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# **AN ASSESSMENT ON THE MAJOR SUBSTANTIVE DESIGN ASPECTS OF ETHIOPIAN EXCISE TAX LAW**

**By: Mequannet Lemma**

**September 2021**

**Addis Ababa Ethiopia**

**ADDIS ABABA UNIVERSITY**  
**SCHOOL OF GRADUATE STUDIES**  
**COLLEGE OF LAW AND GOVERNANCE STUDIES**  
**BUSINESS LAW STREAM**

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DESIGN ASPECTS OF ETHIOPIAN EXCISE TAX LAW**

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**A Thesis submitted to Addis Ababa University, the school of  
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**By: Mequannet Lemma**

**Approved By Board of Examiners**

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## **Declaration**

I, the undersigned, declare that the thesis comprises my own work, has not been presented for a Degree in any other University and that all sources of materials used are aptly acknowledged.

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Addis Ababa University

September 2021.

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September 2021.

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## **Acronyms**

**Art.** - Article

**FCTC** - Framework Convention on Tobacco Control

**FDRE** - Federal Democratic Republic of Ethiopia

**IMF** - International Monetary Fund

**OECD** - Organization for Economic Co-operation and Development

**MOF** - Ministry of Finance

**Proc.** - Proclamation

**SSB** - Sugar Sweetened Beverages

**UN** - United Nations

**UNDP** - United Nations Development Programme

**VAT** - Value Added Tax

**WHO** - World Health Organization



## **Abstract**

An excise tax, if designed and implemented properly, has various socio-economical advantages. In this connection, the research has the objective of evaluating the Ethiopian excise tax law with a particular attention on its central substantive design aspects.

The research has, therefore, employed a doctrinal legal research method in order to analyze the core design issues informing an excise tax law generally and Ethiopian excise tax law in particular. To this end, both primary and secondary sources of data are utilized. Therefore, the author consulted authoritative legal documents (constitution, proclamations and directives) persuasive literatures and explanations (books, journal articles, academic publications, researches, website sources and interviews’).

The research has found out substantive design problems under the Ethiopian excise tax law. This includes its predominant use of ad-valorem charging method for unhealthy items like tobacco and alcoholic beverages, an indiscriminately extremely higher rate of tax and the consequent complexity in imposing excise tax on vehicles, imposition of excise tax on large list of items and its neglect on the adverse effects of the tax imposed on essential inputs for the entertainment industry, like camera, and on non alcoholic beverages.

Based on the findings of the research important recommendations are suggested. First it is essential to make the law simple, objective oriented and ease administration, by utilizing specific charging method for those items considered harmful, simplifying the complexity followed in imposing the tax on vehicles and reducing the higher tax imposed on such essential utility vehicles like tractors. Secondly, a due consideration should also be given to the effect of the tax on the overall economy and its effect on employment and investment when taxing items like sugar, salt, non-alcoholic beverages and essential inputs of the entertainment industry.

**Keywords:** Excise tax, Consumption, Ethiopia, Design aspects,

# CHAPTER ONE

## 1. GENERAL INTRODUCTION

### 1.1. Background of the study

Excise taxes are consumption taxes, which are narrow based and imposed on a selected list of goods and/or services.<sup>1</sup> Excise taxes are imposed on different items across different countries depending on the motives of imposing the tax. Mostly, it is imposed on tobacco, alcoholic beverages, fuel with its varieties and items considered luxury.<sup>2</sup> Some of these commodities are considered demand inelastic making them a source of high revenue, and some of them have externalities or societal harm and the tax aims to put the burden on those who are cause to the externalities or discourage consumption with higher price.<sup>3</sup>

Traditionally, the major reason for the imposition of excise tax was to raise revenue as the subjects of the tax were of enormous quantity, comparatively price inelastic and less substitutable goods.<sup>4</sup> Today, the central aim of excise policy is stirring towards correction of negative externalities and for this reason it is commonly imposed on goods like cigarettes, alcohol, motor vehicles, and fuels, where it is used to incorporate their cost into the price paid by the consumer in order capture their negative externalities.<sup>5</sup>

Excise taxes are imposed with different objectives. Typically, they are imposed to: generate revenue at lesser administrative costs, place the tax burden on those who benefit from government services finance by excise taxes, control externalities and discourage consumption of potentially harmful substances that might be over consumed because of low price.<sup>6</sup>

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<sup>1</sup> Giertz J., 'Excise Taxes', *University of Illinois Urban Institute*, 1999, p. 1. [Here in after Giertz J., excise taxes]

<sup>2</sup> John F., *Excise Taxes*, The World Bank Policy Research Working Paper, 1994, p.3 [Here in after John F., excise taxes]

<sup>3</sup> Ibid.

<sup>4</sup> Rob P., 'The Effective Contribution of Excise Taxation on Non-alcoholic Beverages to Government Revenues and Social Objectives: A Review of the Literature', *World Customs Journal*, 2013, Vol. 7, No. 1, PP. 21-38, p. 22. [Here in after, Rob P., contribution of excise taxation]

<sup>5</sup> Ibid.

<sup>6</sup> James R., *Excise Taxes*, Michigan Ross School of Business, Working Paper Series, 2007, p. 2. [Here in after James R., excise taxes]

As any particular stream of tax law, having effects on the interest of many members of society, excise tax has substantively major design aspects which would enable it to accomplish its basic target. These major design aspects are, among others, the method of charging, the base, rate, exemptions and liability for excise tax.

One important consideration in an excise tax policy and law is that of the charging method, i.e., whether it should be specific or ad-valorem. Both methods have pros and cons, depending on various circumstances.

The major advantages of the specific charging method lay on the fact that it eases administration and compliance and at times, as the objective of the tax is also to discourage consumption, it enables imposing the tax on the specific target and not on its value.<sup>7</sup> The major problem with specific method is that such taxes are generally difficult to change with inflation, with the effect that real revenues have a propensity to diminish over time.<sup>8</sup>

On the other hand, ad valorem taxes are less affected by inflation and are commonly imposed for distributional rationale. However, they are more complicated to administer and cause disputes between tax payers and tax administrations.<sup>9</sup> Additionally they have a tendency to favor cheaper products, which may be adverse since cheap prices usually mean lower quality and possibly cause to more health or other threats.<sup>10</sup>

The other consideration in the design of an excise tax law is the question of which items are the appropriate subjects of it. This may depend on the objectives the tax proposes to achieve and different jurisdictions follow differing approach on this regard.<sup>11</sup> However, it can generally be said that excise tax is better designed if it is imposed on a short list of items, which have a higher revenue yield and at the same time assist in the attainment of other societal objectives.<sup>12</sup>

The issue of the rate, time and place of imposition of excise tax is also an important design aspect. At what rate, when (whether at production, distribution or retail should excise tax be

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<sup>7</sup> Rob P., contribution of excise taxation, *Supra note 4*, p. 25.

<sup>8</sup> Richard M., *Tobacco and Alcohol Excise Taxes for Improving Public Health and Revenue Outcomes, Marrying Sin and Virtue?* World Bank group, Policy Research Working Paper 7500, 2015, p. 10. [Here in after, Richard M., tobacco and alcohol excise]

<sup>9</sup> Rob P., contribution of excise taxation, *Supra note 4*, p. 25.

<sup>10</sup> Richard M., tobacco and alcohol excises, *Supra note 8*, p. 11.

<sup>11</sup> International Monetary Fund, *Revenue Mobilization in Developing Countries*, 2011, p. 37.

<sup>12</sup> *Ibid.*

imposed) and at which place the liability for excise tax should arise, are questions which beg a calculated answer in this regard.

A research on the above mentioned and other substantively major design aspects of an excise tax law is imperative in order to pin point on the weaknesses and strengths of Ethiopian excise tax law.

Excise tax has been and is one source of indirect tax in Ethiopia. Currently, the Excise Tax Proclamation<sup>13</sup> (here in after excise proclamation) and Chat Excise Tax Proclamation<sup>14</sup> (here in after Chat excise proclamation) lays the legal basis for the imposition of excise tax in Ethiopia.

The excise proclamation has the objectives of reviewing the type of goods on which excise tax has been collected, replacing the assessment of the tax from cost of production to ex-factory selling price and generally overcoming the problems encountered in the previous excise tax proclamation.

The excise proclamation has used ad-valorem charging method predominantly and specific charging method only in exceptional cases, like on beers, tobacco products and plastic bags. It has also imposed excise tax on a wide and detailed range of goods, and among them fats and oils, foods containing chocolate and cacao, fireworks, plastic shopping bags, rubber tires, artificial flowers, human hairs and wigs, are newly introduced into the excise tax regime.

With the above background in mind, the primary focus of this research will be on those major features of the Ethiopian excise tax law regarding the list of goods and services subject to excise tax, the method of charging followed by it and other design wise substantive major aspects.

## **1.2. Statement of Problem**

As it is stated in the above, the legal basis for the imposition of excise tax in Ethiopia is mainly found under the excise proclamation. Although the excise proclamation is recent in enactment, it has become the subject of debate and diverging opinions, especially with regards to the broad

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<sup>13</sup> Excise Tax Proclamation, 2020, *Federal Negarit Gazeta*, Proc. No. 1186/2020, 26<sup>th</sup> year, No. 25. [Here in after, excise proclamation]

<sup>14</sup> Chat Excise Tax Proclamation, 2012, *Federal Negarit gazetta*, Proc. No. 767/2012, 18<sup>th</sup> year, No. 60. [Here in after Chat excise proclamation]

range of goods the tax is imposed, the charging method it has followed and the complexity it has introduced.

The Ethiopian excise tax law predominantly followed an ad-valorem charging method, with few exceptions in the case of items like beers, tobacco products and plastic shopping bags. An ad-valorem method is complex to administer and less favorable to effectively address and regulate specific items which causes harm to consumers or cause to externalities.<sup>15</sup> Accordingly, whether following this approach is best suited and better for the Ethiopian excise tax system is very questionable, keeping in mind that the appropriate charging method may vary depending on the specific item on which the tax is imposed and on the objectives of imposing the tax. Hence, the issue of which charging method ought to be followed for which category of items/products should be studied.

With respect to the specific subject matters of excise tax law (items in which the tax is imposed) the approach followed across jurisdictions also vary. However, the prevalent view is that excise tax should be imposed on few specified items deemed to bring higher revenue and assist to attain other social objectives like discouraging consumption of harmful products. Again it is arguable whether the current Ethiopian excise tax law has followed an appropriate and rational approach with regards to its subject matters, as it has imposed excise tax on a long list of items. Hence, a study should be made to determine whether our excise tax law is imposed on those commodities appropriate for excise tax in view of the rationale and objectives it aims to attain.

Furthermore, with the enactment of the excise proclamation, the Ethiopian excise tax is exposed to a distinctive type of complexity to the extent that was not observed under the previous excise tax laws. It is of the fundamental principles of tax law that it should be simple, clear and understandable. Hence, the fact that the excise proclamation is complex and redundant is a problematic design aspect for which a research should be made and solution should be sought. It is also one of the fundamental principles of tax law that it should be neutral and with lesser effect on investment and overall economy. Whether our excise tax law is principled in these lines should also be studied.

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<sup>15</sup> Rob P., contribution of excise taxation, *Supra note 4*, p. 25.

Therefore, this research aims to disclose the shortcomings in the design of our excise tax law, with respect to its substantive features, and provide a best suited and better solution in view of theory and practice.

### **1.3. Research Questions**

The primary question the research will revolve around shall be:

- How is the Ethiopian excise tax law designed with respect to its substantive aspects?

Accordingly, the research will try to provide an answer to the following specific questions in light of the above stated problems.

- Is the Ethiopian excise tax law properly designed with regard to the list of items on which the tax is imposed and the charging method chosen?
- Are the objectives of Ethiopian excise tax law supported (supplemented) by the specific provisions on its subject matters and the charging method?
- Is the Ethiopian excise tax law in line with relevant tax principles?

### **1.4. Objectives of the Research**

#### **1.4.1. General Objective**

The general objective of the research is to provide a critical assessment on the substantive design aspects of the Ethiopian excise tax law.

#### **1.4.2. Specific Objectives**

- To provide a critical analysis on the method of charging followed by Ethiopian excise tax law.
- To evaluate the list of items on which Ethiopian excise tax is imposed.
- To assess the subject areas and the charging method of Ethiopian excise tax law in light of the objectives it aims to attain.
- To expound the content of the Ethiopian excise tax law and provide a useful solution on simplifying and clarifying it.

