



# National Council Against Smoking NPC.

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The Standing Committees of Finance  
Parliament  
Republic of South Africa

Dear Members of the Standing Committees of Finance

## **2022 TLAB and Rates Bill on tobacco and e-cigarettes excise taxes**

The National Council Against Smoking (“the Council”) welcomes the call for public comments on the 2022 TLAB and Rates Bill which proposes taxes on e-cigarettes and tobacco products.

The Council is a not for profit organization established in 1976. Its mission is to promote public health through encouraging the creation of a tobacco-free society.

Based on our experience and a review of the literature, NCAS makes several recommendations and observations that we believe need to be addressed to strengthen the proposals on taxing e-cigarettes and cigarettes

**We also request to make an oral presentation at the public hearing and kindly wish to be notified of my speaking slot. You are welcome to contact us via email on [sharon@againstmoking.org.za](mailto:sharon@againstmoking.org.za) & [olalekan.ayo-yusuf@up.ac.za](mailto:olalekan.ayo-yusuf@up.ac.za)**

This submission focuses on two aspects:

- A. The 2022 TLAB which addresses the taxation of electronic nicotine and non-nicotine delivery systems and proposes a flat excise duty rate of at least R2.90 per millilitre (ml) for both nicotine and non-nicotine solutions.*
- B. The 2022 Rates Bill which proposes a tax of R9.91/10 cigarettes, a 5.5% increase.*

### **Recommendations on A**

- i. The main purpose of a tax on e-cigarettes should be to prevent youth from starting use. Revenue generation is a secondary consideration.
- ii. Until there is scientific consensus on the harms and risks of e-cigarettes, novel products should be taxed at the same rate as combustible cigarettes, and no differential taxes should apply.

- iii. The tax on e-liquids should be increased to a flat excise duty rate of at least R5.00 per ml for both nicotine and non-nicotine solutions, and the National Treasury should set a floor of R50 per unit.
- iv. New tax revenues should be utilised to cover the cost of implementation and other tobacco control or health measures.

### **Recommendations on B**

- i. We propose that the targeted excise tax burden of 40% be formally discarded, to secure progressive and significant increases on tobacco taxes.
- ii. A tax increase of at least 10% for cigarettes should be adopted, which is above inflation and will bring the tax to **R10,33/10** cigarettes
- iii. Government should provide specific commitment and feedback on progress to ratify the World Health Organisation Protocol to Eliminate Illicit Trade in Tobacco Products

### **SPECIFIC COMMENTS**

#### **1. The proposed flat excise duty rate of at least R2.90 per millilitre (ml) for both nicotine and non-nicotine solutions**

1.1 The proposal to tax e-cigarettes aligns with World Health Organisation (WHO) recommendations that countries which do not ban e-cigarettes, should tax them to recover some of the cost externalities.

1.2 Our submissions on the 2022 draft TLAB will comment on the areas of the Bill relating to:  
a) The purpose of the tax on e-cigarettes, b) the rate of the tax and, c) the use of the tax

1.3 **Purpose of the Tax:** The main purpose of a tax on e-cigarettes should be to prevent youth from starting use. E-cigarettes are undoubtedly harmful, a growing body of evidence confirms that e-cigarette use is linked to severe health conditions, including cancers, respiratory and cardiovascular diseases, chestpains, mouth ulcers, asthma, and a high risk of stroke.<sup>1</sup> These many early warning signs indicate the need to regulate e-cigarettes. It is clear that non-users and children should not use them.

1.4 A key concern is that e-cigarette use, especially among young people, will lead to regular cigarette smoking later on. Young e-cigarette users are at least three times more likely to become tobacco users.<sup>2</sup>

1.5 The proposed tax on e-cigarettes is a timely intervention for South African, with studies showing that emerging products like e-cigarettes are most popular between the ages of 15 to

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<sup>1</sup> Egbe, Catherine O, London, Leslie, Kalideen, Savera, Delobelle, Peter, & Datay, Ishaq. (2020). The need to regulate electronic cigarettes amidst health concerns: Let's follow the evidence. *SAMJ: South African Medical Journal*, 110(3), 178-179.

