products' currently being sold within the United Kingdom. Industry experts have consistently warned the Government that increased regulation of the e-cigarette market must be carefully orchestrated to prevent turning vapers towards illicit products.

Although the precise number is unknowable, many experts believe that up to [40 to 50 percent of vapes](#) in the UK are currently illicit, suggesting the existence of a sizable black market. The increased cost of legal, nicotine vapes that this

excise duty will facilitate when combined with the prospective ban on disposable vapes, will turbo-charge the appeal of these unregulated and illicit devices.

It should not be forgotten that e-cigarettes are the most proven and popular quitting aid in the UK. The unique role that vaping plays in tobacco harm reduction has been consistently reaffirmed by experts such as [Lynne Dawkins and Emma Ward](#). Vapes have been extremely successful largely because they have been available in a variety of formats and with equal access to e-liquids with a range of nicotine concentrations. This view has been backed up by [research from Queen Mary University](#), which suggests smokers need to be allowed to determine their own nicotine intake when trying to quit. [HMRC-commissioned research](#) has also identified that the most common reason for vaping by current adult users is 'to help them stop smoking' and that 53% of surveyed vapers reported quitting smoking. It also found that nearly 60% of smokers who also vaped reported 'decreasing the amount of tobacco they used'. Furthermore, vapers who persist with e-liquids with less nicotine than they need will consume more e-liquid and potentially change their puffing behaviour by taking longer, deeper and more frequent puffs. [Researchers at Southbank University](#) found that vapers switching from higher to lower nicotine concentration e-liquid, had greater exposure to formaldehyde and acetaldehyde due to this puffing behaviour.

It should also be noted that, according to the latest data from the Office for National Statistics, there are still [6.4 million](#) adult smokers in the UK and [HMRC research report 740](#) found that just 4% of non-vaping smokers say they intent to start vaping in the future. Given the considerable role cost savings play in motivating adults to partially, or wholly, make the switch, it is a concern that significantly increasing the price of vaping will also deter adults from trying vaping as a stop smoking tool. The UKVIA is extremely concerned that outside of switching to illicit products, there is a significant risk that many vapers will revert to smoking as a result of an increase in the price of vaping products. It is crucial that any change to the rate structure does not encourage ex-smokers to revert to their old habits or turn to the black market, or prevent adult smokers from using vaping products to help them quit.

Scope of the duty

8. Should production of vaping products by individuals for their own use be within scope of the duty?

Yes

No

Please explain any reasons for your answer.

The UKVIA believes that including vaping products made by individuals for their own use in the scope of the duty would impose a large administrative burden both on individuals producing vaping products for personal consumption and on the HMRC. This burden would be so large that we believe the HMRC would struggle to recoup their costs. There are no legal consumer products where individuals are required to be registered with the HMRC as tax agents for their own consumption. This is not a requirement for consumers of smoked tobacco products or any other regulated products. In our view, requiring people who produce vapes for consumption at home would be akin to placing a tax on homemade cocktails, where an individual has to pay a duty each time they make a gin and tonic. It would be unworkable, unenforceable, and unreasonable.

9. Are there any other factors concerning home production/blending that should be considered?

Yes

No

Please specify.

Home production/blending represents a fundamentally more dangerous way to produce e-liquid for vapes and we are very concerned at this impact this tax may have on encouraging people to turn to home blending rather than purchasing safe and legal products. Research in the [Journal of Health Communication](#) has shown the dangerous 'unregulated mixing of fogging agents, nicotine salts, and flavourants' that occurs with home e-liquid production.

We would encourage the government to conduct a detailed impact assessment as to how large an increase in home production/blending would be generated as a result of this duty, and the possible impact of this to greater nicotine dependency throughout the UK.

Chapter 5: Liability for the duty

10. Do you agree with the proposals on how liability would work?

Yes

No

Please provide any reasons for your answer.

The UKVIA agrees with the proposed liability mechanisms outlined in the document. We believe that these mechanisms provide clarity and fairness in determining liability for excise duty on vaping products.

11. Do you agree with HMRC's proposal for when products should be charged with the duty?

Yes

No

Please provide any reasons for your answer.

The UKVIA agrees with HMRC's proposal for charging duty on vaping products. The proposal ensures consistency and transparency in duty assessment, aligning with industry standards and regulations. While we are particularly supportive of initiatives to impose the duty at the point of import as a way to minimise black market imports, we are concerned that a number of products will be improperly declared as low-nicotine products to circumvent this.

While we are very supportive of proposals to have premises where excise duties are suspended, it is vital that registering a suspended excise duty premises is not overly restrictive or expensive. If this is the case it is only likely that more of the vaping market will be driven underground.