## 1.5. Methodology of the Research

In order to address the problems outlined and meet the intended objectives under this research, a doctrinal legal research method, also sometimes called a research in law,<sup>16</sup> is followed. “Its main component of research is black-letter law, which is about ‘what the prevailing state of legal doctrine is.’”<sup>17</sup>

The aim of the study is to explore on what the prevailing literature and legal discipline states on how to better and plausibly design an excise tax law and for this reason doctrinal legal research method is found appropriate.

Hence, a non-numerical data from primary and secondary sources is collected and utilized. With respect to the primary sources, the study made use of domestic laws (the available proclamations, regulations and directives) on excise tax in Ethiopia. The study also employs secondary sources in terms of literatures written around the topic of excise tax (books, articles, researches, journals, institutional documents, internet materials...etc), in order to gather data on the design of a better and pragmatic excise tax law. The study also consists of unstructured interviews made with legal professionals and officials of Ethiopian Ministry Finance and Ministry of Revenues.

With regards to the interviews, the study purposively selected the subjects interviewed, for the reason that, firstly the study is doctrinal legal research predominantly and the information gathered from interview is utilized to substantiate analytical arguments and secondly, the relevant population, (legal professionals and Ministry of finance and Ministry of revenues officials) from which interview is made, is not definite making selection through other methods unfeasible. Hence the study made a purposive interview with due regard to the relevance, availability and convenience of the interviewees and substantiate the primary and secondary data with the result of the interviews.

Finally, the study critically analyze the Ethiopian excise tax law along with the data obtained from the secondary data sources. Hence a content analysis method is followed.

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<sup>16</sup> Wondemagegn T., Legal Research Tools and Methods in Ethiopia, Journal of Ethiopian Law, Vol. XXV No. 2, 2012, p. 75

<sup>17</sup> Ibid.

## **1.6. The Scope of the Research**

The study covers the major substantive aspects of Ethiopian excise tax legal regime. Its coverage is, however, limited to the goods the tax is imposed, its method of charging and other substantive major design aspects. Hence, other aspects of excise tax law, like its time of payment, manner of payment and administrative, procedural and tax enforcement issues, are outside the scope of this study.

## **1.7. Significance of the Research**

The study in its attempt to evaluate the Ethiopian excise tax law has the importance of providing the best and better suited approach in the design and future enactment of law in the area. It will be a good standing point, from which an appropriate and effective Ethiopian excise tax law will be designed.

The study has also a significance of supplementing the existing research and knowledge gap in the area, as there is lack of research in Ethiopia concerning the legal limitations and design issues of excise tax.

## **1.8. Limitations to the Research**

The major limitation in undertaking this research comes from the lack of researches conducted on the topic at hand, which makes the research mainly rely on foreign sources. Additionally, as the excise proclamation is new and under implementation, cases, either administrative or court based, are not available, which makes the research limited to the paper of the law.

## **1.9. Organization of the Research**

The research consists of four chapters. The first chapter is devoted to the introductory and formative elements of the study, which consists of the background to the study, statement of the problem, research questions and objectives, methodology of the research, limitations and scope of the research, significance of the research and organization of the research.

The second chapter elucidates on the nature of excise tax, the objectives, types, approaches, and other general matters with regard to excise tax law. The third chapter covers the Ethiopian legal regime of Excise tax. It shall critically analyze the Ethiopian excise tax law by giving an



overview on both historical and contemporary legislative framework. The fourth and the last chapter presents the findings of the study and recommendations.

## **CHAPTER TWO**

### **2. LITERATURE REVIEW AND THEORETICAL CONSIDERATIONS**

#### **2.1. Chapter Introduction**

Designing a good excise tax law is imperative to get the socio-economic benefits of it. However, designing an excise tax law in an efficient and effective manner is exposed to a kind of complexity which is not common in other areas of tax law as an excise tax has at times contradictory objectives. Under this chapter those important substantive considerations in the design of an excise tax law are discussed.

#### **2.2. Definition of Excise Tax**

Excise taxes are indirect, narrow-based consumption taxes imposed on a transaction rather than directly on a person or corporation.<sup>18</sup> “Broadly speaking, the distinguishing features of excise taxation are selectivity in coverage, discrimination in intent, and often some form of quantitative measurement in determining the tax liability.”<sup>19</sup>

This way of describing excise taxes underlines the fundamental feature of the tax, i.e. it is imposed on a specified selected goods and/or services by excluding all other items from its coverage, in contrast with general consumption taxes which include all goods and services other than those exempted specifically.<sup>20</sup>

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<sup>13</sup> Giertz F., excise taxes, *Supra note 1*.

<sup>19</sup> Cnossen S., ‘Economics and Politics of Excise Taxation’ in Sijbren Cnossen (ed.), *Theory and Practice of Excise Taxation*, Oxford University Press, Oxford, New York, 2005, p. 2. [Here in after Cnossen S., economics and politics of excise taxation]

<sup>20</sup> *Ibid.*

Defining and interpreting excise tax broadly is historically supported and accordingly through usage in the literature excise taxes can be considered to include all selective taxes on commodities, services and motor vehicles.<sup>21</sup>

According to the classification of excise taxes by the Organization for Economic Co operation and Development (OECD)<sup>22</sup> excise taxes are classified as being those taxes which are: levied on particular products, or on a limited list of products, imposed at any phase of production or supply and are typically assessed by reference to the weight or strength or amount of the product, but sometimes by reference to the value. This classification also adds that the tax base for excise tax is a limited list of items measured mostly based on quantity without regard to the point at which the tax is imposed, i.e. whether it is imposed at the stage of manufacturing, distribution or retail level. However, it has missed an important development in excise taxes, that it is also imposed on the provision or consumption of services in addition to goods.

In sum, excise systems can be defined to embrace all selective taxes and associated levies on alcohol, tobacco, petroleum products, gambling, automobiles, and other specific goods, services and activities.<sup>23</sup>

### **2.3. Objectives of Excise Tax**

Generally, tax is designed and imposed with different fiscal, economic and social objectives. Any tax system has one or more goals to achieve and it can be said that the traditional and most prominent goal of a tax system is to collect funds for the various activities of governments.<sup>24</sup>

However, governments also utilize taxes for a number of policy goals other than raising revenue, such as economic development and social justice including enhanced public health. Excise taxes are the clearest example of this dual role of taxation than any other sort of taxation.<sup>25</sup>

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<sup>21</sup> Ibid.

<sup>22</sup> Annex A of the OECD Classification of Taxes and Interpretive Guide, Revenue Statistics 1965-2019 Interpretive guide. <<https://www.oecd.org/tax/tax-policy/oecd-classification-taxes-interpretative-guide.pdf>> [last accessed on June 02, 2021]. Also this Guide regards taxes on utility such as water, electricity, gas and energy, as excises than taxes on special services but general taxes on goods and services, profit of fiscal monopolies, custom and other import duties or taxes on exports are excluded.

<sup>23</sup> Cossen S., *The Economics of Excise Taxation*, Andrew Young School of Policy Studies, Georgia State University International Studies Program, Working Paper 10-18, 2010, p. 1. [Here in after Cossen S., the economics of excise taxation]

<sup>24</sup> Minwagaw E., *Challenges of Import Customs Clearance in Ethiopian Revenue and Customs Authority*, MSC Thesis, Addis Ababa University, 2016, p. 1.

<sup>25</sup> Richard M., tobacco and alcohol excises, *Supra note* 8, p. 3.

Excise taxes are well known in most countries, but properly designing and implementing them raises important and at times difficult questions in terms of efficiency and equity. It requires taking into account a country's administrative capacities, economic realities and political environment, among other factors.<sup>26</sup>

Speaking in economic terms imposing excise taxes is of no specific utility if the income tax is chosen optimally. In other words, excise tax has a role to play when the income tax is not optimal.<sup>27</sup> Because, "It is a relatively efficient source of revenue, improve resource allocation by internalizing the external costs associated with the consumption or production of excisable products, discourage the consumption of products considered harmful ... or promote progressivity in taxation."<sup>28</sup>

These are more or less the basic goals that an excise tax system aspires to achieve. Hence, excise taxes are planned and implemented to achieve four goals: revenue generation, application of the benefit principle of taxation, externality management, and an attempt to deter hazardous substance consumption.<sup>29</sup> Under this sub-section, an attempt will be made to give a detail discussion on the objectives of excise taxes.

### **2.3.1. Revenue Generation**

Referring back to history or contemporary practice, most excises have been probably enacted for revenue purposes, the fact that it can be administered more easily than other taxes being the main consideration.<sup>30</sup> There is a good potential source of revenue, on goods like tobacco, alcohol, petrol, and automobiles, because identifying these products and collecting the tax is easy as the producers are limited and the sales quantity is high. Mostly there are no abundant substitutes that consumers would get satisfactory likewise and consumption remains high even when their price increases as a result of excise tax.<sup>31</sup>

The lack of a close substitute for addictive or essential goods such as tobacco, alcohol, and energy provides the central economic rationale for imposing higher excise taxes on such goods

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<sup>26</sup> Ibid.

<sup>27</sup> Cnossen S., the economics of excise taxation, *Supra note 23*, p. 2.

<sup>28</sup> Id. p. 3.

<sup>29</sup> James R., excise taxes, *Supra note 6*, p. 2.

<sup>30</sup> Cnossen S., economics and politics of excise taxation, *Supra note 19*, p. 3.

<sup>31</sup> Ibid.

and implies that demand for such goods is inelastic, making the case for economic decision-making being distorted by excise duties small.<sup>32</sup>

The term price elasticity is “a function of whether consumers treat the good as a necessity or a luxury item, how much of a consumer’s income is spent on that good, and the availability of substitutes.”<sup>33</sup> And “An inelastic demand means that the relative change in the quantity consumers will demand is smaller than the relative change in price.”<sup>34</sup>

By saying that such products are demand inelastic it means that consumers are relatively insensitive to price hikes and will therefore buy about an equivalent quantity of the good or service as before the tax.<sup>35</sup> Theoretically this means if the good or service to impose the tax on is selected properly, despite the fact that the price of the article is now elevated due to the tax, consumers will purchase about the same amount of the good or service.<sup>36</sup>

For the consequent scenario that with higher tax there is obvious reduction in the consumption of the product which will consequently erode the base on which the tax is imposed, “Ramsey (1927) has shown that, under very restrictive conditions, the total excess burden or deadweight loss of product taxation can be minimized by setting tax rates so that the percentage reduction in the quantity demanded of goods, which results from taxation, is the same (taking into account cross-price effects on demand)”.<sup>37</sup>

### **2.3.2. Discouraging Consumption Excises**

Revenue generation can be one of the objectives behind the imposition of excise taxes, but it’s not the sole objective. Accordingly, another objective of excise tax is to discourage consumption of harmful goods. With the inclusion of this objective under the excise tax system, the theme of discussion transcends the boundary of tax and attempts to create interplay with the discipline of public health.

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<sup>32</sup> Cnossen S., the economics of excise taxation, *Supra note 23*, p. 3

<sup>33</sup> Chaloupka F., *et al*, ‘The Use of Excise Taxes to Reduce Tobacco, Alcohol and Sugary Beverages Consumption’, *Annual review of public health*, 2019, p. 188 [Here in after Chaloupka F., et al]

<sup>34</sup> Sassi F., *et al*, *The Role of Fiscal Policies in Health Promotion*, OECD Health Working Paper No. 66, 2013, p. 9. [Here in after Sassi F., et al]

<sup>35</sup> Liu F., ‘Sin Taxes: Have Governments Gone Too Far in Their Efforts to Monetize Morality?’ *Boston Collage law Review*, 2018, Vol. 59, Issue 2, Article 7, PP. 763-789, p.771 [Here in after Liu F., sin taxes]

<sup>36</sup> *Ibid*.

<sup>37</sup> Cnossen S., the economics of excise taxation, *Supra note 23*, p. 3, 4.

It is evident that governments utilize laws in order to shape individual and collective human behavior by encouraging some behavior while discouraging others, at one extreme of discouragement is complete legal prohibition and in other cases less stringent ways are used to influence unwanted behavior.<sup>38</sup>

One such way of influencing legal but ethically problematic or detrimental activities is through the price system, imposing or raising the tax on an item thereby making the activity more expensive for the participants to undertake.<sup>39</sup>

Classically, market failure provides the basis to studying the corrective role of government and the rationale for it to intervene in a specific market. Recently, a literature on optimal paternalism is developed, which focuses on the theory that individuals may not be fully rational, probably as a result of a self-control problem, being another motive for government intervention.<sup>40</sup>

The presence of negative external effects, in orthodox welfare economics, provides the justification for selectively taxing a good. Stated otherwise through a consumption of a certain good, a cost is imposed on a third party neither a consumer nor a producer of it.<sup>41</sup>

Hence, government intervention to influence consumption choices, from the viewpoint of economics, may be justified in limited circumstances of presence of negative externalities with the consumption of a commodity, like the case of passive smoking or violence resulting from alcohol over consumption, and in the absence of such rationale the government intervention is viewed as paternalistic measure.<sup>42</sup> This stems from the economic assumption of individual rationality, however, commodities like tobacco and alcohol has an addictive nature which limits the rationality of consumption choices.<sup>43</sup> And it is in this regard that the justification for imposing taxes on such goods, also named, ‘Sin taxes’, a well known term for cost charged for

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<sup>38</sup> Carruthers B., ‘The Semantics of Sin Tax: Politics, Morality, and Fiscal Imposition.’, *Fordham law review*, 2016, Vol. 84 Issue 6, PP. 2565-2582, p. 2565. [ Here in after, Carruthers B., semantics of sin tax]

<sup>39</sup> Ibid.

