

Parliamentary Joint Committee on Law Enforcement

Inquiry into Illicit tobacco

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

March 2016

Department/Agency: ATO

Question: 1

Topic: Accuracy of ATO waste water study

Question:

CHAIR: I want to go back to the study you mentioned you are undertaking on the tax gap. You said you are doing a waste water study to try to give you some indication of what the total illicit market to measure that against the legal market. You said that you were aware of that KPMG report. Obviously KPMG are a fairly reputable organisation. Why wouldn't you just take the numbers from their report and make an estimation of the tax gap from that? What wouldn't you use that report rather than do a different study on waste water?

Mr Ford: I think Tom pointed out there are a number of reputable studies that have come up with a varying degree of estimates.

Senator LEYONHJELM: We only know of one.

Mr Ford: The KPMG—

Senator LEYONHJELM: No. Apart from the KPMG report, we only know of one. It had a very much reduced estimate of the illicit market. We are going to hear a bit more about that. The Department of Health would like to think it is more accurate, but there are methodology issues with that one that are greater than the KPMG ones, as far as I can see. Have you looked at those two?

Mr Ford: Yes, but, if I can take the question on notice, I will get the experts to provide you with that advice.

Senator LEYONHJELM: Yes, that would be good, thank you.

CHAIR: It just seems to me that the raw initial data that you need to start the analysis potentially already exists. The question would be whether a waste water study would be any more accurate than the KPMG report.

Mr Ford: If I can take that on notice, I will get the experts to have a look at that for you.

Senator LEYONHJELM: Just to pursue this metabolite study a little further, are you thinking more than 12 months before you have any additional information?

Mr Ford: I would like to check with the people who are actually running that project. I have had some involvement in the past. It is a highly scientific approach to testing metabolites. As I understand it there are other products that people consume in the nightshade family of vegetation, such as tomatoes et cetera, which give readings similar to tobacco. So there is going to have to be a validation process to see how accurate we can get. At the moment I would say that it is highly experimental and we are not sure whether it will give us a robust and confident estimate.

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Answer:

The ATO Tax Gap program is undertaking gap estimates for the taxes we administer. In regard to our tobacco excise and duty gap estimates, we include measures of the illicit market when estimating the difference between what we would expect and what we actually receive.

As part of our estimation of the tobacco excise and duty gap, we have sponsored an analysis of waste water that intends to provide a measure of the total consumption of tobacco in Australia. The research is in progress and until finalised, we are not in a position to assess its comparability against other estimates. We expect this to be in 2017 at the earliest.

All methodologies that seek to quantify the unknown have elements of estimation and assumption embedded in the modelling process. This means that there are bounds of confidence in respect of every estimate and that there is no single estimation process that will provide a determinative answer. This is as true for the KMPG report as it is for the waste water analysis. Consequently, we believe that it is not a question of whether one process is more accurate than another but rather the range of estimates derived from varying methodologies set upper and lower bounds, where we can say with confidence that the actual answer lies somewhere in that range.

While aspects of our estimates may be conducted by third party organisations, no comprehensive gap analysis is conducted exclusively by a third party. This ensures the independence of the approach and assures the ATO that the research has been undertaken according to our intent.

The ATO and the Department of Immigration and Border Protection (DIBP) are undertaking discussions regarding a joint analysis, using Government and operational data. This will provide an estimate informed by the activities of the ATO and DIBP, which will complement existing research.

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March 2016

Department/Agency: ATO

Question: 2

Topic: Loss of revenue through illicit market

Question:

Mr HAYES: I understand the ATO's role in the asset confiscation task force. The evidence that has been given so far—and I think you heard some of it from retailers this morning—shows the extent that they see their competition to legitimate tobacco sales coming from the illicit market—whether it is out of the boot of cars in a car park, as some put it, or, primarily, retailed under the counter through other retail organisations. Has Taxation formed any opinion on how much loss of revenue that amounts to?

Mr Ford: In an income tax sense?

Mr HAYES: Yes.

Mr Ford: No, not that I am aware of. Certainly, we have a significant focus on the cash economy and I think that would fall under that. I am happy to take that question on notice.

Answer:

We currently have no specific estimate on the amount of income tax revenue lost from illicit tobacco sales by tobacco retailers.

We have compliance approaches in place to target small businesses, including tobacco retailers, under-declaring income and sales in regard to their income tax and GST reporting obligations.