12. Do you have views on the extent to which premises used for further processing or packaging should be required to register or seek approval?

Yes

No

If so, please explain your answer.

The UKVIA believes that premises involved in further processing or packaging of vaping products should be required to register or seek approval. This ensures compliance with regulatory standards and facilitates effective oversight of manufacturing processes. Particularly to ensure that products are not being

'sold through the back door' as they may their way through the manufacturing process.

However, it is vital that the regulatory burden to comply with the vaping products duty is as minimal as it can be. As such we urge HMRC to ensure that they do not require any registration or approval that is strictly necessary. We also urge the government to ensure that the cost to register or seek approval is as low as is possible and that this is not used as a revenue generating measure.

13. Do you agree with the suggestion on who should be liable to pay the duty?

Yes

No

If not, do you think any other person should be held liable?

The UKVIA agrees with the proposed liability arrangement where the UK manufacturer or importer is primarily liable to pay the duty. This arrangement provides clarity and accountability within the supply chain. By having the duty payable at the point of manufacture or import we also believe that this will support efforts to reduce the scale of the vaping black market in the UK.

14. The government also welcomes evidence on the processes followed in the manufacture of vaping products, including any secondary processes that are carried out after initial manufacture, for example processing of semi-finished products or packaging.

The UKVIA is not aware of any secondary processes that are carried out after initial manufacture within the UK.

Exemptions and reliefs

15. Do you agree that products destined for general sale on the UK market should not qualify for any reliefs or exemptions from the duty?

Yes

No

If not, do you think there should be any exceptions to this, please explain why.

It is the UKVIA's view that the simpler this duty is the more effective it will be. As such we agree that products destined for general sale on the UK market should not qualify for any reliefs or exemptions from the duty. However, we are very happy to discuss with the government any specific proposals that they receive.

16. Are you aware of any examples of vaping products being used for purposes other than general sale on to the UK market that you feel ought to be eligible for relief or exemption?

Yes

No

If so, please provide any supporting evidence.

E-liquid manufacturers who send their products to China for filling before re-importing them back to the UK represent a clear example of vaping products being used for purposes other than general sale onto the UK market. In such cases, the products undergo a manufacturing process abroad before being imported back into the UK for distribution. Charging these manufacturers twice for duties would impose an unfair financial burden and hinder their competitiveness in the global market. Providing relief or exemption in such situations would ensure fairness and support the growth of domestic manufacturing capabilities without subjecting businesses to double taxation.

Aside from this unique situation, the UKVIA is not aware of any examples of vaping products being used for purposes other than general sale on the UK market that warrant relief or exemption from duty.

Chapter 6: UK manufacture: Registration, returns and other requirements

17. Please provide information on how manufacturing supply-chains of vaping products currently operate.

The supply chain for vaping devices sold in the UK typically begins with the sourcing of raw materials such as nicotine, flavourings, and hardware components from various global suppliers. These materials are then used to manufacture the vaping devices, the vast majority of which are produced in Shenzhen, China.

Once imported to the United Kingdom, devices undergo quality control checks to ensure compliance with UK regulations regarding safety and labelling. Once approved, the devices are packaged and distributed through retail outlets, including vape shops, convenience stores, and online platforms, with a focus on adherence to age restrictions and other sales regulations.

18. Are vaping products subject to additional processing on a different premises or by businesses other than the initial manufacturer?

Yes

No

If so, please explain your answer and provide any supporting evidence.

The UKVIA is unaware of vaping products being subject to additional processing beyond the initial manufacturer.

19. Are there any processes, including packaging of vaping products, that you feel should not be required to take place on premises registered or approved by HMRC?

Yes

No

If so, please explain what these are and why the relevant premises should not require approval from HMRC.

The UKVIA does not believe that any processes, including packaging of vaping products, should be exempt from taking place on premises registered or approved by HMRC. Exempting certain processes from HMRC oversight could potentially undermine regulatory standards and create loopholes that may be exploited.

Registration of premises, process and requirements

20. Is there any other information that would be relevant for HMRC to consider an application for registration?

Yes

No

If yes, please explain your answer and provide any supporting evidence.

The UKVIA believes that HMRC should consider variable factors when considering applications for registration. For example, customs authorities should consider companies software capabilities during the application process. Many vaping corporations have advanced programs that accurately track products from point of import through to arrival with customers. This ensures that the data recorded is as accurate as possible.

Providing comprehensive information and evidence ensures that HMRC can make informed decisions regarding registration and helps demonstrate the applicant's commitment to compliance and accountability. There is a big disparity in the industry between those who invest in technology to ensure responsible documentation and those that do not take such precautions. It is important that HMRC considers information such as this when considering registration applications.