<https://dx.doi.org/10.7196/samj.2020.v110i3.14568>

<sup>2</sup> Baenziger ON, Ford L, Yazidjoglou A, et al E-cigarette use and combustible tobacco cigarette smoking uptake among non-smokers, including relapse in former smokers: umbrella review, systematic review and meta-analysis *BMJ Open* 2021;11:e045603. doi: 10.1136/bmjopen-2020-045603

24.<sup>3</sup> Another study finds that South African teenagers aged 16 to 19 years old reported the highest exposure to e-cigarette marketing.<sup>4</sup>

1.6 South Africa recognises the importance of helping smokers to quit smoking but requires all stopping smoking medications and aids to be registered as required by the Medicines Control Council. The e-cigarette industry has evaded these safeguards, by registering e-cigarettes as consumer products. However, public claims are still made that e-cigarettes help people to stop smoking.

1.7 The evidence on the effectiveness of e-cigarettes in real world cessation is weak. A study in South African study found that quitting using e-cigarettes was associated with higher likelihood of short-term, but not long-term quitting, with a higher likelihood of smoking relapse among smokers who had tried to quit using e-cigarettes. The study also found a high incidence of dual use, 97.5% of e-cigarette users were concurrently regularly smoking cigarettes. Dual use of e-cigarettes and combustible tobacco cigarettes exposes user to increased health risks.<sup>5</sup>

1.8 Until a scientific consensus emerges that e-cigarettes reduce harm and are a cessation tool, no differential or preferential treatment should be afforded to e-cigarettes.

1.9 **The rate of the tax:** The government proposes to apply a flat excise duty rate of at least R2.90 per millilitre (ml) to both nicotine and non-nicotine solutions.

1.10 Small taxes will not impact the affordability of e-cigarettes and will not achieve a key aim of dissuading the youth from initiation use. The table below illustrates the impact of a tax of R2.90 per ml will have on some retailed brands.

**Table 1: Treasury’s current proposal and the NCAS proposal, using two brands of disposable cigarettes and three brands of e-liquids as examples**

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<sup>3</sup> The Global Adult Tobacco Survey (GATS) Key Results presented by the SAMRC

<sup>4</sup> Agaku, I. T., Egbe, C. O., & Ayo-Yusuf, O. A. (2021). E-cigarette advertising exposure among South African adults in 2017: findings from a nationally representative cross-sectional survey. *BMJ Open*, 11(8), e048462. <https://doi.org/10.1136/bmjopen-2020-048462>.

<sup>5</sup> Agaku I, Egbe CO, Ayo-Yusuf O. Associations between electronic cigarette use and quitting behaviours among South African adult smokers. *Tob Control*. 2021 Jan 15; tobaccocontrol-2020-056102. doi: 10.1136/tobaccocontrol-2020-056102. Epub ahead of print. PMID: 33452210.

			Treasury's current proposal			Increasing tax from R2.90 to R5				NCAS proposal	
Product (producer)	ml of e-liquid	Current retail price (24 August 2022)*	Specific excise tax (R2.90 per 1ml)	Retail price with specific excise	Specific excise tax share of retail price (%)	Specific excise tax (R5 per 1ml)	Retail price with specific excise	Excise tax share of retail price (%)	Specific excise tax (R5 per 1ml, floor of R50 per unit)	Retail price with specific excise and floor	Excise tax share of retail price (%)
Disposable AirsPops (Airscream)	3	95	8,70	103,70	8,4	15,00	110,00	13,6	50,00	145,00	34,5
Disposable e-cigarette Vozol Bar	5	120	14,50	134,50	10,8	25,00	145,00	17,2	50,00	170,00	29,4
Vuse e-pods (BAT)	1,9	50	5,51	55,51	9,9	9,50	59,50	16,0	50,00	100,00	50,0
Vuse e-liquid (BAT)	20	125	58,00	183,00	31,7	100,00	225,00	44,4	100,00	225,00	44,4
Twisp e-liquid (BAT)	20	200	58,00	258,00	22,5	100,00	300,00	33,3	100,00	300,00	33,3

\*Airscream AirsPops Classic Toba (flavour) sold at PnP Rondebosch for R95 on 24 Aug 2022. See Airscream AirPops website: <https://global.aircreamuk.com/collections/one-use-3ml>. Vozol Bar: <https://vaperite.co.za/product/vozol-bar-1600-grape-ice/>, Vuse e-liquid: <https://www.vuse.com/za/en/new-vuse-20ml>, Vuse epods: <https://www.vuse.com/za/en/flavours/vuse-epod/vuse-epod-mandarin-cinnamon> (2 epods costs R100. 1.9ml comes from the information about the device: <https://www.vuse.com/za/en/e-cigarette-devices/vuse/vuse-epod-starterpack>), Twisp e-liquid: <https://www.vuse.com/za/en/flavours/twisp>.

