

立法會
Legislative Council

LC Paper No. LS33/10-11

**Paper for the House Committee Meeting
on 4 March 2011**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 23 February 2011**

Date of tabling in LegCo : 2 March 2011

Amendment to be made by : 30 March 2011 (or 4 May 2011 if extended by resolution)

Public Revenue Protection Ordinance (Cap. 120)

Dutiable Commodities Ordinance (Cap. 109)

Public Revenue Protection (Dutiable Commodities) Order 2011 (L.N. 32)

Motor Vehicles (First Registration Tax) Ordinance (Cap. 330)

Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 (L.N. 33)

The Public Revenue Protection Order (Dutiable Commodities) Order 2011 and the Public Revenue Protection (Motor Vehicles First Registration Tax) Order 2011 (the Orders) were made by the Chief Executive under section 2 of the Public Revenue Protection Ordinance (Cap. 120) (the Ordinance) after consultation with the Executive Council to give immediate effect to the proposals in paragraphs 161 and 166 of the 2011-12 Budget Speech delivered by the Financial Secretary on 23 February 2011.

Background

2. Section 2 of the Ordinance provides, among other things, that if the Chief Executive approves of the introduction into the Legislative Council (LegCo) of a bill whereby, if the bill were to become law any duty, tax, fee, rate, etc., would be imposed, removed or altered, the Chief Executive may make an order giving full force and effect of law to all the provisions of the bill. The Orders are made to give full force and effect to all the provisions of the bill contained in the Schedule to the Orders. The bills will be introduced into LegCo in accordance with the normal legislative procedures.

3. The Orders are temporary measures. Under section 5(2) of the Ordinance, an order made under the Ordinance shall expire and cease to be in force -

- (a) upon the notification in the Gazette of the rejection by LegCo of the bill in respect of which the order was made; or
- (b) upon the notification in the Gazette of the withdrawal of the bill or the order; or
- (c) upon the bill, with or without modification, becoming law in the ordinary manner; or
- (d) upon the expiration of 4 months from the day on which the order came into force,

whichever event first happens.

4. Under section 6 of the Ordinance, any duty paid under the order in excess of the respective duty immediately after the expiry of the order shall be repaid to the person who paid the same.

L.N. 32 and L.N. 33

5. The bill contained in the Schedule to the Order in L.N. 32 proposes to amend Part II of Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) to increase the duty on various tobacco product by 41.5% as follows-

Tobacco Products	Existing rates (\$)	Proposed rates (\$)
(a) for each 1 000 cigarettes	1,206	1,706
(b) cigars	1,553/kg	2,197/kg
(c) Chinese prepared tobacco	296/kg	419/kg
(d) all other manufactured tobacco except tobacco intended for the manufacture of cigarettes	1,461/kg	2,067/kg

6. The bill contained in the Schedule to the Order in L.N. 33 proposes to amend item 1 of the Schedule to the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330) to increase the first registration tax for private cars by about 15% as follows –

Tax Bands	Existing rates	Proposed rates
(a) On the first \$150,000 of taxable value*	35%	40%
(b) On the next \$150,000	65%	75%
(c) On the next \$200,000	85%	100%
(d) On the remainder (i.e. on taxable value over \$500,000)	100%	115%

7. The Orders came into force at 11 a.m. on 23 February 2011.

Rating Ordinance (Cap. 116)
Rating (Exemption) Order 2010 (L.N. 34)

8. The Rating (Exemption) Order 2011 was made by the Chief Executive in Council under section 36(2) of the Rating Ordinance (Cap. 116) to give effect to the rates concession proposed in paragraph 48(2) of the 2011-2012 Budget Speech.

9. The Order declares that all tenements are exempted from the payment of rates in respect of all quarters in the period from 1 April 2011 to 31 March 2012 wholly, if the amount of rates payable for the quarter is \$1,500 or less, or up to \$1,500 if the amount is more than \$1,500. The amount of \$1,500 is reduced pro rata if rates are payable for only part of the period.

10. The Order will come into operation on 1 April 2011.

Concluding remark

11. No difficulties in the legal and drafting aspects of the above Orders have been identified.

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* Under section 4E(2) of Cap. 330, "taxable value" shall be the aggregate of the published retail price of the motor vehicle, any optional accessories fitted or to be fitted to the vehicle within 6 months after first registration; and any warranty other than a manufacturer's warranty, etc.