

JT International South Africa (JTI) welcomes reasonable tobacco excise tax increase

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In response to the Minister of Finance's budget speech on 22 February 2023, Ahmad Ismail, general manager for Southern Africa & Nigeria, (has) welcomed the tobacco excise tax increase of 4.9%.



At JTI we support the need for predictable and stable tobacco excise increases. We are furthermore conscious of our products being subjected to excise taxation on an annual basis by government. The key principle remains, that the annual increases should be reasonable, considering the current market dynamics and should not impact the consumer. Any exorbitant increase in excise places enormous pressure on an industry that is a major contributor to the South African economy.

“The recent tobacco excise announcement delivered by the Minister of Finance, Enoch Godongwana, clearly demonstrates that National Treasury is conscious of the market dynamics and impact of illicit trade on government. A much higher tax incidence on tobacco only fuels illegal tobacco trade and negatively impacts the legal tax paying players who comply with the laws of the country,” says Ahmad Ismail.

Unfortunately, the legal tobacco industry in South Africa contracted by a further 9,5% in 2022, whilst the growing illegal market now accounts for conservatively more than 55% of the total market, according to IPSOS research conducted in 2022. In 2019, the size of the legal market was 14 billion sticks and in 2022, now accounts for only 8,8 billion sticks. Whereas, when we look at consumption rates, the true size of the total market including illicit, accumulates to 33 billion sticks. Hence, we conservatively say, illicit is most likely in reality well beyond the 55% read we see and government revenue falling on the wayside, with a revenue loss measured to now be more than R9-10 billion annually.



“AT JTI WE SUPPORT THE NEED FOR PREDICTABLE AND STABLE TOBACCO EXCISE INCREASES.”

AHMAD ISMAIL
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Ismail further adds: “The 5 month-long ban on legal cigarette sales during Covid-19, resulted in a thriving illegal market, which cemented its distribution network. In 2022, we noted illicit cigarettes being sold commonly across the country for prices lower than the minimum collectable tax (excise and VAT) of R22,79/pack. In fact, research has shown that there are illicit brands in the market being sold for as low as at R3,50/pack of 20,” says Ismail. “It is inexplicable how this has been allowed to continue under the watchful eye of government. Surely at R3,50/pack of cigarettes, full due taxes are not being paid.”

We tested the constitutionality of this ban in the courts of South Africa, and on Friday 11 December 2020, the Western Cape High Court ruled that regulation 45 of the Disaster Management Act (which pertained to cigarette prohibition) 'cannot and does not withstand constitutional scrutiny'. The matter was taken under appeal to the SCA and on 14 June 2022, that court too ruled against government.

This excise rate will allow the legal industry to stabilize the decline, however it is critical that government continues to combat the illegal industry. Unfortunately, whilst we have these challenges, the Ministry of Health is preparing to introduce to Parliament, The Tobacco Products and Electronic Delivery Systems Control Bill, which is not a well thought out document, that doesn't meet our common objectives of preventing under-age smoking but a policy that will fuel the already high levels of illicit tobacco and having the unintended consequences of establishing South Africa as a completely black market. This is a runaway train that will not be stopped unless the recommended sections of the Tobacco Bill are completely revised.

We now need to look ahead and urgently tackle pertinent actions around this highly regulated tobacco industry:

- Ratification of the FCTC Protocol on Illicit Trade in Parliament
- Law enforcement in the retail environment, including policy development on establishing a legal economically viable minimum selling price through the Customs Act. This will enable law enforcement to ensure compliance in the market.
- Prosecution and operations around the border on smuggled tobacco products. Non-compliant products are being openly sold in the market.
- Sars needs to re-institute the establishment of a digital tax stamp. Our security markings on our current packs are by no means a security feature and illegal players continue to under-declare their volume production. This process needs to be established in a transparent manner, an open tender to establish the correct system from a reputable service provider, at a minimal cost to the OEM and the stamps themselves coming it at minimum to zero cost or a cost balance between excise and the stamps.

The preservation of the legal tobacco market will enable businesses to contribute at their full potential to create and protect jobs, encourage the growth of SMMEs, and increase our investment.

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