

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY
USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT
POLICY

Voluntary Public

Date: 11/10/2015

GAIN Report Number: BU1537

Bulgaria

Post: Sofia

Looming Public Health Tax Threatens Food Trade

Report Categories:

Trade Policy Monitoring

Agricultural Situation

Approved By:

Russell J. Nicely

Prepared By:

Mila Boshnakova

Report Highlights:

The newly proposed Ministry of Health's and highly controversial public health tax legislation has caused heated debates in the food and drink industry as well as in business circles and among the general public in September/October.

The draft regulation comes into public attention right after another earlier fierce debate on retail legislation that lasted for almost four years and was only concluded by amending the retail legislation in July.

The new public health tax idea coincides with the introduction of two new regulations initiated by the Ministry of Agriculture which aim to support sales of locally produced foods to institutional consumers as well as the processing of local agricultural products by the food industry. Major changes in the Food Act and in the regulation on online food sales are expected in November and December.

While it still remains to be seen if the new tax will be approved, the avalanche of new regulations demonstrates efforts being made by the policy makers to enact administrative policies on agricultural and food industries and trade, often contrary to market principles and international trade norms. Overall these new regulations increase the regulatory burden and the final cost for consumers and can create a discriminative environment for select foods and drinks as well as for imported foods.

General Information: Public Health Tax Regulation

The idea for a new excise tax on select foods and drinks arise in the market last February. When introduced, it was known as a “tax on junk food” or the “sweet, fat and salty” tax. It was initiated by the Ministry of Health in coordination with the Ministry of Finance and was tabled for public consultations in early October.

The new tax is planned to be effective in 2016, with implementation to be executed by regional health inspectors.

The Ministry of Health’s proclaimed philosophy behind the new proposal is to change eating habits of the population, towards consumption of healthier products. The proposal follows to a large extent Hungarian legislation in this area. The idea was also supported by the local representatives of World Health Organization (WHO). The new tax encourages food manufacturers to modify their food/drinks formulations to reduce salt/sugar/trans-fat/caffeine content. Salt consumption is especially targeted since Bulgarians consume daily 8 grams salt as compared to the WHO recommendation of 5 grams. The Minister of Health recommended that purported “junk” foods should be placed on separated shelves in retail outlets and that their advertising during children shows to be banned.

The Ministry of Health goal is to collect 150-170 million Bleva (U.S. \$88-100 million) which will be used to build sports facilities, add more fruits and vegetables to the schools’ menu and for disease prevention programs.

Currently, the public health tax targets 4 categories of foods and drinks, as follows:

1. Foods/drinks with added sugar or more than 40 grams/100 grams of finished product;
2. Foods/drinks with salt content above 10 grams/kilogram of finished product;
3. Foods/drinks with trans-fats above 0.5 grams/100 grams of finished product,
4. Foods/drinks with caffeine and taurine (energy drinks).

Per the Ministry of Health, the tax targets foods which are not “essential” in the daily diet and for which there are healthier alternatives. Cheese and dairy products as well as meat processed products were excluded from the list since they were considered to “bring more benefits than harm”. Bread, fruits and vegetables, coffee, tea, salt, sugar and honey were also excluded. Foods destined for exports are exempt from the tax. The tax should be applied on packaged and bulk products including those sold by street vendors and food prepared and served at food service outlets, etc. Reportedly, the decision about what foods are subject of the tax was based on health considerations but also on political reasons since the majority of local foods are produced by dairy and meat industries (about 400 small and medium companies).

The rate of the tax is calculated per the content of extra salt, sugar and caffeine as presented in the table

below. All chips, cereals, tree nuts and peanuts, waffles, snacks, dry soups, mayonnaise, sauces and ketchup, chocolate, fruit juices (with less than 40% fruit content), some mineral waters and jams are affected. Certain foods such as biscuits may be tripled taxed since they contain salt, sugar and trans-fats. The tax will be levied on the foods before the Value Added Tax (VAT) calculation so the effect on the final price will be higher. The estimated price increase varies from 3% to 78% depending on the product.

