



**VISION FOR ALTERNATIVE
DEVELOPMENT - GHANA**

Policy Brief

PROTECTING PUBLIC HEALTH: SAFEGUARDING GHANA'S TOBACCO TAXATION AND REGULATION FROM INDUSTRY INFLUENCE



Executive Summary:

Tobacco use remains an alarming public health challenge globally. A problem that is perpetuated in large part by tobacco industry interference that undermines countries' implementation of evidence-based policies to reduce tobacco use as outlined in the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) – a global health treaty that Ghana ratified in 2004. Sadly, Ghana is among several countries that are grappling with industry interference despite the presence of strong tobacco control legislation.

As outlined in the WHO FCTC Article 6 and agreed by experts, raising tobacco taxes is a highly effective strategy for reducing tobacco use and its harmful consequences. The structuring of tobacco excise taxes directly affects cigarette prices and their variation further affects the smoking behavior of people. Raising tobacco taxes also decreases tobacco companies' profits, so it is a tobacco control measure that the tobacco industry aggressively opposes.

This policy brief is focused on strategies and tactics employed by the tobacco industry and its allies to influence the passage of Ghana's Excise Duty Amendment Act, 2023 (Act 1093). The policy brief also outlines an intricate network of industry-allied groups, aimed at misinforming the public against raising tobacco taxes and the active promotion of e-cigarettes through a comprehensive and elusive approach. These industry strategies threaten Ghana's public health priorities, necessitating immediate action to safeguard these critical public health policies from tobacco industry interests. Despite gains that Ghana has made in relation to tobacco tax, the tobacco industry continues to undermine public health efforts.

Introduction:

Sub-Saharan Africa is experiencing a troubling surge in tobacco consumption due to weak tobacco control policies, industry interference, and resource constraints. Despite Ghana's adoption of the WHO Framework Convention on Tobacco Control (WHO FCTC) and relevant legislation, the country grapples with challenges in enforcing effective tobacco control laws, exacerbated by persistent industry interference.¹

Increasing taxes on tobacco products is a highly effective public health strategy for curbing tobacco use and its associated health risks, being notably more efficient than other interventions.² Price hikes resulting from substantial tobacco excise taxes are proven to diminish affordability swiftly and consequently decrease tobacco consumption, surpassing the impact of any other individual measure³. Article 6 of the WHO FCTC mandates signatory parties to utilize tax and price policies to reduce tobacco use. This directive emphasizes taxation as a powerful tool to increase the price of tobacco products, thereby discouraging consumption, particularly among price-sensitive demographics.

It further recognizes and recommends this approach as a win-win policy for countries, as it fosters public health and serves as a lucrative avenue for boosting government revenues⁴. In addition, the WHO-FCTC Article 6 guidelines suggest that countries implement specific or hybrid excise systems to streamline their tax structures. The guidelines also advise adjusting tax rates periodically to accommodate inflation and prevent tobacco products from becoming more affordable as consumer income rises⁵. However, despite the importance of raising tobacco taxes, the adoption and implementation of Article 6 by parties, including Ghana, is considered slow compared to other FCTC policies⁶.

Specific and Ad valorem Excise Taxes Explained:

Specific excise taxes are charged per quantity, such as per cigarette, pack, or kilogram (e.g., \$1.50 per pack regardless of price).

Specific taxes are fixed and do not depend on tobacco industry pricing strategy. It reduces the gap in prices between cheap and expensive products. Specific excise taxes' calculation requires a precise definition of what constitutes "one unit" or quantity. The government revenue is therefore protected against the industry's price manipulations. Governments can predict tobacco tax revenue based on tobacco demand.

Ad valorem excise taxes are charged as a percentage of the value of the product. The value of the product is measured by the manufacturer's price (e.g., 80% of the manufacturer's price) or by the price paid by consumers (e.g., 70% of pre-tax retail price).

Even though ad valorem tax automatically adjusts with inflation, it is difficult to predict tax revenue over time. There is an incentive for manufacturers to produce low-priced products because the taxes are tied to product prices. This makes the products more accessible to youth and other low-income populations. Furthermore, manufacturers can easily manipulate their product prices to avoid higher tax payments.

