



## Excise Tariff Amendment (Tobacco) Bill 2010

## Customs Tariff Amendment (Tobacco) Bill 2010

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Law and Bills Digest Section

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## Excise Tariff Amendment (Tobacco) Bill 2010

## Customs Tariff Amendment (Tobacco) Bill 2010

**Date introduced:** 12 May 2010

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** The proposed amendments in the Bills have retrospective application from 30 April 2010 in accordance with the Customs Tariff Proposal (No.2) 2010 and Excise Tariff Proposal (No.1) 2010. These changes were published in the Commonwealth Government Special Notices Gazette on 29 April 2010 with effect from 30 April 2010 and tabled in Parliament on 12 May 2010 by the Minister for Health and Ageing.

**Links:** This is the [link](#) to the Excise Tariff Amendment (Tobacco) Bill 2010 and the [link](#) to the Customs Tariff Amendment (Tobacco) Bill 2010, their Explanatory Memorandums and second reading speeches can be found on the Bills page, 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

To amend

- the *Excise Tariff Act 1921* to increase the excise tariff applying to tobacco products by 25 per cent, and the
- *Customs Tariff Act 1995* to increase the rates of duty applying to tobacco products imported into Australia by 25 per cent.

## Background

### Definitions

An **excise** is ‘a tax on goods levied at some point in their production or distribution which has the effect of increasing the price of the goods supplied to the customer.’<sup>1</sup>

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1. Definition of *Excise*, Encyclopaedic Australian Legal Dictionary, LexisNexisAU.

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**Customs duty** is ‘a monetary fee imposed on imported or, less commonly exported goods by the government as a condition of their importation or exportation. The power to impose customs and excise duties is reserved solely to the Commonwealth.’<sup>2</sup>

On 29 April, the Prime Minister, Mr Rudd announced a comprehensive anti-smoking package. The package made reference to the following initiatives which derive from recommendations of a report of the National Preventative Health Taskforce. Those initiatives included the following:

- increase in tobacco excise of 25 per cent
- cigarettes to be sold in plain packaging
- restricting Australian internet advertising of tobacco products
- injecting an extra \$27.8 million into hard-hitting anti-smoking campaigns.<sup>3</sup>

## National Preventative Health Taskforce

In April 2008, the Minister for Health and Ageing announced the setting up of the National Preventative Health Taskforce (the Taskforce) to develop strategies in areas which the Government considered needed to be addressed urgently. The Taskforce undertook to investigate the health challenges faced by Australians created by tobacco, alcohol and obesity. The Taskforce delivered its final report to Government in September 2009<sup>4</sup> and the Government formally responded to the report in May 2010 in *Taking Preventative Action: a response to Australia: the Healthiest Country by 2020: the report of the National Preventative Health Taskforce*.<sup>5</sup>

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2. Definition of *Customs duty*, Encyclopaedic Australian Legal Dictionary, LexisNexisAU.
  3. K Rudd (Prime Minister), *Anti-smoking action*, media release, 29 April 2010, viewed 20 May 2010,  
[http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/67MW6/upload\\_binary/67mw60.pdf;fileType=application%2Fpdf#search=%22rudd%20anti-smoking%22](http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/67MW6/upload_binary/67mw60.pdf;fileType=application%2Fpdf#search=%22rudd%20anti-smoking%22)
  4. R Moodie, National Preventative Health Taskforce, *Australia: the Healthiest Country by 2020: National Preventative Health Strategy*, 30 June 2009, viewed 24 May 2010,  
<http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/nphs-overview>
  5. Australian Government, *Taking Preventative Action: a response to Australia: the Healthiest Country by 2020: the report of the National Preventative Health Taskforce*, May 2010, viewed 20 May 2010,  
<http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/taking-preventative-action>

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The Government response referred to the 2008 National Health Care Agreement by Council of Australian Governments (COAG) and their commitment to ‘By 2018, reduce the national smoking rate to 10 per cent of the population and halve the Indigenous smoking rate.’<sup>6</sup> The Government further commented in the response

As a key part of the crackdown on tobacco, from 30 April 2010, the Government raised the tobacco excise by 25 per cent. This will increase the price of a pack of 30 cigarettes by about \$2.16 and will push the total price of an average pack of 30 cigarettes above \$15. This measure alone is expected to reduce the consumption of tobacco by about six per cent, and the number of smokers by two to three per cent or around 87 000 Australians. The \$5 billion in extra revenue generated by this increase will be used wholly to invest in better health and better hospitals for all Australians.<sup>7</sup>

