

Excise and Excise-equivalent Duties Table (Tobacco Products) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill affects tobacco products and the Excise and Excise-equivalent Duties Table (the **Table**) under the Customs and Excise Act 1996 (the **Act**). It makes on 29 April 2010 a one-off 14% alignment increase to equalise the duties on loose (roll-your-own cigarette and pipe) tobacco and on higher-weight manufactured cigarettes with the duties on lower-weight manufactured cigarettes. It also makes 3 cumulative 10% increases to the duties on all tobacco products:

- the first on 29 April 2010 to those duties as in force at the close of 28 April 2010 but on top of (to those duties after they are adjusted to implement) that one-off 14% alignment increase:
- the second on 1 January 2011 to those duties as in force at the close of 31 December 2010 and either with, or instead of, any CPI indexation of those duties on 1 January 2011:
- the third on 1 January 2012 to those duties as in force at the close of 31 December 2011 and either with, or instead of, any CPI indexation of those duties on 1 January 2012.

Part 1 amends the Table to increase the rates of excise duty and excise-equivalent duty payable on tobacco products. Excise duty is

payable on tobacco products manufactured in New Zealand. Excise-equivalent duty is payable on tobacco products imported into New Zealand. The amendments—

- increase by 14% the duties on loose (roll-your-own cigarette and pipe) tobacco and on higher-weight manufactured cigarettes, to align those duties by weight with the duties on lower-weight manufactured cigarettes; and
- increase by 10% (in the first of the 3 cumulative increases of 10%) the duties on all tobacco products (including the duties on loose tobacco and on higher-weight manufactured cigarettes, after those duties have been aligned with the duties on lower-weight manufactured cigarettes).

Part 2 amends the Act so that it provides for the second and third of the 3 cumulative 10% increases. *New section 79AA* requires rates of duties on tobacco products, as those rates exist immediately before 1 January 2011 and immediately before 1 January 2012, to be increased by 10% of those existing rates and—

- in an Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2010 or 2011; or
- if no such indexation order is or is to be made so as to come into force on 1 January 2011 or, as the case requires, 1 January 2012, by an Excise and Excise-equivalent Duties Table (Tobacco Products 10% Increase) Amendment Order 2010 or 2011 that comes into force on that date.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Bill is to come into force on 29 April 2010.

Part 1 Amendments to Excise and Excise- equivalent Duties Table

Clause 3 states the purpose of *Part 1*.

Clause 4 identifies the principal document *Part 1* amends: the Excise and Excise-equivalent Duties Table. A copy of the Table as

from time to time amended, modified, or revoked and replaced on or after 1 January 2010 is, as required by section 76C of the Act, published at the following Internet site: <http://www.customs.govt.nz/library/The+Working+Tariff+Document/Related+Pages/>.

Clause 5 amends Part A (which relates to goods manufactured in New Zealand) and Part B (which relates to imported goods) to—

- increase by 14% the duties on loose (roll-your-own cigarette and pipe) tobacco and on higher-weight manufactured cigarettes, to align those duties by weight with the duties on lower-weight manufactured cigarettes; and
- increase by 10% (in the first of 3 cumulative increases of 10%) the duties on all tobacco products (including the duties on loose tobacco and on higher-weight manufactured cigarettes, after those duties have been aligned with the duties on lower-weight manufactured cigarettes).

Excise item number 99.60.39C (cigars, cheroots, cigarillos, and cigarettes containing tobacco substitutes) is re-enacted unchanged to enable replacement of all 4 excise item numbers under heading 99.60. It will continue to be rated “Free”.

Part 2 Amendments to Customs and Excise Act 1996

Clause 6 states the purpose of *Part 2*, which amends the Customs and Excise Act 1996 so that it provides for the second and third of the 3 cumulative 10% increases in existing rates of duties on tobacco products. Those increases are to come into force on 1 January 2011 and on 1 January 2012 respectively.

Clause 7 identifies the principal Act *Part 2* amends: the Customs and Excise Act 1996. A reference in this Part to a new section or section is a reference to a new section or section of that Act.

Clause 8(1) inserts *new section 79AA*. *New section 79AA* requires rates of duties on tobacco products, as those rates exist immediately

before 1 January 2011 and immediately before 1 January 2012, to be increased by 10% of those existing rates and—

- in an Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2010, or 2011 (as the case requires) that—
 - is made under section 79(1), and indexes those existing rates (having regard to movements in the CPI (excluding credit services)) under section 79(2) to (4); and
 - includes that 10% increase as required by *new section 79AA(1)*; and
 - comes into force on 1 January 2011 or, as the case requires, 1 January 2012; or
- if no such indexation order is or is to be made so as to come into force on 1 January 2011 or, as the case requires, 1 January 2012, by an Excise and Excise-equivalent Duties Table (Tobacco Products 10% Increase) Amendment Order 2010, or 2011 (as the case requires) that—
 - is made under *new section 79AA(2)*; and
 - comes into force on 1 January 2011 or, as the case requires, 1 January 2012.