Source: Campaign for Tobacco Free Kids

Evolution of Excise Taxes on Tobacco in Ghana

The history of tobacco taxation in Ghana reflects a transition from a flat ad valorem tax rate of 140% on tobacco products before 2007. In 2007, the tax structure was changed to a specific excise tax and was later readjusted to the previous ad valorem system of 140% in 2010 and subsequently increased the ad valorem rate to 150% in 2011; and in 2015 the rate was further increased to 175%. The ad valorem tax structure, however, introduces challenges such as vulnerability to industry manipulation, cheap prices, limited revenue gains and limited public health benefits. Despite these concerns, the country failed to amend the Excise Duty Amendment Act of 2014 (Act 878) for almost a decade⁷. Propelled by these issues with the ad valorem system, Civil Society Actors intensified advocacy on adopting a hybrid excise tax approach; this led to the passage of the Excise Duty Amendment Act, 2023. The Act provides stability in revenue generation, discourages industry manipulation, and supports public health initiatives through a balanced taxation strategy. The shift to a hybrid tax regime aligns with the Economic Community of West African States (ECOWAS) directives and the WHO recommendation on tobacco taxation member countries.

Transition to Hybrid Tobacco Tax Regimes and Advantages

The shift from ad valorem to specific or hybrid tobacco tax regimes has been successfully implemented in various countries, significantly reducing tobacco-related morbidity and mortality, consumption among the youth and increasing government revenue.

For example, Rwanda adopted an ad valorem tax based on the CIF or ex-factory price between 2001 and June 2015 and later supplemented it with a specific excise tax in July 2015. This modification in the tax policy was associated with a decrease in the consumption of tobacco products⁸. In Colombia, tripling of the specific tax rate for cigarettes from 2016 to 2018 led to a 34% reduction in consumption and doubled excise tax revenues earmarked for universal health coverage⁹.

Table 1. Excise Tax Evolution On Tobacco In Ghana

EXCISE TAX EVOLUTION ON TOBACCO IN GHANA	
Prior to 2007:	Flat ad valorem rate of 140% of the CIF value on all products.
2007:	The tax structure changed from ad valorem to specific excise tax with differential rates on different brands.
2008:	The specific excise duty was duly indexed to the 2008 Consumer Price Index to increase rate of excise duty.
2010:	Flat ad valorem rate of 140% of CIF was reintroduced and the range of products expanded compared to Specific. Cigarettes 140%, Cigars 140%, Snuff and other tobacco 170%
2011:	The rate was increased to 150% of CIF.
2012-2022	(a) Cigarette: 175 per centum of the ex-factory price
2023	ad valorem and specific rates: Cigarette: 50 per centum of the ex-factory price and a specific duty of 28 pesewas per stick

Table 2. Other African Countries Tobacco Tax Structure

Country	Excise Tax, % of Retail Price	Total Tax, % of Retail Price	Tax Structure
Mauritius	70.5	83.5	Specific tax
Seychelles	57.0	70.1	Specific
South Africa	41.6	54.6	Specific
Rwanda	40.6	55.9	Ad valorem + specific
Eswatini	40.4	52.7	Specific
Botswana	39.2	49.8	Ad valorem + specific tax
Kenya	38.5	52.3	Specific
Gambia	33.3	46.3	Specific

The Tobacco Industry's Response to Tax

The tobacco industry acknowledges the significant impact of tax increases on reducing consumption. The following demonstrates the industry's awareness of the effectiveness of taxation on tobacco products:

In 1983, Philip Morris in Australia stated:

“The most certain way to reduce consumption is through price.”

