Excise duty: structure and rates applied on manufactured tobacco

2008/0150(CNS) - 16/07/2008 - Legislative proposal

PURPOSE: to amend provisions relating to the structure and rates of excise duty applied to manufactured tobacco.

PROPOSED ACT: Council Directive.

BACKGROUND: smoking remains the biggest single form of avoidable death in the Community and one of the leading causes of morbidity and morality in the EU. The Community records around 650 000 smoking-related deaths every year. Taxation forms part of an overall strategy of prevention and dissuasion. According to the World Bank price increases of tobacco products are the single most effective intervention preventing smoking. A price increase of 10% decreases consumption, on average, by about 4% in high income countries among adults.

A number of EU tax provisions, dating back to 1993, exist that seek to reduce the amount of smoking. In accordance with these provisions the Commission has held a four-yearly review of existing legislation. In July the Commission presented a fourth such report suggesting a number of significant amendments to existing Community legislation in order to modernise the existing rules and to ensure a level playing field for tobacco manufacturers and operators.

In accordance with the current system established by Council Directive 92/79/EEC on the approximation of taxes on cigarettes and Council Directive 92/80/EEC on the approximation of taxes on manufactured tobacco other than cigarettes, the European Commission is required to examine every four years the smooth operation of the single market, the real value of excise-duty rates and the wider objectives of the Treaty.

CONTENT: this proposal for a Directive suggests a number of important amendments to existing Community legislation in order to modernise and simplify the existing rules, make them more transparent and better integrate public health concerns. In addition, it also deals with the alignment of excise duties for fine-cut smoking tobacco ("roll-your-own") with excise duties for cigarettes.

The proposed amendments are the result of an in-depth examination conducted by the Commission. The conclusions of this examination are set out in the attached Commission report.

Based on the above, the Commission makes the following proposals:

- **to abolish the "most popular price category" (MPPC) as a reference point for EU minimum requirements on excise duties and for measuring the importance of specific excise duty within the total tax burden**: currently, excise duties levied on cigarettes must account for at least 57% of price, and must be at least EUR 64 per 1000 cigarettes, for products falling under the "most popular price category" in that country. The Commission proposes replacing the most popular price category with a weighted average price of all cigarettes for determining the tax base. In order to underscore health objectives it will be combined with a monetary minimum tax applicable to all cigarettes;

- **to increase gradually the minimum requirement for cigarettes in line with internal market objectives and health considerations**: the current percentage of 57% will be increased to 63% of

the weighted average price and the rate of €64 will rise to EUR 90 **for all cigarettes** by 2014, under the new proposal. It is estimated that this will contribute to a 10% decrease in tobacco consumption in most Member States within the next 5 years;

- **to allow Member States greater flexibility to apply specific duties and to levy minimum excise duties on cigarettes**: the Commission proposes to abolish the existing rule which forbid Member States to levy a minimum excise tax higher than 100% of the total excise on the most popular price category. Furthermore, the Commission proposes to widen the band of the specific component of the excise duty from 5% - 55% to 10% - 75%;
- **to bring gradually the minimum rates for fine-cut tobacco intended for the rolling of cigarettes into line with the rate for cigarettes**: it is proposed to introduce a compulsory monetary and ad-valorem minimum requirement for fine-cut tobacco. In order to respect a two thirds relationship between fine-cut and cigarettes, the monetary minimum requirement should be fixed at EUR 43 per kilogram and the proportional minimum requirement at 38%;

- **to adjust for inflation the minimum requirements for tobacco products other than cigarettes and fine-cut tobacco intended for the rolling of cigarettes**: the rate of inflation between 2003 and 2007 can be estimated at around 2% a year or at 8% over the period as a whole. Applying this percentage to the minimum specific amounts and rounding up to the nearest unit gives EUR 12 for cigars and cigarillos and EUR 22 for other smoking tobacco;

- **to amend the definition of cigarettes, cigars and other tobacco products and monitoring the arrangements for tobacco taxation**: for cigars and cigarillos, the proposal amends the definition of these products, so as to ensure that the lower minimum rate is restricted to "traditional cigars and cigarillos". The definition of pipe tobacco will also be adapted to better differentiate between pipe tobacco and fine-cut tobacco, as a number of Member States have reported tobacco being sold as pipe tobacco when its primary purpose is for hand-rolling or tubing of cigarettes.