GENERAL EXCISES PAPER- TOBACCO PRODUCTS TAX, ALCOHOL PRODUCTS TAX AND TAX ON SUGAR-SWEETENED DRINKS

Tax Strategy Group – TSG 16/02

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TABLE OF CONTENTS

INTRODUCTION

1. This paper examines those non-environmental excise duties which apply in the State. It outlines the rates that have applied and the revenue yielded from excise duties on tobacco products and alcohol in recent years. It also examines trends in consumption of these excisable products. It considers both new and ongoing social and economic issues which may affect excise yields or consumption of these products. The paper also puts forward revenue raising options from these excise duties. Finally the paper considers the potential new excise duty on sugar-sweetened drinks. The paper is divided in to three sections:

   Tobacco Products Tax
   Alcohol Products Tax
   Sugar-Sweetened Drinks Tax

2. Excise duties are taxes levied on specific goods and products. Following the widespread adoption of VAT through membership of the European Union (EU), many excise duties were abolished in Western Europe. The completion of the Single Market of the EU in 1993, on foot of the Single European Act signed in 1986, required the abolition of many of Ireland's remaining excise duties. Accordingly, in Budget 1992, excise duties on large televisions, video players, and soft drinks were removed, with tobacco, alcohol, energy products and vehicles remaining as the primary subjects of excise taxation.

3. While the primary aim of excise duties is to raise revenue for the Exchequer, there are also ancillary objectives, including the deterrence of the consumption of harmful products, and the reflection of the external cost placed on society resulting from the consumption of such products. When excise duties impact on the final price of excisable products, they ensure that at least part of the externalities associated with excisable products are reflected in the market price. In this regard policy towards tobacco and alcohol duties have been increasingly influenced by public health policy in recent years.

4. Sharing a land border with another jurisdiction with different tax rates and a floating currency, creates the possibility of sharp divergences in the relative price of excisable products. Three main variables can contribute to divergence of prices between North and South: (i) VAT and excise, (ii) exchange rates, and (iii) the pricing strategies of retailers. Given that monetary policy is set by the European Central Bank, and given that retailers (and in the case of tobacco products, manufacturers) set their own pricing strategies, the only variables the State can influence are VAT and excise rates.

Accordingly, the need to prevent significant cross-border leakage is a feature in determining excise duty policy. The decision of the United Kingdom (UK) to leave the EU has given rise to uncertainty in the markets and has resulted in a drop in Sterling against the Euro. While the UK remains a full member until such time as it formally leaves, developments will need to be monitored closely as this could give rise to an increase in cross border trade.

Gender and Equality Implications

5. There are no specific gender or equality implications with regard to these tax issues.

Contribution of Excises to Exchequer Returns

6. Receipts from excise duties on all categories of tobacco totalled €1082.6m in 2015, an increase from €984m in 2014. Receipts from excise duties on all alcohol products totalled €1,137m in 2015, a slight decrease from €1140m in 2014.

	2014 Receipts	2015 Receipts	Projected 2016 receipts
Tobacco	€984m	€1,082m	€1,154m
Alcohol	€1,140m	€1,137m	€1,170m

TOBACCO PRODUCTS TAX

Introduction

7. The current rates and structures of excise duty on tobacco products are harmonised across the European Union through Directive 2011/64/EU ('Tobacco Products Tax Directive'). Recent changes to rates, yields and consumption patterns are outlined below. In addition, the main policy considerations regarding the Tobacco Products Tax are outlined:
   1. non-Irish duty paid products including tobacco smuggling and cross-border issues;
   2. public health policy and the impact of standardised packaging;
   3. Minimum excise duty
   4. The EU context
   5. the possibility of changes to the Tobacco Products Tax Directive.

Recent Changes to Rates, Yield, and Consumption

Recent Rate Changes

8. As of June 2016, Ireland has the second highest rates of duty on tobacco products, including on cigarettes and roll-your-own (RYO) tobacco in the EU (see appendix I). This reflects a long-standing policy of levying high rates of excise duty, relative to our fellow Member States, on tobacco products. Excise duty on tobacco products has increased in 20 of the last 24 budgets. The rate of duty on RYO tobacco is currently €291.683 per kilogram, €7.29 per 25g pack. The price of a pack of 20 cigarettes in the most popular price category (MPPC) now stands at €10.50, with a tax content of €8.37 split between €6.41 of excise duty and €1.96 in VAT. The table below shows the tax increase, trade increase and tax content of the MPPC of a pack of 20 cigarettes following each of the past fifteen budgets.

Budget	Tax Increase	Trade Increase	Tax Content	Tax content as % of price
Budget 2003	50c	16c	€4.60	78.4%
Budget 2004	25c	13c	€4.90	78.4%
Budget 2005	0c	10c	€4.93	77.7%
Budget 2006	0c	20c	€5.00	76.4%
Budget 2007	50c	10c	€5.54	77.5%
Budget 2008	30c	10c	€5.88	77.8%
Budget 2009	52.7c	2.3c	€6.42	79.3%
Budget 2009 (supp.)	25c	10c	€6.70	79.4%
Budget 2010	-3.5c	13.5c	€6.71	78.5%
Budget 2011	0c	10c	€6.75	78.0%

Budget 2012	44.3c	10.7c	€7.21	78.4%
Budget 2013	10c	10c	€7.34	78.1%
Budget 2014	10c	10c	€7.47	77.8%
Budget 2015	40c	0c	€7.87	78.7%
Budget 2016	50c	0c	€8.37	79.7%

Recent Revenues

9. Despite a regular decline in consumption of cigarettes per capita (see paragraph 16), the TPT receipts rose in nominal terms from €586m in 1994 and peaked at €1,217m in 2009. Since 2009, yield from the TPT has declined, falling to €1082m in 2015. Over the period 1994 to 2015, TPT fell from contributing 4.3% of Exchequer tax revenue to 2.4%. Since 2008, there has been an increase in the consumption of RYO tobacco, driven by reductions in disposable income between 2009 and 2013, and by the differentials in price between RYO and cigarettes. Accordingly, receipts from tobacco products other than cigarettes rose from 3.4% of TPT receipts in 2008 to 13.4% of receipts in 2015.

Year	Cigarettes	Other Smoking Tobacco	Total
2005	€1,054m	€26m	€1,080m
2006	€1,071m	€32m	€1,103m
2007*	€1,155m	€37m	€1,192m
2008*	€1,132m	€40m	€1,171m
2009*	€1,155m	€61m	€1,217m
2010	€1,101m	€59m	€1,160m
2011	€1,057m	€69m	€1,126m
2012*	€990m	€83m	€1,072m
2013*	€955m	€109m	€1,064m
2014*	€881m	€102m	€984m
2015*	€938m	€145m	€1,082m
2016*#	€998m	€156m	€1,154m

*Rate Change (#2016 figures are estimates)

Recent Retail Price Developments

10. The price of a pack of 20 cigarettes in the MPPC over the last fifteen years has increased from €5.87 in 2003 to €10.50 in 2016. The tobacco industry has imposed price increases of its own in response to duty increases to maintain the industry content of a pack of 20 at around 20.3%. Accordingly, the nominal industry content of the price of a pack of 20 at the MPPC has also increased from Budget to Budget, from €1.27 in 2003 to €2.13 in 2015. The Irish market remains dominated by three tobacco companies, with 44.3% of cigarettes purchased in 2015 being clustered in the MPPC

(currently €10.50). The MPPC started to shift to €10.80 in May 2016 with the latest trade increase of 30 cent.

Non-Irish Duty Paid Tobacco: Cross-Border Purchases and Tobacco Smuggling

Illegal Tobacco Products

11. Results from the latest Ipsos MRBI survey conducted on behalf of the Revenue Commissioners and the National Tobacco Control office of the Health Service Executive indicate that 12% of cigarette consumed in the State in 2015 were illicit. This is a reduction from 15% in 2009.

Year	Illegal Cigarettes	Estimated tax loss*	Non-Irish duty Paid
2009	15%	€285m	5%
2010	14%	€249m	9%
2011	14%	€258m	7%
2012	13%	€240m	6%
2013	11%	€212m	5%
2014	11%	€214m	6%
2015	12%	€192m	6%

*Assuming illegal cigarettes consumed displaced equivalent tax-paid quantity of cigarettes

12. Revenue seized approximately 68 million cigarettes with a value of €34.4m in 2015. The quantity of cigarettes and tobacco seized since 2005 and the estimated value of those seizures is outline below.

	Cigarettes			Other Tobacco		
Year	No. of Seizures	Quantity	Estimated Retail Value	No. of Seizures	Quantity (kg)	Estimated Retail Value
2005	13,397	51.29m	€15.64m	497	1,108	€0.31m
2006	17,266	52.34m	€17.98m	640	2,068	€0.59m
2007	15,481	74.50m	€25.60m	763	1,516	€0.43m
2008	10,191	135.2m	€54.4m	1,100	3,083	€1.10m
2009	10,610	218.53m	€92.06m	1,171	10,451	€3.72m
2010	9,026	178.40m	€75.20m	1,171	3,367	€1.20m
2011	10,581	109.10m	€45.95m	1,500	11,158	€4.00m
2012	8,108	95.60m	€43.30m	1,395	5,277	€1.95m
2013	5,802	40.80m	€18.90m	1,086	4,203	€1.70m
2014	5,852	53.4m	€25.5m	1,014	9,824	€4.20m
2015	5,927	67.9m	€34.41m	1,227	2,364	€1.09m
2016*	1,623	18.65m	€9.79m	380	507	€0.24m

*End April 2016

13. The high level of seizures over recent years reflects ongoing enforcement action by the Revenue Commissioners aimed at all key points in the supply chain. It is also a clear indication, however, of the significant level of both small-scale and bulk smuggling activity. Legislative action has been taken in recent years to further strengthen the Commissioner's powers to combat the illegal tobacco trade in the Finance Act 2012, the Finance Act 2013 and the Finance (No. 2) Act 2013.

