

立法會 *Legislative Council*

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Bills Committee on Dutiable Commodities (Amendment) Bill 2014

Background brief

Purpose

This paper provides background information on the Dutiable Commodities (Amendment) Bill 2014 ("the Bill"). It also summarizes Members' views and concerns expressed previously on the increase of tobacco duty.

Background

2. According to the Administration, tobacco dependence is a chronic disease that is responsible for causing over 6 900 deaths a year in Hong Kong and 5 400 000 deaths a year worldwide. It is also the single most important preventable risk factor responsible for main causes of death and chronic diseases, including cancers and cardiovascular diseases. The harmfulness of smoking including exposure to second-hand smoke is well-established by scientific research and well-recognized by the community both locally and internationally. The Framework Convention on Tobacco Control ("FCTC") of the World Health Organization ("WHO") represents the international efforts to address tobacco dependence as a public health epidemic. China is a signatory of and has ratified FCTC, the application of which has been extended to Hong Kong since 2006. The Government's current policy on tobacco control has full regard to the provisions of FCTC.

3. To protect public health, it is the established policy of the Government to discourage smoking, to contain the proliferation of tobacco use and to protect the public from second-hand smoke as far as possible, with a view to achieving a long term target for Hong Kong to become a smoke-free city.

To achieve this, the Administration adopts a step-by-step and multi-pronged approach comprising legislation, taxation, publicity, education, enforcement, smoking cessation, and increasing tobacco duty progressively, with a view to reducing tobacco consumption and smoking prevalence as well as to prevent the youngsters from picking up smoking. Further to the enactment of the Smoking (Public Health) (Amendment) Ordinance 2006 and the implementation of the smoking ban on 1 January 2007, the Administration has taken a series of measures in a progressive manner to strengthen tobacco control.

4. According to the Administration, WHO has made clear that increasing tobacco duties is an effective means of tobacco control. To further protect public health from the harmful effects of tobacco, the Financial Secretary ("FS") has, in his 2014-2015 Budget, proposed to increase the duty on cigarettes by \$0.2 per stick (by 11.72%). Duties on other tobacco products will also be increased by the same percentage. The increase would bring the proportion of tobacco duty to the retail price of cigarettes to about 70%, which meets the minimum level recommended by WHO.

The Public Revenue Protection (Dutiable Commodities) Order 2014

5. In order to give immediate effect to increase the duty rates on tobacco, the Chief Executive ("CE"), after consultation with the Executive Council, made the Public Revenue Protection (Dutiable Commodities) Order 2014 ("the Order") under section 2 of the Public Revenue Protection Ordinance (Cap. 120) ("PRPO") on 26 February 2014. The Order came into force at 11 a.m. on 26 February 2014. The Schedule to the Order contains a proposed bill to amend the Dutiable Commodities Ordinance (Cap. 109) which is identical to the Bill. No Subcommittee has been formed to study it.

6. The Order is a temporary measure. Under section 5(2) of PRPO, the Order shall expire and cease to be in force upon –

- (a) the notification in the Gazette of the rejection by LegCo of the Bill; or
- (b) the notification in the Gazette of the withdrawal of the Bill or the Order; or
- (c) the Bill, with or without modification, becoming law in the ordinary manner; or

- (d) the expiration of four months (i.e. 26 June 2014) from the day on which the Order came into force,

whichever event first happens.

7. Under section 6 of PRPO, any duty paid under the Order in excess of the respective duty immediately after the expiration of the Order shall be repaid to the person who paid the same.

The Bill

8. The Bill was introduced into the Legislative Council ("LegCo") on 19 March 2014. 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 11.7%; and
- (b) bring the Bill into operation with retrospective effect from 11 a.m. on 26 February 2014 as the Order took effect from that time.

A summary of the proposed rates of duty on various types of tobacco is given in **Appendix I**.

Views and concerns expressed by Members

9. In relation to FS's proposal to increase tobacco duty by 41.5% in his 2011-2012 Budget, the CE in Council made the Public Revenue Protection (Dutiable Commodities) Order 2011 on 23 February 2011 and the Dutiable Commodities (Amendment) Bill 2011 was introduced into LegCo on 13 April 2011. A Subcommittee and a Bills Committee had been formed to study the two pieces of legislation respectively. The major views and concerns raised by Members of the Subcommittee and the Bills Committee are summarized in the ensuing paragraphs.

