

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING : 25 May 2015

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE15/022) - Tobacco - Programme 3.1: Border-Revenue Collection

Senator Macdonald, Ian (L&CA 59) asked:

CHAIR: But my understanding is that, I think, you are responsible for 'chop chop' tobacco and the Taxation Office is responsible for made-up cigarettes in the retail trade. There seems to be some gap in the law that requires proof of where the tobacco actually comes from and whether it is you that should prosecute it or the Taxation Office.

Mr Quaedvlieg: I will take that on notice. In the main, though, the best way I can describe the division of labour in terms of revenue collection is that we are responsible for the collection of excise on tobacco which crosses the border on behalf of the Taxation Office because they own the legislation.

CHAIR: But if it is grown in Australia?

Mr Quaedvlieg: If it is grown in Australia domestically, the tax office has the responsibility.

CHAIR: There seems to be an evidentiary problem in proving where this bit of illegal tobacco came from. Was it grown in Australia or grown overseas, in which case who should be prosecuted?

Mr Quaedvlieg: I understand that is a problem in terms of—

CHAIR: Is your legal department giving some thought to how the Commonwealth might be able to legislate to address this matter?

Mr Quaedvlieg: I am not sure. I will take that on notice if you do not mind.

Answer:

Both the Portfolio and the Australian Taxation Office have a role in prosecuting offences related to illicit tobacco products, including loose leaf tobacco ('chop chop') and cigarettes.

The Portfolio is responsible for imported and exported tobacco product under the *Customs Act 1901*. The Australian Taxation Office is responsible for domestically grown or manufactured tobacco products under the *Excise Act 1901*.

We co-operate on prosecutions where both imported product and domestic production, manufacture or distribution are involved.

Establishing the origin of tobacco as domestic or imported is necessary to identify whether it is a smuggling offence or an unlicensed growing offence and therefore, determining which Act to prosecute under. We are working with relevant departments and agencies to close this gap.