Non-Duty Paid Tobacco Products

14. Ireland currently imposes the second highest level of excise duty in nominal terms based on the weighted average prices of cigarettes in the EU (see appendix I). There is currently little incentive for cross-border shopping, as the combination of the prevailing tax and duty rates, pricing decisions and currency movements ensures that cigarettes and tobacco are more expensive in Northern Ireland than in the State. The UK Government announced in Budget 2014 that it will continue to increase tobacco duties by 2% above the rate of inflation (based on RPI) for each year up to and including 2019-20. The table below indicates the differential in price and duty in a 20 pack of cigarettes as measured by the Revenue Commissioners in the May 2016 cross-border survey carried out following the UK budgetary increase in 2016:

Year	Price in this State	Price in N. Irl	Price Difference	Total Tax State	Total Tax NI	Tax Difference	€/£ exchange rate
2010	€8.55	€7.69	€0.86	€6.71	€5.87	€0.84	0.8279
2011	€8.55	€8.05	€0.50	€6.71	€6.23	€0.48	0.8696
2012	€9.10	€9.41	-€0.31	€7.19	€7.28	-€0.09	0.8057
2013	€9.40	€9.46	-€0.06	€7.34	€7.28	€0.06	0.8516
2014	€9.60	€11.14	-€1.54	€7.47	€8.35	-€0.88	0.7911
2015	€10.00	€12.47	-€2.47	€7.87	€9.25	-€1.39	0.7403
2016	€10.80	€11.92	-€1.12	€8.45	€8.95	-€0.50	0.7867

Based on Central Bank's sterling euro exchange rate of 0.8255 (29 June 2016), the price difference is now €0.49.

15. There is an incentive to bring non-Irish duty paid tobacco products into the State from other States. Under EU law, a person may bring into Ireland tobacco products purchased duty paid in another Member State without paying Irish tax, provided the cigarettes are purchased for the person's own use and are transported and accompanied by that person. Recent surveys by Revenue suggest that some 6% of cigarette consumption in Ireland is accounted for by such purchases abroad. The quantity of cigarettes a person may bring into the State duty free from outside the EU for personal use, or from territories where EU rules on VAT and excise duties do not apply, is limited to 200 cigarettes. From 1 January 2014, Ireland has utilised Article 46 of the EU Excise Directive (2008/118/EU), which has allowed Member States impose a quantitative restriction of 300 on the number of cigarettes that may be brought in

from those Member States (Bulgaria, Croatia, Hungary, Latvia, Lithuania, and Romania) that have not yet notified the Commission that they have reached the EU minimum tobacco product tax levels. Those Member States achieve the minimum tax levels by 31 December 2017.

Public Health Policy and Standardised Packaging

Public Health Policy Towards Tobacco

16. The Programme for a Partnership Government commits to making Ireland tobacco free by 2025 (less than 5% of the population smoking). The Department of Health indicate that smoking remains the leading cause of preventable death in Ireland, accounting for nearly 19% (or 5,200) of deaths annually. It is estimated that one out of every two long-term smokers will die of a disease related to their tobacco use. In October 2013 the Department of Health published *Tobacco Free Ireland: Report of the Tobacco Policy Review Group*, confirming a target of less than 5% smoking prevalence by 2025, which implies a near 74% reduction in the numbers smoking between 2014 and 2025. As figure 1 below shows, smoking prevalence, as measured by a survey carried out by the National Tobacco Control office of the Health Service Executive has fallen from 28.3% in June 2003 to 19.2% in 2015.

Figure 1. Smoking prevalence, 2003-2014

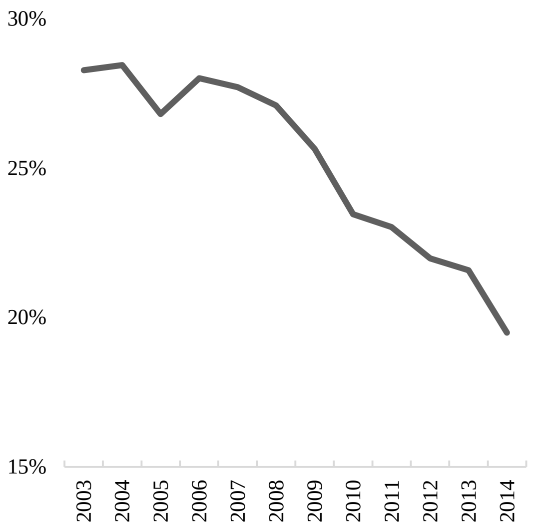
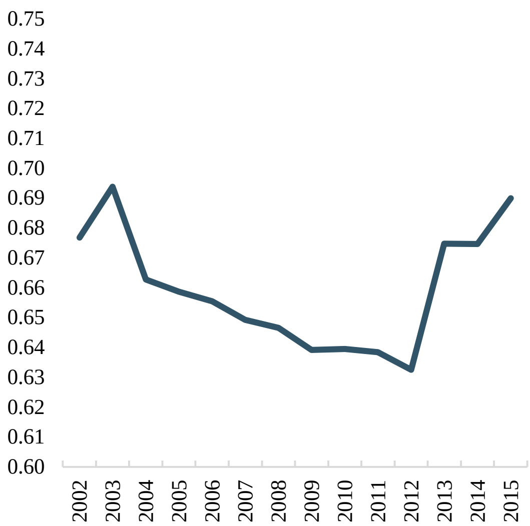


Figure 2. Ratio of excise duty on RYO tobacco to excise duty on cigarettes



17. In *Tobacco Free Ireland*, the Department of Health made a number of recommendations in relation to fiscal policy, including raising excise duty on tobacco products over a five year period and reducing the price differential between RYO and cigarettes. As figure 2 shows, the differential between RYO and cigarettes (based on the assumption that a 1kg of RYO tobacco equals 1,320 commercially-produced cigarettes) was initially addressed in Budget 2013 with an additional 50c VAT inclusive excise increase applied to a 25g pack of RYO in addition to the pro-rata 10c applied in

that Budget. In Budget 2015, the rate of duty on a 25g pack of RYO was increased by an additional 20c in addition to the pro-rate 40c increase applied that Budget. RYO tobacco was increased pro-rata in Budget 2016.

18. Increasing excise duty on tobacco products is only one of a number of measures that contributes to the overall strategy to reducing tobacco consumption and smoking prevalence. As part of tobacco control policy a range of initiatives have been introduced over the past number of years, including a prohibition on tobacco advertising, a prohibition on sponsorship, the smoking ban in January 2004, a prohibition on the sale of cigarettes in packs of less than 20 in May 2007 and in July 2009 a ban on the advertising and display of tobacco products in retail outlets. New combined text and picture health warnings were introduced in 2013.

Standardised Packaging

19. The Public Health (Standardised Packaging of Tobacco) Act 2015 removes all forms of branding including trademarks, logo, colours and graphics from packs, except for the brand and variant name which will be presented in a uniform typeface. It is estimated that 80% of smokers start when they are children, and standardised packaging legislation is designed to reduce smoking initiation. The measures were due to come into force in May 2016, however there has been a delay in commencing the legislation, and standardised packaging has not yet been introduced.

20. The Revenue Commissioners are satisfied that the proposed standardised packaging of tobacco products will not damage their work to tackle the illicit tobacco trade. Revenue relies on the tax stamp to identify tax paid tobacco products, and the standardised packaging legislation will accommodate the stamp. The tax stamp contains a range of features designed to minimise the risk of counterfeiting.

21. Australia introduced standardised packaging in December 2012. In April and September 2014 respectively, the British Government and the French Government announced plans to legislate for the introduction of standardised packaging. The UK High Court ruled that standardised packaging was legal in May 2016, days before its introduction in the UK. In May 2016 Philip Morris failed in its challenge to stop the Australian government introducing standardised packaging on intellectual property grounds at an international tribunal.

22. The transition period for introducing standardised packaging was originally intended to run from May 2016 to May 2017. However, the legislation underpinning this has yet to be commenced by the Minister for Health.

EU Context

Potential Changes to the Tobacco Products Directive

23. Article 19 of the Tobacco Products Tax Directive provides that ‘the Commission shall submit to the Council a report and, where appropriate, a proposal concerning the rates and the structure of excise duty laid down in this Directive. At present the Commission envision presenting a revised Directive to the Council at the end of 2016, with the possibility of:
    a. Providing for ‘e-cigarettes’ in the Tobacco Products Tax Directive;
    b. Providing for ‘heated tobacco products’ in the Tobacco Products Tax Directive;
    c. Providing for such matters that Member States may raise.

24. Electronic cigarettes ('e-cigarettes') are products that deliver a non-medicinal nicotine-containing aerosol by heating a solution (or 'e-liquid') typically made up of propylene glycol, nicotine and flavouring agents. Despite their design, electronic cigarettes do not contain tobacco, and there is no combustion involved. Accordingly, neither e-cigarettes nor e-liquid fall under the harmonised regime for the taxation of tobacco products contained in the Tobacco Products Tax Directive, and may therefore be subject to rates and structures of duty arrived at by each Member State of the European Union.

25. The Department of Health have legislated for the Tobacco Products Directive (2014/40/EU) and the regulations transposing the Directive were enacted in May 2016. The European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016 include measures for labelling, ingredients, tracking and tracing, cross border distance sales and the regulation of electronic cigarettes, refill containers, herbal products for smoking and novel tobacco products. E-cigarettes and refill containers must now be registered for cross border distance sales. The new regulations provide clarity as to the regulation of e-cigarettes. The Revenue Commissioners indicate that tobacco companies have front-loaded release of tobacco products from tax warehouses in the first half of 2016. At the end of May 2016, revenue net receipts in respect of tobacco products were up €224 million (81%) when compared to the same period in 2015. This appears to be driven by new Europe-wide standards for tobacco products packaging introduced in May 2016 under the Tobacco Products Directive, whereby all packs must meet the new standards by 20 May 2017. The tobacco industry may be moving current stock out of tobacco products warehouses in order to clear packets with packaging that do not meet the Tobacco Products Directive standards in advance of 20 May 2017.