<sup>40</sup> Aronsson T. and Thunström L., *Optimal Paternalism: Sin Taxes and Health Subsidies*, Umeå University Department of Economics, 2005, p.1.

<sup>41</sup> Hoffer A., *et al* ‘Sin Taxes and Sindustry: Revenue, Paternalism and Political Interest’ *The Independent Review*, 2014, Vol. 19, No. 1, PP. 47-64, p. 48-49.

<sup>42</sup> Sassi F., *et al*, *Supra note 34*, p. 7-8.

<sup>43</sup> Ibid

blameworthy pleasures or human indulgence, such as smoking cigarettes and drinking alcohol, fairly emerge.<sup>44</sup>

Such taxes, accordingly, in an attempt to attain public health objectives, aim at escalating the price of such harmful commodities past some consumers' readiness to pay, which will result at least in the reduction of consumption.<sup>45</sup>

Hence, such taxes are able to promote the health of individuals by reducing consumption of the taxed goods as they force the consumers to account for both the social and private costs of their behavior before deciding to purchase the commodity and this will potentially make consumptions more optimal by reducing its general aggregate level.<sup>46</sup>

All in all, excise tax is one potent mechanism for reducing consumption of unhealthy products like tobacco and alcohol, and because of their ability to target specific products and increase prices, governments that have raised or introduced such taxes have seen reductions in consumption.<sup>47</sup>

### **2.3.3. Externality Correcting Excises**

The other important ground which can be taken as a major objective of excise tax is correction of externality. Externality can be put simply to mean societal costs which are brought as a consequence of the manufacture or consumption of certain goods which are not taken into account by the households or firms.<sup>48</sup> And excise taxes in this regard are often justified as charges for the cost, which is not reflected in price, but are imposed on others with the production or consumption of excisable products.<sup>49</sup>

An attempt to stimulate consumers or producers to reduce their consumption to socially optimal level by charging them for the negative externalities imposed on others is known as the Pigovian

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<sup>44</sup> Lorenzi P., 'Sin Taxes', 2004  
<<https://www.researchgate.net/publication/225682042>> (Last accessed on June 2, 2021) [here in after Lorenzi P., sin taxes]

<sup>45</sup> Sassi F., et al , *Supra note 34*, p. 6.

<sup>46</sup> Liu F., sin taxes, *Supra note 35*, p. 771

<sup>47</sup> Chaloupka et al, *Supra note 33*, p. 197

<sup>48</sup> Parry I., 'Reforming the Tax System to Promote Environmental Objectives: An Application to Mauritius', *Resources for the Future*, Discussion Paper 11-20, 2011, p. 3.

<sup>49</sup> Cnossen, the economics of excise taxation , *Supra note 23*, p. 6

Prescription<sup>50</sup>, “...which holds that efficient consumption or production can be achieved through the tax system by imposing an excise on the activity equal to the marginal cost of the damage caused to other people.”<sup>51</sup> Accordingly, government intervention is justified, to make consumers or producers account for negative externalities, among others, through excise taxation.<sup>52</sup>

The mechanism of making the consumer or producer of such products to account for such externality through excise tax can be by either directly imposing the tax on the product or indirectly by imposing the tax on items which are necessary to utilize it.<sup>53</sup> For instance excise tax can be imposed on automobiles or various types of fuels used by automobiles in order to make the user of them to account for those costs of operating and maintaining public roads, emissions of CO2 contributing to negative environmental impacts, and traffic congestion from the growing number of automobiles on the road, etc...<sup>54</sup>

#### **2.3.4. Other Objectives of Excise Tax**

In addition to the above main objectives, there can also be other goals of excise taxation. Excise tax can be used to augment progressivity in the tax system by attempting to tax items which are considered luxury or consumed mostly by higher income individuals.<sup>55</sup>

In the event of strong government administrative capacity, however, it is widely agreed that, the argument for using excise duties to enhance tax progressivity becomes weak, and distributional objectives would be better met through the income tax and benefit system.<sup>56</sup>

In other respects, excise tax can also be used to discourage importation of materials from abroad or to make imported commodities more expensive than those produced domestically.<sup>57</sup>

### **2.4. Criticisms Against Excise Taxes**

Excise taxes are not only composed of objectives and advantages. There are certain disadvantages which critics of excise taxes point out.

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<sup>50</sup> Ibid.

<sup>51</sup> Cnossen, economics and politics of excise taxation, *Supra note* 19, p. 3,4

<sup>52</sup> Ibid.

<sup>53</sup> Preece R., ‘Automotive Excise Taxation: What Reforms are Needed to Best Utilize the ASEAN Economic Community?’ *World Customs Journal*, Vol. 9 No. 1, p. 16-17 (Here in after Preece R., automotive excise taxation)

<sup>54</sup> Ibid

<sup>55</sup> Giertz F., excise taxes, *Supra note* 1, p. 1.

<sup>56</sup> Cnossen, the economics of excise taxation, *Supra note* 23, p. 12

<sup>57</sup> Giertz F., excise taxes, *Supra note* 1, p. 1.



Some criticize excise taxes on the ground of regressivity, that the burden of the tax would be high on the poor than the rich as the former spends the larger portion of their income for consumption than the latter.<sup>58</sup>

Another critics forwarded towards excise taxes is that as part of indirect taxes, excise taxes has inflation exacerbating effect, with “...indirect taxes inflationary forces are fed through an unending spiral of higher prices, higher costs, higher wages and again higher prices.”<sup>59</sup>

Moreover excise taxes are criticized for interfering with economic optimality, as there will be normally a shift in consumption from taxed to untaxed products.<sup>60</sup>

Furthermore, excise taxes may encourage tax evasion and black market especially in cases of excises imposed on alcohol, tobacco and gasoline.<sup>61</sup>

## **2.5. Types of Excise Taxes**

Excise taxes are mostly classified based on the point at which they are imposed, i.e. as manufacturer and retail excise taxes and on the method of charging, i.e. as ad-valorem and specific.

Manufacturer’s excise taxes are levied on the manufacturer or importer of an excisable good and are built-in the amount paid by the end purchaser, whereas retail excise taxes are levied at the point of transaction to the final purchaser.<sup>62</sup>

Current work in the applied theory of optimal taxation recommends, indirect taxes including excises, should be levied near to the final sale because they can have unforeseen distributional and efficiency outcomes when placed on intermediate items.<sup>63</sup>

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<sup>58</sup> Robert W., ‘Principles of Taxation for Emerging Economies: Lessons from the U.S. Experience’, *Penn State International Law Review*, 1993, Vol. 12, No. 1, PP. 31-92, p. 77 (Here in After Robert W. Principles of Taxation)

<sup>59</sup> Aschalew A., ‘Tax Law Teaching Material’, College of Law and Governance Studies’, School of Law, Addis Ababa University, 2013, p. 17.

<sup>60</sup> John F., excise taxes, *Supra note 2*, p.22

<sup>61</sup> Robert W., Principles of Taxation, *Supra note 58*.

<sup>62</sup> Terra B. ‘Excises’ in Victor Thuronyi, (ed.) *Tax Law Design and Drafting*, International Monetary Fund, Washington, Vol. 1 , 1996, p. 250. [here in after Terra B., Excises]

<sup>63</sup> Ibid

However, because of the small number of taxpayers affected by a tax levied at the manufacturer's level, an administrative benefit outweighs the benefits of levying near to the final sale and for this reason excises in most countries take the form of manufacturers taxes.<sup>64</sup>

The most important classification of excise tax, which shall be given an in-depth consideration under the following paragraphs, is that based on the charging method, i.e. as ad-valorem and specific. These are the two major types of excise tax: specific excise tax, which is a fixed monetary amount of tax per quantity, volume, or weight of products<sup>65</sup> and in effect a tax on the volume of sales<sup>66</sup> and ad-valorem excise tax which is levied as a percentage of the price of products<sup>67</sup> and in effect a tax on the value of sales.<sup>68</sup>

There is also a third alternative, a mixed system, of combining an ad-valorem and specific tax, in order to get the best elements of both, which may incline to more ad valorem or to more specific duties based on the desired outcomes.<sup>69</sup> The more the structure relies on the specific duties, the more the upgrading effect will come into play and the more the structure relies on ad-valorem duties, the more the multiplier effect will come into play and the more excise duties will be automatically adjusted for inflation.<sup>70</sup>

The balance between these two types of structures is of fundamental importance in the design of an appropriate excise tax and it has a serious effect on the interests of producers, consumers and the government.<sup>71</sup>

The question of which is better, cannot be generally put in a simple and clear fashion because each approach has its relative advantages and disadvantages which may differ depending on several factors like country status and the particular item on which the tax is imposed.<sup>72</sup>

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<sup>64</sup> Ibid

<sup>65</sup> IARC Handbook on Cancer Prevention, Overview to Tobacco Taxation, Chapter 2, [Here in after IARC handbook] <<https://www.iarc.who.int/fr/news-events/iarc-publications-iarc-handbook-of-cancer-prevention-volume-14-2/>> [last accessed on June 10, 2021]

<sup>66</sup> Keen M. 'The Balance Between Ad-valorem and Specific Taxation', *Fiscal Studies*, 1998, Vol. 19, No. 1, p. 1 (Here in after Keen M., the balance of ad-valorem and specific)

<sup>67</sup> IARC handbook, supra note 62

<sup>68</sup> Keen M., the balance of ad-valorem and specific, *Supra note 63*

<sup>69</sup> IARC handbook, supra note 62

<sup>70</sup> Keen M., the balance of ad-valorem and specific, *Supra note 63*, p. 5. ("Multipliator effect can be simply put to mean, in order to increase its net price by 1 a firm must increase the price charged to the consumer by more than 1, for part of any increase in the consumer price goes to the government as tax revenue.")

<sup>71</sup> Ibid.

Speaking economics in stricter terms, in a perfectly competitive market for an identical good, the choice between specific and ad valorem taxation is immaterial: any specific structure of tax could be replaced by its percentage equivalent of ad-valorem with no effect on consumer and producer prices or on government revenue.<sup>73</sup> However, in imperfect markets, the choice between these two structures of taxes depends on whether the principal aim of tax policy is to shrink consumption or to raise revenue and on whether enhancements in quality of products considered desirable or not.<sup>74</sup>

The fact that, when using a specific charging method, the tax is determined by simple count of volume makes administration and compliance easier.<sup>75</sup> What is expected from the tax inspector is ability to count, which avoids the frequent troublesome issue of valuation.<sup>76</sup> An issue of valuation and frequent disputes between the tax authority and taxpayer, on which cost component should and should not be included in an excisable value, arise in case of ad-valorem charging method which makes administration complex, as “...taxpayers look to strategies to reduce excise tax liabilities by transferring certain costs past the taxing point and therefore outside of the excisable value used to calculate the excise.”<sup>77</sup>

The major disadvantage of specific taxation is that real revenues declines over time as the tax, which is based on a certain quantity of a good sticks to that quantity and does not change in the face of inflation, while inflation has less adverse effect on the tax amount in the case of ad-valorem taxation.<sup>78</sup>

This way of illustrating the merits and demerits of one or the other type of excise tax is, however, a generalized one as the choice between specific and ad valorem taxation depends on the various objectives of the tax.<sup>79</sup>

Hence, an in depth insight, into which type of excise tax is better in terms of the different objectives the tax sets out to achieve, is imperative. As has been outlined elsewhere under this

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<sup>72</sup> Richard M., tobacco and alcohol excise, *Supra note* 8, p. 9

<sup>73</sup> Cnossen S., the economics of excise taxation , *Supra note* 23, p. 13

<sup>74</sup> Cnossen S., economics and politics of excise taxation, *Supra note* 19, p. 7.

<sup>75</sup> Rob P., contribution of excise taxation, *Supra note* 4, p. 25.