Justifications for tobacco duty increase

10. Some Members questioned the justifications for raising the tobacco duty and criticized the Administration for failing to seriously examine the social and economic impacts before introducing the proposed duty increase.

They also opined that the duty increase could only achieve short-term effect in reducing tobacco consumption and smoking prevalence.

11. The Administration advised that it was well established internationally and empirically that tobacco price had a strong inverse correlation with tobacco consumption. Through successive tobacco duty increases, together with progressive tobacco control efforts on various fronts, cigarette consumption in Hong Kong had been on a general trend of decline and smoking prevalence had gradually declined from 23.3% in early 1982 to 12.0% in end 2009. The Administration also pointed out that Hong Kong's cigarette price and tobacco duty rate was still on the low side when compared with many other advanced economies of similar level of economic development (by per capita GDP). In the majority of these advanced economies, the proportion of tobacco duty to cigarette retail price stood mostly above 70%. In Hong Kong, the proportion of tobacco duty to retail price stood at about 62% and 69% before and after the proposed tobacco duty increase in 2011 respectively.

12. Some Members questioned the rationale behind the policy of increasing duty rates on tobacco products on the one hand and exempting the duties on wine, beer and all other alcoholic beverages on the other. They considered that such alcoholic products were no less harmful than tobacco products to the society, and the present policy allowed the rich to enjoy cheaper wines while the poor were required to pay for expensive cigarettes.

13. The Administration advised that the Government was taking actions to combat against other substance abuses, and also making efforts to strengthen public education and publicity on the risk and harmful effects of alcohol and drug abuse. There was no question of the proposed increase in tobacco duty being discriminatory or inconsistent with the Government's policy to protect public health. Each public health issue was considered and addressed on its own merit, and in the case of tobacco the case for all-out action was beyond doubt.

Smoking cessation services

14. Members noted that the Tobacco Control Office ("TCO") of the Department of Health ("DH") and the Hospital Authority ("HA") had been actively promoting smoking prevention and cessation through the provision of health talks and education programmes, cessation counselling telephone hotline, and smoking cessation services in their respective clinics. Some Members expressed concern about the effectiveness of the publicity and education efforts currently made to discourage smoking, in particular

programmes for students. Members in general were also concerned about the adequacy of the existing smoking cessation services. Some Members opined that the Administration should waive all the fees, including registration fees, for such services.

15. The Administration also pointed out that the Hong Kong Council on Smoking and Health, which received annual funding from DH, conducted publicity campaigns to encourage smokers to quit smoking and garner public support for a smoke-free Hong Kong. As regards clinical services, the Administration pointed out that DH operated five smoking cessation clinics (four were targeting civil servants and one for the public) while HA operated three full-time and 31 part-time smoking cessation clinics throughout the territory to provide smoking cessation services to the public. Under the medical fee waiver mechanisms of DH and HA, patients who were recipients of the Comprehensive Social Security Assistance ("CSSA") would have their fees for smoking cessation services waived. Those who were not CSSA recipients but had financial difficulties to pay their medical fees might apply for waivers of fees to the Medical Social Worker of the Social Welfare Department or at the Medical Social Services Units of public hospitals and clinics.

16. Members noted that the tobacco duty increase was proposed as a measure to protect public health instead of raising revenue. As such, they had expressed concern about the adequacy of the allocation of resources for smoking cessation and whether the additional tax revenue from tobacco duty will be used for smoking cessation services.

17. The Administration advised that similar to other tax revenues, the revenues from tobacco duty would be credited to the General Revenue Account. The Administration would make appropriate allocation of resources based on actual requirements. The Administration further pointed out that more financial resources had been made available for areas of work in relation to tobacco control in recent years. The expenditure of relevant parties like TCO, DH and HA on tobacco control and smoking cessation had also been increased.

Impact of tobacco duty increase on illicit cigarette activities

18. Some Members considered that the tobacco duty increase would prompt smokers to switch to consuming illicit cigarettes, making the smuggling activities of illicit cigarettes more rampant. They urged the Administration to deploy sufficient manpower and resources to enhance enforcement against illicit cigarette activities, in particular street peddling

through distribution of leaflets in residential areas and telephone order.