26. It is important to note that the Tobacco Products Directive (enacted May 2016) relates to the nature, design, quality and quantity of tobacco products themselves, while the Tobacco Products Tax Directive (enacted 2011, and with review beginning

late 2016) relates to the taxation of tobacco products. Thus e-cigarettes are not currently regulated for in relation to tax matters under the Tobacco Products Tax Directive.

27. However, the Department of Health have reserved their position thus far on the health implications of e-cigarette use. In June 2014, the Government approved the drafting of a General Scheme of a Bill to provide for the introduction of a licensing system and other measures in relation to the sale of tobacco products and non-medicinal nicotine delivery systems, including e-cigarettes. The legislation will, inter alia, prohibit the sale of tobacco products from self-service vending machines and temporary or mobile units/containers. It will also prohibit the sale of non-medicinal nicotine delivery systems, including e-cigarettes, by and to persons under 18 years. A public consultation process to obtain views on those measures was conducted early in 2015. The drafting of the Regulatory Impact Assessment is currently underway.

28. Stakeholder opinions differ as to whether e-cigarettes are an effective cessation device, a substitution for tobacco, or even a 'gate-way' to tobacco products, particularly for young people. A review commissioned by Public Health England, an agency of the UK Department of Health, indicated that e-cigarettes may be 95% less harmful than cigarettes, and stated that they may be a smoking cessation tool.

29. Four Member States (Portugal, Italy, Romania and Slovenia) have introduced taxes on e-cigarettes, or on the e-liquid used in e-cigarettes. Broadly speaking, most Member States are awaiting the guidance of their health authorities before committing to a position on the taxation of e-cigarettes. The possibility of imposing such a tax on e-cigarettes or e-liquid in Ireland is considered below under potential revenue raising measures.

30. 'Heated tobacco products' are single use products with the appearance of cigarettes which operate through the heating of the tobacco contained in them to 300 degrees Celsius, and are sold in packs of 20. They have appeared on the market in a number of Member States and have been considered for tax purposes as either 'cigarettes' or as 'other smoking tobacco' and have accordingly attracted different tax treatment. As they have yet to appear on the Irish market a determination has yet to be made about the product definition for tax purposes of such tobacco products. A decision will have to be made by Member States as to whether such products are encompassed by the Tobacco Products Directive, or whether a new product definition should be provided for such products. There is a risk, if a new definition is included, that the minimum rate of duty imposed on such products may be substantially lower than that imposed on cigarettes.

31. Finally, there may be an opportunity to argue for higher minimum tobacco product tax rates in the Directive. Given Ireland's already high tobacco taxes, and given our general policy stance on the role of higher tobacco taxes in reducing tobacco consumption, it would be in the interest of Ireland and the wider EU to pursue higher minimum rates, with a view to preventing cross-border trading between EU Member States and achieving a general reduction in smoking prevalence across the EU. In 2015, 6% of tobacco products consumed in Ireland were purchased and tax paid in other Member States.

Options

Increase in Minimum Excise Duty

32. Given the divergence in prices between the MPPC and the lowest price pack of cigarettes on the market, and given that the introduction of plain packaging may lead to a shift to lower priced cigarettes by Irish consumers, it may be prudent to raise the Minimum Excise Duty in Budget 2017.

33. At present, the lowest priced pack of 20 cigarettes retails at €8.75 and attracts a total rate of duty of €6.24. If the MED was increased to a rate such that it applied at a rate at 100% the rate of duty applied at the current MPPC (€10.50), a pack of 20 cigarettes which retails at €8.75 would be subject to rate of duty of €6.41. If tobacco companies wanted to maintain their margins on lower priced packs, they would be forced to raise the price of a pack of 20 cigarettes by 22 cents to €8.97 to retain the non-tax component of the price of a pack at 9.9%. It should be noted that the duty applied is based on the current MPPC of €10.50.

Electronic Cigarettes

34. While it is a matter for individual Member States whether to apply a duty or tax on e-cigarettes or e-liquid there are risks associated with moving ahead without a harmonised approach. As e-cigarettes are not harmonised excisable products the Revenue Commissioners would be unable to use movement controls and tax warehousing for tax collection purposes and the tax would have to be applied, on a self-assessment basis, to suppliers, in the same way as solid fuel carbon tax. Consumers, retailers and suppliers would be free to buy the product from other EU Member States with no import formalities. Moreover, if a substantive duty were to be imposed on e-cigarettes there would be significant cross-elasticity effects, given consumers view e-cigarettes as either substitutes or complements for traditional

tobacco products, which could in turn undermine the broader public health objective of reducing tobacco consumption.

35. Using the tracker survey on tobacco use carried out for the National Tobacco Control Office of the HSE, TSG 2015 estimated that a 50c tax per 10ml would yield €8.3 million per annum. However, the implementation and collection of such a tax would be difficult given the wide variety of ways in which these products are supplied to the consumer. Secondly, as previously stated, many sources consider e-cigarettes to be a cessation tool and certainly less harmful than cigarettes.

Increase in TPT

36. The Programme for Partnership Government has committed to introducing higher excise on tobacco products over the course of the Government's term as one of the ways Universal Social Charge reductions will be funded. The Irish Heart Foundation (IHF) and Irish Cancer Society (ICS) have previously proposed an annual TPT escalator of inflation + 5%, and have proposed increasing the duty on RYO to equalise the duty with cigarettes. Some elements of the industry has also proposed an annual TPT escalator with relatively low increases in duty and have proposed an increase in duty on RYO to equalise the duty with cigarettes.

37. The table below indicates the effects of increasing various levels of duty (on cigarettes, with pro rata increases on other tobacco products – calculated on the basis of maintaining specific duty at 65% of total tax). The table below also indicates the additional yield from an additional 50% duty increase on RYO on top of the pro rata increase on RYO.

Increase (per pack of 20 cigs)	Yield	Additional for 50% on RYO	Total Yield 2017
10c	€13.2m	€0.8m	€14.0m
20c	€26.4m	€1.5m	€27.9m
30c	€39.4m	€2.3m	€41.7m
40c	€52.4m	€3.1m	€55.5m
50c	€65.2m	€3.8m	€69.0m
60c	€78.0m	€4.6m	€82.6m
70c	€90.7m	€5.3m	€96.0m
80c	€103.3m	€6.1m	€109.4m
90c	€115.9m	€6.8m	€122.7m
100c	€128.3m	€7.6m	€135.9m

38. It should be noted the Revenue Commissioners have expressed concerns that increases in excise may not lead to increased yields, as consumers are further incentivised to exit the tobacco products market in Ireland. Therefore the above yield projections could be significantly affected by market elasticity.

ALCOHOL PRODUCTS TAX

Introduction

39. The current rates and structures of excise duty on alcohol products are harmonised across the European Union through Directives 92/83/EEC and 92/84/EEC ('Alcohol Products Tax Directives’). Recent changes to rates, yields and consumption patterns are outlined below. In addition, the main policy considerations regarding the Alcohol Products Tax are outlined:

(i) non-Irish duty paid products including cross-border issues and the incidence of counterfeit alcohol products;

(ii) public health policy and the impact of Minimum Unit Pricing;

(iii) reliefs for small independent producers;

(iv) the possibility of making changes to the Alcohol Products Tax Directives; and

(v) potential revenue raising measures.

Recent Changes to Rates, Yield, and Consumption

<u>Recent Yield Changes</u>

40. While the APT yield rose in nominal terms from €629m in 1994 to €1,130m in 2007, it fell from contributing 4.57% of Exchequer tax revenue to 2.39% in the same time period. The APT reductions in Budget 2010 further eroded the yield, but the increases in Budgets 2013 and 2014 have restored the importance of its contribution somewhat. In terms of the four main categories of alcohol products, wine has grown significantly as a source of Exchequer revenue from contributing just over 9.3% of APT receipts in 1994 to an estimated 31.8% in 2015. This reflects both a sustained growth in the consumption of wine, and relatively large increases in the duty on wine. The table below indicates yield from 2005 to 2016:

Year	Wine	Beer	Spirits	Cider/Perry	Total
2005	€195m	€457m	€320m	€66m	€1,038m
2006	€209m	€461m	€339m	€69m	€1,077m
2007	€230m	€465m	€368m	€68m	€1,131m
2008	€231m	€427m	€351m	€61m	€1,070m
2009*	€243m	€404m	€264m	€57m	€968m
2010*	€219m	€320m	€244m	€44m	€826m
2011	€231m	€307m	€247m	€44m	€829m
2012	€231m	€308m	€264m	€43m	€846m
2013*	€302m	€358m	€290m	€52m	€1,002m
2014*	€355m	€425m	€302m	€59m	€1,140m
2015	€355m	€417m	€311m	€54m	€1,137m
2016**	€371m	€426m	€319m	€53m	€1,170m

*Rate Change

**Estimated

Recent Rate Changes

41. As of May 2016, Ireland has the highest rates of duty on wine and sparkling wine, and the third highest rates of duty on spirits and beer in the EU (see Appendix II). This reflects a long-standing policy of levying high rates of excise duty, relative to our fellow Member States, on alcohol products. Recent Budget changes have included:
    - Increasing duty on cider to equalise its treatment with beer in Budget 2002;
    - Increasing duty (VAT-inclusive) on spirits by 20 cent and abolishing the reduced rate for spirit based alcopops in Budget 2003;
    - Increasing duty (VAT-inclusive) on wine by 50 cent in Budget 2009;
    - Reducing duty (VAT-inclusive) on all alcohol products by 20% in Budget 2010;
    - Increasing duty (VAT-inclusive) on wine by €1 and beer and spirits by 10 cent in Budget 2013; and
    - Increasing duty (VAT-inclusive) on wine by €0.50 and beer and spirits by 10 cent in Budget 2014.

42. The table below indicates changes in the main rates of duty and their incidence on the representative alcohol product since 1993, when the current structure of the Alcohol Products Tax (APT) came into effect.