<sup>76</sup> Richard M., tobacco and alcohol excise , *supra note* 8, p. 10

<sup>77</sup> Rob P., effective contribution of excise, *supra note* 4, P. 25

<sup>78</sup> Richard M. tobacco and alcohol excise , *supra note* 8, P. 9

<sup>79</sup> Cnossen S., the economics of excise taxation, *Supra note* 20, p. 14-15

chapter, excise tax may have various objectives, among which revenue generation, discouraging consumption and dealing efficiently with externalities are the basic ones. Ad-valorem and specific excise taxes has different effects with regard to each objective.

There is some tension between specific and ad-valorem taxes, in the tendency that the former lead to higher prices and the latter tend to discourage investments in product quality.<sup>80</sup>

When targeting public health, and accordingly the objective is to discourage consumption of certain items, specific taxation is the appropriate instrument because an increase in a specific excise would relatively result in higher increases in price which will in turn result in price sensitive consumers reduce consumption.<sup>81</sup> Moreover a motivation on the part of consumers to shift between lower-priced and higher-priced brands would be mitigated<sup>82</sup> as “Uniform specific rates reduce relative price differences between low-priced and high-priced brands, whereas uniform ad valorem rates increase absolute price differences.”<sup>83</sup>

In addition, when the objective is to discourage consumption imposing the tax on the target, for instance on alcoholic content or the tobacco, and not in its value makes more sense.<sup>84</sup>

Therefore “...theory suggests, and experience generally confirms, that predominantly specific taxation tends to lead to relatively high levels of price, product quality and variety...”<sup>85</sup> which makes it the appropriate policy instrument of excise taxes opting to discourage consumption of harmful products and enhancing public health. A per unit tax, for instance on cigarette, can be more properly linked with the amount consumed, a rough approximation of the spillover effects and the externalities of such consumption.<sup>86</sup>

Using the above analysis as a benchmark it is also possible to state that a policy aiming to correct externalities should favor specific over ad valorem taxation as the harm, for instance pollution, is

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<sup>80</sup> Ibid

<sup>81</sup> Center For Tobacco Control in Africa, Factsheet on Tobacco taxation in Africa, <<https://www.afro.who.int/health-topics/tobacco-control/>> [last accessed on June 10, 2021]

<sup>82</sup> Ibid

<sup>83</sup> Cnossen S., economics and politics of excise taxation, *Supra note* 19, p. 7

<sup>84</sup> Richard M., tobacco and alcohol excise , *Supra note* 8, p. 9

<sup>85</sup> Keen M., the balance of Ad-valorem and Specific, *Supra note* 66

<sup>86</sup> Lowry S., ‘Federal Excise Taxes: An Introduction and General Analysis’, Congressional Research Service, 2014, p. 5. <<https://researchgate.net/publication/293071377>> {last accessed on June 10, 2021]

independent of price.<sup>87</sup> As most externalities can be linked to a given feature of the good which has externality, a specific tax on that characteristic of the good provides the better approach, and in this sense a specific tax can be used to target externalities than its ad-valorem equivalent.<sup>88</sup>

However, in case of excise taxes imposed more for revenue generating purposes, ad-valorem charging method is more appropriate, because it is imposed on the value of the taxed product, and hence it keeps with inflation over time thereby maintaining the value of the tax to be collected.<sup>89</sup> The setting of excise taxes based on an ad-valorem rate in relation to its objective to increase government revenue can additionally help in making the tax less regressive as it mitigates the penalty placed by specific charges on lower priced varieties of the product. Moreover, ad valorem charges eliminate the need for defining the taxable units, as specification of units is problematic especially in the case of goods considered luxury.<sup>90</sup>

## **2.6. Base of Imposition of Excise Taxes**

Under this sub-section the major items which are mostly subjects of excise taxes, like tobacco and alcoholic products, various types of vehicles, fuels and non-alcoholic beverages, shall be discussed.

Tobacco products are taxed universally in the modern state as they are taxed wherever they are consumed and while taxation policy varies greatly from state to state, tobacco product taxation is nearly always a key component of government policy toward tobacco and smoking.<sup>91</sup>

Higher excise taxes are an important mechanism in increasing smoking cessation rates, and high specific excise duties are far more likely to discourage switching between different types of

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<sup>87</sup> Cnossen S., economics and politics of excise taxation, *Supra note* 16, p. 7.

<sup>88</sup> Keen M., the balance of ad-valorem and specific, *Supra note* 63, p. 19-20

<sup>89</sup> Terra B., excises, *Supra note*, p. 247.

<sup>90</sup> John F., excise taxes, *Supra note* 2, p. 21.

[“moreover, the effect of the two types of taxes on government revenue can be shown more clearly in a setting where an additional tax is imposed on the quantity and price of a given commodity, whereby the revenue from the tax based on the former remains the same regardless of whether the price of the commodity has changed as for instance an excise tax of 5 birr per k/g is not affected by price fluctuations, however the revenue from the tax based on the later differs with every change in the price of a given commodity as for instance, from an excise tax of 5 % of the price of a given commodity, the revenue increases from each and every rise in the price of the commodity.”]

<sup>91</sup> Zimring F. and Nelson W., ‘Cigarette Taxes as Cigarette Policy’, *BMJ Journals on Tobacco Control*, Vol. 4, 1995, p. 1.

tobacco products, are far easier to administer, and generate a far more consistent stream of revenue.<sup>92</sup>

The main flaw is that such specific excise duties must be adjusted for inflation on a regular basis, which is significantly higher in underdeveloped countries than in developed ones. As a result, a complementary approach is to increase the excise charge every year, in line with the overall inflation and preferably higher than inflation, so that the number of smoking quitters grows year after year.<sup>93</sup>

Internationally, the World Health Organization's Framework Convention on Tobacco Control (FCTC), the first ever global convention on public health, is the key device for accelerating tobacco control on a worldwide scale.<sup>94</sup> This is an international legally binding convention, which implies that the signatories are obliged to implement its provisions, which include price and tax measures to limit cigarette consumption.<sup>95</sup>

Also, most countries tax domestic alcoholic beverage consumption with the tax rates varying greatly amongst beverages. In most nations, the tax per liter of alcohol is more for spirits than for beer or wine, and beer appears to be taxed slightly more than wine, at least in developed economies.<sup>96</sup>

International experience has provided certain guidelines that may be valuable when it comes to alcohol taxation. In many cases, it can be used to generate revenue with reasonable efficiency, however, in order to determine rates effectively, a more thorough analysis of revenue maximizing rates is required.<sup>97</sup> Excises on alcohol should be imposed at defined rates which must be clearly adjusted for inflation on a regular basis and to ensure that alcoholic beverages are

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<sup>92</sup> Jha P. 'Avoidable Death from Smoking: a Global Perspective' *Public Health Reviews*, Vol. 33, No 2, p. 586

<sup>93</sup> Id. p. 587

<sup>94</sup> Id. p. 590

<sup>95</sup> UNDP 'Taxes on Tobacco' <<http://www.undp.org/content/home/en/home/post2015/>> [last accessed on June 12, 2021]. Also, "Target 3.a of the sustainable development Goals (SDGs) commits all nations to strengthening implementation of the WHO FCTC. The Addis Ababa Action Agenda also recognizes that tobacco price and tax policies can be an effective and important tool for reducing tobacco consumption and health-care expenses, as well as a source of money for development financing."

<sup>96</sup> Manton E. 'Historical and Cross Cultural Changes in the Taxation of Different Alcoholic Beverages', *Canberra: Foundation for Alcohol Research and Education*, 2015, p. 7.

<sup>97</sup> Bird R. and Wallace S., *Taxing Alcohol in Africa: Reflections and Updates*, International Studies Program working Paper 10-31, 2010, p. 26

treated equally, tax rates should be set in terms of alcohol content. Moreover, to allow for efficient and effective administration, alcohol taxes should be made as simple as feasible.<sup>98</sup>

Excise tax is also imposed on vehicles in most countries with several methods of levying. It can be imposed based on CO2 emissions, measured in grams per kilometer, or on one based on 'fleet-wide' evaluation of new vehicle products rather than specific cars or models.<sup>99</sup> It can also be imposed based on engine displacement, which is the most frequent criterion for classifying vehicles for the purpose excise duty having the benefit of acting as an alternative for many other negative externalities, such as energy policy, fuel economy, and carbon emissions.<sup>100</sup>

Excise taxes on vehicles are principally levied on per value basis, and given its character it is still the most suitable tax base as there are no definite or equitable tax bases to apply with regard to per unit tax rates on automobile excises.<sup>101</sup> Given the variation in prices which are not often tied to specific elements of the cars, such as their weight or engine capacity and the associated regressivity of specific taxes, an ad valorem tax is recommended.<sup>102</sup>

Excise taxes are also imposed because of concerns about the undesired by-products, such as carbon dioxide and methane, produced as typical commodities by economic sectors. In exchange countries can expect considerable local pollution reductions in addition to carbon dioxide reductions as a result of carbon taxes.<sup>103</sup>

Nevertheless, carbon taxes have clear implication, as such a tax scheme could impede economic growth by making production more expensive for businesses due to increasing fuel prices. Moreover, as a result of rising fuel prices, the country's manufacturing sector may experience a slowdown.<sup>104</sup> This is because fuel is an intermediate input in the manufacturing of a variety of commodities and services and it has an overall inflationary effect.<sup>105</sup> Higher fuel prices are transferred to other sectors as a result of inter industry connections, altering market and market

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<sup>98</sup> Ibid.

<sup>99</sup> Preece R., automotive excise taxation, *Supra Note 50*, p. 22

<sup>100</sup> Id p. 27

<sup>101</sup> Id P. 21

<sup>102</sup> Terra, excises, supra note 86, P. 17

<sup>103</sup> Castillo C., *et al*, 'Assessment of TRAIN's Coal and Petroleum Excise Taxes: Environmental Benefits and Impacts on Sectoral Employment and Household Welfare', *Philippine Institute for Development Studies*, 2018, p.25

<sup>104</sup> Ibid.

<sup>105</sup> Id p. 27

pricing. As a result of the fuel industry's network effects, gasoline prices can have a significance impact on the country's poverty situation.<sup>106</sup>

Recently, a number of governments have imposed or increased taxes on a broader range of unhealthy products, or restructures taxes in novel ways, with the goal of increasing the cost of making, distributing, retailing and/or consuming such products.<sup>107</sup>

An excise tax, on non-alcoholic beverages, particularly sweetened drinks, has sparked heated debate and taxes on such products have been imposed, repealed, and are being discussed in various nations.<sup>108</sup> An excise on sweetened soft drinks, as a discriminatory tax, may improve tax collections from one single category of goods while simultaneously changing demand through a price increase.<sup>109</sup>

Sugar sweetened beverages taxes are one of the most effective measures for reducing its use, and they appeal to policy makers since they raise revenue in addition to cutting the sale of such products.<sup>110</sup> Public health advocates and governments are looking for on how best to respond to the worldwide obesity epidemic. Among the numerous policy choices, unhealthy food and beverages taxes have gained traction as a potentially successful strategy for reducing non-nutritive calorie intake while increasing government funding for community based health promotion programs.<sup>111</sup>

As a result, the World Health Organization (WHO) recommends that governments consider imposing 'sin taxes' on unhealthy foods, such as levies on sugar-sweetened beverages.<sup>112</sup> Similarly, the WHO recommends that the tax rates be adjusted to raise prices by at least 20%, resulting in net calories intake reductions big enough to improve population-level weight.<sup>113</sup>

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<sup>106</sup> Id p. 24

<sup>107</sup> Wright A., *et al*, 'Policy Lessons from Health Taxes: a Systematic Review of Empirical Studies', *BMC Public Health*, 2017, p. 2

<sup>108</sup> Keen, The balance of ad-valorem and specific, *Supra note 63*, p. 21

<sup>109</sup> Ibid.

<sup>110</sup> Krieger J., *et al*, 'Sugar Sweetened Beverage Reduction Policies: Progress and Promise', *Annual Review of Public Health*, 2020, p. 6.3.