The following measures are also planned as part of this smoking initiative:

- to mandate plain packaging for tobacco products from 1 January 2012
- update graphic health warnings on cigarette packaging and consider improvements to the availability of ingredients and emissions data
- restrict Australian internet advertising of tobacco products
- commitment of \$85 million for tobacco social marketing campaigns
- \$14.5 million for the Indigenous Tobacco Control Initiative which is piloting innovative projects in 18 communities in various metropolitan, regional and remote areas of Australia. Lessons from these initiatives will feed into the \$100 million Government commitment Tackling Smoking measure under the COAG Closing the Gap in Indigenous Health National Partnership.<sup>8</sup>

The Government response stated in agreeing with the recommendation by the National Preventative Health Taskforce that increasing prices is one of the most effective measures governments can take to reduce tobacco consumption and prevalence.<sup>9</sup>

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6. Australian Government, Taking Preventative Action: a response to Australia: the Healthiest Country by 2020: the report of the National Preventative Health Taskforce, May 2010, viewed 20 May 2010, p. 10,  
<http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/taking-preventative-action>

7. Ibid, p.10.

8. Ibid, p. 11.

9. Ibid, p. 62.

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## Australia's Future Tax System Review

The report of the Henry Review noted the following about tobacco taxation:

### 8.4 Tobacco taxation

The strongly addictive qualities of tobacco, its serious health impacts and its uptake by minors, justify government intervention in the tobacco market. The costs that smoking imposes on non-smokers also support the case for government intervention. Tobacco taxes raise prices and reduce both smoking rates and smoking intensity.

There is a strong case for a substantial one-off increase in tobacco excise. Australian retail prices for cigarettes are moderate by international standards and taxes constitute a relatively small share of the retail price.

To maintain its policy effectiveness tobacco excise should be indexed to wages rather than consumer prices. Indexation of excise to consumer prices means that excise will fall as a proportion of average wages over time.<sup>10</sup>

## Tariff Proposals

The Customs Tariff Proposal (No.2) 2010 and the Excise Tariff Proposal (No.1) 2010 were tabled in Parliament on 12 May 2010. The Customs Tariff Proposal applies to goods imported into Australia on or after 30 April 2010 and to goods imported before 30 April 2010 where the rate of import duty had not been worked out before 30 April 2010. The Excise Tariff Proposal will operate on and from 30 April 2010. Notices were published in the Commonwealth Government Special Notices Gazette No. S63 and No. S62. The changes were gazetted in accordance with section 160B of the *Excise Act 1901* and section 273EA of the *Customs Act 1901*.<sup>11</sup>

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10. K Henry, *Australia's future tax system: report to the Treasurer*, December 2009, Part 1 Overview, 8.4 Tobacco Taxation, viewed 21 May 2010, [http://www.taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/publications/papers/Final\\_Report\\_Part\\_1/chapter\\_8.htm](http://www.taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/publications/papers/Final_Report_Part_1/chapter_8.htm)
  11. N Roxon, 'Motion: Excise Tariff Proposal (No.1) 2010, Customs Tariff Proposal (No. 2) 2010', House of Representatives, *Debates*, 12 May 2010, p. 5.

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## Committee consideration

The Senate Selection of Bills Committee resolved to recommend at its meeting of 13 May 2010 that the Excise Tariff Amendment (Tobacco) Bill 2010 and the Customs Tariff Amendment (Tobacco) Bill 2010 not be referred to committees.<sup>12</sup>

## Press commentary

According to a press report, voters generally have approved the increase in the excise on tobacco.<sup>13</sup> ‘The latest Herald/Nielsen poll finds 71 per cent of all voters support the tax increase, which added between \$2 and \$3 to a packet of cigarettes, while only 26 per cent were opposed.’<sup>14</sup> The press report further noted that ‘Tony Abbott has labelled the move a tax grab but has committed the Coalition to supporting it nonetheless.’<sup>15</sup> In the past Mr Abbott had proposed a 20 per cent increase in tobacco excise to ‘subsidise the expansion of income management, or welfare quarantining, to all families in receipt of income support payments’<sup>16</sup> and Mr Turnbull proposed a 12.5 per cent increase in tobacco excise in his ‘2009-10 Budget reply speech as a means of increasing government revenue while improving public health.’<sup>17</sup>

## Financial implications

The financial implications are set out in detail in the Explanatory Memorandum.<sup>18</sup>