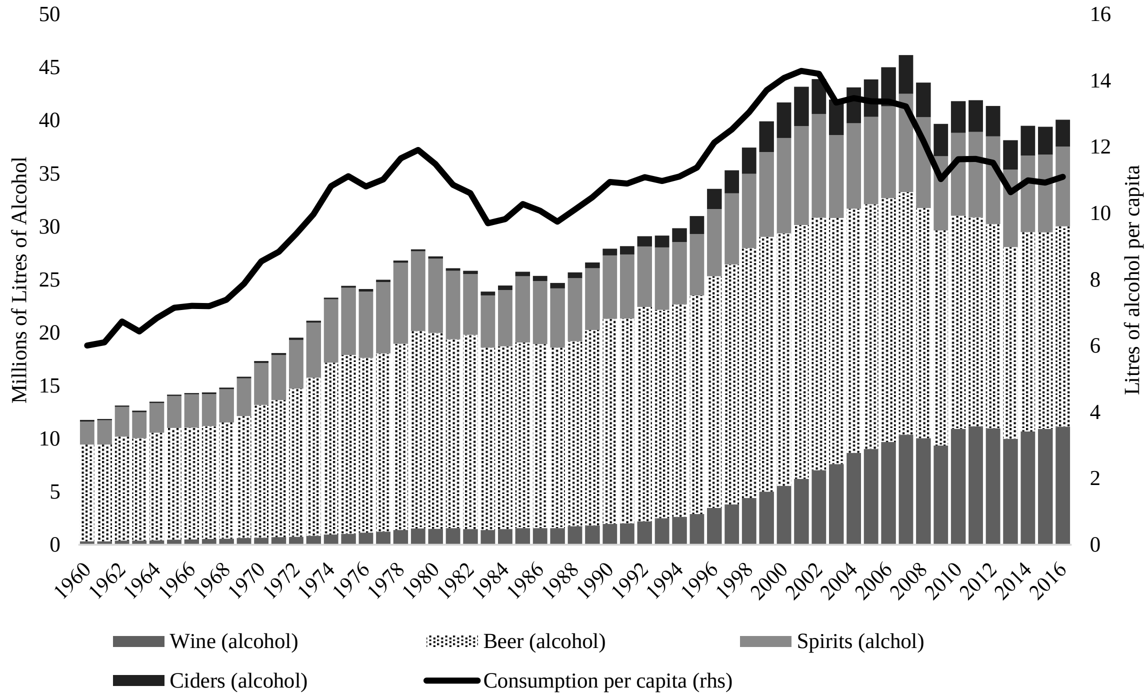
Year	Beer (4.3% ABV Pint)	Still Wine (12.5% ABV bottle)	Spirits (40% ABV glass)	Cider (4.5% ABV Pint)
1993	€0.45	€1.94	€0.39	€0.22
1994	€0.49	€2.05	€0.39	€0.25
2002	€0.49	€2.05	€0.39	€0.47
2003	€0.49	€2.05	€0.55	€0.47
2009	€0.49	€2.46	€0.55	€0.47
2010	€0.38	€1.97	€0.44	€0.37
2013	€0.47	€2.78	€0.52	€0.46
2014	€0.55	€3.19	€0.60	€0.54

Changes to Consumption Patterns

43. Figure 3 below indicates the total nominal quantity of alcohol by product released for Irish consumption, and the associated per capita consumption of pure alcohol. Consumption per capita declined to its lowest point since 1990 in 2013 at 10.6 litres per adult and rose in 2014, despite duty increases, to 11 litres per adult. Consumption in 2015 was 10.9 litres per capita. It is estimated that per capita consumption will rise slightly to 11.1 litres per adult in 2016. It should be noted that the figure below does not capture alcohol products purchased outside the State.

44. Figure 3 also indicates that consumer taste has changed, with greater consumption of cider and perry, and of wine. The increased consumption of wine has had implications for the pub trade, as over 80% of wine is purchased in the off-trade while the less than 20% of wine purchased on the on-trade is often consumed in restaurants rather than in pubs. Given that excise duty on alcohol is largely unchanged as a proportion of price over the years, it is unlikely that tax is the driving factor in consumption change. In this regard, the consumption, and composition of consumption, of alcohol products is driven by personal disposable income, individual consumer preference, the availability of alcohol products, the pricing strategies of multiples and publicans, and cultural changes.

Figure 3 - Nominal consumption of alcohol products (lhs) and litres of alcohol consumed per capita (black line rhs), 1960 to 2016



<u>Recent Retail Price Developments</u>

45. Price developments over the past 10 years present a divergent picture. In the on-trade retail prices have steadily increased. Given that there were no changes to the main rates of the Alcohol Products Tax between Budgets 2003 and 2009, and no change to the standard rate of duty on beer between 1994 and 2010, excise duty as a percentage of the price of alcohol products sold in the on-trade fell steadily between 2003 and 2010. Following the sharp reductions in excise duty on all alcohol products in Budget 2010, excise as a percentage of the retail price fell to historically low levels. Despite increases in excise duty in Budgets 2013 and 2014, the level of duty as a percentage of the price of a pint of stout in May 2016 remains lower than it was in 2003. The tables below indicate the development of the national average price of the representative pint of stout, pint of lager, bottle of cider and glass of whiskey sold in the on and off-trade.

On-Trade Prices

Pint - Stout (4.2% ABV)			
Year	Excise	Price	Excise % of Price
2003	€0.47	€3.38	13.9%
2009	€0.47	€4.09	11.5%
2010	€0.37	€3.96	9.3%
2011	€0.37	€3.95	9.4%
2012	€0.37	€4.00	9.3%
2013	€0.46	€4.18	11.0%
2014	€0.54	€4.30	12.6%
2015	€0.54	€4.30	12.6%
2016	€0.54	€4.32	12.4%

Pint - Lager (4.3% ABV)			
Year	Excise	Price	Excise % of Price
2003	€0.49	€3.76	13.0%
2009	€0.49	€4.50	10.9%
2010	€0.38	€4.35	8.7%
2011	€0.38	€4.33	8.8%
2012	€0.38	€4.35	8.7%
2013	€0.47	€4.56	10.3%
2014	€0.55	€4.67	11.8%
2015	€0.55	€4.68	11.8%
2016	€0.55	€4.70	11.7%

Whiskey (35.5ml) (40% ABV)			
Year	Excise	Price	Excise % of Price
2003	€0.56	€3.23	17.3%
2009	€0.56	€3.79	14.8%
2010	€0.44	€3.69	11.9%
2011	€0.44	€3.70	11.9%
2012	€0.44	€3.75	11.7%
2013	€0.52	€3.91	13.3%
2014	€0.60	€4.03	14.9%
2015	€0.60	€4.07	14.7%
2016	€0.60	€4.11	14.7%

Pint – Cider (4.5% ABV)			
Year	Excise	Price	Excise % of Price
2003	€0.47	€3.80	12.4%
2009	€0.47	€4.63	10.2%
2010	€0.37	€4.47	8.3%
2011	€0.37	€4.45	8.3%
2012	€0.37	€4.48	8.3%
2013	€0.46	€4.61	10.0%
2014	€0.54	€4.74	11.4%
2015	€0.54	€4.74	11.4%
2016	€0.54	€4.76	11.3%

46. Prices in the off-trade have demonstrated a different pattern, with the national average price of a can of lager sold on the off-trade remaining broadly stable over the past thirteen years, reflecting significant price competition in the off-trade.

Off-Trade Prices

Can - Lager (500ml) (4.3% ABV)			
Year	Excise	Price	Excise % of Price
2003	€0.43	€1.77	24.3%
2009	€0.43	€1.83	23.5%
2010	€0.34	€1.77	19.2%
2011	€0.34	€1.80	18.9%
2012	€0.34	€1.78	19.1%
2013	€0.41	€1.88	21.8%
2014	€0.48	€1.98	24.2%
2015	€0.48	€1.96	24.5%
2016	€0.48	€1.90	25.5%

Can – Cider (500ml) (4.5% ABV)			
Year	Excise	Price	Excise % of Price
2003	€0.42	€2.06	20.4%
2009	€0.42	€2.25	18.7%
2010	€0.33	€2.18	15.1%
2011	€0.33	€2.16	15.3%
2012	€0.33	€2.10	15.7%
2013	€0.40	€2.22	18.0%
2014	€0.47	€2.32	20.3%
2015	€0.47	€2.31	20.3%
2016	€0.47	€2.22	21.3%

Bottle – Wine (750ml) (12.5% ABV)			
Year	Excise	Price	Excise % of Price
2003	€2.05	€9.07	22.6%
2009	€2.46	€9.54	25.8%
2010	€1.97	€9.07	21.7%
2011	€1.97	€9.09	21.7%
2012	€1.97	€8.94	22.0%
2013	€2.78	€9.99	27.8%
2014	€3.19	€10.52	30.3%
2015	€3.19	€10.68	29.9%
2016	€3.19	€10.50	30.3%

Bottle - Whiskey (700ml) (40%)			
Year	Excise	Price	Excise % of Price
2003	€10.99	€23.65	46.5%
2009	€10.99	€25.26	43.5%
2010	€8.72	€22.64	38.5%
2011	€8.72	€22.05	39.5%
2012	€8.72	€21.51	40.5%
2013	€10.32	€23.63	43.7%
2014	€11.92	€25.20	47.3%
2015	€11.92	€25.71	46.4%
2016	€11.92	€25.94	46.0%

47. Duty on wine has increased significantly in recent Budgets, and this is reflected in excise as a proportion of the price of an average bottle of wine, which is now nearly 30% of price of a €10.50 bottle of wine.

48. The excise rate on a 12.5% bottle of wine at €3.19 is over 33% higher than would apply to an equivalent sized 12.5% beer which would be €2.11. The equivalent sparkling wine with an excise duty rate of €6.37 incurs 200% more in excise duty than beer.

49. In their pre-Budget submission the National Off-Licence Aassociation have requested a reduction in the excise duty applying to wine which is placing a significant cash-flow burden on small independent off-licences. To reduce the excise applying to wine by 50c per bottle would result in a €33m loss to the Exchequer.