Food and Drink Products Subject of Public Health Tax	Public Health Excise Tax Rate	Estimated Price Increase After Taxation, in Percent
Foods with higher sugar content:		
• Bakery products	0.81 Bleva/kilogram (U.S. \$0.48/kilogram)	12%
• Biscuits	0.81 Bleva/kilogram (U.S. \$0.48/kilogram)	10%
• Energy Drinks	0.43 Bleva/liter (U.S. \$0.25/liter)	4%
• Carbonated drinks	0.43 Bleva/liter (U.S. \$0.25/liter)	31%
• Chocolate products (with less than 40% cocoa)	0.43 Bleva/liter (U.S. \$0.25/liter)	3%
• Sweets/sugar products	0.81 Bleva/kilogram (U.S. \$0.48/kilogram)	7%
• Ice cream	0.81 Bleva/liter (U.S. \$0.48/liter)	7%
Foods with higher salt content:		
• Snacks	1.55 Bleva/kilogram (U.S. \$0.91/kilogram)	15%
• Soups	1.55 Bleva/kilogram (U.S. \$0.91/kilogram)	10%
• Sauces and spices	1.55 Bleva/kilogram (U.S. \$0.91/kilogram)	16%
• Biscuits	1.55 Bleva/kilogram (U.S. \$0.91/kilogram)	19%
Drinks with higher caffeine/ taurine content:		
• Energy drinks	1.55 Bleva/kilogram (U.S. \$0.91/kilogram)	15%
Foods with Hydrogenated Vegetable Oils:		
• Imitating dairy products(with palm oil)	3.10 Bleva/kilogram (U.S.\$1.82/kilogram)	78%
• Margarine	3.10 Bleva/kilogram (U.S.\$1.82/kilogram)	58%

<ul style="list-style-type: none"> Fast food (sandwiches, French fries) 	3.10 Bleva/kilogram (U.S.\$1.82/kilogram)	17%
<ul style="list-style-type: none"> Bakery products 	3.10 Bleva/kilogram (U.S.\$1.82/kilogram)	44%

Industry Reactions and Positions

The public health tax managed to unite the entire agriculture and food industry, trade, independent experts, think tanks (Institute of Market Economy), dietitians and food experts, trade unions, employers' organizations, and consumer groups into opposition.

Industry criticisms focused on the following:

- The new proposal has been initiated with no consultations with stakeholders or industry and the time for public comments is very limited. Financial justification and any proper impact assessment is missing;
- There is no proven correlation between consumption of the taxed foods and drinks and the health status of consumers. The available impact assessment does not show any proven positive effect on human health as a result of the new tax;
- Consumer health can be improved by increased physical activities and campaigns in favor of healthier eating and lifestyle implements but not through new taxes. Informed choice of consumers is the only way to change eating habits;
- Example of countries with experience with such a tax (Hungary, Denmark, France, Finland, UK, Belgium, Estonia, Germany, Mexico and the United States) shows that expectations are never met. In some European countries the result has been a growth in the grey sector and lost VAT collection for the budget. Consumers' eating habits did not change while food prices increased. Bulgarian per capita consumption of foods subject to the new tax is much below the same consumption in other countries which have attempted to introduce similar policies with questionable effects (Hungary, Denmark, the UK, etc.);
- The tax discriminates against certain foods and drinks over others and restricts consumers' choice. There is no clear criteria why foods are "junk". Products produced in accordance with Bulgarian and European standards cannot be named "junk" and be subject of additional tax burden. EU legislation for labeling introduced in December 2014, based on the European Food Safety Agency (EFSA) guidance, provides an excellent foundation for consumers to make an informed choice and no additional administration is necessary. Additionally, Bulgarian industry takes part in self-regulating initiatives such as EU Pledge. As of 2015, 21 companies operating on the Bulgarian market are part of this program. Market leaders such as Nestle, Mondelez and Intersnacks are among the signees of the pledge;
- The new tax will lead to higher food prices and suppress demand. Consumers will likely switch to unhealthy but less expensive alternatives and will buy from the gray sector. Purchases and consumption will most likely decline. The gray sector will thrive at the expense of legal sales.
- The new tax will lead to job loss, especially at small to medium sized food manufacturers, will suppress economic growth, and reduce tax collection. The implementation of the new tax will be expensive for the budget and hard to administer and control.