<sup>111</sup> Rajagopal S., *et al*, 'The Evidence - and Acceptability - of Taxes on Unhealthy Foods', *Israel journal of health policy research*, 2018, p. 1

<sup>112</sup> Schmaker R. and Smed S. 'Sin Tax and Self Control', *German Institute for Economic Research*, 2020, p. 2 <<https://ssrn.com/abstract=3661144>> [last accessed on July 01, 2021]

<sup>113</sup> Chaloupka, *et al*, *Supra note 30*, p. 10



There are, however, strong oppositions, against the implementation of an excise tax on sugar sweetened beverages. While they agree in principle that excise taxes on such products reduce demand and raise revenue, they argue that such taxes are unsuccessful in reducing weight and body mass index since these products are not the primary source of calories for many consumers, and there are close substitutes that are readily available to them.<sup>114</sup>

A discriminating tax, such as an excise levy, also acts promptly to diminish economic activity in that industry, declining revenues and jeopardizing employment.<sup>115</sup> These excise taxes are distinguished by their ad valorem nature, as opposed to being targeted at a specific element of perceived harm, and are thus aimed only to raise revenue. Thus excise taxes on non-alcoholic beverages appear to be a relatively minor source of tax income in and of themselves, with the more likely impact of reducing tax revenue from other sources of tax such as VAT and profit-based taxes, making them problematic taxes to retain or establish.<sup>116</sup>

Regardless of whether one supports or opposes the implementation of excise on non-alcoholic beverages, crucial suggestions are made on how to best utilize it. If the goal is to address health problems, charging such products based on consumption volume, as is frequently the case, is less effective because it entails punishing high and low sugar drinks equally.<sup>117</sup> Manufacturers, retailers and distributors may be encouraged to alter their product lineups and marketing plans to favor drinks with less sugar if the taxes are imposed based on sugar content. However, if policymakers are more concerned with increasing revenue than with reducing sugar consumption, they may prefer broader levies that more fairly distribute the tax burden.<sup>118</sup>

Excise taxes are also levied on luxury goods and services in several countries. There is no consistency among countries in this regard, as the concept of luxury is subjective and reliant on a country's socio-economic status. However, taxes on perfumes, jewels, expensive cars, cosmetics, electronics and entertainment are instances under this category.<sup>119</sup>

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<sup>114</sup> Preece R., contribution of excise, *Supra note 4*, p.27

<sup>115</sup> *Id* p. 33

<sup>116</sup> *Id* p. 24

<sup>117</sup> Francis N., et al, 'The Pros and Cons of Taxing Sugar Sweetened Beverages Based on Sugar Content', *Urban Institute, Research Report*, 2016, p. 2 and 3 [here in after Francis et al,]

<sup>118</sup> *Ibid*.

<sup>119</sup> United States General Accounting Office, Report to Congressional Requests, 'Tax Policy and Administration: Luxury Excise Taxes, Issues and Estimated Effects' 1992.

In short, a tax on luxury or affluent consumption is imposed to achieve the objectives of: improving the progressivity of the tax structure and thus enhancing a more equitable distribution of wealth, complimenting the income tax by capturing affluent expenditures or consumption of luxury goods that would otherwise escape the income tax net, increase additional resources to fund government expenditures by reducing conspicuous consumption, increase saving and capital formation and conserve foreign exchange, as savings in foreign exchange will be realized to the degree that the tax payer refrains from purchasing luxury goods with high import content as a result of the tax.<sup>120</sup>

An issue in taxing these types of items is the possibility of shifting consumption if there are close substitutes for the charged commodities. It may appear that charging all substitutes may solve the problem, but this will result in a tax on a large number of items which creates difficulty of administration.<sup>121</sup>

In summarizing chapter two of the research, the following important remarks can be forwarded.

In terms of rates, it is important to remember that, in practice, it is frequently set at levels and in ways that policy makers deem politically palatable.<sup>122</sup> In most cases, history, revenue demands and the desire to appease political groups explain how and how much these goods are taxed rather than economic analysis or the priority assigned to goals like enhancing public health or maximizing social welfare.<sup>123</sup>

Where economies are in transition the trend is to minimize or eliminate consumer items from the excise tax system. Excise taxation is thus more suitable now when the product subject to excise obviously has externalities to consider in relation to the products' consumption whereby the discriminatory nature of excise taxes allows policy makers to include the cost in the product for consumers to consider.<sup>124</sup>

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<sup>120</sup> Amurao B., 'Feasibility of Expanding the Coverage of Non-essential Goods Subject to Excise Tax Under Section 150 of the National Internal Revenue Code (NIRC) of 1997, as Amended', *NTRC Tax Research Journal* Vol. XXXI.2, 2019, p. 6,7

<sup>121</sup> Id p. 8. Furthermore, a high tax on commodities could encourage smuggling and black market.

<sup>122</sup> Richard M., tobacco and alcohol excise, *Supra note* 8, p. 9

<sup>123</sup> Ibid

<sup>124</sup> Rob P., contribution of excise taxation, *Supra note* 4, p. 26

However, the products included in the tax can have an impact on the effect of the tax and revenue outcomes: The narrower the product base, the more likely it is that untaxed products will be substituted, reducing the health impact while producing lesser revenues.<sup>125</sup>

Excises should be limited to a few major product groups, and minor excises, like on matches, lighters, chocolate, playing cards, should be avoided in favor of a general consumption tax. Any consideration towards taxing such items should duly consider the benefits (revenue), against its negative effect (discrimination, substitution and administrative costs).<sup>126</sup>

When considering taxes to raise revenue, conventional tax principles should be taken in to account as: Efficiency - that the tax should not impede economic activity or affect households' or businesses' economic decisions, Equity - that the tax should be imposed fairly<sup>127</sup>, Neutrality - that the tax shall apply equally to all people in similar situations or that it will treat all those in similar conditions in the same way, Simplicity - that the tax is transparent, easy to comply with, administer and levied at a reasonable cost,<sup>128</sup> Certainty - that rates should be well defined and not fluctuate unexpectedly, allowing businesses to plan with complete understanding of their estimated tax responsibilities.<sup>129</sup>

In sum, although there is no one size fits all recommendation in better designing an excise tax policy and law, the following key proposals can however be made. Firstly, an excise tax on a few specified products should be applied to allow for efficient administration.<sup>130</sup> Secondly, where the goal is to reduce harm associated with the use of an item, a specific charging method with a provision of periodic review is preferable as it effectively address the harm while also simplifying administration. And lastly, where the goal is to generate revenue, conventional tax principles should be followed as far as practicable.<sup>131</sup>

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<sup>125</sup> Chaloupka et al, *Supra note 30*, p. 8

<sup>126</sup> Terra, excises, *Supra note 86*, p. 16

<sup>127</sup> Yohanes M. and Sisay B., Tax Law Teaching Material, Prepared under the Sponsorship of the Justice and Legal System Research Institute, 2009, p. 11.

<sup>128</sup> Preece R., Effective Contribution of Excise, *Supra note 4*, p. 26

<sup>129</sup> Ibid.

<sup>130</sup> Richard B., Tobacco and Alcohol Excise, *Supra note 8*, p. 27, 28

<sup>131</sup> Ibid.

## CHAPTER THREE

### 3. THE LEGAL REGIME FOR EXCISE TAX IN ETHIOPIA

#### 3.1. Chapter Introduction

The Ethiopian tax system is a composition of both direct and indirect types of taxes. Excise tax, which is classified under the latter, has long been in use and its de jure support can be traced back to the Emperor Haile Sellassie I regime.

The discussion under this chapter commences by giving a historical insight into the major developments regarding excise tax under the Ethiopian legal system, followed by the current constitutional and legislative frameworks governing the topic at hand. Unreserved effort will be made to give important remarks with special emphasis on the substantive features of the Ethiopian excise tax law.

#### 3.2. Brief Historical Background to Excise Tax in Ethiopia

It was during the early Emperor Haile Sellassie I period several entirely new types of taxes were introduced under the legal system of Ethiopia.<sup>132</sup> Excise tax was one of the first taxes imposed in this period when the Excise and Consumption Tax issued by a decree dated March 30, 1931 in order to enhance government income to purchase the formerly privately owned Bank of Abyssinia and establish a gold currency. Later through a decree on 5 August of 1932, an entertainment tax was issued on concerts, cinemas, theatres and meetings.<sup>133</sup>

Excise tax, in its comprehensive and broadest meaning, was first enacted in 1943 and had have a lot of revisions since then. The typical feature of this law is that the tax was imposed on imported and domestically manufactured alcohol which was taxed at similar rate.<sup>134</sup> The tax was also imposed, among others, on several items which includes agricultural marine, textiles, apparel, yarns, fibers, metals, machinery and vehicles, oils, waxes, paints and varnishes, chemical drugs

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<sup>132</sup> Pankhurst R., 'Tribute, Taxation and Government Revenue in Nineteenth and Early Twentieth Century Ethiopia (part II)', *Journal of Ethiopian Studies*, Vol. 6, No. 1, 1968, pp. 21-72 , P. 70

<sup>133</sup> Ibid.

<sup>134</sup> Tegegn T., *The Productivity of Tax System in Ethiopia (1961-2005)*, MSC Thesis, Addis Ababa University, 2008, p. 21, 34. (Here in after Tegegn T., the productivity of tax system)

and fertilizers.<sup>135</sup> A motor fuel tax was imposed five years later, on imported as well as locally manufactured petroleum products, with certain exceptions.<sup>136</sup>

The characteristic feature of early Ethiopian excise tax is, "...proliferation of taxes introduced at different times and under different names although the majority of them could have been incorporated under a comprehensive excise tax."<sup>137</sup>

In 1955, a salt tax was enacted that applies to both imported and locally mined salt. In addition, a proclamation imposing excise taxes on imported and domestically manufactured sugar, cotton, yarn and textile fabrics was also issued subsequently.<sup>138</sup>

Through the proclamations enacted in 1963 and 1965, excise tax was imposed on several basic items with the tax on sugar at birr 15, yarn at 15 cents and textiles at 35 cents per kilogram.<sup>139</sup> A tax on alcohol was imposed with two major schedules dealing with imported and locally manufactured alcohol, with exception on Tej and Tella, two traditional and popular drinks in Ethiopia. A tobacco tax was also imposed on imported tobacco, matches, cigarette paper and pocket lighters.<sup>140</sup>

During the 1971 excise tax reform, the coverage on excisable goods was expanded from seven to twelve products and with the exception on tobacco products, leather and plastic goods, the applicable charging method was specific. Several amendments were made to improve this tax system during this period under proclamation No. 285 of 1971 and proclamation No. 314 of 1973.<sup>141</sup>

Through the Sales tax law, enacted in 1990, Transaction tax, Turnover tax and Excise tax were brought together, with the objective of bringing together a slew of disparate indirect taxes, simplify and streamline tax administration and expand the coverage.<sup>142</sup>

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<sup>135</sup> Ibid

<sup>136</sup> Eshetu C., 'Towards a History of the Fiscal Policy of the Pre-revolutionary Ethiopian State: 1941-74', *Journal of Ethiopian Studies*, Vol. 17, 1984, PP. 88-106, p. 100

<sup>137</sup> Id p. 99

<sup>138</sup> Tegegn T., the productivity of tax system, *Supra Note* 126.

<sup>139</sup> Schwab P., 'The Tax System of Ethiopia', *The American Journal of Economics and Sociology*, Vol. 29, No. 1, 1970, pp. 77-88, p. 70

<sup>140</sup> Ibid

<sup>141</sup> Tegegn T., the productivity of tax System, *Supra Note* 126.

<sup>142</sup> Ibid.

In the words of Tadesse, “Almost by single stroke, the 1990 tax law brought together the previously separate pieces of legislation on excise taxes, alcohol excise taxes, petroleum products and lubricants excise taxes, salt tax, and transaction taxes.”<sup>143</sup>

Under the 1993 Sales and Excise tax Proclamation and its amendments in 1997 and 2001 excise tax was imposed on specified goods when either produced locally based on their cost of production or when imported from abroad based on their cost, insurance and freight value.<sup>144</sup>

A fundamental repeal to the Sales and Excise tax proclamation No. 68/1993 has been made with the enactment of Excise tax proclamation in 2002 governing excise tax in separation of sales tax and aiming to improve government revenue and reducing consumption of goods which are hazardous to health and cause to societal harm.<sup>145</sup>

This proclamation along with its minor amendment proclamations<sup>146</sup> has maintained the previous approach of imposing excise tax on goods when either produced locally, based on their cost of production, or when imported from abroad based on their cost, insurance, freight value and custom duty payable. It has also maintained the previous approach of dominantly utilizing ad-valorem charging method in respect of all goods subject to excise tax.