Clause 8(2) amends consequentially sections 76C(2)(c), 76D, and 76G(2) and (4)(b) (which relate to orders amending the Table) by inserting references to orders under *new section 79AA(2)*.

An order made under section 79(1), and that includes a separate 10% increase as required by *new section 79AA(1)*, will expire at the time stated in section 80(1A)(a) or (b) unless it is confirmed by Act of Parliament passed before that time.

Clause 9 inserts *new section 80(1)(ba)* so that a 10% increase order under *new section 79AA(2)* (which is *not* also an indexation order) will also expire at the time stated in section 80(1A)(a) or (b) unless confirmed by Act of Parliament passed before that time.

Clause 10 repeals *new section 79AA* on the close of 1 January 2012, and *new section 80(1)(ba)* on the close of 31 December 2013.

Regulatory impact statement

In accordance with Cabinet Office Circular CO (09) 08, this explanatory note does not contain a regulatory impact statement for this Bill.

Hon Tariana Turia

**Excise and Excise-equivalent
Duties Table (Tobacco Products)
Amendment Bill**

Government Bill

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Schedule
Amendments to
Excise and Excise-equivalent Duties Table

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Excise and Excise-equivalent Duties Table (Tobacco Products) Amendment Act **2010**.
- 2 Commencement**
This Act comes into force on 29 April 2010. 5

Part 1
Amendments to
Excise and Excise-equivalent Duties Table

- 3 Purpose of this Part**
This Part amends the Excise and Excise-equivalent Duties Table under the Customs and Excise Act 1996 to—
- (a) increase by 14% the duties on loose (roll-your-own cigarette and pipe) tobacco and on higher-weight manufactured cigarettes, to align those duties by weight with the duties on lower-weight manufactured cigarettes; 15
and
 - (b) increase by 10% (in the first of 3 cumulative increases of 10%) the duties on all tobacco products (including the duties on loose tobacco and on higher-weight manufactured cigarettes, after those duties have been 20
aligned with the duties on lower-weight manufactured cigarettes).
- 4 Principal document amended**
This Part, in accordance with section 76G(1) of the Customs and Excise Act 1996, amends the Excise and Excise-equivalent Duties Table. 25

5 Part A and Part B amended

- (1) Part A is amended by—
- (a) omitting so much as relates to excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.60.39C, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K; and
 - (b) substituting the excise item numbers and rates of duty specified in **Part A of the Schedule**.
- (2) Part B is amended by—
- (a) omitting so much as relates to tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90; and
 - (b) substituting the tariff items and rates of duty specified in **Part B of the Schedule**.

Part 2
Amendments to
Customs and Excise Act 1996

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6 Purpose of this Part

This Part amends the Customs and Excise Act 1996 so that it provides for the second and third of the 3 cumulative 10% increases by requiring rates of duties on tobacco products, as those rates exist immediately before 1 January 2011 and immediately before 1 January 2012, to be increased by 10% of those existing rates and—

- (a) in an Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2010 or 2011 that—
 - (i) is made under section 79(1), and indexes those existing rates (having regard to movements in the CPI (excluding credit services)) under section 79(2) to (4), of that Act; and
 - (ii) includes that 10% increase as required by **section 79AA(1)** of that Act; and
 - (iii) comes into force on 1 January 2011 or, as the case requires, 1 January 2012; or
- (b) if no such indexation order is or is to be made so as to come into force on 1 January 2011 or, as the

case requires, 1 January 2012, by an Excise and Excise-equivalent Duties Table (Tobacco Products 10% Increase) Amendment Order 2010 or 2011 that—

- (i) is made under **section 79AA(2)** of that Act; and
- (ii) comes into force on 1 January 2011 or, as the case requires, 1 January 2012. 5

7 Principal Act amended

This Part amends the Customs and Excise Act 1996.

8 New section 79AA inserted

- (1) The following section is inserted after section 79: 10

“79AA Increases of 10% on 1 January 2011 and 2012 must be made in or by Excise and Excise-equivalent Duties Table (Tobacco Products Indexation or Other) Amendment Orders 2010 and 2011

- “(1) An order under section 79(1), and that comes into force on 1 January 2011 or 1 January 2012, must be called an Excise and Excise-equivalent Duties Table (Tobacco Products Indexation and Separate 10% Increase) Amendment Order 2010, or 2011 (as the case requires), and must (despite section 79) impose on all tobacco products (as defined in section 79(4)) new rates of duties that not only— 15 20

“(a) index existing rates of duties on those products (having regard to movements in the Consumers Price Index All Groups excluding credit services) in accordance with section 79(2) to (4); but also 25

“(b) include a separate increase of 10% of those existing rates.