Non-Irish Duty Paid Alcohol: Cross-Border Purchases

Cross-Border Purchases

50. Price differences between the South and North are determined by (i) VAT and excise rates in both jurisdictions, (ii) exchange rates, and (iii) the pricing strategies of retailers. Given that the UK imposes similarly high rates of excise duty on alcohol products, the most important determinant of price differentials is usually the exchange rate. The UK reduced their VAT rate to 15% in December 2008, while the standard VAT rate in Ireland was increased to 21.5%. During 2009, sterling depreciated rapidly in relation to the euro, creating large differences in cross-border prices of all groceries, including alcohol products, leading to a spend by Irish consumers of €428m and €418m in the twelve months prior to Q2 in 2009 and 2010.

51. Budget 2010 reduced excise duty on alcohol to reduce prices of products in the South relative to Northern Ireland in an effort to discourage cross-border shopping. In addition, the standard VAT rate was dropped to 21%. However, reductions in duty on alcohol products have no effect on the price of groceries or other products.

52. Appendix III indicates the results of the most recent cross-border price survey carried out by the Revenue Commissioners on 12 May 2016. The tables below indicate the differential in price and duty in selected comparable alcohol products as measured by the Revenue Commissioners.

Can – Lager (500ml) Off-Trade

Year	Price in this State	Price in N. Irl	Price Difference	Total Tax State	Total Tax NI	Tax Difference	€/£ exchange rate
2009	€1.99	€1.37	€0.62	€0.85	€0.66	€0.19	€0.85
2010	€1.88	€1.46	€0.42	€0.72	€0.74	-€0.02	€0.83
2011	€1.44	€1.54	-€0.10	€0.64	€0.79	-€0.15	€0.87
2012	€1.88	€1.50	€0.38	€0.74	€0.86	-€0.11	€0.81
2013	€2.02	€1.62	€0.40	€0.79	€0.81	-€0.02	€0.85
2014	€2.05	€1.69	€0.36	€0.87	€0.85	€0.02	€0.79
2015	€1.95	€1.95	€0.00	€0.85	€0.92	-€0.07	€0.74
2016	€2.05	€1.88	€0.17	€0.87	€0.87	-€0.01	€0.79

Bottle of Wine (Chardonnay) Off-Trade

Year	Price in this State	Price in N. Irl	Price Difference	Total Tax State	Total Tax NI	Tax Difference	€/£ exchange rate
2009	€9.49	€7.71	€1.78	€4.14	€2.90	€1.24	€0.85
2010	€6.50	€7.63	-€1.13	€3.09	€3.18	-€0.08	€0.83
2011	€8.88	€8.46	€0.42	€3.51	€3.49	€0.02	€0.87
2012	€7.99	€8.76	-€0.77	€3.46	€3.82	-€0.36	€0.81
2013	€10.00	€8.84	€1.16	€4.65	€3.82	€0.83	€0.85
2014	€9.75	€8.90	€0.85	€5.01	€4.07	€0.94	€0.79
2015	€11.70	€10.04	€1.66	€5.37	€4.44	€0.93	€0.74
2016	€9.85	€9.97	-€0.12	€5.03	€4.31	€0.72	€0.79

Public Health Policy

53. As the Figure 3 shows, per capita consumption of pure alcohol peaked in 2001 at 14.2 litres, and fell to 10.6 in 2013, the lowest since 1990. Since then clearances of alcohol products have risen, to 11 in 2014 and reduced in 2015 to 10.9. Consumption for 2016 is expected to be 11.1 litres of pure alcohol per capita.

54. The *Healthy Ireland Strategy*, published by Government in 2013, which outlines a high-level framework and targets for public health policy, included an objective of reducing alcohol consumption to below the OECD average of 9.2 litres of alcohol per capita. It noted that alcohol is responsible for approximately 90 deaths every month in Ireland, which include many alcohol-related cancers and heart diseases.

55. The Steering Group Report on a National Substance Misuse Strategy, published in 2012, provides a set of public health policies related to alcohol consumption. The Report made four recommendations relating to excise duty: maintain excise rates at high levels; further increase excise rates for higher alcohol content products; increase the differential between excise rates applied to alcohol content levels in each alcohol product category; and increase the annual excise fee for the renewal of Off Licences.

56. In addition to rate changes over the last fifteen years, certain changes to the structure of APT have been made with a view to public health objectives:
    a. in Budget 2002, the rate of duty on cider was equalised with beer;

b. in Budget 2003, the lower rate of duty applying to spirit-based alcopops was equalised with the rate of duty applying to higher-strength spirits, and the rate of duty applying to spirits was raised;
c. in Budget 2009, a reduced rate of duty was introduced for low-strength beer and cider.

57. On foot of the Report on a National Substance Misuse Strategy, the Government announced in October 2013 that it would introduce a Public Health (Alcohol) Bill to tackle alcohol misuse. The Public Health (Alcohol) Bill was approved by Government in December 2015 and will provide for: health labelling of alcohol products; minimum unit pricing (MUP) for retailing of alcohol products; regulation of marketing and advertising of alcohol; and enforcement powers for Environmental Health Officers.

<u>Minimum Unit Pricing</u>

58. The Public Health (Alcohol) Bill was agreed by Government in December 2015. The MUP will be determined by the Department of Health in consultation with the Department of Finance, and the appropriate MUP will be set with a view to maximising the impact on public health while minimising the effect on the cross-border trade. The Office of Parliamentary Counsel have advised the Department of Health that the level of MUP should be specified in primary legislation. The draft Bill provides for the following formula for MUP:
Minimum unit price*number of grammes of alcohol = minimum price of alcohol products

59. To provide an example of the operation of the MUP, the most popular stout sold in Ireland has an alcohol by volume (ABV) of 4.2%, so that a pint (or 568ml) of stout contains 23.86ml of alcohol. This converts to 18.82g of alcohol. Applying an MUP of, say, 100c per 10g yields a MUP for a pint of stout of €1.88. Accordingly, a pint of stout containing 23.86ml of alcohol may not be sold for less than €1.88 if the MUP is set at 100c. The tables below indicate the effects of applying an MUP of 100c to products sold on the off-trade at the national average price, and to products sold at lower prices.

National Average Price					
Product – Off-trade	ABV	Alcohol in grams	MUP	Price	Increase in Price
Can of Lager (500ml)	4.30%	16.96	€1.70	€1.98	€0.00
Can of Cider (500ml)	4.50%	17.75	€1.78	€2.32	€0.00
Bottle - Wine (750ml)	12.50%	73.97	€7.40	€10.52	€0.00
Bottle - Whiskey (70cl)	40%	220.92	€22.09	€25.20	€0.00

Cheaper alcohol products					
Product – Off-trade	ABV	Alcohol in grams	MUP	Price	Increase in Price
Cheap Can of Lager (500ml)	4.00%	15.78	€1.58	€1.17	€0.41
Cheap Can of Cider (500ml)	6.00%	23.67	€2.37	€1.37	€1.00
Cheap Bottle - Wine (750ml)	12.50%	73.97	€7.40	€5.99	€1.41
Cheap Bottle - Whiskey (70cl)	40%	220.92	€22.09	€15.99	€6.10

60. It is envisioned that an MUP will be provided for in Northern Ireland and in the State simultaneously. Different rates of MUP in North and South would obviously be a concern for cross-border trade.

61. The Scottish Parliament legislated for minimum pricing in 2012, with an initial minimum price of 50p per unit. However, the Alcohol (Minimum Pricing) (Scotland) Act 2012 has yet to be commenced as this legislation has been challenged by the Scotch Whiskey Association. The Scottish Court of Sessions - the highest court in Scotland –referred the issue of whether the MUP is compatible with EU law to the Court of Justice of the European Union (CJEU).

62. In December 2015, the CJEU ruled that if it could be demonstrated that MUP was more effective than increasing excises in producing the desired health outcomes, then it was proportionate to introduce MUP. However, the final say on which measure should be introduced was passed back to the Scottish Court, which is seen as best-placed to judge the likely effectiveness and proportionality in relation to its objectives of reducing alcohol harm.

63. The introduction of MUP in Ireland will depend on the ruling of the Scottish Courts as it would not be prudent to unilaterally introduce this measure prior to its legality being established beyond doubt. The introduction of an MUP should also be subject to a similar proposal in Northern Ireland. Otherwise, the probable outcome of introducing MUP solely in the South would be an increase in cross border trade in alcohol as well as other products while not achieving the health outcomes sought.

Potential Policy Development

Reliefs for Microbreweries

64. Article 4 of EU Directive 92/83/EEC provides for the application of reduced rates, or relief, of excise duty of up to 50% less than the national rate of excise duty in respect of breweries producing 200,000 hectolitres or less of beer per annum. In Budget 2005, relief of 50% on excise duty in respect of beer produced by breweries producing up to 20,000 hectolitres (hl) was provided to reduce barriers of entry and to promote competition in the brewery sector. This applies to any microbrewery within the European Union so that importers releasing European beer produced by a microbrewery producing 20,000 hl or less could avail of the relief. Accordingly, the duty of excise on a 4.3% ABV pint of beer produced by a microbrewery is €0.28 compared to €0.54 on a 4.3% ABV non-qualifying pint of beer. In Budget 2015, the limit was extended to microbreweries producing not more than 30,000 hectolitres.

65. As announced in Budget 2016, from the beginning of this year the Alcohol Products Tax reduction for small independent breweries is available by way of a reduction on the duty paid rather than through a repayment of excise. This has improved the cash-flow of small independent breweries and removed a barrier to entry into this market.

66. In 2013, 25 microbreweries availed of this relief at a cost €1,452,291, and in 2014, 54 microbreweries availed of this relief at a cost of €2,334,409. In 2015, these figures increased to 73 microbreweries claiming relief at a cost of €3,992,101. There has been an increase in the numbers of claimants from overseas from 5 in 2013 to 13 in 2014, this number increased in 2015 to 17 claimants on behalf of 37 qualifying microbreweries on a total of 7,023 hectolitres of beer produced.