The tax was imposed on a list of nineteen categories of goods with the tax rate ranging from 10 % to 100 % of the value of the goods, accordingly excise tax has been imposed on: any type of Sugar (excluding Molasses) ; Drinks (both soft and alcoholic) ; pure Alcohol; Tobacco and Tobacco Products ; salt; Fuel (with its varieties) ; Perfumes and Toilet Papers ; Textile and Textile products (with tax on imports deductible when produced locally in a factory); Personal adornment made of gold, silver or other materials; washing machines for domestic purposes; Video decks; Television, television broadcast receivers and video cameras; Motor vehicles (tax

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<sup>143</sup> Tadesse L. “Towards Legislative History of Modern Taxes in Ethiopia (1941 – 2008), PP. 104-158, p. 135 [https://journals.co.za/doi/pdf/10520/AJA00220914\\_78](https://journals.co.za/doi/pdf/10520/AJA00220914_78) (accesses on 22 June, 2021)

<sup>144</sup> See Sales and Excise Tax Proclamation No. 68/1993 (Articles 10 and 11), and Sales and Excise Tax (amendment) Proclamation, 1997, *Federal Negarit Gazette*, Proc. No. 77/1997, 3<sup>rd</sup> Year, No. 40, article 10 and 11, and Sales and Excise Tax (amendment) Proclamation, 2001, *Federal Negarit Gazette*, Proc. No. 237/2001, 7<sup>th</sup> year, No. 25.

<sup>145</sup> Excise Tax Proclamation, 2002, *Federal Negarit Gazette*, Proc. No. 307/2002, 9<sup>th</sup> year, No. 20, (Here in after the previous excise proclamation)

<sup>146</sup> Excise Tax (amendment) Proclamation, 2008, *Federal Negarit Gazette*, Proc. No. 570/2008, 14<sup>th</sup> year, No. 22, and Excise tax (amendment) Proclamation, 2008, *Federal Negarit Gazette*, Proc. No. 610/2008, 15<sup>th</sup> year, No. 7.

on inputs deductible when assembled locally); carpets; Asbestos and asbestos products; Clocks and watches; Dolls and toys.<sup>147</sup> Later on Chat has been made subject to excise tax in 2012.<sup>148</sup>

Perhaps the most problematic feature of the previous excise proclamation has been its base of calculation, cost of production, in respect of excisable goods produced locally.<sup>149</sup> Other than such logical claims that cost of production should include direct material cost used in the production process, direct labor cost incurred in the production process and manufacturing overhead costs, it was legally unclear whether it includes or not other costs for instance idle labor, packaging materials and label, which made it the subject of controversy between the tax authority and the tax payers.<sup>150</sup>

One of the primary reasons, among others, behind the enactment of the excise proclamation<sup>151</sup>, was this uncertainty as to what cost of production includes. The excise proclamation, under its preamble, has set out to provide solution to this problem by replacing the previous base of calculation of excise tax, cost of production with ex-factory selling price. Moreover, it is aimed to ‘...review the type of goods on which excise tax has been collected and impose the tax on goods and services that are believed to be luxury, hazardous to health, causes social problems as well as on basic goods which are demand inelastic’ and ‘overcome the problems encountered in collecting proper excise tax due to shortcomings in the current excise tax proclamation.’<sup>152</sup>

In this chapter, a detailed discussion will be forwarded predominantly by scrutinizing the excise proclamation with a special emphasis on its substantively major design aspects.

### **3.3. The Legal Framework Governing Excise Tax in Ethiopia**

#### **3.3.1. Constitutional Background for the Imposition of Excise Tax**

Power of taxation has its basis under the FDRE Constitution,<sup>153</sup> which has divided such power as Federal power, State power, Concurrent power and Undesignated power<sup>154</sup>, and power to tax in

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<sup>147</sup> The previous excise proclamation, *Supra note 145*, The Schedule.

<sup>148</sup> Chat excise proclamation, *Supra note 14*. (Its major aim is to reduce the ever increasing domestic consumption of Chat, as per the preamble of the proclamation, however it is also applicable to export of Chat as well)

<sup>149</sup> The previous excise proclamation, *Supra note 145*, article 5.

<sup>150</sup> Teresa E., *Challenges of Excise Tax and its Contribution to Government Revenue (in the case of Large Tax Payers Branch Office*, MSC Thesis, Addis Ababa University, 2019, p. 4 and 74. (Here in After Teresa E., challenges of excise tax)

<sup>151</sup> Excise proclamation, *Supra note 13*, Preamble

<sup>152</sup> *Ibid.*

<sup>153</sup> Constitution of the Federal Democratic Republic of Ethiopia, 1995, *Federal Negarit Gazette*, Proc. No. 1/1995, 1<sup>st</sup> year, No. 1.

respect with excise tax is also allocated in these lines. Accordingly, the Federal government is empowered to levy and collect excise tax from the enterprises it owns, the State governments are empowered to levy and collect excise tax from the enterprises they own and the Federal and State governments are empowered to concurrently levy and collect excise tax from the enterprises they jointly establish.<sup>155</sup> It is the Federal government which levies and collects excise tax from concurrent powers and shares the revenue with the States.<sup>156</sup>

With regard to those undesignated powers the power to determine them is given for a joint session of the House of Federation and the House of Peoples Representatives<sup>157</sup>, and it is in this respect that the ‘..Joint Houses met and designated excise taxes on private enterprises as concurrent taxes’<sup>158</sup>, which shall be levied and collected by the Federal government and shared as per the revenue-sharing scheme approved by the House of the Federation<sup>159</sup>

Excise tax is, therefore, for the most part levied and collected by the Federal government and accordingly the research will only utilize Federal legislations governing excise tax matters.

### **3.3.2. Legislative Framework for the Imposition of Excise Tax at the Federal Level**

#### **3.3.2.1. The Type of Goods on Which Excise Tax is Imposed**

The current legislative framework governing excise tax matters in Ethiopia emanates from the Excise proclamation and Chat excise proclamation, with their respective directives dealing with the detail implementation of the governing law.

There are generally two approaches in designing the overall legislative framework for excise tax. A unitary excise tax law governing all excisable goods and services, on the one hand and different laws dealing with different excisable goods and services, on the other hand.<sup>160</sup> Following the former approach has the advantage of avoiding multiple laws, making the laws

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<sup>154</sup> Id., Articles 96, 97, 98, 99 respectively

<sup>155</sup> Id. Articles 96(3), 97(7), 98(1) respectively.

<sup>156</sup> Beka D., *Impacts of States’ Revenue Capacity on Self Administration Under Ethiopian Decentralized Fiscal System: the Case of Oromia National Regional State*, MA Thesis, Addis Ababa University, 2014, p 34, 38.

<sup>157</sup> Id. Article 99

<sup>158</sup> Tadesse L., ‘The Ethiopian Tax System: Excesses and Gaps’, *Michigan State International Law Review*, Vol. 20:2 , p. 334.

<sup>159</sup> Id. p. 332.

<sup>160</sup> Ethiopian Television (ETV) Kasma program, Interview with Dr. Tadesse Lencho, on the Ethiopian Excise Tax, transmitted on January 25, 2020. [here in after ETV interview with Dr. Tadesse] (Translated by the Author)



accessible<sup>161</sup> and mitigating complexity in the legal system whereas the later approach has the advantage of ensuring the law focus on specific objectives and avoid policy clashes.<sup>162</sup>

The legal regime for excise tax in Ethiopia at the federal level can be said to follow the former approach,<sup>163</sup> which as will be seen subsequently, contributed to the uncertainty on the specific objectives behind the imposition of excise tax on some items.

Excise tax is imposed in Ethiopia on excisable goods manufactured in Ethiopia by a licensed manufacturer and excisable goods imported into Ethiopia.<sup>164</sup> The excise proclamation appears to introduce ‘services’ to the realm of excise tax when one reads several provisions of the proclamation which governs the question of when and how services are to be taxed.<sup>165</sup> However, we don’t find any single service on which excise tax is imposed under the proclamation.

The most probable reason for this gap is lack of careful check over, on the draft, before the final publication of the excise proclamation. This is because on the proposed draft of the excise proclamation several types of telecommunication services were included. These services are absent on the excise proclamation while the provisions governing them are kept intact. Therefore, a careful editing on this laxity found under the excise proclamation is required. Accordingly, the discussion in this paper will be limited to excisable goods as there are no services on which excise tax is imposed.

Excise tax in Ethiopia is imposed on wide range of goods.<sup>166</sup> In line with the objectives for imposing excise tax, the items on which excise tax is imposed can be generally categorized in four groups as follows for the purpose of simplicity.<sup>167</sup>

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<sup>161</sup> Tadesse L., *Supra note* 143, p. 135

<sup>162</sup> *Ibid.*

<sup>163</sup> This is because there is one excise proclamation governing all excise tax matters with the exception of excise tax on Chat.

<sup>164</sup> Excise proclamation, *Supra note* 13, Article 5

<sup>165</sup> *Id.*, see the preamble, Art 2(8), 3, 4(2), 5(1)(c), 6(3), 7(3), 8, 9(4), 13, etc

<sup>166</sup> According to the Schedule of the excise proclamation excise tax is imposed on : Fats and oils; Sugar and sugar products; Products containing chocolate and cacao; Powder soft drinks; Alcoholic and non-alcoholic beverages; Tobacco and tobacco products; Salt; Mineral Fuel, oils and their products; Perfumes, Toilet waters, Cosmetics, Beauty products; Fireworks; Plastic shopping bags; Rubber Tyres; Textile products manufactured by industries; Carpets; Garments; Artificial flowers, Foliage and fruit and articles made them; Human hair and wigs; Asbestos and asbestos products; Natural or cultured pearls and precious and semi precious stones; Video recording or reproducing apparatus, Television broadcast receivers, Cameras; Vehicles; Video game machines, Carnival and festive entertainment and gambling machine; Smoking pipes and cigar and cigarette holders.

## 1. Those Goods which Cause Harm to Their Consumers

With respect to harmful items, more specifically tobacco, alcoholic products and Chat, the Ethiopian excise tax has followed three approaches. It has followed an optional ad-valorem or specific charging method on beers<sup>168</sup>. It has followed a pure ad-valorem charging method on products containing alcohol in different volume, tobacco leaf, smoking pipes and cigarette holders.<sup>169</sup> It has followed a pure specific charging method on Chat.<sup>170</sup> It has used both an ad-valorem and specific charging method on cigarette products and its varieties<sup>171</sup>.

What can be transpired from this is that the approach followed by the Ethiopian excise tax law with regard to addressing harmful items is complex and not valid. This is because the approach followed, which is mostly an ad-valorem charging basis, is not only unsuited with the objective of reduction in consumption of harmful items,<sup>172</sup> but results in further making the tax administration and collection complex as the tax authority should, for instance on beers, make a detailed calculation and comparison on whether a percentage of price of beer or its per liter value would result in a higher amount of tax for the government. In another instance on taxing cigarette products the tax authority would be faced with an additional obligation of assessing both the value of the product and the volume of the quantity sold.

The main reason for crafting the law this way is to secure consistent revenue for government which would not be affected by inflation and price rises overtime.<sup>173</sup> However, this concern could have been avoided by supplementing a pure specific charging method with an adjustment of inflation, which as per the excise proclamation is mandatory for the Minister to make once in a year.<sup>174</sup>

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<sup>167</sup> It should be noted that the purpose of classifying the goods in such a manner is to address those related goods in separate category, as otherwise addressing them each by their own, will make the discussion redundant and complex. However, the classification should not be taken to be clear cut and an item may have characteristics which can make it fit in to the other categories as well.

<sup>168</sup> This ranges, from 30-40% of the value or from 8 to 11 per liter, on whichever is higher. The lowest rate is applicable for types of Beers which are brewed with locally produced barely.

<sup>169</sup> The value ranging from 30 % to 40 %, on wine, 80% on different types of spirits and 60 % on pure alcohols and 20% on tobacco leaf or raw tobacco and smoking pipes and cigar or cigar holders

<sup>170</sup> Chat excise proclamation, *Supra note* 14, Article 4

<sup>171</sup> 30 % plus 8 birr per pack of twenty sticks and 30 % plus 250 birr per kilogram on other cigarette products.

<sup>172</sup> It is to be noted that under Chapter 2 of this research, the appropriate charging method for taxing harmful items is specific than an ad-valorem basis.

<sup>173</sup> Interview with Mr. Gosa Tefera, Ministry of Finance Tax Policy Department, Team Leader of Indirect Taxes, on the design and drafting process of the Ethiopian excise tax, August 3, 2021. [Here in after Interview with Mr. Gosa]

<sup>174</sup> Excise proclamation, *Supra note* 13, Article 10(2)

The significance of providing a yearly adjustment as it is stipulated under the excise proclamation is trivial because specific charging method is applied in cigarette products as an additional scheme with the ad-valorem method.

Its significance is further mitigated as the adjustment is stipulated to be made through a directive to be issued by the minister, even though the better way would have been to provide an automatically adjustable mechanism so as to avoid the necessity of annually issuing a directive with a possible outcome of making the tax system uncertain.