21. Is there a need for joint registrations covering more than one legal entity that manufactures/or stores vaping products in the same premises?

Yes

No

If so, please explain your answer and provide any supporting information and evidence.

The UKVIA does not believe that it would be feasible for multiple legal entities to share joint registrations. While joint registrations could potentially streamline administrative processes and reduce duplication of efforts, the feasibility of implementing such a system for two separate legal entities remains uncertain. It raises questions about how responsibilities, liabilities, and reporting would be divided between the entities. Without clear guidelines or frameworks in place, attempting to establish joint registrations may introduce complexities and uncertainties that outweigh any potential benefits.

22. Is there a need for registrations to cover more than one premises owned by a single entity?

Yes

No

If so, please explain your answer and provide any supporting evidence.

The UKVIA believes that there is a need for joint registrations in this sense, if only to make HMRCs own processes more streamlined and effective. If vaping companies have to apply for individual registrations for all of their premises, they operate in this can be an excess regulatory burden and can result in HMRC having to replicate inspection activities. It would be far simpler for companies to apply for a single license that covers all of their premises, should they be owned by the same single legal entity.

Refusal/Revocation/Deregistration

23. Do you agree these registration and deregistration provisions are appropriate?

Yes

No

If not, please explain your answer and provide any supporting evidence.

The UKVIA agrees that the registration and deregistration provisions outlined above are appropriate. However, it should be stressed just how crucial it is for HMRC to swiftly revoke licenses of any companies found to be involved in supplying products to the black market. The UKVIA has long called for swifter Government action against illicit vapes following recent upsurges in black market activity.

Therefore, it is essential that a flexible approach is adopted, allowing HMRC to take decisive action against black market activity, without undue bureaucratic hurdles. This approach not only upholds the integrity of the market but also safeguards public health and ensures compliance with regulatory standards.

24. Please provide details of the one-off costs businesses may face for registering for the duty with HMRC.

Registering for duties with HMRC imposes significant one-off costs on businesses, including administrative expenses, consulting fees for tax expertise, and potential investments in system upgrades. These costs are compounded by the substantial man-hours required for compliance. These financial and time burdens inevitably lead to increased prices for consumers, as businesses pass on these costs. Duty registration is an onerous task that incurs both financial

and operational strains, impacting both businesses and consumers alike. Consequently, there's also the unintended consequences, such as market consolidation favouring larger corporations that can absorb these expenses more easily.

Filing returns and other requirements

25. Please provide details of the expected one-off and ongoing costs to businesses of completing and filing a monthly online return and making payments of duty.

Similar to the above question, the major ongoing costs from making duty payments and filling out the associated paperwork is the manpower associated with actioning this on a monthly basis. This requires companies to dedicate significant man-hours each month to ensure accurate and timely filings. Also relevant are also the ongoing costs associated with maintaining and updating the software or systems used for online filing and the compliance monitoring of changes in tax laws and regulations to ensure ongoing compliance. Both of which only add to the operational expense of making duty payments.

26. Are these return and payment arrangements appropriate for UK manufacturers of vaping products?

Yes

No

If not, please explain your answer and provide any supporting evidence.

The UKVIA believes that the return and payment arrangements outlined in the consultation are broadly fair and appropriate. These arrangements are aligned with national tax compliance norms and appear comprehensive and necessary for effective tax administration and enforcement.

27. How soon (number of days) after the end of a month should businesses be expected to submit their return and make payment to HMRC for the duty? Please explain your answer.

The UKVIA believes this duty should operate in a similar way to those duties already existing, such as alcohol duty. In terms of an exact timeframe, the UKVIA suggests that businesses should be expected to submit their return and make payment to HMRC for duty within a reasonable timeframe of around 60 to 90 days. This allows sufficient time for businesses to compile the necessary data, complete the filing process accurately, and ensure compliance with HMRC regulations. Additionally, should the timeframe be set at 90, this could

tie into the timeframe of VAT for a collective tax timeframe, streamlining the administrative process for HMRC.

We strongly encourage HMRC to consider the issue of cash flow, particularly for small businesses when deciding on the payment timeline. Requiring immediate payment of duty shortly after the end of the month can strain cash flow, especially if sales revenues have not yet been realised. This could lead to liquidity challenges, potentially hindering business operations and growth.

Credits and repayments

28. Are there any other circumstances where a claim to a repayment of duty should be permitted which has not been covered above?

Yes

No

If so, please explain your answer and provide any supporting evidence.

The UKVIA is not aware of any other circumstances where a claim to a repayment of duty should be permitted beyond what has been previously covered. The provided conditions appear to encompass all the situations where a repayment might be warranted.