In 1985:

“Of all the concerns, there is one – taxation – which alarms us the most.... Our concern for taxation is, therefore, central to our thinking about smoking and health. It has historically been the area to which we have devoted most resources, and for the foreseeable future, I think things will stay that way almost everywhere¹⁰”

And in 1993:

“A high cigarette price, more than any other cigarette attribute, has the most dramatic impact on the share of the quitting population¹⁰”

In an effort to weaken the effectiveness of taxation on tobacco products, the tobacco industry establishes and employs strategies to circumvent and undermine tax policies, involving legal challenges, direct lobbying, and indirect interference via third parties. They successfully utilize arguments that exploit concerns around the political economy of taxation while historically being found complicit in tax avoidance, smuggling, and bribery¹⁰.

What is the problem?

Persistent industry interference in Ghana's public health policies as seen in the Tobacco Industry Interference Index¹¹ shows the significant impediment that the tobacco industry poses to the effective implementation of tobacco control measures, which in effect undermines the nation's public health goals. This interference was observed during the recent passage of the Excise Duty Amendment Act 2023, a critical legislation to transition Ghana to a hybrid tax regime for tobacco products.

* <https://amchamghana.org/2023/02/01/amcham-ghana-statement-on-excise-duty-amendment-bill-2022-before-parliament/>

**<https://www.tobaccofreekids.org/what-we-do/industry-watch/chamber-of-commerce#letters>

Interferences from the Tobacco Industry During the Passage of the Act:

- ✱ **Tobacco Industry Frontiers and Allied Organizations in Ghana:** The tobacco industry often collaborates with third-party organizations to advance their interest. In Ghana, organizations like the American Chambers of Commerce Ghana, the Harm Reduction Alliance of Ghana (HRAG), and the Institute of Liberty, Policy, and Innovation (ILAPI) have been identified to have played roles in promoting industry interest and delaying the swift passage of the Act in the country¹².
- ✱ **Economic Exaggeration Tactics:** The American Chamber of Commerce (AmCham) exaggerated the negative economic impact of the proposed tax policy by citing potential job losses (labour concerns) and the high possibility of total business shutdowns, downplaying the significance of excise taxes*. These tactics were similar to AmCham's approaches in other countries**, aiming to deter tobacco tax increases.
- ✱ **Delay in Progress on Excise Taxes:** British American Tobacco (BAT) Ghana sought to safeguard its interests by submitting counter arguments highlighting the dire consequences of excise tax increases. They argued that illicit trade accounted for a significant portion of the market, leading to revenue losses and other economic challenges¹².
- ✱ **Swaying and Influencing Public Opinion:** Industry-allied organizations promoted tobacco harm reduction policies and e-cigarettes as the gold standard alternatives to taxation. Their argument sought to undermine the efficacy of excise tax increases. The tobacco industry allied organizations asserted that this change will lead to more financial hardship without delivering tangible benefits to the public which is refuted as other countries are benefiting significantly in terms of public health impact and government revenue generation¹².
- ✱ **Public Opposition Against Proposed Excise Taxes:** The industry exploited the economic crisis climate and argued against further tax increments. They argued that citizens at the time were overburdened with taxes, including some nuisance taxes¹². Public sentiments influenced by industry misinformation caused opposition to increased taxes; this posed a significant challenge to the passage of the higher rates and the amendments in general.
- ✱ **Promotion of E-Cigarettes and Policy Influence:** British American Tobacco (BAT) and other industry-allied organizations pushed for the inclusion of e-cigarettes in the Excise Duty Amendment Act. They framed e-cigarettes as a safer smoking alternative despite the availability of evidence that indicate serious health risks associated to the product¹³. They staged press conferences, press releases, and webinars, strategically timed to coincide with parliamentary discussions, to gain public and stakeholder support for e-cigarette taxation in Ghana. The Tobacco Control Measures of the Public Health Act (Act 851) fortunately has legalized non-tobacco products for treatment of addiction/cessation purposes only.