- “(2) However, if **subsection (1)** cannot be complied with because no order is or is to be made under section 79(1) so as to come into force on 1 January 2011 or 1 January 2012, the Governor-General must, by an Order in Council made under this subsection, coming into force on that date, and called an Excise and Excise-equivalent Duties Table (Tobacco Products 10% Increase) Amendment Order 2010, or 2011 (as the case requires), amend the Excise and Excise-equivalent Duties Table by— 30 35

- “(a) omitting all existing rates of duties on all tobacco products (as defined in section 79(4)); and
“(b) substituting new rates that include an increase of 10% of those existing rates.”
- (2) Sections 76C(2)(c), 76D, and 76G(2) and (4)(b) are each 5
amended consequentially by inserting “**79AA(2)**,” before
“or 79A” in each case.

9 Certain Orders in Council subject to confirmation

Section 80(1) is amended by inserting the following paragraph after paragraph (b):

“(ba) an Order in Council made under **section 79AA(2)**; and”.

10 New sections 79AA and 80(1)(ba) repealed

- (1) **Section 79AA** of the Customs and Excise Act 1996 (as inserted by **section 8(1)**) is repealed on the close of 1 January 15
2012.
- (2) **Section 80(1)(ba)** of the Customs and Excise Act 1996 (as inserted by **section 9**) is repealed on the close of 31 December 2013.
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Schedule
Amendments to Excise and Excise-equivalent Duties Table

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Part A
Goods manufactured in New Zealand

Excise item number	Goods	Unit	Rates of duty
99.60	Cigars, cheroots, cigarillos, and cigarettes of tobacco or of tobacco substitutes which, if imported, would be classified within tariff item 2402.10.00, 2402.20.10, 2402.20.90, 2402.90.01, 2402.90.12, or 2402.90.18:		
	– Cigars, cheroots, cigarillos, and cigarettes containing tobacco:		
99.60.09A	– – Cigars, cheroots, and cigarillos	per KTC	\$432.33
99.60.19J	– – Cigarettes exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	per KTC	\$492.86
99.60.29F	– – Cigarettes not exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	per 1,000	\$345.87
99.60.39C	– Cigars, cheroots, cigarillos, and cigarettes containing tobacco substitutes		Free
99.65	Other manufactured tobacco and manufactured tobacco substitutes, and “homogenised” or “reconstituted” tobacco which, if imported, would be classified within tariff item 2403.10.90, 2403.91.90, 2403.99.02, or 2403.99.90:		
	– Smoking tobacco, whether or not containing tobacco substitutes:		
99.65.09C	– – Pipe	per KTC	\$492.86
99.65.19L	– – Cigarette	per KTC	\$492.86

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Excise and Excise-equivalent Duties Table
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Excise item number	Goods	Unit	Rates of duty
	– Other:		
	– – “Homogenised” or “reconstituted” tobacco:		
99.65.29H	– – – Pipe	per KTC	\$492.86
99.65.39E	– – – Cigarette	per KTC	\$492.86
	– – Other:		
99.65.49B	– – – Snuff	per KTC	\$432.33
99.65.59K	– – – Other	per KTC	\$432.33

Part B
Imported goods

Tariff item number	Goods	Unit	Rates of duty
24.02	Cigars, cheroots, cigarillos, and cigarettes of tobacco or of tobacco substitutes which, if manufactured in New Zealand, would be classified within excise item number 99.60.09A, 99.60.19J, 99.60.29F, or 99.60.39C:		
	– Cigars, cheroots, cigarillos, and cigarettes containing tobacco:		
2402.10.00	– – Cigars, cheroots, and cigarillos	per KTC	\$432.33

Excise and Excise-equivalent Duties Table
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Part B—continued

Tariff item number	Goods	Unit	Rates of duty
	— Cigarettes containing tobacco:		
2402.20.10	— — Exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	per KTC	\$492.86
2402.20.90	— — Not exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	per 1,000	\$345.87
24.03	Other manufactured tobacco and manufactured tobacco substitutes, and “homogenised” or “reconstituted” tobacco which, if manufactured in New Zealand, would be classified within excise item number 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, or 99.65.59K:		
2403.10.90	– Smoking tobacco, whether or not containing tobacco substitutes in any proportion	per KTC	\$492.86
	– Other:		
	— — “Homogenised” or “reconstituted” tobacco:		
2403.91.90	— — Other	per KTC	\$492.86
	— Other:		
2403.99.02	— — Snuff	per KTC	\$432.33
2403.99.90	— — Other	per KTC	\$432.33

**Excise and Excise-equivalent Duties Table
(Tobacco Products) Amendment Bill**

Schedule