67. There have been calls by some parties to further increase the production threshold limit above the 30,000 hl ceiling to facilitate the growth of businesses in microbrewery sector. The rationale for the relief is to limit it to only small undertakings to encourage and assist them to compete with larger breweries who enjoy the benefits offered by scale.

68. The production thresholds for qualification as a microbrewery vary across Member States. Beer brewed in qualifying microbreweries in other member states and brought into this State for consumption is eligible for the same relief as that which is produced in the State. Any increase in the production threshold for microbreweries in this State will also be applicable to microbreweries in other Member States and lead to an increase in the volume of qualifying beer imported.

Potential Changes to the Alcohol Products Directive

69. The European Commission circulated a consultation paper reviewing the existing legislation on the structures of excise duties on alcohol and alcoholic beverages at the beginning of this year seeking, inter alia, Member States opinions on the current rules governing small producers of alcohol product.

Small Cider Producers

70. It is not currently possible to apply a similar type of relief as the one applying to microbreweries to small independent producers of cider. While the UK offer an excise duty exemption to small cider producers producing up 70hl, this pre-dated the UK entry to the European Union, and the European Commission initiated infringement proceedings against the UK.

71. Ireland has highlighted the absence of such a relief for cider producers in this context and will continue to engage with the Commission to achieve a satisfactory outcome. The UK have previously indicated that they would seek to amend the Alcohol Products Tax Directives to allow for the provision of reduced rates to small cider producers.

Options

72. Alcohol Action Ireland has recommended an increase in APT on all alcohol products to raise revenue and reduce consumption, and has also recommended a 'social responsibility levy' be imposed on the alcohol products industry. Both the Drinks Industry Group of Ireland, which represents the wider drinks industry, and the National Off-Licence Association (Noffla) have called for a reduction in the excise rates applying to alcohol products. Noffla has also called for duty on wine to be reduced further. IBEC have previously called for an APT reduction amounting to €50 million.

Increase the Excise on Alcohol Products

73. The following table shows the estimated effect of a range of VAT inclusive increases in terms of yield:

	1c	2c	3c	4c	5c	10c	15c	20c
Beer (per pint)	€6.8m	€13.5m	€20.3m	€27.0m	€33.7m	€67.1m	€100.0m	€132.4m
Spirits (1/2 glass)	€3.5m	€7.0m	€10.4m	€13.9m	€17.3m	€33.9m	€49.9m	€65.3m
Cider (per pint)	€0.8m	€1.7m	€2.5m	€3.4m	€4.2m	€8.4m	€12.5m	€16.6m

	5c	10c	15c	20c	25c	50c	75c	100c
Wine (per bottle)	€3.1m	€6.1m	€9.1m	€12.0m	€14.9m	€28.8m	€41.8m	€53.7m

TAX ON SUGAR SWEETENED DRINKS

Introduction

74. The Programme for a Partnership Government includes a proposal for a new tax on sugar sweetened drinks to serve as a revenue raising and public health measure. This follows the inclusion of such a tax in the general election manifestos of all four of the main political parties and ongoing calls from the Department of Health, as well as a significant number of health advocacy and civil society groups.

75. The extent to which an SSD tax will raise revenue, and address the public health issue of obesity related diseases and dental health, will depend on the scope of the tax; what drinks products it is levied on and at what monetary rate it is levied. Its effectiveness may also depend on its level of sophistication in terms of encouraging soft-drink producers to reformulate their ingredients and reduce sugar in their products. An SSD tax must be just one element in a host of measures to tackle Ireland's obesity problem.

76. Previous TSG papers have argued that a volumetric tax, which is calculated on the basis of the volume of liquid, and thus relates to the amount of sugar consumed rather than the retail price, makes more sense from a health point of view, as opposed to an ad valorem rate imposed on the final retail price of the product. The volumetric approach has been implemented in a number of other EU states, and is the one which the UK proposes to implement. It should be noted that the food and drink industry in Ireland has criticised the introduction of a SSD tax.

77. Ireland historically levied a form of excise duty on 'table waters', which included most categories now considered sugar-sweetened drinks. The tax operated between 1916 and 1992. It also became increasingly important in the context of an Exchequer shortfall in 1979/1980. The excise on table waters was levied at £0.10 a gallon from 1975 to 1979, but was sharply increased to £0.37 per gallon in Budget 1980. As the Minister for Finance of the day put it, this was equivalent to putting 2.2p on a 33cl can of Coca-Cola. This had the effect of raising the VAT-included price of a can of Coca-Cola by over 10% in 1980. The table waters tax was abolished in November 1992 as part of the reform of the tax code undertaken in anticipation of the full application of Single Market rules on 1 January 1993.

78. This paper examines the issues for consideration relating to the introduction of a SSD in Ireland under the following headings;

- Public Health Rationale
- Stakeholder Opinion

- Potential EU and State Aid Implications
- United Kingdom Proposal
- SSD Tax in Other States
- Tax Design and Administration
- Options

Public Health Rationale

79. The Department of Health has been concerned about the impact of obesity on the cost of health services for some time. The Report of the National Taskforce on Obesity (2005) recommended an examination of the impact of fiscal measures on obesity. In, 2009 a Special Action Group on Obesity was established by the Department of Health to work on an interdepartmental basis to review the 2005 report.

80. In 2011 the Minister for Health sent a memorandum to Government proposing a tax on sugar sweetened drinks. In 2012, the Department of Health commissioned a Health Impact Assessment (HIA) under the aegis of the Institute of Public Health. The resulting HIA formed the basis of the Department of Health's SSD tax proposal before Budget 2013. The Minister for Health wrote to the Minister for Finance before Budget 2016 advocating a levy on sugar sweetened drinks. In addition, officials from the Department of Finance included an examination of a tax on sugar sweetened drinks in the General Excise Duties paper in both 2014 and 2015.

81. The prevalence of obesity and overweight has been climbing across the developed world as result of sedentary lifestyles combined with excess calorific intakes. The OECD has indicated that while fewer than one in ten persons were obese in 1980, this rate has doubled or tripled in most OECD member states.

82. The Department of Health proposes that the sugar-sweetened drinks tax should apply to water-based and juice-based drinks which have an added sugar content of 5grams/100ml and above. By explicitly specifying added sugar, the proposal excludes pure fruit juices with sugar content of over 5grams/100ml as the sugar is naturally occurring. The proposal also excludes soft drinks, energy drinks and sports drinks that have a sugar content lower than 5grams/100ml, examples of which would be diet drinks etc. Finally, the proposal excludes all dairy-based sugar-sweetened drinks with both naturally occurring sugar and with added sugar, irrespective of the level their sugar content.

83. The Department of Health's key rationale is the reduction of consumption of added-sugar in drinks. The focus on drinks over foods is because (i) of the poor satiating effect of drinks as opposed to sugary foods, (ii) they have no nutritional value and (iii) practical implementation issues. The proposal seeks to reduce consumption of added sugar in drinks because of the scientifically established link to obesity and related diseases.

84. The proposal's focus on added-sugar as opposed to naturally occurring sugar reflects the policy goal of encouraging reformulation of products by the drinks industry. The rationale is that producers have control over and scope to reduce added sugar, where they do not have control over naturally occurring sugar in their products, such as the natural sugars in pure orange juice.

85. The exclusion of dairy-based products with high levels of added sugar is justified on the basis that dairy drinks occupy an entirely distinct part of the healthy eating guidelines and the food pyramid as opposed to water-based sugar sweetened drinks. Dairy products are a recommended part of children's diets, fulfilling a specific nutritional role. Dairy products are not seen as a substitution to high sugar water-based drinks as they are consumed in a distinctive way to soft drinks, which are often consumed to quench thirst, cool down etc. The nutritional value and make-up provided by dairy-based drinks make them an entirely different proposition in terms of public health policy formation to soft drinks, and so it is deemed inappropriate to address concerns relating to sugar in dairy products using the same public policy as proposed for soft drinks. It is low sugar water-based soft drinks that are the substitution for high-sugar soft drinks in terms of the position and role soft-drinks have in diets and on the food pyramid.

86. The Department of Health rationale for the SSD tax as proposed can be summarised as seeking to reduce consumption of added sugar in diets, encourage reformulation of drinks products, and contribute to addressing obesity and related diseases. The Dept. of Health has also cited dental health as a rationale for their proposal. The proposal is designed to reduce the added sugar-content of soft drinks, fruit juices and energy drinks, and reduce consumption of such drinks.

Stakeholder Opinion

87. Stakeholders who have called for a SSD tax include the Irish Heart Foundation, Social Justice Ireland, the Irish Medical Organisation, the Royal College of Physicians Ireland, the Irish Congress of Trade Unions and the HRB Centre for Health and Diet Research.

88. The soft drinks industry and retailers of soft drinks have been publicly critical of the proposal. IBEC, Food and Drink Industry Ireland, the Restaurant Association of Ireland and the National Federation of Retail Newsagents Ireland have all questioned the proposed tax. They argue the tax will be ineffective at tackling obesity, will unfairly target one sugar product over others, ignores the efforts of the soft drinks industry to reformulate their products, will damage industry and jobs, and is regressive in terms of affecting lower income consumers more than higher-income consumers.

Potential EU and State Aid Implications

89. The proposed tax on sugar-sweetened drinks would operate like an excise, however excises on sugar-sweetened drinks are not currently regulated by the European Union. Accordingly, in the absence of harmonisation, Member States are free to introduce internal taxes subject to compliance with the EU Treaties and *acquis*. Any new tax is subject to compliance with Article 110 of the TFEU, which prohibits internal discriminatory taxation which has the effect of imposing taxes on products from other Member States in such a way as to provide indirect protection to similar domestic products. In addition, the prohibition of Aids granted by States outlined in Articles 107 and 109 TFEU also applies to any new tax applied. The European Commission, through the Directorate-General for Competition, has increasingly used its powers under Article 108 TFEU to decide that Member States should abolish or modify certain taxes.