## **2. Those Goods which Cause Externalities to the Society**

The types of goods found under this category are different types of vehicles, rubber tires, mineral fuel and oil, plastic shopping bags and asbestos and their products. The tax is imposed, with the exception on 40 birr per kilogram on plastic bags, based on an ad valorem charging method.<sup>175</sup>

The substantial part of the excise proclamation schedule is devoted to the mode of taxing and category of vehicles on which the tax is imposed. The particular feature of the tax imposed on vehicles is an extremely higher amount of tax, at times extending to 500 % of the value, on used vehicles.

The main reason for imposing such extremely higher amount of tax on used vehicles is a belief that they are cause to more carbon emission, traffic accidents and they need more fuel and spare part which puts a burden on the already short foreign currency of the country.<sup>176</sup>

Despite the reason forwarded, it has faced opposition and criticisms from the society at large<sup>177</sup> and tax law experts.<sup>178</sup> The argument in this regard is not only because of the fact that the tax is extremely higher, but also on the imposition of heavy excise tax on certain types of vehicles without a due consideration of the country's economic and technological development.

Imposing such a heavy excise tax on used tractors and self loading and unloading trailers and semi trailers for agricultural purposes can be justified in a country where technological and economic development would allow for the domestic production of such functionally useful vehicles. However, in Ethiopia where this is not the case and agriculture is known to be

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<sup>175</sup> Id (the tax is imposed at the value of 20 % on asbestos, 5% on rubber tires, 30 % on mineral fuel, and from 5 to 500 % on vehicles of different measurement)

<sup>176</sup> The Parliamentary Minutes on the draft for the Excise Tax Proclamation, Accessed from the Ethiopian House of Peoples Representatives Library and Documentation Directorate [Here in after the Parliamentary minutes], (Translated by the author).

<sup>177</sup> See for instance Dawit Astatike, 'Stakeholders Held Heated Debate on New Excise Tax', *Capital Ethiopia Magazine*, (January 6, 2020).

<sup>178</sup> ETV interview with Dr. Tadesse, *Supra note* 160..

subsistence and domestic industry production is not yet developed to produce such vehicles, imposing excise tax which ranges up to 400 % is unjustified.

The other notable feature in this connection is the complexity followed in designing the variety and the measurement of vehicles. The excise proclamation has used various methodologies in imposing excise tax on vehicles. It has on the one hand used the function (utility) of vehicles as a measure for imposing excise tax on used tractors, vehicles for the transport of persons (with a seating capacity of 10 up to 16 persons), specially designed vehicles for travelling on snow, golf cars...etc,. At the same time we find various sub-modalities of imposing excise tax on the above mentioned functional categories that, for instance, on used tractors the tax is imposed further depending on whether it is single Axle tractor, whether its use is for semi-trailers, whether it is track laying tractor and its engine power; for motor vehicles for the transport of persons, the tax is imposed on the basis of type of ignition, type of motor for propulsion and other public transport vehicles as one sub-category.

This makes the approach followed in imposing excise tax on vehicles complicated and redundant. Complexity in designing excise tax has been the subject of much criticism under the previous excise proclamation as well. Several researchers have empirically found that the previous excise proclamation and its directives have been complex, not easily understandable and recommend a legislative intervention in making the laws clear.<sup>179</sup> However, no good lesson seems to be taken in this respect, especially with respect to excise taxation on vehicles.

In the drafting process of the excise proclamation, an attempt was made to look at the experience of other countries, especially of the Kenyan experience.<sup>180</sup> However, the Kenyan excise tax<sup>181</sup> does not follow such a complex methodology in levying excise tax on vehicles as it classified motor vehicles as, those less than three years old from the date of first registration and those over three years old from the date of first registration on the one hand and those other motor vehicles other than motor cycle ambulances on the other hand.<sup>182</sup>

Other items under this category are rubber tires, mineral fuel and oil, plastic shopping bags and asbestos and their products. On fuels and asbestos excise tax was also imposed under the

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<sup>179</sup> See, Teressa E., challenges of excise tax, supra note 150, p. 75 and Birhanu S., Contribution and challenges of indirect taxes in case of large tax payers' branch office', MSC Thesis, Addis Ababa University, 2018. p. 70

<sup>180</sup> Interview with Mr. Gosa, supra note 173. (Mr. Gosa stated that other countries like Tanzania and Mauritius experiences were also taken)

<sup>181</sup> Kenyan Excise Duty Act, No. 23 of 2015, Kenya Gazette Supplement No. 181 (Acts No. 23). [Here in after Kenyan excise act].

<sup>182</sup> Id., see the first schedule.

previous excise proclamation at 30 and 20 % of their value respectively, which is the same as the currently imposed under the excise proclamation. Although there is no increase on the taxable value of these items, the effect of the tax on the price of the items would reasonably be expected to be higher because of the change on the mode of valuation of such items from cost of production to ex-factory selling price.

However the tax on 5% of the value of rubber tires and 40 birr per kilogram of plastic shopping bags is newly introduced under the excise proclamation. Although the effect of the tax on this items is yet to be seen, it can be said at the outset that the tax on plastic shopping bags which is based on specific charging method is in line with the thesis that an excise tax addressing externalities should in principle be imposed on the quantity, and not on the value of the item, which would further ease administration. Following the same approach would have been better in imposing the tax on rubber tires as well.

### **3. Those Basic Goods on which Excise Tax Imposed to Generate Revenue**

Items that fall under this category are salt; sugar; fats and oils, textile and textile products. The intention behind imposing excise tax on such items is in order to generate revenue as they are relatively demand inelastic basic household items. The tax is imposed on these items based on Ad-valorem charging method<sup>183</sup>

As has been stated under chapter two of this research, one of the fundamental critics against excise tax claims that excise tax is regressive as the tax burden falls more on the poor than the rich. This argument becomes stronger when it comes to taxing basic household items like salt and sugar.

This concern has been repeatedly raised during the preliminary stages in the drafting process of the law.<sup>184</sup> However, it is argued that imposing excise tax on such items has little effect on the economic condition of households and the overall economy as the everyday consumption of such items is small and the tax imposed is insignificant in relation with such small daily consumption.<sup>185</sup>

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<sup>183</sup> It is imposed on the value of 25 % on salt, 8 % on textile products, from 30 -50 % on fats and oils based on saturated fat content and 20-30 % on sugar.

<sup>184</sup> Parliamentary Minutes, *supra note* 176.

<sup>185</sup> Interview with Mr. Gosa, *supra note* 173.

This argument seems less valid in view of the fact that even though the daily consumption of such items could be said to be small, its contribution to the overall inflation and its pressure on the low income society cannot be denied.

Furthermore, even at times when there is shortage of such household commodities in the market, the tax burden has not been relieved,<sup>186</sup> making the tax an additional pressure on the market at times of instability.

#### **4. Those Goods which are not Basic Household Items and Items Considered Luxury**

The final category of items on which excise tax is imposed are products containing chocolate and cacao; powder soft drinks; non-alcoholic beverages; perfumes, toilet waters, cosmetics, beauty products; fireworks; carpets; garments; Artificial flowers, foliage and fruit and articles made them; Human hair and wigs;; Natural or cultured pearls and precious and semi precious stones; video recording or reproducing apparatus, television broadcast receivers, cameras; video game machines, carnival and festive entertainment and gambling machine.

There are two major reasons behind the imposition of the tax on these items. On the one hand some of the items like pearls and perfumes are considered luxury and the tax is imposed to enhance progressivity of the tax system. Other items like chocolate, artificial hairs and fireworks, the tax is imposed to restrain their usage in order to save the foreign currency of the country.<sup>187</sup>

With regard to those items like video recording or reproducing apparatus, television broadcast receivers, cameras; video game machines, carnival and festive entertainment and gambling machine, there were similar items on which excise tax has been imposed under the previous excise proclamation on items like dish washing machines, video deck, watches and toys, which are removed under the current excise proclamation for the reason that they yield small amount of revenue and with our current level of societal development such items are no longer luxury.<sup>188</sup>

This reasoning given for removing excise tax on items for they are no more luxury and small revenue yield and imposing it on closely related items appears to contradict.

Moreover, in Ethiopia it is well known that broadcasting and cinematography are one among the several facets of the economy whose development is at an early stage. The entertainment industry is known in the world to contribute to socio-economic development as it is a useful tool

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<sup>186</sup> Tadesse L., *Supra note* 143, p. 136.

<sup>187</sup> Parliamentary Minutes, *supra note* 176.

<sup>188</sup> *Ibid.*

of communicating information and its role in investment and employment creation is also not negligible.<sup>189</sup> Therefore, the fact that excise tax is imposed on essential tools for the development of such industry indicates lack of due consideration of the above mentioned factors.

Lastly under this category the tax is also imposed on non alcoholic beverages<sup>190</sup> as the motive still is to enhance revenue<sup>191</sup> a careful consideration should be made on many factors as tax neutrality, that the tax should not unreasonably interfere in the economy and be one major factor in a choice to invest or not in a given industry. Industries producing non-alcoholic beverages are known to employ many skilled or unskilled workers and are a source of investment and direct tax revenue, and imposing excise tax on them may discourage future investments and expansion in the existing ones and a due consideration should be made to such spillover effects of imposing differential tax on such essential aspects of the economy.<sup>192</sup>

### **3.3.2.2. Types of Goods Exempted from Excise Tax**

One of the several distinctive features of the excise proclamation is the provisions governing goods not liable to excise tax or exemptions.<sup>193</sup> This is one of the newly introduced features of the excise proclamation, as both the previous excise tax proclamation and its amendments does not as such contain a list of exemptions of goods which shall not be liable for excise tax except for generally empowering the Minister with the authority to waive the tax for economic, social and administrative reasons.<sup>194</sup>

Political and socio-economic considerations inform the use of exemptions under the excise proclamation. Exemptions for political considerations include excisable goods imported or purchased locally for official use by the Ethiopian defense forces and police commissions as can be provided in a directive issued by the Minister, excisable goods imported or purchased in

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<sup>189</sup> ETV interview with Dr. Tadesse, *supra* note 160.

<sup>190</sup> The tax is imposed on the value of 10 % on those non-sweetened and 25 % on those sugar sweetened beverages.

<sup>191</sup> Parliamentary Minutes, *supra* note 176.

<sup>192</sup> Interview with Mr. Tasew Abitew, Managing Director at Alpha Bottling, on the issue of the feasibility of imposing excise tax on non-alcoholic beverages, August 23, 2021. [Here in after Interview with Mr. Tasew]

<sup>193</sup> Excise proclamation, *Supra* note 13, article 8 and second schedule part I (The other distinctive features are Introduction of licensing, excise control and stamps. The excise proclamation has introduced a licensing mechanism for the manufacture of excisable goods in Ethiopia and for importation of excisable goods which the Minister specified as requiring excise stamp. It has also introduced a system of excise stamp, which shall be fixed on excisable goods, on export goods and on goods which are tax free, in a manner which would enable for identification and control of such goods. Moreover, it has introduced an excise tax control, on manufactured excisable goods to be stored in a separate store inside the factory of licensed manufacturer until the earlier of their removal from the factory, exported from Ethiopia, or their destruction or disposal in accordance with the authorized manner. See Arts 15 and 25 of the excise proclamation and Art. 5, 16 of the directive.)

<sup>194</sup> The previous excise proclamation, *Supra* note 145, article 34.

Ethiopia by diplomatic or consular mission and their families, foreign government, international organization, aid agency or aid project, red-cross society for use in relief services, to the extent provided under the appropriate privileges and immunities regulation or international agreement.

Exemptions for socio-economic considerations include, one motor vehicle for use by persons with disability, excisable goods which are to be consumed on an international aircraft and those imported under the possession of a passenger subject to limitations under the appropriate law, those goods imported or purchased locally by investors who are eligible for investment incentives, export of excisable goods, excisable goods that the manufacturer has destroyed with the written permission of the authority or those that have been lost or destroyed by accident, excisable goods supplied to entities exempted from excise tax by law, denatured alcohol which cannot be used for human consumption, those excisable goods exempted by the minister for economic, social and administrative reasons.<sup>195</sup>

The provision of exemption as stated above, under the excise proclamation, can be criticized from different viewpoints. Primary in this respect is the fact that the provisions governing exemptions are almost a verbatim copy of the Kenyan excise tax act. Exemptions should in principle be provided looking at the country's specific social, economic and political context. In ignoring this fact and endorsing a wholesale legal transplantation, the Ethiopian excise proclamation regarding exemptions has missed its context, as it should have for instance specifically exempted kerosene from excisable fuels for it is used predominantly by the low income members of the society.