Tax agents and intermediaries

29. If you are a business, do you intend to use a third-party agent to help meet your obligations for the duty?

Yes

No

If so, please provide details on which obligations you would seek assistance with.

This will depend on the individual circumstances of UKVIA members and companies more generally. However, we do expect that the vast majority of members will require third-party support to meet requirements.

30. If you are a tax agent, what services relating to the duty do you expect to offer to your customers?

Not applicable.

Records and accounts

31. Will the record keeping requirements outlined above be straightforward for businesses to comply with?

Yes

No

If not, please provide details of any issues you expect.

While record keeping process may vary from business to business, and so therefore each individual organisation will likely have its own answer to this question. However, the UKVIA would encourage HMRC to recognise the importance of keeping record-keeping requirements as straightforward as possible for businesses. Complex and convoluted rules will create unneeded burdens for businesses, leading only to confusion, errors, and potential non-compliance. It makes far more sense to simplify these requirements and enable businesses to focus on their core activities while fulfilling their legal obligations efficiently and effectively.

In this vein, the UKVIA would caution against using any form of rate bands for different levels of nicotine strength. This sliding scale of tobacco content only invites confusion, overcomplicating the record keeping requirements. It is also important to note that such rate bands are not present in the current Tobacco Products Duty.

Chapter 7: Treatment of imports, exports, and duty suspension

32. Is the proposed approach to imports appropriate for vaping products?

Yes

No

If not, please explain your answer and provide any supporting evidence.

The UKVIA believes that the proposed approach is generally appropriate for vaping products. However, it is important to remember that this duty presents an opportunity to address existing loopholes concerning the illicit vaping market. One such loophole exists when imported illicit products that are supposed to be exported abroad, end up staying within the UK and are circulated on the black market. The introduction of an excise guarantee, for example, would be an effective way of combatting this practise. Therefore, this duty represents an opportunity to address such loopholes such as this and effectively crack down on the trade of illicit vapes within the UK.

Addressing the black market must be the Government's priority when regulating vaping products within the UK. [FOI data](#) has revealed that 1.57 million illicit vapes were seized in 2023, ensuring the black market remains regrettably strong in the UK. Whilst there is much that the Government could be doing to address this, such as introducing an industry-led mandatory vape retailer and distributor licensing scheme, this new duty presents an opportunity to place another roadblock in the way of illegal products.

33. Please provide information on how importation supply-chains of vaping products currently operate.

The importation supply chains of vaping products can vary depending on a whole variety of factors variables. However, generally, vapes are manufactured in Shenzhen, China. Once manufactured, vaping products are exported from the manufacturing facilities to importing countries, by either sea or air freight. Upon arrival in the UK, vaping products must go through customs clearance procedures in which customs officials inspect shipments to ensure compliance with import regulations and product safety. Following customs clearance, the products are typically distributed to wholesalers or distributors nationwide.

34. Is there is a need for any additional arrangements covering other persons that may have a role in import processes? For example, agents or fulfilment houses.

Yes

No

If so, please explain your answer and provide any supporting evidence.

The UKVIA does not believe that there is a need for any additional arrangements in this sense. As noted previously, it is in the interests of all parties to keep regulation as light and as streamlined as possible.

Duty suspension arrangements

35. Are the proposals related to duty suspension appropriate?

Yes

No

If not, please explain your answer and provide any supporting evidence.

Yes, as the duty suspension protocols listed at this point are generally in line with those for existing excise goods.

It is essential that the final protocols are flexible, to ensure that companies can better manage their cash flow, maintain operations, and potentially avoid layoffs or closures in times of hardship and uncertainty. Effective duty suspension proposals can be an essential crutch to businesses.

36. Is there a commercial need for HMRC to permit duty suspended storage of imported products?

Yes

No

If so, please explain your answer and provide any supporting evidence.

The UKVIA believes that there is a commercial need for HMRC to permit duty suspended storage of imported products. This allowance is essential for businesses to effectively manage their operations and cash flow. Without duty suspended storage, importers would face undue costs and financial strain, potentially hindering their ability to conduct business efficiently. Studies and reports on trade facilitation continually highlight the importance of duty

suspended storage in reducing administrative burdens and promoting international commerce.

37. Do you agree that EMCS should be used for duty-suspended movements of vaping products in the UK?

Yes

No

If not, please explain any circumstances that you think are relevant.

The UKVIA absolutely supports the use of the Excise Movement and Control System for duty-suspended movements of vaping products in the UK. Not only will the EMCS streamline HMRCs process of managing documents, reducing the administrative burden, but it will also allow businesses to effectively track deliveries, improving efficiency. Subsequently, EMCS will facilitate efficient, compliant, and secure duty-suspended movements of vaping products, benefiting both businesses and regulatory oversight.

