Excise taxation of non-alcoholic beverages in Thailand: products, approaches, rates and administration

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Abstract

The system of excise taxation for non-alcoholic beverages in the Kingdom of Thailand is structured in such a manner that its impact is discriminatory towards several sectors, or categories within the non-alcoholic beverage market. Certain aspects of the administration of this excise tax also appear to lack clarity and transparency, which are two important aspects of what would be considered 'accepted best practice' in modern tax administration. The taxation of certain beverages is also significantly impacted by external excise policies, particularly the price sensitivity lists which monitor retail pricing for certain beverage products and have the potential to reduce the profitability of those excisable beverages. This paper discusses these particular issues, and canvasses possible reform options based on international approaches to non-alcoholic beverage taxation applied to the Thai market context.

The current excise tariffs

The Excise Act BE 2527 of Thailand prescribes an excise on certain non-alcoholic beverages. Currently, these excise rates are expressed in such a way that we see two rates prescribed for each product – an ad valorem (value based) rate and a specific (volume based) with excise payers asked to select the rate which results in the greatest revenue payable. Product classifications and associated rates are summarised in Table 1,[1] where it should be noted that any non-alcoholic beverages not listed in Table 1 are not subject to excise taxation, although the tariff items do lack sufficient clarity to readily identify what beverages are actually within or outside the tariff.

Table 1: Summary of non-alcoholic beverage excise, Thailand

Item	Percentage value	By volume
1. Soda	25	0.77 baht/440 cc
2. Beverage - General	20	0.37 baht/440 cc
3. Juice		
- General juice	20	0.37 baht/440 cc
- Water, fruit juices with ingredients required by the Department	Exception	Exception

The lack of clarity in the 'beverage' items of the excise tariff does make analysis of the excise taxation arrangement a little difficult, as the actual full scope of products being taxed (or excluded from excise) is not readily understood. As part of this project, the non-alcoholic beverage market of Thailand will be divided into clear product categories, so that discussion, economic modelling, and the analysis of that modelling can be properly undertaken and conclusions more certain.

Excise tariffs are by their very nature 'discriminatory' in that they add an additional taxation burden to products which are deemed to have some negative externalities or classified as a 'luxury' good for which revenue is sought. However, the excise tariffs applying to non-alcoholic beverages in Thailand are levied in an inconsistent manner, and the discriminatory effect of the excise only falls effectively in two categories of the non-alcoholic beverage market, that is, carbonated soft drinks and energy drinks. Although an excise is prescribed for a 'juice' category, provision exists to exempt from excise a range of juices and waters that meet departmental criteria. In effect, many juices are indeed exempt from excise taxation which further adds to the uncertainty for excise payers and distorts the market in this category of beverage.

Generally, we would expect to see some clear policy intent as to why 'like' products are included or not included in a tariff, but in this case the policy is unclear as to intent – certainly there is no distinction in the excise tariff based on criteria such as sugar content, caffeine or value aspects, which could be expected to be part of an excise tax in a non-alcoholic beverage tax system.

Thus the overall tax policy intent for the non-alcoholic beverage is not entirely clear, and the effect of this is to discriminate against certain sectors of that market to the detriment of consumers, profitability of manufacturers, investment and, likely, to government revenues.

Current administration of the excise tariffs

The excise tariffs are administered by the Royal Thai Excise Department. As with many other excisable products in Thailand, the excise duties are levied according to what delivers a higher assessment from an ad valorem rate and a specific (or sometimes referred to as 'unitary') rate. We need to look at these two components – the ad valorem and specific components of the tariff in a little more detail to understand certain issues that will be analysed later in this paper.

The first component of the tariff is an ad valorem rate which is set as a percentage of an 'ex-factory' value and is 25% for soda waters and 20% for carbonated soft drinks and other non-alcoholic beverages. The term 'ex-factory' is not defined in the current excise laws but this is managed by way of 'internal guidance' issued by the Thai Excise Department which provides that ex-factory values include costs, profits, excise tax and local tax.[2] However, for certain commodities, the Thai Excise Department has prescribed applicable ex-factory prices for the purposes of assessing excise duties. This process of authoritative assessment is a little unclear, and the existing minimum ex-factory price list has remained unchanged since 1999, indicating it is a process that may be somewhat dated and in need of reform.[3] Indeed, it would also appear that the Thai Excise Department may itself be losing revenue in real terms by continuing to utilise this approach, as excisable values and calculations of excise payable on products today are applied to 1999 ex-factory values.