AgSofia's numerous industry contacts were unanimous about the harmful effect of the new tax. Some importers and local manufacturers have estimated the potential reduction in sales at 10%-35%, along with a slowing down of investment plans and imports. For example, Mondelez announced that its new investment in a chocolate factory will be canceled if the new tax is introduced. Food businesses expected an increase in all food prices due to a multiplication effect of inclusion of food ingredients as raw materials for other foods. Since Bulgarians are price sensitive consumers and incomes are stagnant, traders expect a negative effect for all sales, imports, consumption and trade.

An independent impact assessment made by private consultants and the Institute of Market Economy in the summer showed that consumer expenditures for food are high and reach over 50% for lower income people. Food prices are at 60% of the EU average while consumer incomes are at 45% of the EU average. Therefore the tax will impact heavily on lower income consumers. Food consumption is estimated to decline by 15%-20% as a result of the new tax. The tax will have no effect on health since it targets "salty" 1% products, "caffeine" 3% drinks and "sweets" 6% products while the remaining of consumption consists of other foods not subject to the tax (bread, dairy and meat processed products, canned products and others). The tax will lead to 4,300 lost jobs and more than 100,000 jobs will be at risk. The value of investment to be canceled or postponed due to the new tax was estimated at 120 million Bleva (U.S. \$70 million). Some country regions where the food industry is the largest employer will be severely hit. The most affected will be small and medium sized companies and traders.

In late October food and drink industry groups challenged the government proposal. The influential Association of Modern Trade (local retail industry group) and the European Soft Drinks Association (UNESDA) joined the opposition against the new tax describing it as "unfair and discriminating". UNESDA statement pointed out that authorities had no legal right to name specific food ingredients as "harmful or junk" once they have been assessed as safe by EFSA. UNESDA also underlined that any new regulation should follow notification and ratification procedure EC98/34 which allows the EC and EU member states to evaluate any proposed regulation's compliance with European legislation. The opposition against the public health tax reached its culmination with a joint letter of four international commercial chambers. The American Commercial Chamber, Bulgarian-German Industrial-Commercial Chamber, Bulgarian-Swiss Commercial Chamber and the Greek Business Council expressed their united position declaring that this new policy will lead to a collapse of the food and drink industries and related businesses and trade as well as to a sharp loss in jobs. The international businesses opined that the tax will administratively manipulate the choice from certain products towards others and will lead to the expansion of the grey economy.

Political Reactions

The Cabinet was divided in its reactions on the issue.

The Ministry of Economy did not support the new proposal seeing it as not in line with the policy for economic growth. It also criticized the Ministry of Health's proposing a bill without a prior impact assessment - and proper financial justification. It joined the industry groups in alleging that the bill was prepared "in the dark" with no consultations with stakeholders.

The Minister of Agriculture initially opined that she would support only a tax on energy drinks while

everything else in the new proposal should be carefully analyzed. In early November AgMinister Taneva went further described the bill as “punishment” against the food industry. She criticized the tone and the language of the Ministry of Health using “junk” foods to undermine the image of locally produced products. The Minister confirmed that her Ministry was not a sponsor of the legislation and criticized the idea of having an additional agency under the Ministry of Health to control food quality. She also expressed a concern that such a tax may be considered by the EC as illegal state aid provided to manufacturers of foods not subject to the new legislation. The AgMinister stated that programs targeting more fruits, vegetables and milk for children in schools are more efficient. Another tool would be the introduction of industry standards and promotion of healthier lifestyles. The senior management of the Food Safety Agency also expressed its opposition and called the idea “populist”. Per the MinAg, EFSA provides sufficient guidance in this area.

Other Ministers spoke as well. The Minister of Finance expressed his hesitation about the effects and the successful implementation of the new tax. The Minister of Social Affairs stated that the food should not be made more expensive.

No political party expressed full support for the new tax including the Reformers Block whose political appointee is the Minister of Health. Several key Members of the Parliament from the same party and the Minister of Economy (an appointee from the same party), strongly criticized the idea. Given the chances of objectivity, the future of the public health tax is currently unclear.

End of Report