38. If you are an importer of vaping products, how are they currently moved from overseas to the UK? Please provide details on packaging (individual pods, as bulk liquid or any other means) as well as any evidence you see as relevant.

Many UKVIA members import vaping products into the United Kingdom. Products are typically moved from overseas to the UK through air or sea freight, however this does vary depending on individual circumstance, shipment size and urgency. Compliance with regulations, such as proper labelling and adherence to nicotine content limits is central throughout this process.

Duty-free allowances

39. Should there be a quantitative personal allowance for vaping products?

Yes

No

Please provide evidence to support your answer where possible.

The UKVIA absolutely supports the introduction of a quantitative personal allowance on the import of duty-free products. If this were unlimited, it would not only increase the chances of duty-free privileges being exploited for commercial or tax purposes, but also risk completely undercutting the British vaping industry. Visitors could potentially bring in large quantities of duty-free

alcohol, which might be sold at prices significantly lower than those in the domestic market. A quantitative personal limit is clearly the answer here.

The UKVIA suggests that such a quantitative limit should be on the e-liquid itself rather than the number of devices. When existing limits are considered, such as the 200 cigarettes and 42 litres of beer, the UKVIA believes that a ceiling of 40ml of e-liquid would be a reasonable limit. Of course, this limit may vary slightly depending on the nicotine strength of the liquid, however, 40ml would be a sensible figure to aim for considering the existing limits for other duty-free products.

Goods to be loaded as ship, train, or aircraft stores

40. Should the government apply similar arrangements to vaping products shipped as stores as are applied currently for existing excise duties?

Yes

No

If not, please explain your answer and provide any supporting evidence.

The UKVIA is in favour of keeping the vaping duty generally in with existing excise duties. Therefore, the Association believes that it is logical to apply similar arrangements to vaping products shipped as stores to those present in existing excise duties.

Chapter 8: Compliance and enforcement

41. Are there any other specific compliance risks relating to the manufacture and importation of vaping products that may require bespoke compliance arrangements?

Yes

No

If so, please outline any scenarios that you anticipate may require bespoke compliance powers.

The UKVIA is not aware of any other specific compliance risks relating to the manufacture and importation of vaping products that are not covered in this document.

42. Where is the nicotine used in the manufacture of vaping products generally sourced from (e.g. UK or imported)?

Nicotine used in the manufacture of vaping products is sourced from various places around the world, including but not limited to countries like the United States, China, and India. The UKVIA is not aware from any nicotine being sources within the United Kingdom, and it is certainly not a significant contributor to the global nicotine supply.

43. How do businesses know the nicotine content of vaping products they manufacture or import?

The way by which businesses know the nicotine content of their vaping products that they manufacture, or import will vary company to company. For example, the processes that a physical retailer may follow to ascertain the nicotine content of the products that they import is likely to be different from those followed by an online retailer. As such, the UKVIA has not presented an association wide answer. However all legal products must be notified with the MHRA which requires nicotine products to be tested in a legitimate regulatory testing laboratory in the UK prior to approval.

Should a licensing scheme for vapes be place in the UK, then it would enable the process from notification to sale to be more streamlined and ensure that it is only legal and correct products that are being sold.

44. How easy is it to test the nicotine content and strength of vaping products? Please provide relevant information relating to costs and availability of tests.

There are several ways to measure the nicotine content and strength of vaping products, including gas chromatography mass spectrometry (GC-MS) and high-performance liquid chromatography. These processes are generally not that difficult to facilitate, however, it should not be the responsibility of importers to test the nicotine content of their products. Although the processes themselves are simple, there are still a variety of practical and financial challenges associated with both in-house and outsourced testing.

45. Are there any industrial uses for nicotine, other than the manufacture of tobacco, vaping and smoking cessation products?

Yes

No

Please provide evidence where relevant.

As a vaping industry association, the UKVIA does not feel obliged to comment on uses of nicotine beyond the manufacture of vaping and smoking cessation products.

Penalties

46. Do you consider that the suggested approach to compliance and penalties is appropriate?

Yes

No

If not, please explain your answer and provide any supporting evidence.

The suggested approach and penalties outlined are appropriate, as they align with those used across HMRC. However as stated, the UKVIA believes that it would be far more valuable for the Government to explore and potentially invest in other options to a duty, such as a vape licensing scheme.

Under an industry-led scheme such as this, local enforcement officers would be able to block rogue retailers from legally selling vapes and streamline who is able to sell vapes. Such a scheme would represent a sustainable and viable funding base for enforcement and inspection functions relating to the vape sector. This is a scheme that the UKVIA implores HMRC and the government more widely to consider.

