

# 立法會 *Legislative Council*

LC Paper No. LS63/08-09

**Paper for the House Committee Meeting  
on 15 May 2009**

## **Legal Service Division Report on Dutiable Commodities (Amendment) Bill 2009**

### **I. SUMMARY**

- 1. Objects of the Bill** To amend the Dutiable Commodities Ordinance (Cap. 109) to increase the rates of duty on various types of tobacco to give effect to the proposal in the 2009-2010 Budget speech.
- 2. Comments** The Bill seeks to -
  - (a) amend Part II of Schedule 1 to the Dutiable Commodities Ordinance to increase the rates of duty on various types of tobacco by 50%; and
  - (b) bring the Bill into operation with retrospective effect from 11 a.m. on 25 February 2009 as the Public Revenue Protection Order 2009, under which the increase has already taken effect, took effect from that time.

The policy reasons given by the Administration are, among other things, to strengthen tobacco control efforts to protect public health and to discourage smoking.
- 3. Public Consultation** According to the LegCo Brief, the public have been consulted during the Budget consultation process.
- 4. Consultation with LegCo** No Panel has been consulted. However, Members have been consulted during the Budget consultation process.
- 5. Conclusion** No difficulties relating to the legal and drafting aspects have been identified. Subject to Members' view, the Bill is ready for resumption of the Second Reading debate.

## **II. REPORT**

### **Objects of the Bill**

To amend the Dutiable Commodities Ordinance (Cap. 109) to increase the rates of duty on various types of tobacco to give effect to the proposal in the 2009-2010 Budget speech.

### **LegCo Brief**

2. Members may refer to the LegCo Brief dated 29 April 2009 issued by the Financial Services and the Treasury Bureau (File Ref: FIN CR 3/7/2201/08) for further information.

### **Date of First Reading**

3. 13 May 2009.

### **Comments**

4. The Dutiable Commodities (Amendment) Bill 2009 (the Bill) proposes to amend Part II of Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) to increase the rates of duty on four types of tobacco by 50%.<sup>1</sup>

5. According to the LegCo Brief, tobacco duty was last increased in the year 2001-2002. Statistics show that price is a key factor influencing tobacco consumption and smoking prevalence. Recently, smokers are smoking more cigarettes. This is reflected in the increase of duty-paid cigarettes from around 3.5 billion sticks in 2007 to about 3.8 billion sticks in 2008. According to the Administration, the proposed increase of tobacco duty is to strengthen tobacco control efforts to protect public health and in response to the calls from the community for further increase of tobacco duty to discourage smoking. The proposed increase can further reduce the long-term disease burden for Hong Kong.

6. At paragraph 108 of the Budget speech delivered on 25 February 2009, the Financial Secretary proposed to increase the rates of duty of various tobacco for public health reasons. On the same day, the Chief Executive, after consultation with the Executive Council, made the Public Revenue Protection Order 2009 (L.N. 27 of

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<sup>1</sup> The new rates of duty are: (a) \$1,206 for each 1,000 cigarettes; (b) \$1,553 for each kilogramme of cigars; (c) \$296 for each kilogramme of Chinese prepared tobacco; and (d) \$1,461 for each kilogramme of all other manufactured tobacco except tobacco intended for the manufacture of cigarettes.

2009) under section 2 of the Public Revenue Protection Ordinance (Cap. 120) to give immediate effect to the proposed increase of tobacco duty. The Schedule to L.N. 27 contains a proposed bill to amend the Dutiable Commodities Ordinance (Cap. 109), which is identical to the Bill (please refer to LS44/08-09 for our report on L.N. 27).

7. L.N. 27 is a temporary measure. Under section 5 of the Public Revenue Protection Ordinance (Cap. 120), L.N. 27 shall expire and cease to be in force –

- (a) upon the notification in the Gazette of the rejection by the Legislative Council of the Bill; or
- (b) upon the notification in the Gazette of the withdrawal of the Bill; or
- (c) upon the Bill, with or without modification, becoming law in the ordinary manner; or
- (d) upon the expiration of 4 months (i.e. 25 June 2009) from the day on which L.N. 27 came into force,

whichever event first happens.

8. At the House Committee on 6 March 2009, no Member has requested the setting up of a subcommittee to study L.N. 27.

9. At the LegCo meeting on 2 April 2009, a motion was moved by a Member to repeal L.N. 27. The Member considered that both alcoholic beverages and tobacco products were harmful to the society. The policy of increasing rates of duty on tobacco products on the one hand and the policy of reducing the rates of duty on alcoholic beverages on the other were illogical. Further, the Member considered that the increase of the rates of duty of tobacco products would promote the sale of dutiable cigarettes and would affect the income of retailers of duty-paid cigarettes. In reply, the Administration explained that the increase in rates of duty was to encourage the public to quit smoking. The effects of tobacco products and alcoholic beverages on health were also different. The motion was eventually negated.

### **Commencement**

10. Clause 2 of the Bill provides that the Bill is deemed to have come into operation at 11 a.m. on 25 February 2009. This brings the commencement of the Bill retrospectively to the commencement of L.N. 27.

### **Public Consultation**

11. According to the LegCo Brief, the public has been consulted during the Budget consultation process.

### **Consultation with LegCo**

12. No Panel has been consulted. However, Members have been consulted during the Budget consultation process.

### **Conclusion**

13. No difficulties relating to the legal and drafting aspects have been identified. Subject to Members' view, the Bill is ready for resumption of the Second Reading debate.

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13 May 2009