A review of the current prescribed 'ex-factory' prices used for excise calculation suggests that the Excise Department has applied a process of 'deeming' or 'determining' that ex-factory value, or costs, profits and taxes is some 75% of the products' retail selling price (RSP). Whilst consistent, the process suggests both a lack of recognition of the various commercial aspects of beverage production, and a lack of transparency in arriving at how ex-factory valuations are determined.

Where ex-factory prices have not been prescribed, generally new products coming into the market, manufacturers of those excisable beverages are required to submit ex-factory valuations to the Excise Department seven days prior to production. The Excise Department will only respond to the valuation should they have concerns, in these cases any submitted 'ex-factory' valuations less than 75% of retail price will likely raise such concerns, however, a non-response within the seven days generally means the beverage manufacturer can use the submitted valuation.

A proposal to amend the Excise Act BE 2527 to include a definition for 'ex-factory' valuation for all commodities has been circulated with Thai excise payers, but has not progressed beyond consultation in a public forum setting.[4] This definition is expected to be:

> Ex-factory price means the price actually sold or should be sold from the factory which is a normal business price with honesty and frankness.[5]

This proposal recognises an inherent risk in utilising ex-factory valuations for excise taxation purposes, in that manufacturers will look to minimise excise payable by reducing ex-factory valuations. One such method has traditionally been for the manufacturer to set up a distribution company to purchase or take ownership of the products so as to remove margins, distribution, marketing and licensing type costs out of the ex-factory price. The proposed definition for ex-factory price, whilst needed, still will not necessarily address the question of related party sales as it will be difficult for industry and the Excise Department to identify the difference (if any) in pricing between related and unrelated party transactions.

The second component of the excise tariff rate for non-alcoholic beverages is the specific or unitary rate which is based on the volume of product leaving the factory. This rate stands at THB0.77 for sodas and THB0.37 for other categories, for each 440cc unit. Any part 440cc units are rounded up. In effect, the calculation would result in a 500cc container being classified as 2 x 440cc units for multiplication with the THB0.77 or THB0.37 excise rate.[6]

Impact of non-alcoholic beverage excise on manufacturers

Despite a tariff which states that the excise payable is based on the higher of an ad valorem and a specific rate of duty, in effect we find that the ad valorem rate always prevails as the higher of the two assessments. Thus it is considered that non-alcoholic beverages in Thailand are taxed on an ad valorem basis based on their ex-factory value. The issue of this ex-factory value being set arbitrarily has already been raised above, as has the fact that these arbitrary values have remained unchanged since 1999, however, it is worth analysing some of the impacts on manufacturers.

This policy would appear quite unrealistic in that a value-based excise is no longer levied on true values, but on an assigned value (authoritative assessment) that today likely bears no resemblance to the actual value. As a result of this policy, there are certain impacts on manufacturers which need to be highlighted as part of analysing policy and administrative issues. Firstly, the policy as seen in the discussion above works on the principle that tax inclusive ex-factory values are at least 75% of RSP. Considering that RSP also needs to include any value-add between the factory and the sale such as transport and retailer costs and margins, plus the retailer's Value Added Tax (VAT) liability of 7%, the manufacturer's margins are reduced significantly on any product which is actually valued less than the 75% benchmark.

Further complicating the issue is that RSP is subject to government monitoring and in effect industry cannot raise the RSP without first having an 'informal approval' from the relevant authorities – a topic which will be further discussed below. However, the effect of an RSP 'cap' is that again 'ex-factory' valuations for excise cannot rise with increasing raw material and other costs as industry and the Excise Department are 'tied' to this guidance of ex-factory valuation being 75% of a static RSP.

In this context, despite the excise payable being stable with static RSP prices, rising raw material and production costs, inside a capped RSP does further erode, often significantly, the manufacturer's margins. In particular, pressure on the raw material input costs such as sugar (see Figure 1 below) cannot be passed on to consumers, and with excise 'set' raw material cost rises need to come out of the manufacturer's margins.

A review of the literature on non-alcoholic beverage taxation

This paper recognises a key principle in tax policy which is that the objective of an indirect tax should be neutrality, or that the tax rate, tax base and tax structure should not impact markedly on investment, production or consumption. Tax policy in certain circumstances will often include the need to levy 'special' taxes or discriminatory taxes such as an excise tax, in response to the externalities (or harm) associated with the consumption of certain goods and services. These products are usually alcohol, tobacco, fuels and gambling.

Therefore, a key question that arises in the literature is 'do we need to have a discriminatory tax on non-alcoholic beverages?' Or, what are the externalities behind the consumption of such beverages which need addressing through a discriminatory tax such as a non-alcoholic beverage excise?

