

LEGISLATIVE COUNCIL BRIEF

Dutiable Commodities Ordinance (Chapter 109)

Dutiable Commodities (Amendment) Bill 2011

INTRODUCTION

At the meeting of the Executive Council on 23 February 2011, the Council ADVISED and the Chief Executive ORDERED that the Dutiable Commodities (Amendment) Bill 2011 (the Bill), at Annex A, should be introduced into the Legislative Council (LegCo). The Bill implements the proposal in the 2011-12 Budget to increase the duty rates on tobacco by 41.46%.

JUSTIFICATIONS

2. The Government's established policy on tobacco control is to protect public health by discouraging smoking, containing the proliferation of tobacco use and minimising the impact of passive smoking on the public. In this connection, we have been taking a progressive and multi-pronged approach to step up tobacco control through various efforts encompassing legislation, enforcement, publicity, education, promotion of smoking cessation and taxation. With the gradual strengthening of tobacco control measures (including increasing tobacco duty) since early 1980s, both the volumes of duty-paid cigarettes and smoking prevalence have been on a general trend of decline, with the former reduced from over 7 billion sticks in 1989 to 4 billion sticks in 2009 and the latter from over 23% in early 1982 to 12% in late 2009.

3. The Government last increased tobacco duty by 50% in 2009-10 to strengthen overall tobacco control progressively under our tobacco control policy, particularly to complement the series of measures on strengthening tobacco control implemented since the passage by LegCo of amendments to the Smoking (Public Health) Ordinance in 2006. These measures include significantly expanding the no-smoking areas in public places and workplaces, introducing a complete ban on all forms of tobacco advertising, tightening restrictions on the packaging and sale of cigarettes, introducing a smoking ban in indoor areas of entertainment establishments,

introducing the Fixed Penalty (Smoking Offences) Ordinance to enhance enforcement of the smoking ban, designating no-smoking areas at public transport interchanges etc. In parallel, the Government has also devoted substantial resources to stepping up publicity and public education, promoting smoking cessation and enhancing smoking cessation services.

4. The survey on smoking conducted in late 2009 revealed that the overall smoking prevalence was at similar level as those in the previous survey conducted in early 2008¹. It is not surprising that there is no significant change in the figures. According to overseas and local experience, the impact of tobacco control measures on the overall smoking prevalence can be fully appraised only after a period of time. However, a detailed analysis of the survey results shows that the percentage of young daily smokers aged 15-19 has dropped significantly by 25% from 2.4% to 1.8%, while the percentage of young daily smokers aged 20-29 has decreased substantially by 10% from 12.2% to 11.0%. Such results are consistent with the conclusion of World Health Organization's study that increasing tobacco duty can effectively reduce smoking among young people and prevent them from acquiring the smoking habit.

5. The above survey also revealed that the average daily cigarette consumption of overall smokers decreased slightly from 13.9 sticks to 13.7 sticks, while the average daily cigarette consumption of smokers with higher cigarette consumption (more than 20 sticks a day) decreased significantly from 33.9 sticks to 28.5 sticks. Besides, the demand for smoking cessation services has greatly increased since 2009. The number of requests received by the smoking cessation hotlines operated by the Department of Health (HD), the Tung Wah Group of Hospitals, the Hospital Authority (HA) and the University of Hong Kong has increased in the multiples compared with 2009 before the tobacco duty was increased. The number of people using the smoking cessation services provided by these organizations has also increased significantly. It shows that increasing tobacco duty can help reduce smoking among smokers and encourage them to quit smoking. Meanwhile, the Customs and Excise Department has been stepping up efforts to combat illicit cigarette activities. There are no signs of a worsening trend of cigarette smuggling.

6. Our experience in tobacco control over the past two decades shows that tobacco control policy requires long-term, sustained and all-out efforts to be successful. In pursuance of our policy to progressively strengthen tobacco control with a view to protecting public health, in addition to stepping up efforts on legislation, enforcement, publicity, education and promotion of smoking cessation, taking taxation

¹ Government statistics show that the smoking prevalence in end 2009 was 12%, compared with 11.8% in early 2008. The 0.2% difference is within statistical fluctuations and the figures were thus at similar level with no significant change.

measures is a necessary complement, i.e. to increase tobacco duty to help reduce smoking among smokers particularly young smokers. We will also focus our next steps in tobacco control on publicity and promotion of smoking cessation, as well as mobilization of smoking cessation services. Apart from allocating more resources for the public sector (DH and HA) to provide smoking cessation enquiry, counselling and clinic services, we will also cooperate with non-government organizations in providing smoking cessation services and smoking-related health education, as well as enhancing smoking cessation services targeting at individual groups (e.g. youth and chronic patients), in order to encourage and help smokers of any age and social strata to actively participate in smoking cessation.

