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AUSTRALIAN BORDER FORCE**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Community Affairs

02 May 2024

QoN Number: 1

Subject: Methodology ATO uses to measure illicit tobacco via tax gap

Asked by: Matthew Canavan

Question:

Senator CANAVAN: What's your estimate? Sorry to interrupt you, but what's your estimate of the total chop chop market? Do you have an estimate on that?

Mr Fitzgerald: It goes to— what we tend to use is the Australian Tax Office tax gap, which is suggesting it is about 13.1%. So there's about 2.3 billion dollars that's unrealised revenue through the illicit activities.

Mr Outram: Senator, that's not all chop chop. That includes— we seize millions of sticks...

Mr Fitzgerald: All forms of sticks.

Mr Outram: ...so its all forms of tobacco.

Senator CANAVAN: So that 13%, can I ask what that 13% figure is?

Mr Fitzgerald: So that's the tax gap that the Australian Tax Office publish and based on that— suggesting that's the gap of illicit sales and volume of...

Mr Outram: Senator, we can provide with you probably into the Committee...

Senator CANAVAN: Maybe on notice.

Mr Outram: ...the methodology that the Tax Office use to calculate that.

Answer:

The Australian Tax Office (ATO) estimates the tax gap, which is in turn used to estimate the size of the illicit market. The tax gap indicates evaded revenue by estimating the difference between what the ATO expects to collect and the amount that would have been collected if every taxpayer was fully compliant with the law.

We recommend the Committee speak directly to the ATO for the technical elements of the methodology.

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PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Community Affairs

02 May 2024

QoN Number: 2

Subject: Flavouring seized at the border for legitimate purposes

Asked by: Matthew Canavan

Question:

Senator CANAVAN: Look this is my final question, my final question, just I'm getting a lot of complaints that you're seizing flavourings at the borders.

Mr Outram: Seizing what Senator?

Senator CANAVAN: Flavourings. That have nothing to do with vaping that are used in by bakers, candy makers; these are I presume flavourings that could be used in vapes, but the people that are complaining to me are saying that they're getting wrapped up in this crackdown because they're being suspected of bringing in flavourings for vapes, but they want to supply bakeries and others. Are you aware of such complaints?

Mr Outram: I'm not aware of that complaint Senator. I'm not aware of that complaint or the issue.

Senator CANAVAN: Alright well maybe I'll check with these people obviously, yeah, I might— can I forward that through to you?

Mr Outram: Yeah please.

Mr Fitzgerald: I'll take it on notice.

Senator CADELL: [inaudible] ...consignment numbers I can share with you on those.

Mr Outram: We'll take that on notice Senator.

Answer:

The Australian Border Force (ABF) thanks Senator Canavan for bringing this matter to our attention and welcomes provision of consignment numbers so that we may clarify the status of these consignments.

The ABF is aware that there are a range of flavours available for vape products, including cake flavoured e-liquid, such as coconut, blueberry, lemon tart, and donut flavours. ABF supports new standards that restrict vape liquid flavours to mint, menthol and tobacco to minimise the risk that vapes are attractive and marketed to children and young persons.

ABF seizure data shows that some importers continue to attempt to import a range of vape liquid flavours. For example, in mid-January 2024, ABF seized over 700 'black forest' flavoured nicotine vape devices; and in late February, ABF seized over 80 'pound cake' flavoured nicotine vape pods. ABF has also seized a range of devices and liquids with flavourings such as coffee, apple, vanilla, grape, watermelon, blueberry, pomegranate and 'Kentucky bourbon'.

Some importers attempt to circumvent border controls by mislabelling products. In the case of vape products, we have seized goods with labels such as 'mesh coils', 'telescope' and intelligent locking buckle'. ABF physically inspects all detections prior to seizure to confirm they are vapes or vape products, and not the goods claimed on the mislabelled packaging.

The ABF has a process for owners of seized goods to make a claim for the return and/or release of seized goods. Importers who have had goods seized receive a seizure notice with information about how to make a claim for the goods.

The ABF has received 113 claims (approximately 2% of seizures) for seized goods under Regulation 5A Vaping Goods. Three of these claims specifically related to goods claiming to be for food flavouring.

In accordance with the defined process, ABF opens a case when claims are made. There has been one instance where flavouring goods were found to be incorrectly classified and released to the owner. For the two remaining open cases, ABF has advised the claimants that the goods will not be released and the options are to withdraw their claim or proceed to condemnation proceedings.