If the policy intent is not in response to identified externalities but is simply to raise revenue, then we need to return to our first key principle of neutrality in tax policy, where taxes such as VAT are likely to conform. However, if raising revenue is not the prime objective of the tax, we need to assess those externalities and consumption issues and design an excise tax system accordingly.

In relation to Thailand, we see both VAT and excise duties being applied to non-alcoholic beverages. Thailand is not alone in levying excises on such products, but it is different to others in terms of levying excise on just a narrow range of products, rather than capturing all product categories.

Those countries levying an excise on non-alcoholic beverages can be divided into two groups. Firstly, those developing countries within Africa, the Middle East, and Asia where non-alcoholic beverages are seen as a 'luxury' good and as a source of revenue from the consumer, and as such, the excises have been structured on an ad valorem basis as a pure revenue raising measure.[7] Secondly, in the more advanced economies where excises on non-alcoholic beverages are levied, there have been certain externalities from consumption identified for redress, such as harm from sugar intake, or harm to the environment from disposal of packaging.[8]

Thailand is interesting in that its excise tariff contains both an ad valorem and specific tax rate, with manufacturers paying the rate which delivers the highest assessment, although effectively, with taxable values set by the Excise Department, the ad valorem rate is the one used for excise. In fact this taxation arrangement may be unique to Thailand in terms of taxing non-alcoholic beverages.[9] The ad valorem component of the rate which is set at 25% for soda waters and 20% for carbonated soft drinks is considered to be at the upper middle range of rates globally but regionally would be considered quite high.[10] This will impact on the competitiveness and future profitability of those taxable segments of the non-alcoholic beverage market.

Significantly, where externalities are behind the policy for implementing an excise tax, there is a move towards taxing non-alcoholic beverages on a specific or unitary rate of excise (that is, per unit of liquid). This approach better reflects the externalities of consumption by taxing the volume or amount of consumption which is believed to be related to or is actually causing the harm, rather than the value which taxes the quality of the product rather than the harm.

There has been some debate in recent times about introducing levies, like an excise tax, on non-alcoholic beverages to reflect the externalities of sugar content with its impact on health objectives. The proposals are to guide manufacturers and consumers to more healthy consumption through reduction in sugar intake. This type of discussion has recently commenced in Thailand, with the Director-General of the Excise Department making a statement that his Department was 'considering higher taxes on the amount of perceived harmful active ingredients in goods such as ... sugar products'.[11] However, this paper does not wish to evaluate the science of sugar and health but rather focus on tax design should a government wish to levy an excise type tax on non-alcoholic beverages. This paper does wish to highlight, however, that the literature review failed to locate any readily and publicly available policy debate on Thailand's position in relation to the potential externalities arising from non-alcoholic beverage consumption.

Likewise, there is no intention in this paper to commence a debate about the merits of using an excise or like tax for managing the environmental aspects of soft drink consumption through disposal of containers. Often, excise type taxes in this context can be operated with tax rebate, tax refund or deposit type arrangements to encourage return and recycling of containers; this creates many levels of complexity in excise policy design,[12] and in this paper we need to focus on particular reforms and best practice in the Thai excise system. However, what is important to note in the literature is that where government tax policy indicates an excise is being levied on the ground of externalising harm, then specific taxation is shown to be the preferred taxation approach.

Significantly, the application of specific taxation not only recognises the nature of excise taxes and externalities but has several other significant benefits over ad valorem taxation which are worthy of discussion. Specific taxes also provide several advantages over ad valorem taxation in terms of managing revenue income from excisable products. The advantages are therefore not only limited to taxing harm.

Specific taxation is becoming the preferred approach generally in excise taxation for all goods, and there are several reasons for this. Specific taxation is far simpler to administer from the perspective of both industry and revenue agencies. The requirement to simply measure physical volumes is far simpler than assessing the value of a product at a certain point in time. Values are subject to many changing factors, such as raw material inputs, labour, fuel prices, etc., which need constant surveillance and adjustment. Volumes are simply derived from product passing flow meters or scales and recorded for tax purposes.

Specific taxation provides stability in revenue, with tax receipts growing or moving in line with consumption. Values change constantly in line with market and economic conditions, and we can see factors such as cost cutting, price wars, and trading down by consumers, all impacting negatively on revenue, including periods where consumption is stable. Taxation by volume also challenges the ability of industry to aggressively plan pricing strategies as a way to reduce taxable values.