Track and Trace

47. Should a track and trace system be introduced for vaping products?

Yes

No

Please explain any reasons for your answer.

The UKVIA believes that introducing such a track and trace system for vaping products would impose significant administrative burdens on HMRC, heavily outweighing any benefits of introducing the system. Not only would it require substantial resources and infrastructure, but such a system would also entail significant costs for both HMRC and businesses alike.

Introducing a track and trace system alongside the duty outlined above would simply be too much of a change for the vaping industry to cope with. The vaping industry is not the tobacco industry, being made up of small and medium enterprises, rather than multinational corporations. The financial implications of introducing a track and trace system will put a large proportion of these businesses at risk and create an unlevel playing field in favour of the more financially capable in the industry and only encourage non-compliance.

It should be noted that there are other technologies that harness tools such as NFC technology that enable products to be monitored without having to rely on the 'track and trace' regulations that are in place for tobacco products. For example the Secure Age Verification and Enforcement (SAVE) System that is currently being used in the United States would adequately address the challenges posed by needing to track vaping products without instilling unworkable and frankly business crushing regulatory burdens.

A SAVE style NFC-System is a system designed to combat youth access to nicotine products, supply chain transparency issues, and product recalls. The system relies on Near-field Communication (NFC) technology, which is a short-range, passive radio-frequency protocol. It includes three main components: NFC chips, NFC readers, and software for data management. NFC chips are embedded in products and encoded with unique IDs that contain detailed manufacturing and product information, compliant with EU traceability regulations.

The system's capabilities for track and trace, tax evasion prevention, and authentication can be summarised as follows:

Track and Trace: Unique NFC product IDs and reader scanning technology create a process for monitoring products through the supply chain. This helps in combating smuggling and counterfeiting by ensuring products are traceable from manufacture to sale.

Tax Evasion Prevention: The system enables digital tax verification by using NFC-encoded product IDs as digital tax stamps. This ensures correct tax payments by manufacturers, with unique IDs corresponding to different taxation schemes.

Authentication: The system provides robust product authentication by verifying unique NFC IDs via NFC readers or smartphones, allowing authorities and consumers to confirm the authenticity of products. This method improves security and prevents counterfeiting.

Overall, the SAVE system offers a comprehensive solution for secure age verification, enforcement, and enhanced supply chain transparency for modern nicotine products.

Such a system also would enable consumers to return to the store with a used device, or bottle to recycle which enables the product ID to be read and some kind of reward system inbuilt so there is an incentive for the user to return it, which aids with the current recycling issue in the UK.

The SAVE System

The SAVE System stands for Secure Age Verification and Enforcement. The system was created in 2021/2022 by SkyX Group Inc, a technology company based in New York City. The system was originally created to combat problems faced in youth access to nicotine products, supply chain transparency, and product recalls. The company has 21 pending and granted patents on various aspects of this system.

The System is based on Near-field Communication (NFC). NFC is a radio-frequency technology based on an RFID protocol. NFC is a short-range protocol capable of communication only for 4 to 10 cm. NFC is a passive system, meaning it is not connected to the internet, nor does it require energy. NFC use is becoming more widespread, from use in luxury clothing for anti-counterfeiting to payments with NFC-enabled credit cards, to even passports issued by national governments.

While many methods of encoding information exist, ranging from electrical, optical, radio frequency, magnetic, audio, memory, and others, other methods of encoding are either inefficient or expensive to implement for supply chain tracking where unique IDs of dozens if not hundreds of components and processes need to be considered. Lower-cost or simple methods, such as a bar code or a QR code, may not be able to handle large quantities of information useful for a product. Using printed batches may be too lengthy for bar codes or unreadable to the human eye if using QR codes, each of which would have to change with every application. If used for product authentication, some solutions in the pattern recognition category can be easy to replicate, or in the electrical category, take a long time to be read by the receiving system.

To use the System for nicotine products, the following three parts are required: 1) NFC Chips, 2) an NFC Reader, and 3) Software to evaluate the data collection efforts of the system.

Tax relevance

As well as targeting youth access at the point of sale, the system also provides a process for verifying the correct payment by manufacturers of excise and other taxes on products they produce. This addresses the issue of ensuring that the right levels of tax are paid.