19. The Administration advised that the Customs and Excise Department ("C&ED") had stepped up enforcement actions against illicit cigarette activities and the relevant unlawful activities had reduced in scale and magnitude. According to C&ED's intelligence analysis and observation, there was no sign that these activities had become more rampant. The Administration further advised that apart from the Anti-Illicit-Cigarette Investigation Division set up for combating illicit cigarette activities, C&ED formed a 13-person task force in March 2009 to take focused action against telephone ordering of illicit cigarettes. Since the new tobacco duty rates as announced in the 2011-2012 Budget came into effect on 23 February 2011, C&ED had redeployed 60 officers to closely monitor illicit cigarette activities at various control points and at street level. The total quantity of illicit cigarettes seized in January to March 2011 had increased 175% compared with the same period in 2010. C&ED would continue to work closely with the Mainland and strengthen intelligence collection to combat cross-boundary cigarette smuggling activities by interdicting the inflow of illicit cigarettes at source. Actions at street level would also be strengthened. If necessary, additional resources and manpower would be deployed to support anti-illicit cigarette enforcement and large scale raiding operations.

Impact on newspaper hawkers

20. Members expressed grave concern about the impact of the increase in tobacco duty on the livelihood of people working in the tobacco industry, particularly newspaper hawkers who were suffering from decreased income as a result of the drop in the sale of duty-paid cigarettes. Members enquired whether the Administration had assessed the business environment of these hawkers after the last tobacco duty increase in 2009 and called on the Administration to formulate new measures to enhance the business of newspaper hawkers after the tobacco duty increase in February 2011.

21. The Administration advised that it was mindful of the potential impact of tobacco control in general, and of tobacco duty in particular, on cigarette sales and in turn the business of newspaper hawkers. After the previous tobacco duty increase back in 2009, the Administration had engaged the trade and explored possible ways to help improve their business environment. The Food and Environmental Hygiene Department ("FEHD"), having consulted the trade, expanded in 2009 the commodity list of licensed newspaper hawkers by including four more types of items, namely bottled distilled water, lai-see packets, trinkets and cell phone cards, on top of the eight approved commodities (i.e. tissue paper, cigarettes, cigarette lighters,

sweets, chewing gums, preserved fruits, battery cells and pens). FEHD also relaxed the restriction on the total space used for the sale of additional commodities to not more than 50%. FEHD further endorsed these hawkers to display within the confines of their stalls advertisements related to the commodities permitted for sale under the license. According to FEHD, these hawkers were generally satisfied with the arrangement. FEHD would continue to maintain its dialogue with the hawker representatives to explore with these hawkers possible ways to help them adjust to the changes in their business environment.

Council questions

22. Members have expressed concern on illicit cigarette activities and raised questions at the Council meetings on 8 February 2012, 22 February 2012, 27 June 2012 and 20 November 2013 on measures to tackle them. Details of the LegCo questions and the Administration's replies are given in the hyperlinks in **Appendix II**.

References

23. A list of relevant papers is in the **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
7 April 2014

Proposed rates of duty on various types of tobacco

Tobacco Products	Existing rates (\$)	Proposed rates (\$)
(a) for each 1 000 cigarettes	1,706	1,906
(b) cigars	2,197/kg	2,455/kg
(c) Chinese prepared tobacco	419/kg	468/kg
(d) all other manufactured tobacco except tobacco intended for the manufacture of cigarettes	2,067/kg	2,309/kg

List of relevant papers

- Report of the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011 (LC Paper No. CB(1)1883/10-11)
<http://www.legco.gov.hk/yr10-11/english/hc/papers/hc0415cb1-1883-e.pdf>
- Report of the Bills Committee on Dutiable Commodities (Amendment) Bill (LC Paper No. CB(1)2339/10-11)
<http://www.legco.gov.hk/yr10-11/english/bc/bc05/reports/bc050615cb1-2339-e.pdf>
- Hyperlinks to relevant Council Questions –

Date	Council Question
8 February 2012	Question raised by Hon WONG Ting-kwong on the sale of illicit cigarettes http://www.info.gov.hk/gia/general/201202/08/P201202080174.htm
22 February 2012	Question raised by Hon WONG Ting-kwong on duty-not-paid cigarettes http://www.info.gov.hk/gia/general/201202/22/P201202220186.htm
27 June 2012	Question raised by Hon Vincent FANG Kang on measures to tackle sale of illicit cigarettes http://www.info.gov.hk/gia/general/201206/27/P201206270305.htm
20 November 2013	Question raised by Hon WONG Ting-kwong on measures to tackle sale of illicit cigarettes http://www.info.gov.hk/gia/general/201311/20/P201311200335.htm