Another notable element in this respect is the provision of exemptions on excisable goods for diplomatic or consular missions or on those imported or purchased by foreign government, international organizations or aid agencies to the extent provided under the privileges and immunities regulations or under an international agreement, without defining what those privileges and immunities regulations or international agreements are. The Kenyan excise act has specifically indicated the applicable privileges and immunities act and defined what it meant by 'international agreement'.<sup>196</sup> Furthermore, the excise proclamation has provided for the possibility of the Minister to exempt goods from excise tax for economic, social and administrative reasons. This is in fact a very broad authority in which almost any ground could

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<sup>195</sup> Also goods under schedule II of the customs regulation are exempted from excise tax.

<sup>196</sup> Kenyan Excise act, *Supra note* 181.



possibly fit in to one or the other of the reasons, which could potentially end up eroding the tax base.

Excise tax deductions are also granted for excise tax paid on inputs and raw materials when excise tax is also due on a final product.<sup>197</sup> However this deduction is not applicable to alcohol, tobacco and sugar.<sup>198</sup> This means manufacturers producing excisable goods with the use of sugar as a raw material, for instance manufacturers of non-alcoholic beverages, are liable to pay a double excise tax on both the raw material and the final product.

### **3.3.2.3. Determination of Excisable Value and Quantity of Excisable Goods**

Once an overview on the type of items on which excise tax is imposed and exempted in Ethiopia is given, the next issue which requires a particular attention is determination of excisable value and quantity of excisable goods.

It is to be recalled from the above discussion, Ethiopian excise tax has both specific and ad-valorem compositions. The law has, therefore, stipulated different ways of their valuation and quantity measurement.

With regard to those goods manufactured in Ethiopia and on which the tax is imposed based on their value, excisable value is ex factory selling price minus VAT payable, cost of excisable stamps, cost of returnable containers and cost of transportation to the buyer.<sup>199</sup>

As has been said elsewhere under this research, one of the reasons for the enactment of the currently in force excise tax proclamation is the ambiguity that arose on the precise definition of cost of production. In response to this ambiguity, the excise proclamation has provided ex-factory selling price as mode of valuation for the imposition of excise tax on goods produced domestically. Ex-factory selling price is further clarified to mean, at times when the goods are sold by the manufacturer in a transaction at the fair market value of the goods, the price payable by the purchaser, and in any other case ex-factory selling price is the open market value of the goods at the time of removal from the manufacturers' factory.<sup>200</sup>

The central point in the determination of ex-factory selling price is therefore the fair market value of goods, which is further defined to mean '...the price that the goods or services would

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<sup>197</sup> Harris T. and Edris S., '2019/20 of Survey of Ethiopian Tax System', *The institute of Fiscal studies*, 2021.

<sup>198</sup> Excise Proclamation, *Supra Note* 13, Article 14(2)

<sup>199</sup> *Id.* Article 9

And Excise Tax Directive No. 67/2013, FDRE Ministry of Finance, Art. 24 (c). [Here in after excise directive]

<sup>200</sup> Excise Proclamation, *Supra Note* 13, Article 11.

reasonably be expected to fetch in an arm's length transaction at that time at the wholesale level'.<sup>201</sup> If, however, the fair market value of goods and services cannot be determined in this way, the proclamation borrows the definition of fair market value from the tax administration proclamation Art. 3, which is the ordinary open market value of goods or services at a particular time and place. And again if it is impossible to determine it in this way, it shall be the consideration any similar goods or services would ordinarily fetch in an open market with an adjustment on any differences between the goods in consideration and those items considered similar.

Currently in the excise tax collection process of domestically manufactured excisable goods, the mechanism employed to determine fair market value is based on self- assessment of the manufacturers supplemented by a checking mechanism of cost build up, an attempt to ascertain whether the declaration by the manufacturer as the market value of excisable goods is accurate by checking on the value of the costs in the declaration and an estimated profit margin.<sup>202</sup>

However, market value as it is stipulated under the law is not clear from defects. Firstly differences in the method of manufacture and place of manufacture may create variation on the market value of similar products produced by different producers. There is also a potential for the manufacturer to lower the tax burden by dividing and shifting the value of a given product to later stages and costs of wholesale and distribution.<sup>203</sup>

A further important question in this regard is what is the effect of the change in mode of valuation from cost of production to ex-factory price?

The difference on the basis of calculation, although it has better effect on making the tax clear and less ambiguous, has a different effect on price as a tax imposed on costs of production would in principle be lesser than a tax on the wholesale final price of a commodity which has no consideration on whether a certain cost is a production cost or not.

In order to mitigate the effect of this change in mode of valuation, the excise proclamation has reduced the tax imposed on the value of certain items, for instance on salt from 30% to 25 %, on sugar from 33 % to 20 % and on textile products from 10% to 8 %.<sup>204</sup> However, on items that the

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<sup>201</sup> Id. Article 3.

<sup>202</sup> Interview with Mr. Birhane, FDRE Ministry of Revenues, Officer at Excise Tax Implementation Team, on the Ethiopian excise proclamation. July 26, 2021.

<sup>203</sup> Interview with Mr. Tasew, *supra* note 192.

<sup>204</sup> See the Excise proclamation list of excisable goods. Also The parliamentary minutes stress on the reason for lowering the tax in such items.

tax is increased, other things remain constant, the effect of the increase on the price will be higher than the tax rate actually increased.

All in all, what the law trying to make the mode of valuation for goods domestically produced is the wholesale fair market value of goods at a particular time and place with reasonable alternatives at times of impossibility of determining in such a way.

Accordingly, comparing with the previous base of calculation of excise tax for domestically produced goods, cost of production, the current method, ex-factory selling price, can be said clearer and less ambiguous.<sup>205</sup>

With regard to those imported goods on which the tax is imposed based on their value, excisable value is the customs value of the goods, plus customs duty payable,<sup>206</sup> which is the actual total cost of the goods up to the first entry point to the customs territory of Ethiopia.<sup>207</sup> The importance of customs valuation on import of excisable goods rest on the tendency that it ensures proper collection of excise tax on imports as customs valuation strive to ensure the accurate value of the goods through various ways.

Finally on those goods, either manufactured in Ethiopia or imported, on which the tax is imposed based on quantity, there are two ways of measuring it.<sup>208</sup> The first circumstance is when excisable goods are in a package intended for sale with or usually sold with the goods by retail and such package is not marked with a net weight or it's not commonly known to contain a certain weight or the owner of the goods is unable to satisfy the authority about the net weight of the package. In this case the quantity of the goods shall be the gross weight of the package and its contents.

The second circumstance is when excisable goods are in a package intended for sale with or usually sold with the goods by retail and the package is marked as containing a specific quantity or is commonly known to contain a specific quantity, the package shall be taken to contain such marked or known quantity. However, if the package is found containing more than the specified quantity, excise tax shall be computed on the actual quantity under the pain of seizure of the goods and consequent penalty.

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<sup>205</sup> Interview with Mr. Birhane, *Supra note* 202.

<sup>206</sup> Excise Proclamation, *Supra Note* 13, Article 9(2)

<sup>207</sup> Customs Proclamation, 2014, *Federal Negarit Gazette*, Proc. No. 859/2014, 20<sup>th</sup> year, No. 82, Article. 89(2)

<sup>208</sup> Excise proclamation, *Supra note* 13, Art 12 (3) and excise directive, *Supra note* 199, Art 29.

#### **3.3.2.4. Timing of Liability for Excise Tax**

Regarding the timing of liability of excise tax for goods manufactured domestically and timing of importation, a cumulative reading of Articles 4 and 7 of the excise proclamation makes it clear that liability for excise tax arise; in case of the former when the goods are removed from the manufacturers factory and in case of the latter at the time of importation.<sup>209</sup>

There are also other grounds in which a liability for excise tax shall arise. One of the circumstances on which this liability will materialize is in the case when the owner or importer of the goods has received an excise tax refund and subsequently disposes of or used the goods inconsistent with the purpose of the refund.<sup>210</sup>

The other circumstance in which liability for excise tax would arise is when excisable goods loaded on international aircraft for use thereon has been unloaded in Ethiopia and when excise goods imported or purchased free of tax has been disposed or input to inconsistent use. Moreover, excise tax liability arise when exempt excisable goods has been disposed of or subjected to inconsistent use with the exemption, with the exception of a vehicle whose owner dies and transferred through inheritance.<sup>211</sup>

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<sup>209</sup> Id. See Art 4(1) of the excise proclamation for details as to the time of importation of excisable goods.

<sup>210</sup> Excise proclamation, *Supra note 25* , Article 31

<sup>211</sup> Id. See Arts 31-34.

## CHAPTER FOUR

### 4. CONCLUSION AND RECOMMENDATIONS

#### 4.1. Conclusion

The thesis discussed the major substantive design elements of an excise tax law. An attempt has been made to show such design aspects which should inform an excise tax aiming to attain several socio-economic objectives.

The research has attempted to discuss on the constitutional and legislative framework governing excise tax in Ethiopia at the federal level. It has found that the goods on which excise tax is imposed under the Ethiopian legal system are numerous. The thesis has classified them under four categories as goods which cause harm to their consumers, goods on which the tax is imposed to generate revenue, goods which are cause to externalities and goods which are not basic household commodities or which are luxury items.

One of the findings of the thesis is regarding the charging method followed in imposing the tax on goods which are harmful to their consumers. The Ethiopian excise tax has followed an ad valorem charging method predominantly and a mix of ad valorem and specific charging method only exceptionally, which makes the approach followed not only inappropriate in taxing harmful items but further complicates tax administration and collection. In this respect one of the objectives in the excise proclamation, reduction in consumption of harmful products, cannot be said to be supported by the specific provisions of the law.

With regard to items which cause externalities the Ethiopian excise tax has imposed an extremely higher tax on used vehicles. The fact that the law is imposed in a wholesale fashion on items like tractors and the complex approach followed in specifying the type of vehicles and the corresponding mechanism adopted, are notable features. The law has also introduced an excise tax on plastic shopping bags and rubber tires and it is noted that the specific charging method followed in the former should have been followed in the latter.

With respect to those basic household items like salt and sugar, there is a potential concern that the tax would be regressive on low income households and a tendency to exacerbate inflation in the economy.

Moreover, excise tax is imposed on several items which are not household items and some of them are luxury. The first aspect noted under this category is that the excise proclamation has

removed items on which excise tax has been imposed under the previous excise proclamation like video decks, television and video cameras for the reason that such items are no more luxury and yield small revenue and it has introduced the tax on more or less similar items like cameras, television receivers and gaming machines.

Secondly the excise tax is imposed on essential inputs for the entertainment industry and on non-alcoholic beverages. The revenue from these items would come with adverse socio-economic effects on the entertainment and non alcoholic beverage industries and a possible effect on investment and job creation in such areas.

The excise proclamation has provided exemptions on political and socio-economic considerations. Important points raised in this regard are the absence of definition of what 'privileges and immunities regulations or international agreements' are and the presence of broad authority given for the Minister to exempt goods for economic, social and administrative reasons.

## **4.2. Recommendations**

In view of the shortcomings outlined under the research the following important recommendations are made

- The Excise tax imposed on tobacco and alcoholic beverages should be based on specific charging method with a periodic adjustment for inflation. This would make the tax target the harmful content, simplify tax administration and collection.
- The excise tax imposed on basic household items like salt and sugar should be reconsidered in light of its regressivity and its exacerbating effect on inflation. A due study should be made on the effects of the tax in future amendments of the excise proclamation.
- The excise tax imposed on vehicles on a wholesale manner should endorse a consideration of the country's social, economic and technological development and it should exclude or at least the tax should be light on those essential vehicles for agriculture like tractors and public transport vehicles. The tax should also be simpler and less technical in the future. The tax on rubber tires should be based on specific charging method in order to simplify administration.

- The excise tax imposed on those items which are not basic household items or are considered luxury are numerous and in certain cases for instance cameras, television receivers and non-alcoholic beverages a consideration should be given to the negative effect of the tax on the respective industries, future investments and job creations. Furthermore, excise tax is a specific consumption tax, accordingly its application should be limited and minor excises, which are neither a good revenue yield nor imposed on other health or externality context, should be left to general consumption tax. This would lessen the burden on tax administration and save the cost of administration which would otherwise be spent in pursuing tax bases with minor revenue yield.
- Market value, which is the primary mechanism in the determination of ex-factory selling price, should take into account differences in the place, time and method of production. Additionally, a feasible mechanism of ascertaining the exact ex-factory selling price of products should be implemented, as the current system of self assessment alone cannot be reliable in the face of different mechanisms of shifting value to other stages post sell.
- Finally and generally the excise proclamation should be revised carefully, as it does not include any category of services, the provisions governing the imposition of excise tax on services should be circumvented. Moreover the provision regarding exemptions should define the applicable privileges and immunities regulations or international agreements. Also, the broad authority provided for the minister to exempt goods should be limited.

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