Recommendations:

To prevent the tobacco industry from undermining future tobacco control efforts and the implementation of current policies, it is recommended that:

1. The Ministry of Health (MOH) should implement a robust code of conduct to safeguard public health policies from industry interference.
2. Stakeholders including MoH, MoF, GRA, FDA, WHO Ghana and CSOs should urgently meet to discuss and review the inclusion of cigarette as an excisable product contrary to the Public Health Act (Act 851).
3. Through relevant stakeholders, the government should facilitate the development of a Ghana-specific industry argument and public health responses to counter the arguments.
4. The MOH and its agencies must increase and regularize consistent nationwide public education campaigns in collaboration with relevant stakeholders to raise awareness of the dangers of consuming tobacco products and the WHO FCTC Article 5.3 guidelines.
5. Civil Society Organizations should alert and engage with the Ministry of Finance (MOF), MOH, and the Parliamentary Select Committee on Health plus other influential stakeholders; highlighting the activities of the tobacco industry which contravene WHO FCTC Article 5.3 guidelines.
6. MOH should facilitate inter-agency collaboration among government and non-government stakeholders to strengthen the enforcement and implementation of existing tobacco control measures and regulations in Ghana.
7. CSOs led by VALD Ghana and identified expert researchers should initiate and undertake further research to unveil the gains of industry-allied and front groups from prioritizing industry interests over public health benefits.

The tobacco industry has a history of interfering with public health policies, particularly regarding tobacco taxation. The recent passage of the Excise Duty Amendment Act, 2023 witnessed the industry and its affiliated organizations employing various strategies to hinder the passage of the Act. They succeeded in delaying the passage of the Act, swaying the public against the Act and influencing the inclusion of e-cigarettes as excisable products, highlighting the extent of their interference in shaping public health policies in Ghana. This demonstrates the need for comprehensive measures to protect public health regulations from undue industry influence.

References:

- [1] Singh, A., Owusu Dabo, E., Mdege, N., McNeill, A., Britton, J., and Bauld, L., "A situational analysis of tobacco control in Ghana: progress, opportunities and challenges," *J Glob Heal. Rep.*, vol. 3, no. 4, 2020, doi: 10.29392/001c.12260.
- [2] World Health Organization, WHO report on the global tobacco epidemic 2015: raising taxes on tobacco. World Health Organization, 2015.
- [3] Marquez, P. V and Moreno-Dodson, B., Tobacco tax reform at the crossroads of health and development: a multisectoral perspective. World Bank, 2017.
- [4] Chaloupka, F. J., Yurekli, A., and Fong, G. T., "Tobacco taxes as a tobacco control strategy," *Tob. Control*, vol. 21, no. 2, pp. 172–180, 2012.
- [5] WHO FCTC "Guidelines for implementation of Article 6 of the WHO FCTC," Moscow, Russ. WHO FCTC, 2014.
- [6] World Health Organization, WHO report on the global tobacco epidemic, 2019: offer help to quit tobacco use. 2019.
- [7] Fenny, A. P., Crentsil, A. O., Osei, C. K., and Asante, F. A., "Fiscal and Public Health Impact of a Change in Tobacco Excise Taxes in Ghana," *African Tax Adm. Pap.* 20, no. November, 2020.
- [8] Hakizimana, N., "Impact of cigarette excise rate increases on tobacco consumption and tax revenue for Rwanda," 2018.
- [9] WHO, "Countries share examples of how tobacco tax policies create win wins for development health and revenues," Apr. 12, 2021
- [10] Bath University, "Price and Tax - Tobacco Tactics," 2022..
- [11] Dorotheo, E. E. U. and Rosa, Y. Dela, "Global Tobacco Industry Interference Index 2021," 2021.
- [12] VALD Ghana, "The Excise Duty Amendment Act 2023 and the Tobacco Industry Interference," 2023.
- [13] Marques, P., Piqueras, L., and Sanz, M. J., "An updated overview of e - cigarette impact on human health," *Respir. Res.*, pp. 1–14, 2021, doi: 10.1186/s12931-021-01737-5.

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+233 (0) 30 393 8058

+233 (0) 30 252 6197



info@valdgh.org
www.valdgh.org



P.O. Box YK 1138 Kanda - Accra

No. 1 Hamilton Street, First Floor-Fayza Plaza,

Oyarifa. Off Adenta-Aburi Road. Accra



@valdghana



@valdghana



@Vald_Ghana