

立法會
Legislative Council

LC Paper No. CB(1)1711/09-10(02)

Ref: CB1/SS/7/09

**Subcommittee on Dutiable Commodities
(Exempted Quantities) (Amendment) Notice 2010**

Meeting on 27 April 2010

Background brief

Purpose

This paper provides background information on the Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010 and summarizes previous discussions on legislative proposals relating to tobacco duty.

Revenue (No. 2) Bill 2002

2. To give effect to the revenue proposals announced by the Financial Secretary in the 2002-2003 Budget, the Administration introduced the Revenue (No. 2) Bill 2002 into the Legislative Council (the Council) on 17 April 2002. The Bill sought to, inter alia, lower the quantity of duty-free tobacco that local residents may bring back on return to Hong Kong for his own use from 100 cigarettes or 25 cigars or 125 grammes of other manufactured tobacco to 60 cigarettes or 15 cigars or 75 grammes of other manufactured tobacco. A Bills Committee was formed to study the Bill. The Bills Committee expressed support for the proposals in the Bill as they had little bearing on the basic livelihood of the community and would not hinder economy recovery. The Bill was passed at the Council meeting on 26 June 2002.

Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2007

3. As the duty-free quantities of tobacco that local residents were allowed to bring in when entering Hong Kong were not the same as for visitors, the Financial Secretary proposed to align them in the 2007-2008 Budget. On 7 March 2007, the Administration introduced the Dutiable Commodities (Exemption Quantities) (Amendment) Notice 2007 which sought to, inter alia, reduce the quantity of duty-free tobacco which a visitor aged 18 or above might bring into Hong Kong from 200 cigarettes or 50 cigars or 250

grammes of other manufactured tobacco to 60 cigarettes or 15 cigars or 75 grammes of other manufactured tobacco. The revised duty-free concessions took effect from 1 April 2007.

Dutiable Commodities (Amendment) Bill 2009

4. In his 2009-2010 Budget Speech delivered on 25 February 2009, the Financial Secretary announced to increase tobacco duty rates by 50% with immediate effect¹ for public health reasons. The Dutiable Commodities (Amendment) Bill 2009 was introduced into the Council on 13 May 2009. According to the Administration, the increase in tobacco duty was made to discourage smoking and strengthen tobacco control efforts to protect public health. It was also aimed at reducing the long-term disease burden for Hong Kong. A Bills Committee was formed to scrutinize the Bill.

5. During the scrutiny of the Bill, Hon Albert CHAN, a member of the Bills Committee, expressed concern that the tobacco duty rate increase might lead to upsurge in the sale of duty-free cigarettes, which might offset the intended effect of decreased tobacco consumption and smoking. The Administration advised that the monthly average sales of duty-free cigarettes for the two months preceding and after the tobacco duty increase (i.e. January/February and March/April 2009) were 157.57 million and 155.62 million sticks respectively which were broadly similar.

6. The Bill was passed at the Council meeting on 17 June 2009.

Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010

7. The Financial Secretary, in his 2010-2011 Budget, proposed to abolish duty-free concessions on tobacco products for incoming passengers to Hong Kong as a means to further protect public health. To facilitate law enforcement, small amounts of tobacco products for own consumption would be exempted.

8. To implement the budget proposal, the Administration introduced the Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2010. Under the proposal, all incoming passengers may carry up to 19 cigarettes, or one stick or 25 grammes of cigar (to cater for the varieties of packaging of cigars in the retail market, incoming passengers who have with them more than one cigar will be subject to a ceiling of 25 grammes), or 25 grammes of other manufactured tobacco products. Incoming passengers will be entitled to only any one kind of tobacco product, and they must make

¹ The immediate effect to increase the duty rates on tobacco was made under the Public Revenue Protection Order 2009 which came into force at 11:00 am on 25 February 2009 and lapsed on 25 June 2009.

declarations and pay the relevant duty in carrying tobacco products in excess of the specified limit. The Administration also proposes to remove the 24-hour rule on time spent outside Hong Kong for entitlement of the duty-free concessions on tobacco products that currently applies to Hong Kong identity card holders. This is to avoid frequent travellers between Hong Kong and the Mainland who may have in their possession small amounts of tobacco products for own consumption being caught for not making the necessary declaration in accordance with the law.

9. In examining the Estimates of Expenditure 2010-2011, Hon CHAN Kin-por and Hon Vincent FANG asked written questions about the enforcement against abuse of the duty-free concessions and smuggling activities upon enactment of the Amendment Notice. In its written replies, the Administration advises that the Customs and Excise Department (C&ED) would suitably deploy staff to strengthen examination of passengers at the control points to tackle the problem of smuggling of duty-free cigarettes by "courier" passengers, and step up surveillance at street level to combat illicit cigarette activities. C&ED would also strengthen cooperation with the Mainland to combat cross-boundary cigarette smuggling activities at source and sustain raiding operations at the retail level.

10. At the House Committee meeting on 16 April 2010, Members agreed that a Subcommittee be formed to scrutinize the Notice which is to come into operation on 1 August 2010.

References

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2002

<http://www.legco.gov.hk/yr01-02/english/bc/bc07/reports/bc07cb1-822-e.pdf>

Legal Service Division Report on subsidiary legislation gazetted on 2 March 2007

<http://www.legco.gov.hk/yr06-07/english/hc/papers/hc0309ls-45-e.pdf>

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2009

<http://www.legco.gov.hk/yr08-09/english/bc/bc05/reports/bc050617cb1-1889-e.pdf>

Press release on incoming passengers to lose duty-free concessions on tobacco products dated 24 February 2010

<http://www.info.gov.hk/gia/general/201002/24/P201002240302.htm>

Administration's replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2010-2011 (P.64)

http://www.legco.gov.hk/yr09-10/english/fc/fc/w_q/fstb-tsy-e.pdf

Administration's replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2010-2011 (P.67)

http://www.legco.gov.hk/yr09-10/english/fc/fc/w_q/fstb-tsy-e.pdf

Council Business Division 1
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26 April 2010