90. When designing a new excise, attention must be given to state aid issues. Any tax must be designed in a way that ensures Ireland is not providing a state aid to a particular company or industry, and that the design of any tax does not directly or indirectly protect domestic industry or companies, or provide an unfair advantage to domestic industry. These rules are engaged where products are substitutes for one another, and one substitutable product is given preferential treatment by the state over another through a measure such as tax on competitors etc. The issue of whether milk-based sugar-sweetened drinks, and fruit drinks with natural sugar, are substitutes for water based sugar-sweetened drinks may engage state aid issues, should the former categories be excluded from the scope of the tax.

91. In the area of sugar products taxation, informal discussions between the European Commission and Finland led to the repeal of the tax on sweets in Finland from 2017. A state aid complaint was made in Finland by the Finnish Food and Drinks Federation on the basis that it applied to certain products and categories of foods but did not apply to similar products and categories. (Examples included the tax applying to chocolate bars, but not cereal based chocolate bars, ice-cream being subject to the

tax, but frozen-layer cakes being exempt etc). While the proposed SSD tax in Ireland is different to the Finnish sugar tax, it is critical that Ireland designs a tax free of state aid. This will be necessary from the point of view of maintaining the sustainability of the tax and fair competition.

United Kingdom Proposal

92. The United Kingdom government announced a 'soft drinks industry levy' in the March 2016 budget. The levy is a tax on sugar-sweetened drinks to be implemented from April 2018 onwards, after a period of consultation with stakeholders. It will apply to sugar-sweetened drinks only, not foods. Small producers, pure-fruit juices and milk-based juices will be exempted.

93. Small producers are exempt on the basis of a universal relief for all producers below a certain level, ie that the tax will not apply until producers reach a certain threshold of production, and therefore this applies equally to the large drinks companies and very small producers. It is assumed that the rationale for the exemption is that it would be too difficult and not worth collecting the tax in very small amounts and that compliance would be very onerous for very small producers.

94. A lower rate will apply to drinks with a sugar content of 5-8 grams per 100ml, and a higher rate for drinks with over 8 grams per 100ml. Drinks such as Coca Cola currently have a sugar content of around 10.6 grams per 100ml, and so the aim of the two band system is that drinks companies will reformulate their ingredients in order to qualify for the 5-8 grams lower rate.

95. The intention is that concentrated drinks should be taxed at the rate that would apply to their intended diluted use.

96. While the monetary rates have not been announced as of yet, Treasury predicts that the tax will generate £520 million in its first year, and then that revenue will fall significantly thereafter. The independent Office for Budgetary Responsibility has used this figure to estimate implied rates of the tax, taking into account the expected reduction in demand. The OBR estimates that the tax will be levied at 18p lower rate and 24p higher rate per litre. This would amount to 8p (11.7%) increase on a 68p can of Coke, 24p on a £1.50 1litre bottle of Lucozade (16%) and an additional 42p on a family sized bottle of coke.

97. From an Irish perspective, the imposition of a sugar-sweetened drinks tax in the UK removes concerns that an Irish tax would encourage cross-border shopping in Northern Ireland, provided that the taxes are set at similar levels. In particular, the

emphasis on product reformulation in the UK should also be considered in the design of an Irish SSD tax, in terms of whether there will be multiple rates, given that the same suppliers provide products for the UK and Irish markets.

Sugar-Sweetened Drinks Taxes in Other States

98. France, Hungary, Finland and Belgium all impose volumetric taxes on SSD. A volumetric tax is imposed as a specific amount per litre of product, as opposed to an *ad valorem* rate imposed on the final retail price of product.

99. France has imposed its levy on drinks containing added sugar or sweeteners, energy drinks and diet drinks. Finland imposed levies on sugar sweetened drinks, sweets and ice creams, and a lower tax on sugar-free drinks. However, after a state aid complaint was made to the European Commission, Finland has decided to repeal the excise duty on sweets and ice-cream from 2017, but retain the excise duty on soft drinks. Hungary has imposed a range of levies on, *inter alia*, sugar sweetened drinks, syrups, added sugar and salty snacks. Denmark briefly imposed a tax on products contained more than 2.3% of saturated fats but repealed it after little more than a year of operation, citing concerns relating to cross-border shopping and the significant compliance costs imposed on food producers, many of whom were small and medium-sized enterprises. Belgium's *ad valorem* tax applies at a rate of 0.03c per litre, to soft drinks included diet and sugar-free drinks.

100. While Denmark, Norway, and Finland have historically imposed taxes on sweets and soft drinks, the concept of food taxes designed to reduce consumption of the taxable products and encourage substitution towards less harmful products, or reformulation of products by manufacturers, is a relatively new development, spurred by raising obesity and fiscal consolidations efforts. As part of the Mexican Budget 2014, the Mexican Government imposed a volumetric tax on sugar sweetened drinks and a sales tax on high energy foods. Numerous US cities have introduced soda taxes.

Tax Design and Administration

101. The Revenue Commissioners advise that, as in any new tax, key practical requirements for the introduction of a sugar-sweetened drinks tax include clear identification of the product to be taxed, the point at which the tax becomes liable and the person liable to pay the tax. In addition, the tax should impose the minimum administrative burden necessary on compliant taxpayers and be designed to enable Revenue to collect it efficiently, fairly and effectively.

102. When deciding on the type and range of products to be taxed, it is imperative that the products selected for taxation are readily and objectively identifiable by means such as visible inspection, industry categorisation and information on the label.

103. The existing legal requirements regarding food production, ingredients, labelling and identification should be borne in mind when deciding on the scope of the tax as these are an important source of the type of information which would be required to effectively and efficiently administer a tax on sugar sweetened drinks. Similar considerations should apply in decisions on exempting certain products (e.g. medicinal products).

104. Where the source (natural or added), or quantity, of sugar present in a drink determine its liability to tax, this information should be discernible and objectively verifiable to taxpayers and Revenue. For example, if the tax applies to drinks containing added sugars, but not naturally occurring sugars, difficulties in administering the tax will arise where the added sugars in a product cannot be immediately and objectively distinguished from naturally occurring sugars.

105. It would be administratively efficient to design an SSD tax on CN codes.[1] However, there are certain products in both 2202 (diet drinks) and 2009 (pure fruit juices) which may not meet the health rationale of the SSD tax. Accordingly, it might be necessary to design a tax outside of the CN code structure.

106. Concentrates and cordials, which may be bought by consumers to be diluted with water at home in accordance with the Company's recommended dilution rates, or which may be used by restaurants and other establishments to assemble drinks products on site through dilution, present issues to a volumetric SSD tax. The solution would be to charge suppliers on the basis of what their concentrated product will ultimately be consumed at post-dilution. It is noted that this may present a compliance issue, as it requires suppliers to state what the intended dilution level of their product will be. However this issue may be resolved through engagement between Revenue and industry suppliers.

107. A volumetric rate imposed at a specific amount per hectolitre is the tax structure most likely to deliver on the PfPG goals of raising revenues while tackling obesity. A volumetric tax is easier to impose and administer, and has a greater price impact on multipacks, large volume SSD bottles and cheaper 'own-brand' SSD products than more expensive branded products. This would make it more effective from a public health perspective than an ad valorem tax, which would act as less of a deterrent to purchase multi-packs, special deals etc. As such, the SSD would function much like an

[1] Combined Nomenclature (CN) codes are categories defined by the EU, used by customs and tax authorities to identify products, and manufacturers, processors and importers must declare what CN code their products fall under.

excise, or indeed much as the old table waters tax operated, with a specific sum applied per hectolitre of SSD.

108. Most soft drinks and energy drinks have a sugar content of circa 10-11 grams of sugar per 100ml. Whole milk has a sugar content of 4-5 grams of sugar per 100 ml. For the purpose of the SSD tax, it may be worth considering that the minimum level at which a SSD could be levied would be from 5 grams per 100 ml and above.

109. To minimise the compliance burden on taxpayers and for administrative efficiency, and in common with other excises, liability to pay the tax should fall at the earliest possible point in the distribution chain. Under this approach, the tax will be collected from a limited number of traders who are manufacturers and importers of sugar-sweetened drinks, thereby reducing tax administration and compliance costs.

110. A significant price differential is a key factor in increasing the risk of untaxed supply of sugar sweetened drinks from Northern Ireland and elsewhere. This would have significantly negative effects on legitimate and compliant traders, particularly in border regions. Revenue recommends that, to reduce the risk of non-compliance, the introduction of the tax in Ireland should coincide with the introduction of a similar tax in the UK and that the rate of tax be set at a level similar to the UK rates, taking account of exchange rates. In this regard it should be noted that the UK are providing for a two year lead in time, with the soft drinks industry levy coming into effect from April 2018.

111. While EU law permits Member States to levy taxes on products other than excise goods, such taxes must not give rise to formalities connected with the crossing of frontiers and the tax must not impede the freedom to supply goods from other member states under competition rules. This means that sugar sweetened drinks cannot be subject to intra-EU movement controls. In addition, the tax must be designed to be applied equally across all products consumed in the State, including those brought in from other member states.

112. As with any new tax, a sufficient lead in time will be necessary to allow Revenue to put in place the administrative systems for handling the tax, including the requisite IT systems to enable on-line tax declarations and returns. In addition, sufficient time will also be required to allow taxpayers to prepare for the introduction of the tax, including putting in place the necessary processes and arrangements to account for and pay the tax.

113. The two-year lead in period designated for the tax in the UK, and the simplicity of the taxes introduced in other European state's as outlined earlier, demonstrates that there are significant administrative and implementation issues to be addressed in advance of introducing an SSD tax in Ireland.

Options

114. Research into the soft drink industry in Ireland finds that there was 685.5 million litres of soft drinks sold in Ireland in 2014. This includes 161.8m litres of bottled water, 319.6m litres of carbonates, 39 million litres of concentrates, 122m litres of juices and 42m litres of sports and energy drinks.