Specific taxation also prevents discrimination or distortion in the market. Goods are taxed for what they are or what they do, and not what their value is. This has the effect of not placing certain quality goods out of the reach of many consumers, nor is there a need to trade down to inferior quality products. This again helps maintain revenue levels, and also works against the incentives to counterfeit premium branded excisable goods.

The literature review looked at several excise systems which taxed non-alcoholic beverages on a specific rate basis and provides as examples the following structure and rates:

Table 2: Examples of specific taxes – non-alcoholic beverages (converted Thai baht equivalent at time of writing)

Country	Tax	Products	Rate THB equivalent
Netherlands[13]	Consumption Tax	Carbonated soft drinks	2.97 per litre
		Vegetable & fruit juice	2.23 per litre
		Mineral waters	2.23 per litre
Finland[14]	Excise	Soft drinks, juices and sodas	1.81 per litre
	Beverage Container Tax	All beverages with non returnable packaging	30.0 per litre
Croatia[15]	Excise	Refreshing non-alcoholic beverage	2.24 per litre
Washington (State) USA[16]	Soda Tax	Sugar sweetened beverages	1.80 per litre

There are clear arguments therefore for applying these concepts to Thailand and restructuring the existing excise 'greater of' ad valorem or specific rate system, with a single specific excise rate more comparable with the existing ad valorem component. The precise setting of such a rate will be an option tested with economic modelling later in the paper.

However, if Thailand was to retain an 'effective' ad valorem system, there is also certainly scope to review the existing tax base of 'ex factory authoritative assessment' with a new tax base such as self-assessed ex factory, wholesale, or retail selling price. Each of these approaches will be looked at in more detail below in terms of discussion of future potential tax bases, but there will continue to be analysis of ex-factory based valuations in this paper.

Wholesale selling price as excisable values are in use in other countries but for Thailand may have several issues which are similar to those raised in relation to ex-factory valuation in the areas of distribution structure and related tax avoidance issues. The Australian 'Wine Equalisation Tax' is an example of an excise type tax levied on a beverage and operates very closely with the local Goods and Services Tax (GST) law.[17] In the case of Thailand however, it would seem that the distribution of many beverages is directly from the manufacturer to retailer, and thus is effectively an ex-factory (plus delivery) value and is how the price is structured today and represents little change, and may therefore carry the same issues previously discussed.

Further, the ex-factory or wholesale value, where self-assessed, will be subject to constant fluctuation depending upon factors such as cost of inputs and prevailing market conditions. Whilst the authoritative assessment of ex-factory price removes this fluctuation, the process is not considered 'best practice' and as such it is very difficult to argue for retention of ex-factory valuation, or the introduction of wholesale pricing, as part of any reform of excise tariffs for non-alcoholic beverages.

The other value which can be used for excise purposes is the retail selling price (RSP), particularly where this price is consistent, regulated or set in some manner. RSP-based excises are not unique, and they are in use for the excise taxation of tobacco across the European Union (EU), but the literature review did not find RSP excises in use in the non-alcoholic beverage industry. There are however, several aspects required to be worked through – the main issue being that excise is a 'production' tax and levied on producers who may have no control or effective knowledge of the retail price. Further, retail pricing for the same goods can vary largely depending on point of sale for example, the price differential between a can of soda purchased at a supermarket and a restaurant can vary between four and five times. As such, for an RSP-based excise to be applied successfully there needs to be a means of setting that RSP which is equitable, simple and transparently fair across like products in the market.

The use of RSP in the EU excise taxation of tobacco is quite complex in terms of it being a 'mixed' ad valorem and specific system, in which an element of both applies to each member state's tobacco excise rate, with a minimum level of specific rate taxation applying. The ad valorem component is then based on RSP, but that RSP is in fact a derived value based on the Most Popular Price Category (MPPC) and reviewed each year.

Thus any consideration of the use of RSP in Thailand will need certain design rules to overcome these sorts of issues, for example, should RSP for excise be based on:

- the most popular price categories as with EU tobacco excises
- recommended retail prices as set by the manufacturers
- watch-list levels set by the Ministry of Commerce, or registered prices with the Ministry of Commerce
- price indicated/printed on packaging as 'suggested' retail price, or
- price registered with the Excise Department.

What is best practice tax policy and administration?