NFC-encoded product IDs can serve as a digital tax stamp or a fiscal marker. As each ID is unique, taxation can be implemented at a product level. For taxation purposes, each product NFC ID can correspond to a taxation scheme on the product level. For instance, one class of NFC IDs corresponds to taxation scheme 1, and a second class of NFC IDs corresponds to taxation scheme 2. Different taxation schemes can correspond to different rates of duty, e.g. a 10% tax rate on taxation scheme 1, and a 20% tax rate on taxation scheme 2. Operationally, manufacturers could either buy an allotment of NFC IDs before manufacturing or the unlocking of product through the retail NFC scanner could trigger a tax payment/duty by the manufacturer assigned to the specific NFC ID. Since the system is traceable end-to-end and the IDs are unique, no duplication or counterfeiting of IDs would be possible.

Overt authentication has been criticised as being easy to copy for counterfeiters. While the NFC ID is not human readable, each modern cell phone is outfitted with NFC readers and inspectors could tap the product to verify its authenticity and retrieve its unique ID. This would allow product authentication by authorities, trade, consumers by the use of a smart phone.

Further, the System has capabilities to do volume verification for tax purposes. As each ID is unique, a sum of all IDs issued for a product will provide the total volume manufactured, and also the total volume sold.

A secure real-time connection between the manufacturing process of products and a government interface can provide the real-time overview on products manufactured for each market, by type and by manufacturer.

Even if a chip were counterfeited, the nature of unique IDs would prevent a correct ID to be guessed. In the case whereby a counterfeit chip is encoded with a duplicated ID, the NFC reader at the point of sale can cross reference the data base to discover the ID is not genuine, and not unlock the product. Instead of tax stamps or codes, the method of using NFC chips can improve security of tax verification processes. The digital NFC tax stamp provides the ability to government authorities that all taxes and duties are paid and produce a record of tax paid.

Lastly, component or manufacturing information stored on the NFC chip can be encrypted through the software encoding algorithms, making the retrieval of

this information impossible for counterfeiters without access to a data mapping. However, the System can make this information available to governments.

48. Are there any other compliance tools, e.g. fiscal marks, which would be appropriate to introduce for vaping products?

Yes

No

If so, please outline these tools and explain how they would help ensure compliance with the requirements of the duty.

As explained on numerous occasions in this consultation, the UKVIA fundamentally supports the introduction of a vape licensing scheme. The framework for such a scheme [was outlined in Parliament](#) earlier this year. Under an industry-led scheme such as this, local enforcement officers to block rogue retailers from legally selling vapes and streamline who is able to sell vapes. Such a scheme would represent a sustainable and viable funding base for enforcement and inspection functions relating to the vape sector.

The UKVIA would also like to take this opportunity to caution against the introduction of tax stamps in this exercise duty. These have become increasingly antiquated in recent years and susceptible to forgery. This makes them ineffective in ensuring compliance whilst being an administrative burden on businesses, especially smaller ones.

Chapter 9: Understanding commercial practices

49. Unless already covered in your responses to other questions within this document, please tell us about how your business operates and how you think it would be impacted by the duty, including additional administrative burdens?

The UKVIA's members will all be impacted by this duty in one way or another, as will the wider vaping industry. Of course, each business' experience will be different, but broadly it is fair to say that this duty is likely to cause companies to increase prices in order to pass through the cost of the duty on to customers.

Whilst there will naturally be increased administrative burdens placed upon companies, notably more paperwork, record-keeping, and regulatory scrutiny, which could divert resources away from other activities. Additionally, navigating complex tax laws and regulations may often require legal and accounting expertise, further adding to administrative costs.

50. Are there any specific impacts on small and micro businesses that are not covered?

Yes

No

If so, please provide details of the anticipated one-off and on-going costs and burdens.

There are a number of impacts on small and micro businesses that are not covered. The vaping industry faces numerous challenges, including competition from a growing illicit market and the introduction of a vaping duty, which imposes both one-off and ongoing financial burdens. Ensuring a level playing field across all aspects of the vaping market is crucial for the duty's effectiveness.

Meanwhile constraints on cash flow could lead to doubled inventory costs, disproportionately affecting smaller and independent shops, limiting their growth potential. Small and micro businesses will hence be unduly impacted, potentially leading to a market shift towards tobacco products. Whilst the expansion of the "make your own" market introduces risks of unregulated nicotine prevalence and unsanitary production conditions.

51. Are there any specific impacts on importers that are not covered?

Yes

No

If so, please provide details of the anticipated one-off and on-going costs and burdens.

These impacts may vary based on the precise nature of the activities that the importer is conducting. As such the UKVIA has not formed a representative answer and we encourage HMRC to engage with these companies directly.

52. If you manufacture or process vaping products, what type of businesses do you supply them to?

The UKVIA is not aware of any large-scale manufacture of vaping devices taking place within the UK. The only relevant British manufacturing that the UKVIA is aware within this sector is of e-liquid, where some manufacturers will send products to China for filling before re-importing them back to the UK.