115. Clearly, all of the above drinks would not be subject to the proposed sugar tax, as those categories include bottled water, carbonate drinks which may have a sugar content of less than 5 grams/100ml, and pure fruit juices. These would all be excluded from the tax under the Dept. of Health proposal.

116. Data around the market shares of the most popular soft drinks sold in Ireland show that a full-sugar major brand had 13.4% market share in Ireland in 2014, while diet offering of that major brand had 5.5% market share. It is not possible to judge from this list the exact percentage of sugar-sweetened drinks of the overall total of 685.5 million litres sold off-trade. However using this data, it is estimated that roughly 60% of the 685.5m litres of soft drinks sold off trade in Ireland are sugar-sweetened. This is an imperfect approximation, but allows us to make a speculative approximation of potential revenue yield.

117. 60% of the 685.5 million litres sold off trade is 411.3 million litres. On the basis of an estimated 411.3 million litres of sugar-sweetened drinks sold off-trade in Ireland, revenue yield might be as follows;

Rate per hl	€2.46	€4.93	€7.39	€9.85	€12.32	€24.64	€36.96	€49.27
Increase 330ml can	1c	2c	3c	4c	5c	10c	15c	20c
Yield	€10.1m	€20.3m	€30.4m	€40.5m	€50.7m	€101.3m	€152.0m	€202.6m

118. It should be noted that the above yield projection also doesn't take into account that different rates may apply to drinks depending on the level of sugar content, as it is not currently possible to determine that level of detail within the soft drinks market. In additional to the 685m litres of soft drink sold off-trade in Ireland in 2014, there was also 81m litres sold on-trade. A proportion of this 81m which meets the added sugar criteria would also be subject to the tax, and therefore increase the projected yields outlined above.

APPENDIX I:

Specific, Ad Valorem and Minimum Excise Duty Rates per 1,000 Cigarettes*

Sorted by Weighted Average Price (highest to lowest)*

Member State	WAP/ 1000	Specific Excise / 1000	Specific Excise as a % of Total Tax (including VAT)	Ad valorem as a % of WAP	Minimum Excise as a % of WAP	Total excise duty***	Total tax as % of WAP
Ireland	€484.00	€271.96	66.82%	9.20%	63.56%	€316.49	84.09%
UK	€472.86	€240.87	60.57%	16.50%	67.44%	€318.89	84.10%
France	€337.47	€48.75	17.88%	49.70%	64.15%	€216.47	80.82%
Netherlands	€296.83	€178.28	76.50%	1.09%	61.16%	€181.53	78.51%
Sweden	€279.58	€159.99	73.15%	1.00%	58.23%	€163.86	78.22%
Belgium	€275.74	€39.52	18.49%	45.84%	60.17%	€165.92	77.53%
Denmark	€274.43	€158.86	73.38%	1.00%	58.89%	€161.60	78.89%
Finland	€273.35	€37.50	16.13%	52.00%	65.72%	**€188.50**	85.07%
Germany	€266.98	€98.20	49.40%	21.69%	58.47%	**€157.10**	74.44%
Malta	€245.91	€100.00	50.25%	25.00%	65.67%	€161.48	80.92%
Italy	€233.00	€17.88	10.00%	51.03%	58.70%	€136.77	76.73%
Spain	€222.00	€24.10	13.95%	51.00%	61.68%	€137.32	78.82%
Luxembourg	€218.05	€18.39	12.11%	46.65%	55.08%	€120.11	69.61%
Austria	€216.50	€45.00	26.83%	40.00%	60.79%	€131.60	77.46%
Cyprus	€210.50	€55.00	34.33%	34.00%	60.13%	€126.57	76.09%
Portugal	€206.68	€88.20	54.61%	17.00%	62.09%	**€127.97**	78.08%
Greece	€185.40	€82.50	53.49%	20.00%	64.50%	€119.58	83.20%
Slovenia	€175.50	€68.83	50.00%	21.18%	60.40%	€106.00	78.43%
Hungary	€169.14	€50.19	39.08%	25.00%	54.67%	€92.48	75.93%
Romania	€157.45	€75.49	60.99%	14.00%	61.95%	€97.54	78.61%
Poland	€156.42	€48.70	38.45%	31.41%	62.54%	€97.83	81.24%

Estonia	€153.50	€46.50	37.42%	34.00%	64.29%	€98.69	80.96%
Slovakia	€153.17	€59.50	49.98%	23.00%	62.64%	€95.95	79.30%
Croatia	€149.82	€30.10	25.73%	38.00%	58.09%	€87.04	78.09%
Czech Republic	€147.46	€51.15	43.88%	27.00%	61.69%	**€92.74**	79.05%
Latvia	€142.83	€54.20	47.26%	25.00%	62.95%	€89.91	80.30%
Lithuania	€130.00	€48.08	46.61%	25.00%	61.98%	€80.58	79.34%
Bulgaria	€121.18	€35.79	35.07%	38.00%	67.53%	**€82.32**	84.20%

*The information contained in this table is based on information provided by each EU Member State to the European Commission and published in the *"EU Excise Duty Tables*, *Ref 1045, January 2016, Rev 1".* There may be some variations within the figures provided due to rounding or particular national means of calculating excise duty not evident from these tables.

**UK exchange rate 0.7867 of 12 May 2016.

*** MS highlighted in bold have minimum excise duty which is equal to or higher than the standard rates of excise duty based on WAP.

APPENDIX II

Alcohol Products Tax incidence by alcohol product in EU Member States – July 2015

Beer € per HL per degree of alcohol of finished product		Wine (Still) € per hectolitre of product		Wine (Sparkling) € per hectolitre of product		Spirits € per hectolitre of pure alcohol	
FINLAND	32.05	**IRELAND**	**424.84**	**IRELAND**	**849.7**	SWEDEN	5,455.55
UK*	24.19	UK*	359.97	UK*	461.1	FINLAND	4,555.00
IRELAND	**22.55**	FINLAND	339	FINLAND	339	**IRELAND**	**4,257.00**
SWEDEN	20.69	SWEDEN	268.47	SWEDEN	268.5	UK*	3,643.06
SLOVENIA	12.1	MALTA	205	BELGIUM	256.3	BELGIUM	2,992.79
ESTONIA	8.3	DENMARK	155.62	NETHERLANDS	254.4	GREECE	2,450.00
ITALY	7.6	ESTONIA	111.98	MALTA	205	ESTONIA	2,172.00
DENMARK	7.51	NETHERLANDS	88.36	DENMARK	200.5	DENMARK	2,010.59
FRANCE	7.41	BELGIUM	74.9	GERMANY	136	FRANCE	1,737.56
GREECE	6.5	LATVIA	74	AUSTRIA	100	NETHERLANDS	1,686.00
CYPRUS	6	LITHUANIA	72.12	ESTONIA	97.37	LATVIA	1,400.00
CROATIA	5.24	POLAND	37.21	CZECH REP.	86.11	MALTA	1,360.00
HUNGARY	5.18	GREECE	20	SLOVAK REP.	79.65	POLAND	1,343.41
BELGIUM	5.01	FRANCE	3.77	LATVIA	74	LITHUANIA	1,320.67
AUSTRIA	5	BULGARIA	0	LITHUANIA	72.12	SLOVENIA	1,320.00
MALTA	4.83	CZECH REP.	0	HUNGARY	52.62	GERMANY	1,303.00
POLAND	4.58	GERMANY	0	POLAND	37.21	PORTUGAL	1,289.27
LATVIA	4.2	SPAIN	0	GREECE	20	AUSTRIA	1,200.00
PORTUGAL	3.88	CROATIA	0	ROMANIA	10.73	SLOVAK REP.	1,080.00
SLOVAK REP.	3.59	ITALY	0	FRANCE	9.33	HUNGARY	1,065.81
NETHERLANDS	3.53	CYPRUS	0	BULGARIA	0	CZECH REP.	1,048.84
LITHUANIA	3.11	LUXEMBOURG	0	SPAIN	0	LUXEMBOURG	1,041.15
SPAIN	2.99	HUNGARY	0	CROATIA	0	ITALY	1,035.52
CZECH REP.	2.94	AUSTRIA	0	ITALY	0	CYPRUS	956.82
LUXEMBOURG	1.98	PORTUGAL	0	CYPRUS	0	SPAIN	913.28
GERMANY	1.97	ROMANIA	0	LUXEMBOURG	0	ROMANIA	748.88
BULGARIA	1.92	SLOVENIA	0	PORTUGAL	0	CROATIA	693.72
ROMANIA	1.87	SLOVAK REP.	0	SLOVENIA	0	BULGARIA	562.43
EU Average	**7.74**	**EU Average**	**79.83**	**EU Average**	**128.91**	**EU Average**	**1,808.66**
EU Minimum	**1.87**	**EU Minimum**	**0**	**EU Minimum**	**0**	**EU Minimum**	**550**

*Based on an EUR/GBP exchange rate of 0. 75925

APPENDIX III

Cross-Border Price Comparisons – May 2016

Products	Price in this State (€)	Price in N. Irl (€)	Difference	Total Tax/Duty in this State (€)	Total Tax/Duty N. Irl (€)	Difference Total Tax/Duty (€)
Alcohols						
Stout (500ml can)	2.12	2.12	0	0.87	0.84	0.03
Lager (500ml can)	2.05	1.88	0.17	0.87	0.87	0
Lager (330ml bottle)	1.66	1.27	0.39	0.63	0.54	0.30
Bottle of Vodka	20.00	16.64	3.36	14.91	12.00	2.91
Bottle of Whiskey	27.86	24.52	3.34	17.13	13.93	3.20
Bottle of Wine (Chardonnay)	9.85	9.97	-0.12	5.03	4.31	0.72
Bottle of Wine (Sauv. Blanc)	9.50	8.87	0.63	4.96	4.13	0.84
Sparkling Wine	18.17	13.77	4.40	9.77	5.69	4.08

*Two Different Brands

**EUR/GBP exchange rate on survey date was 0.7867.