A major part of this research is to develop thinking around a number of different approaches to excise taxation of non-alcoholic beverages in Thailand which are more in line with 'best practice' principles. As such, the existing tax administration and current proposals to enhance administration of non-alcoholic beverages have been reviewed against what can be considered 'benchmark' or 'best practice' tax administration. In making this analysis, the principles of good tax administration have been drawn from the OECD's guidance materials, which themselves are based on extensive study and research across the developed world's tax systems.[18]

Critically, we will examine two key areas listed under the OECD's guidance note, which recommends that revenue authorities be encouraged to:

- apply tax laws in a fair, reliable and transparent manner
- ensure compliance costs are kept to a minimum level necessary to achieve compliance with the tax laws.

In relation to 'fair, reliable and transparent', this can be measured both on 'outcomes' and 'procedures': outcomes in terms of pricing and impact on the market, and procedural in terms of how the tax is administered, both of which have been found to be important factors in the effectiveness of the tax as even new taxes or undesirable taxes have more chance of being accepted by taxpayers and consumers if they are considered 'fair'.[19]

Looking at the Thai non-alcoholic beverage excise system, there are several observations that need to be made. At a 'fairness' level, there are certainly questions on fairness and equity in relation to the issue of differentiating between like products in the non-alcoholic beverage market for the purposes of excise.

In effect, out of 11 categories of non-alcoholic beverage, only two are taxed, and these two categories have rate differentials. In summary, the issue can be highlighted by the following table (Table 3) which looks at the components of the non-alcoholic beverage market and effective taxation rates:

Table 3: Effective rates of excise in the Thai non-alcoholic beverage market

Product category	Excise rate
Soda water	25% (or 0.77 Baht per 440ml)
Carbonated soft drink and energy drink	20% (or 0.37 Baht per 440ml)
Fruit/Vegetable juice	Ex (or 20% or 0.37 Baht per 440ml)
Packaged water	Ex
RTD Tea	Ex
RTD Coffee	Ex
Sports drinks	Ex
Still drinks	Ex
Syrups	Ex
Nectar	Ex
Fruit powder	Ex

At this point however, there is an argument to be made for the continued exemption from excise of bottled water. This argument would be mounted on the premise that there is a lack of certainty as to the potability of tap water for the population in Thailand.[20]

The inconsistent tax treatment of like products has the potential to distort the market, with pricing advantages able to be gained by certain products over others, and consumers selecting certain products over others. For the government, there also seems to be a 'missed opportunity' by excluding these non-taxed product categories, and this revenue opportunity can be further eroded if the market is not working properly and consumers switch to 'non-taxed' products. Thus, this question could be addressed by the addition of these untaxed categories into the excise system, unless there is a clear need to exclude that category.

Otherwise, the discriminatory taxation can also represent a missed opportunity for the growth of those categories of beverage taxed, and on this basis the government would look to repeal the non-alcoholic beverage excise from the Excise Act. See Table 4 below, where the excisable soft drink category is consistently and clearly unable to share the same volume growths of other non-excisable product categories.

Table 4: Growth in selected non-alcoholic beverage categories 2002 to 2008[21]

	2002	2003	2004	2005	2006	2007	2008	Average growth
Fruit juice	18.2%	18.6%	1.6%	18.5%	25.6%	14.5%	3.2%	14.3%
RTD Tea	81.9%	118.0%	151.0%	21.1%	-29.0%	13.2%	17.8%	53.4%
RTD Coffee	27.4%	24.9%	15.0%	5.3%	5.1%	16.4%	3.1%	13.9%
Soft drinks	4.6%	13.5%	1.6%	2.1%	3.3%	-0.9%	-3.7%	2.9%

Source: Nielsen Retail Audit

The question of whether future excise policy should be looking at extending non-alcoholic beverage excise to all products, or repeal all such excises has many considerations. The Irish Government looked at a similar question in the early 2000s in the context of a general move by the EU to remove excise-type taxation from non-alcoholic beverages in favour of VAT. In the Thai context, this would see the removal of excises from sodas and energy drinks and a reliance on VAT, for which revenues would likely increase as sales volumes in these categories grow at rates more consistent with other categories listed in Table 4 above.

Alternatively, a move to seek equity or fairness by extending non-alcoholic beverage excise to all categories would likely see impacts on the consumption of those beverages not currently subject to excise. The extent to which consumption would fall can be measured by understanding the price elasticity of these categories of beverage, or their price sensitivity upon any price change. Actual price elasticities will need to be derived from economic modelling of the non-alcoholic beverage market, but as a starting point, industry estimates suggest that price elasticity for the Thai market is around -1.2 to -1.3.[22] This figure suggests that consumers are quite responsive to price changes and that a 10% increase in the price of a beverage will lead to a 12–13% fall in consumption.