As noted previously earlier in this consultation, the vast majority of vaping products are manufactured in Shenzhen, China before being exported to the UK. Once in the UK, products will be sold through a variety of channels, including brick-and-

53. If you manufacture or process vaping products, how much of this product is sold domestically and how much is exported?

The UKVIA does not have access to this information but would presume that this would vary considerably from business to business.

54. If you manufacture or process vaping products, please explain how the proposed levels of duty compare to the other costs involved in production/distribution. Do you expect an impact on profit margins?

As a trade body the UKVIA does not manufacture or process vaping products. However, the organisation is likely to experience some impact on profit margins. This is because we are expecting many retailers, especially those that are small enterprises to struggle financially because of the duty and fold. Subsequently, it is likely that UKVIA will lose some of its members following the introduction of the proposed duty.

55. If you are a business that supplies vaping products, to what extent do you expect to 'pass through' the new duty in prices that you charge to your customers?

In line with general business practices, the UKVIA fully expects the duty to pass through onto customers. In order to retain profit margins once the duty is implemented, companies will have no choice but to pass these increased costs onto consumers by raising prices. Therefore, it will be vapers and the millions of current and ex-smokers using vaping as an essential quitting tool who will feel the brunt of this duty. These individuals will either have to absorb the cost of expensive vapes or be forced to turn to the black market for cheaper alternatives. Subsequently, this duty will make the process of quitting far harder than it is currently.

56. If you manufacture or store vaping products, how long do you typically keep stock on hand before it goes out to sale?

The duration for which vaping products are kept in stock before going out for sale varies from business to business. However, it is clear that the introduction of the duty will prompt businesses to purchase a large quantity of products prior to its implementation in order to avoid increased costs.

It seems that HMRC intends to apply a similar model to the vaping industry as exists for the tobacco industry. However, unlike the tobacco industry, which is largely made up of rich multinational corporations, vaping businesses may struggle to absorb these increased costs due to their smaller scale. This could inadvertently benefit the tobacco industry.

57. Is there anything else you would like to add about how your business operates that may be relevant to the design of the new duty?

It is the UKVIA's firm view that a specific excise tax on the quantity of e-liquid in a vape would be far more effective than an excise tax tied to the quantity of nicotine in the product. We strongly urge HMRC to consult with Ministers in the next government to share this opinion.

Alternative Nicotine Products

58. Do you believe the introduction of the new duty would lead to consumers switching to alternative nicotine containing products?

Yes

No

Please add which products you believe would be a realistic switch.

As expressed earlier in this consultation response, the UKVIA has grave concerns about the impact that the structure of this duty will have on the behaviour of vapers and those smokers looking to quit. By making higher-concentration nicotine products more expensive, the UKVIA fears that potential smoking quitters will look to the black market to get the products they need at a more reasonable price. It is in the interest of all to ensure that people do not turn to these unregulated devices which often contain harmful chemicals, harmful additives and contaminants. Or return to the alternative nicotine containing product of cigarettes.

Chapter 10: Assessment of Impacts

59. Unless already covered in your responses to other questions within this document, is there anything else you would like us to note about the impact of the duty?

The UKVIA would like to highlight the risk that this duty may pose to the UK vaping market on the world stage. The duty as outlined above may well create an unlevel playing field for UK businesses, undercutting them whilst allowing international competitors an upper hand.

Meanwhile it is important for HMRC to remember that that vast majority of vapers in the United Kingdom are former smokers, with Action on Smoking and Health research suggesting that 93% of the 4.7 million vapers in the UK are either ex or current smokers ([ASH](#)). It is these individuals who will be most affected by this duty, as it will place an unfair financial burden upon nicotine-dependent smokers who are desperately trying to quit by using the most effective quitting tool available.

As an alternative to the duty outlined above, the UKVIA recommends that HMRC pursues a specific sales tax on all vaping products and nicotine levels at the rate of £1.00 per 10ml. Such as rate would be far more effective in achieving the duty's stated objectives whilst not unfairly targeting current and ex-smokers attempting to kick their habit. Meanwhile, as noted numerous times in this response, the UKVIA suggests government investment in a vape licensing scheme, to create a sustainable and viable funding base for enforcement and inspection functions relating to the vape sector.

Thank you for taking the time to response to this consultation. HM Treasury and HM Revenue and Customs (HMRC) value the input of stakeholders and interested parties. We will consider your response to help shape our policy development and ensure a vaping duty achieves its objectives.

Please send your response to: vapingproductsduty@hmrc.gov.uk

Please enter "**Vaping Products Duty consultation response**" in the subject line.