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12. Senate Selection of Bills Committee, Report no.7, 13 May 2010, viewed 20 May 2010, [http://www.aph.gov.au/Senate/committee/selectionbills\\_ctte/reports/2010/report0710.pdf](http://www.aph.gov.au/Senate/committee/selectionbills_ctte/reports/2010/report0710.pdf)
  13. P Coorey, ‘Tobacco tax draws support for Rudd’, *Sydney Morning Herald*, 11 May 2010, p. 3.
  14. *Ibid*, p.3.
  15. *Ibid*, p. 3.
  16. M Thomas, Budget Review 2010-11: Health, Tobacco excise increase, Parliamentary Library, Canberra, viewed 25 May 2010, <http://www.aph.gov.au/library/pubs/RP/BudgetReview2010-11/HealthTobaccoExcise.htm>; L Taylor, ‘Abbott targets welfare payments’, *Sydney Morning Herald*, 24 February 2010, viewed 25 May 2010, <http://www.smh.com.au/national/abbott-targets-welfare-payments-20100223-p0p5.html>
  17. M Thomas, Budget Review 2010-11: Health, *ibid*.
  18. Explanatory Memorandum, Excise Tariff Amendment (Tobacco) Bill 2010, Customs Tariff Amendment (Tobacco) Bill 2010, p.5.

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## **Main provisions**

### **Excise Tariff Amendment (Tobacco) Bill 2010**

#### **Schedule 1—Amendments to the Excise Tariff Act 1921**

**Item 1 repeals and substitutes the rate of duty in the Schedule to the Act at subitem 5.1 and inserts the new rate of duty per stick of \$0.32775.**

**Item 2 repeals and substitutes the rate of duty at subitem 5.5 in the Schedule to the Act and inserts the new rate of duty of \$409.71 per kilogram of tobacco content.**

### **Customs Tariff Amendment (Tobacco) Bill 2010**

Schedule 1 of the Customs Tariff Amendment (Tobacco) Bill 2010 amends the various schedules to the *Customs Tariff Act 1995* in the following way:

#### **Customs Tariff Act 1995**

##### **Schedule 3 Classification of goods and general and special rates of duty**

**Items 1-3, 5, 7, 9-11 of the Bill repeal and substitute** the existing rate with the new rate of duty \$409.71/kg of tobacco content. **Items 4, 6 and 8 of the Bill repeal and substitute** the existing rate with the new rate of duty \$0.32775/ stick.

##### **Schedule 5 US originating goods**

**Items 12-14, 16, 18, 20-22 repeal and substitute** the existing rate and insert the new rate \$409.71/kg of tobacco content. **Items 15, 17 and 19 repeal and substitute** the existing rate and insert the new rate of duty \$0.32775/stick.

##### **Schedule 6 Thai originating goods**

**Items 23-25, 29, 31-33 repeal and substitute** the existing rate and insert the new rate of duty \$409.71/kg of tobacco content. **Items 26, 28 and 30 repeal and substitute** the existing rate and insert the new rate of duty \$0.32775/stick.

##### **Schedule 7 Chilean originating goods**

**Items 34-36, 38, 40, 42-44 repeal and substitute** the existing rate and insert the new rate of duty of \$409.71/kg of tobacco content. **Items 37, 39 and 41 repeals and substitutes** the existing rate of duty and inserts the new rate of duty \$0.32775/stick.

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### **Schedule 8 ASEAN-Australia-New Zealand (AANZ) originating goods**

**Items 45-47, 49, 51, 53-55 repeal and substitute** the existing rate and insert the new rate \$409.71/kg of tobacco content. **Items 48, 50 and 52 repeal and substitute** the existing rate of duty and insert the new rate \$0.32775/stick.

The Explanatory Memorandum also notes that Schedules 5, 6, 7 and 8 of the *Customs Tariff Act 1995* specify rates of duty for certain goods imported under free trade agreements with the United States, Thailand, Chile and the ASEAN-New Zealand agreement. The increased rates of duty will apply to tobacco products imported under these free trade agreements.<sup>19</sup>

### **Concluding comments**

See the Budget Review 2010-11: Health produced by Matthew Thomas of the Parliamentary Library on this topic which gives detailed background information to the increase in the tobacco excise.<sup>20</sup>

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19. Explanatory Memorandum, Excise Tariff Amendment (Tobacco) Bill 2010, Customs Tariff Amendment (Tobacco) Bill 2010, p. 9.
  20. M Thomas, Budget Review 2010-11: Health, Tobacco excise increase, Parliamentary Library, Canberra, viewed 25 May 2010, <http://www.aph.gov.au/library/pubs/RP/BudgetReview2010-11/HealthTobaccoExcise.htm>

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