Another area to examine in terms of best practice is the tax base of those non-alcoholic products currently taxed. Prima facie, the current ex-factory arrangement valuations would fall well short of best practice administration, particularly in relation to fairness and transparency. These negative impacts fall, it seems, upon both industry and the Thai Excise Department.

The authoritative assessment arrangement places the valuation of products with the department as opposed to the actual costs of production. As stated, ex-factory prices have not been altered since 1998, due partly it is believed to the price cap policy – which itself has not allowed certain retail level prices to have moved since 2001. This price cap policy may in fact be a 'road block' to best practice administration as, generally, valuation best practice would move towards a self-assessed value determined by clearly stated rules and practices that apply equally to all non-alcoholic beverage manufacturers.

For industry however, the arbitrary setting of ex-factory values is not reflective of the industry which is subject to often significant fluctuations in pricing of key raw materials inputs, including inputs such as sugar. Whilst sugar is a product on the Ministry of Commerce Control List and price movements are carefully managed, Figure 1 below which includes the global price of sugar over the past 10 years in US dollars[23] indicates there has been continual pressure on the price of a major business input to the industry for the past few years. When the price changes do occur, such as the 30% increase in 2008, there was no adjustment to the prescribed ex-factory selling prices, indicating a substantial flaw in the policy approach to excise taxation and a loss of excise revenue for the government. Currently, the Ministry of Commerce is considering allowing manufacturers to increase pricing to take account of these sorts of factors,[24] and the concern for industry is how the Excise Department will respond in terms of its prescribed ex-factory pricing.

Figure 1: Ten-year sugar prices

Source: Preece 2012

Perhaps some rationale for this policy might come from this government policy which places non-alcoholic beverages on a 'Price Sensitive List' which requires the industry to alert the government should it wish to alter an RSP. Administered by the Department of Internal Trade at the Ministry of Commerce, this pricing watch-list issue becomes a potential excise policy issue as industry often finds it difficult to increase RSP with increases to raw material costs, and normally it could be reasonably expected that the Excise Department could increase prescribed ex-factory prices to reflect an increase in raw material inputs. The issue here becomes one of how can the industry maintain any sort of margins if, effectively, RSP is fixed but raw materials and excise taxes both increase.

In this context, the question of whether an ex-factory value is the most appropriate approach needs to be raised. Indeed if ex-factory valuations are to continue, there needs to be a better approach to assessing this value in the context of raw materials, excise tax levels, and retail price caps. Alternatively, if value-based taxation is preferred by government, then perhaps other valuations can be considered, such as retail pricing itself which in this case is a 'set' and 'known' value, which is critical as, being an excise, it would still be payable by the manufacturer.

However, these types of valuation based issues give rise to the question of whether this continues to be the most appropriate for assessing the excise on non-alcoholic beverages, or whether it would be more appropriate to now move to another approach such as specific taxation, or ad valorem taxation based on an RSP. The benefits and impacts of a specific tax have been discussed already in this paper, and must remain an option for reform given that specific taxation, or taxation by volume, can add a degree of certainty and consistency in taxation, and remove many of the value-based administrative issues raised above.

However, if the government was to continue with ad valorem or value-based taxation, then there are two further options we can also explore at this point, firstly, to remove the authoritative assessment and move to full self assessment. Full self-assessment, supported by clear rules, guidelines and anti-avoidance measures, is consistent with best practice administration but would be difficult for industry given the existing price cap policies.

Self-assessment or use of actual ‘real’ ex-factory values will fluctuate with market conditions and as such there will be occasions in which ex-factory costs with the excise tax will approach the price cap value leaving no room for profitability. Thus in the context of the Ministry of Commerce policy, this option is difficult to analyse or propose as a reform option. In addition, manufacturers will be looking for some consistency in excise liabilities over their products as they are likely to be involved with long-term contracts with their customers and based on set prices that cannot be altered delivery–by-delivery to reflect these differing excise liabilities.

Realistically, outside of a fully self-assessed ex-factory value, the only real alternative valuation point would be some form of a ‘stable’, ‘set’ or ‘regulated’ RSP. Normally, RSP would be a difficult issue to administer as the excise tax is required to be paid by a manufacturer who would not necessarily know the retail price at the taxing point (or point at which goods leave the licensed factory). RSP as seen above is further complicated by the place of purchase – primarily on or off premise, and we see large price variations between retail prices of beverages at the supermarket, at a street vendor, a restaurant or up-market hotel.

