

# 立法會

## *Legislative Council*

LC Paper No. LS49/10-11

### **Paper for the House Committee Meeting on 15 April 2011**

### **Legal Service Division Report on Dutiable Commodities (Amendment) Bill 2011**

#### **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 2011-2012 Budget speech.
- 2. Comments** The Bill seeks to -
  - (a) amend Part II of Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) to increase the rates of duty on various types of tobacco by about 41.5%; and
  - (b) bring the Bill into operation with retrospective effect from 11 a.m. on 23 February 2011 as the Public Revenue Protection (Dutiable Commodities) Order 2011 (the Order), under which the increase has already taken effect, took effect from that time.
- 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.
- 5. Conclusion** No difficulties relating to the legal and drafting aspects have been identified. In view of the concerns raised in the course of the scrutiny by the Subcommittee of the Order, Members may wish to consider setting up a Bills Committee to study the Bill in detail.

## 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 2011-2012 Budget speech.

### LegCo Brief Reference

2. FH CR1/4041/05 issued by the Food and Health Bureau dated 6 April 2011.

### Date of First Reading

3. 13 April 2011.

### Comments

4. The Dutiable Commodities (Amendment) Bill 2011 (the Bill) proposes to amend Part II of Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) to increase the rates of duty on tobacco by about 41.5% in the following manner -

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

5. According to the LegCo Brief, tobacco duty was last increased in the year 2009-2010. According to the Administration, the proposed increase of tobacco duty is to strengthen tobacco control efforts to help reduce smoking among smokers particularly young smokers.

6. At paragraph 161 of the Budget speech delivered on 23 February 2011, the Financial Secretary proposed to increase the rates of duty of various tobacco products for public health reasons. On the same day, the Chief Executive, after consultation with the Executive Council, made the Public Revenue Protection (Dutiable Commodities) Order 2011 (L.N. 32 of 2011) (the Order) 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 the Order contains a proposed bill to amend the Dutiable Commodities Ordinance (Cap. 109), which is identical to the Bill. Members may refer to LC Paper No. LS33/10-11 for our report on the Order.

7. The Order is a temporary measure. Under section 5(2) of the Public Revenue Protection Ordinance (Cap. 120), the Order 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 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 (i.e. 23 June 2011) from the day on which the Order came into force,

whichever event first happens.

8. A Subcommittee has been formed to study the Order. It has held three meetings with the Administration and received views from the public on the Order.

9. During the deliberations, some members of the Subcommittee supported the Order while some other members queried the justifications for tobacco duty increase and criticized the Administration for failing to seriously examine the social and economic impacts before introducing the duty increase. Members in general expressed concern about the adequacy of the current smoking cessation services and urged the Administration to deploy sufficient manpower and resources to enhance these services. Some members considered that the duty increase would only prompt smokers to switch to consuming smuggled cigarettes, making cigarettes smuggling more rampant. Some members also expressed grave concern about the impact of the proposed

duty increase on the livelihood of newspaper hawkers and urged the Administration to formulate new measures to safeguard the business of these hawkers. Some members have indicated their intention to move a motion to repeal the Order at the Council meeting on 4 May 2011.

### **Commencement**

10. Clause 2 of the Bill provides that the Bill is deemed to have come into operation at 11 a.m. on 23 February 2011. This brings the commencement of the Bill retrospectively to the commencement of the Order.

### **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.

### **Conclusion**

13. No difficulties relating to the legal and drafting aspects have been identified. In view of the concerns raised in the course of the scrutiny by the Subcommittee of the Order, Members may wish to consider setting up a Bills Committee to study the Bill in detail.

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