7. It is proposed in the 2011-12 Budget to increase the duty on cigarette by \$0.5 per stick, i.e. an increase from \$1,206 to \$1,707 per 1 000 sticks (by 41.46%). The duty rates on other tobacco products (namely cigars, Chinese prepared tobacco, and all other manufactured tobacco except tobacco intended for the manufacture of cigarettes) will also be increased by the same percentage. On 23 February 2011, the Chief Executive, after consulting this Council, made the Public Revenue Protection (Dutiable Commodities) Order 2011 to give immediate effect to the Bill to increase the duty rates on tobacco. The Order, with a four-month temporary effect, will lapse on 23 June 2011. The Administration aims to have the relevant legislative amendments passed by then.

OTHER OPTIONS

8. We must amend the Dutiable Commodities Ordinance (Cap. 109) in order to bring this proposal into effect. There is no other option.

THE BILL

9. The main provisions of the Bill are as follows –

- (a) **Clause 2** provides that, when the Dutiable Commodities (Amendment) Bill 2011 is enacted as an Ordinance, the Ordinance is deemed to have come into operation at 11 a.m. on 23 February 2011; and
- (b) **Clause 3** amends Schedule 1 to the Dutiable Commodities Ordinance to increase the duty rates on various types of tobacco to specified rates, representing an increase by 41.46% in each case.

LEGISLATIVE TIMETABLE

10. The legislative timetable will be –

Publication in the Gazette 8 April 2011

First Reading and commencement
of Second Reading debate 13 April 2011

Resumption of Second Reading
Debate, committee stage and
Third Reading To be notified

IMPLICATIONS OF THE PROPOSAL

11. The proposal has financial, civil service and economic implications as set out in **Annex B**. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the Dutiable Commodities Ordinance (Cap. 109) and its subsidiary legislation. It is estimated that the proposal has no productivity, sustainability or environmental implications.

PUBLIC CONSULTATION

12. We have formulated the proposal after taking into account views received from legislators and other concerned parties during the Budget consultation process.

ENQUIRIES

13. In case of enquires about this Brief, please contact Miss Monica Chen, Principal Assistant Secretary for Food and Health Bureau (Health), at 3150 8978.

Food and Health Bureau

6 April 2011

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ANNEXES

Annex A Dutiable Commodities (Amendment) Bill 2011

Annex B Implications of the Proposal

Annex A

Dutiable Commodities (Amendment) Bill 2011

A BILL

To

Amend the Dutiable Commodities Ordinance to give effect to the proposal in the Budget introduced by the Government for the 2011–2012 financial year to increase the rates of duty on various types of tobacco.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Dutiable Commodities (Amendment) Ordinance 2011.

2. Commencement

This Ordinance is deemed to have come into operation at 11 a.m. on 23 February 2011.

3. Schedule 1 amended

Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) is amended, in Part II –

- (a) in paragraph 1(a), by repealing “1,206” and substituting “1,706”;
- (b) in paragraph 1(b), by repealing “1,553/kg” and substituting “2,197/kg”;
- (c) in paragraph 1(c), by repealing “296/kg” and substituting “419/kg”;
- (d) in paragraph 1(d), by repealing “1,461/kg” and substituting “2,067/kg”;

Explanatory Memorandum

The purpose of this Bill is to amend the Dutiable Commodities Ordinance (Cap. 109) to give effect to the proposal in the 2011–2012 Budget to increase the rates of duty on various types of tobacco.

Financial and Civil Service Implications

Taking into account the experience that the increase in tobacco duty will be offset by the decrease in the volumes of duty-paid cigarettes, it is estimated that the increase in tobacco duty will bring about an additional revenue of \$730 million to the Government in 2011-12. The proposal has no staffing implications. The estimate for revenue from tobacco duty is for budgetary purposes only. It does not reflect the Administration's policy intent of tobacco control and minimizing tobacco consumption.

Economic Implications

2. The proposal may lead to an increase in the retail prices of cigarettes and therefore a reduction in their consumption in Hong Kong. The resultant impact on the consumer price inflation will be minimal, due to very small weighting of cigarettes in the basket of goods and services covered by the Composite Consumer Price Index (CCPI).