However, the same price cap policy existing in the Thai market does provide for a stable ‘retail price’ to be utilised by all manufacturers, being that price prescribed by the cap. As a result, excise rates would only change with a change to the price cap level – but again, this tax base would need to be reviewed if ever the government was to abandon the price cap policy for non-alcoholic beverages.

Thus the taxation scenario development proposals for future analysis and discussion need to focus on options that include pure specific taxation, building equity into the existing ex-factory ad valorem taxation, and RSP ad valorem taxation. As such, the following ‘starting point’ scenarios based on the discussion and findings above have been developed for further debate and testing:

1. Introduction of a single specific excise duty rate to existing excisable non-alcoholic beverages which is revenue neutral.
2. Introduction of a single specific excise duty rate to all excisable non-alcoholic beverages* which is revenue neutral.
3. Introduction of a single ad valorem excise duty rate based on ex-factory pricing for all non-alcoholic beverages* which is revenue neutral.
4. Extension of the existing 20% ad valorem ex-factory rate to all non-alcoholic beverages*.
5. Introduction of a single ad valorem excise duty rate based on RSP for all non-alcoholic beverages* which is revenue neutral.

   ** excluding bottled water*

In this case, the scenarios would look at several different RSP options but realistically, it would appear from the study that ‘price cap’ values would be the most relevant RSP.

Looking at the five scenarios identified above in more detail:

1. Introduction of a single specific excise duty rate to existing excisable non-alcoholic beverages which is revenue neutral

Specific taxation options are worthy of analysis for several reasons:

- they are transparently equitable across like beverages in the market, not discriminating against one or favouring another on the basis of characteristics such as value, origin, volume or contents
- they are simple to administer, requiring calculation of volumes for reference against a prescribed rate, rather than requiring the establishment of detailed rules around what and what is not included in the taxable value, and prevent price structuring to minimise excise payable
- excise payable by manufacturers (and collectable by government) is not subject to fluctuations based on movements in raw material input costs, packaging costs, salary costs, volume discounts, price competitions, etc.
- they better reflect externalities or costs of harm, where applicable, rather than cost of production.

2. Introduction of a single specific excise duty rate to all excisable non-alcoholic beverages which is revenue neutral

Building on scenario 1, scenario 2 introduces equity into the taxation of non-alcoholic beverages by extending the excise to those beverages currently not subject to excise (except bottled drinking water). This scenario also starts with the premise that the extension of excise to all non-alcoholic beverages needs to be revenue neutral so that the new taxes are not seen as ‘revenue grabs’, ensure that the initial excise tax on new products is not so large, and existing excisable products are given the opportunity to re-establish some of their margins that have been ‘cut’ over the preceding years from rising raw material costs and price caps.

3. Introduction of a single ad valorem excise duty rate based on ex-factory prices for all non-alcoholic beverages which is revenue neutral

This scenario analyses the continuation of the existing ad valorem ‘ex-factory’ based taxable valuation system for non-alcoholic beverages, but looks at introducing a degree of equity into the system by again extending the excise to all beverages (except bottled drinking water). If introduced, the revenue neutral excise rate was found to be 16% of ex-factory value, down from the existing 20% and 25% rates.

4. Extend existing 20% ad valorem ex-factory rate to all non-alcoholic beverages

In this scenario, the single ad valorem rate is retained at 20% of an ex-factory value, but is applied to all beverage categories except bottled drinking water, thus differs from scenario 3 by introducing equity immediately by applying the existing 20% excise rate to all non-alcoholic beverages (although this will represent a very small effective tax cut for soda water). Thus scenario 3 represents no tax changes for carbonates and functional drinks but implements the full rate for existing non-taxed beverage categories.

5. Introduction of a single ad valorem excise duty rate based on RSP for all non-alcoholic beverages which is revenue neutral

This final scenario introduces the concept of an excise based on an RSP valuation. It reflects the concept of equity by applying the excise tax to all beverage categories (except again to bottled water) and uses existing RSPs as subject to Ministry of Commerce price sensitive watch-lists. Thus the use of RSP does have a degree of transparency and simplicity as manufacturers link excise valuations to RSP valuations held by the Ministry of Commerce. The scenario will be revenue neutral in terms of setting an RSP excise rate.

Summary and conclusions

When examining the existing excise taxation systems for non-alcoholic beverages in Thailand there are clearly some areas in which reforms can be made when benchmarking the system against 'best practice'. When looking at policy and administration there needs to be consideration of equity in terms of what products are subject to excise and at what excise rate. There needs to be greater transparency in terms of both 'effectively' what beverages are subject to excise and at what rate. Further, if Thailand is to remain with an ad valorem excise systems for non-alcoholic beverages – this aspect of transparency needs to be extended to include consideration of what valuation approach is adopted and how this is administered.