1.11 The proposed R2.90 per ml will not impact the affordability of e-cigarettes, especially for disposable products which are also popular among the youth. It is also significantly below the current tobacco tax burden. We recommend that Treasury sets the excise tax at R5.00 per ml and sets a floor of R50 per unit.

1.12 In Table 1 above, the blue cells shows Treasury's current proposal, where a 3ml AirsPops would be subject to an excise tax of R8.70, increasing the price of a unit from R95 to R103.70. The excise tax incidence would be only 8.4%. The excise tax incidence of Vozol Bar would be 10,8% and Vuse e-pods 9.9%.

1.13 The pink cells show that increasing the tax to R5 is still low and will not impact on affordability, for AirsPops the tax incidence would increase to 13.6%, and for Vuse e-pods to 16%. To address this we recommend that a floor of R50 per unit of e-liquid be set (As illustrated by the green cells). The tax incidence would increase to 34.5% for AirsPops and 50% for Vuse e-pods.

1.14 **Use of the tax:** The benefits of the tax are multiplied if the new tax revenues are used to cover the cost of implementation, as well as other tobacco control or health activities. Implementing tobacco control measures requires the allocation of resources in the shorter-term. Earmarking the taxes can help guarantee funding for under-resourced health programmes.

## 2. The proposed tax of R9.91/10 cigarettes - 5.5% increase

- 2.1 The proposed 5.5% tax increase is substantially below the current inflation which is reported to be above 7%.<sup>6</sup> It is also lower than the 2021/22 increase of 8% on cigarettes. The proposed 5.5% tax increase will not yield desirable health and economic benefits. The World Health Organisation (WHO) encourages increases in taxes that increase prices above inflation.
- 2.2 We also note that the targeted excise tax burden as a percentage of the retail selling price of the most popular brand within each tobacco product category is currently 40% and also substantially below the World Bank and WHO recommendation that the tax share should represent at least 75% of the retail price of the most popular brand of cigarettes.
- 2.3 We propose that the 40% target be formally discarded, to secure progressive and significant increases on tobacco tax.
- 2.4 Raising taxes on tobacco is the most effective policy to reduce tobacco use and save lives. We propose a tax increase of at least 10% for cigarettes, which is above inflation and will bring the tax to **R10,33/10** cigarettes
- 2.5 We acknowledge that the ability of the tax to raise revenues, will also be affected by the potential for tax avoidance and illicit trade. In South Africa it has been highlighted that a major problem is undeclared sales and ghost exports.<sup>7</sup>
- 2.6 Lower taxes will reduce revenues, increase consumption, and **not reduce illicit sales**. The appropriate response is to crack down on the illicit market rather than foregoing tax increases. In this regard we recommend that solid steps be made to secure the supply chain and in ratification of the Protocol to Eliminate Illicit Trade.
- 2.7 In its March 2021 report, the Standing Committee on Finance noted:  
*“that South Africa has signed but not ratified the World Health Organisation Protocol to Eliminate Illicit Trade in Tobacco Products, which could assist in the fight against illicit trade in tobacco products. We recommend that this protocol be signed unless there are strong reasons not to do so – and the Committee needs to be briefed on this. The Committee recommends that NT engages with the Department of Health and SARS on this and report back on progress on this in the next quarterly report.”*<sup>8</sup>

Thank you

Report Prepared by:

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<sup>6</sup> <https://www.statssa.gov.za/publications/P0141/P0141July2022.pdf>

<sup>7</sup> <https://www.news.uct.ac.za/article/-2020-03-06-trade-in-illicit-cigarettes-on-the-way-to-being-stubbed-out>

<sup>8</sup> REPORT OF THE STANDING COMMITTEE ON FINANCE ON THE 2021 FISCAL FRAMEWORK AND REVENUE PROPOSALS, DATED 09 MARCH 2021.

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*For more information on the National Council Against Smoking (NCAS), please visit:*  
[www.againstsmoking.org](http://www.againstsmoking.org)