

## **European Commission refers Portugal to the ECJ over excise duty rules for cigarettes**

(July 10, 2014)

Today the European Commission announced it decided to refer Portugal to the European Court of Justice for failing to change its excise duty rules related to the marketing of cigarettes. In Portugal, a time limit for the sale of cigarettes is set down, linked to the fiscal stamp on the packaging. The design of the tax markings in Portugal changes regularly and a new tax rate applies with the new marking. Cigarettes cannot be sold any later than 3 months after the end of the year that they are released for consumption.

Under EU law (Directive 2008/118/EC), excise duty on tobacco products must be charged at the rate applicable on the date on which they are released for consumption. According to the European Commission there is no provision under EU legislation which allows Member States to add supplementary duty to this release-date tax rate, or to limit the distribution of tobacco product for fiscal reasons.

The European Commission seems to be of the opinion, that by applying the sales-and-marketing prohibition, Portugal implies that all cigarettes bearing the old tax markings and unsold at the end of the transitional period were released in excessive quantity. The European Commission seems to be of the opinion that such a presumption is inadmissible under ECJ case law.

[Click here](#) to be forwarded to the press release issued by the European Commission in this respect.

[http://europa.eu/rapid/press-release\\_IP-14-809\\_en.htm](http://europa.eu/rapid/press-release_IP-14-809_en.htm)