As part of these considerations, this study would benefit from some form of economic modelling to better understand the potential impacts of any recommended reforms to the excise system for non-alcoholic beverages. This process also allows for policy development such as rate settings, in the context of limiting impacts on revenue, prices and sales to predetermined extents that are acceptable to the policymaker.

As a result, it has not been possible in this paper to quantify the potential impacts on the market with the introduction of possible reforms aimed at introducing such equity and transparency into the Thai non-alcoholic beverage excise system.

This paper could not locate definitive policy in terms of the Thai Government's position on the taxation of non-alcoholic beverages and so it is difficult to make a definitive recommendation as to which proposed taxation scenario is best placed for Thailand; however, some observations can be made.

For the concept of 'equity' in the taxation of like products, scenario 1 does not meet this criterion, rather it leaves the excise restricted to two main categories of poorly defined beverages, from which certain exemptions also exist. For the concept of 'transparency', it is difficult to see a continuation of the existing 'ex-factory' administrative arrangements as being best practice policy and administration given the methodology of calculation and opportunities to restructure such ex-factory costs. Thus, scenarios 3 and 4 do not meet these important criteria.

Scenarios 2 and 5 do start to meet these criteria that represent best practice, albeit an approach based on RSP requires significant consistency and certainty of the RSP to be used. Provided this certainty can be managed through some form of independently regulated or monitored pricing, scenario 5 does provide positive overall growth to the Thai non-alcoholic beverage market, whereas scenario 2's specific taxation impact is a small contraction in overall sales.

As stated in the paper, the use of specific taxation does relate to harm and various externalities and as such, is used to reduce consumption as we see with alcohol and tobacco, thus had the policy intent of managing consumption been a primary consideration of the study, scenario 2 would likely have been more of a focus. However, as a tax to raise revenue from a consumer item, the use of RSP-based ad valorem excise applied in a non-discriminatory manner to all beverages appears to grow the market volumes and will therefore in time be able to grow revenues accordingly.

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Notes

1 As adapted from the departmental website, www.excise.go.th/index.php?id=178.

2 These internal procedures were previously published by the Royal Thai Excise on their website but have since been removed.

3 Excise Department Notification 1/2542.

4 Industry Consultative Forum held at Renaissance Hotel, March 2010.

5 Unofficial translation of Industry Consultative Forum draft amendments to excise laws.

6 See Thai Excise Department website www.excise.go.th/index.php?id=179.

7 This study identified the following excise rates: Turkey 20%; Zambia, Egypt, Chad, Zimbabwe 25%; Uganda, Ethiopia, Ghana 50%; Laos, Cambodia 10%.

8 Bahl, Bird & Walker 2003, p. 511.

9 Turkey also uses a type of 'greater of' ad valorem or specific rate approach in excise products – but not for non-alcoholic beverages.

10 See also Note 9.

11 www.bangkokpost.com/business/economics/214021/excise-tax-on-goods-with-sugar-considered.

12 See, for example, 'Beverage Container Tax' 1037/2004 Finland, which is a tax on beverages classified to Chapter 22 of the HS, with deposit return arrangements, and applies from 2008.

13 www.minfin.nl/english/Subjects/Taxation/A_brief_outline_of_all_taxes_in_the_Netherlands/Indirect_taxes.

14 www.vero.fi/nc/doc/download.asp?id=4151;1035296.

15 www.ijf.hr/eng/taxguide/3-09/7.pdf.

16 Griffey, 20 March 2010.

17 The Australian GST is a value added tax on private consumption.

18 OECD 2001.

19 Cnossen 2005a, p. 235.

20 Whilst the Bangkok Metropolitan Authority claims the tap water in Bangkok is safe to drink, many international medical travel advisories are still recommending that tap water not be consumed.

21 Adapted from a presentation by Coca Cola to the 'Enhancing Tax Administration' workshop at the Pullman Hotel, 6 May 2010.

22 Oxford Economics & International Tax & Investment Centre 2009 (unpub.)

23 As mapped by the World Bank, Washington, DC.

24 Based on submissions by the industry to Commerce Ministry. *Financial Times,* 29 June 2010, International Trade Department may have to allow soft drink manufacturers to increase prices to account for these fluctuations (increases) in sugar prices. http://news.reportlinker.com/n03364073/Thailand-Internal-Trade-Dept-says-soft-drink-prices-may-go-up-on-sugar-price-hike.html#**.**

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