



Customs Tariff Amendment (Tobacco Content) Bill 2008

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Law and Bills Digest Section

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Customs Tariff Amendment (Tobacco Content) Bill 2008

Date introduced: 28 May 2008

House: House of Representatives

Portfolio: Home Affairs

Commencement: The amendments are taken to have commenced on 1 November 1999. The Act itself commences upon Royal Assent.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

Schedule 1 of the Bill will amend the *Customs Tariff Act 1995* (the Customs Tariff Act) to incorporate a definition of ‘tobacco content’. The definition will have retrospective application from 1 November 1999.

Background

There is presently no definition of the term ‘tobacco content’ in the Customs Tariff Act. However, according to the Bill’s Second Reading Speech, the proposed definition reflects the practice adopted by the Australian Customs Service (ACS) and industry alike since 1999.¹ Notwithstanding, there is a perceived risk to revenue as a result of uncertainty surrounding the term.

Schedule 3 of the Customs Tariff Act provides the rate of excise duty which tobacco and manufactured tobacco substitutes attract. The rate is calculated according to the weight of tobacco content. For example, some cigarettes containing tobacco attract an excise of \$235.90 per kilogram of ‘tobacco content’.

Under the proposed definition, ‘tobacco content’ will include any thing (including moisture) added to the tobacco leaf during manufacturing or processing. Such a definition ensures that any excise payable is calculated on the total weight of the goods. For

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1. Bob Debus, Minister for Home Affairs, ‘Second reading speech: Customs Tariff Amendment (Tobacco Content) Bill 2008’, House of Representatives, *Debates*, 28 May 2008, p. 1

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comparative purposes, 'tobacco' is defined in the Schedule to the Commonwealth's *Excise Tariff Act 1921* as 'tobacco leaf subjected to any process other than curing the leaf as stripped from the plant'.

Financial implications

The Explanatory Memorandum states that the Bill will have no financial impact.

Main provisions

Item 1 of Schedule 1 amends subsection 3(1) of the Customs Tariff Act by inserting a definition of 'tobacco content'. The term is defined to include any thing added to the tobacco leaf during manufacturing or processing. The Explanatory Memorandum elaborates that this includes sugar, flavour, additives, or any thing else (including moisture) added to the tobacco leaf during manufacturing or processing.²

Application: The amendments contained in Schedule 1 apply to goods imported from 1 November 1999 and to goods imported prior to this date, if the requisite deadline for calculating the rate of import duty had not occurred by 1 November 1999.

2. Explanatory Memorandum, Customs Tariff Amendment (Tobacco Content) Bill 2008, p. 4.

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