

## **SUBMISSION TO THE COMMISSION ON TAXATION**

**“Tobacco smuggling is now one of the most profitable forms of organised crime. In terms of revenue, cigarette smuggling ranks as the number one method of fraud perpetrated against the budget of the European Communities.”**

*European Commissions Anti Fraud Office (OLAF)*

**“The illegal smuggling of cigarettes results in a loss of revenue vital to the operation of Governments, it provides financial fuel to organised crime and terrorist activities and it can undercut health policies.”**

*Bradley Buckles, Director US Bureau of Alcohol, Tobacco and Firearms*

PRESENTED BY: ITMAC -  
THE IRISH TOBACCO MANUFACTURERS ADVISORY COMMITTEE

## INTRODUCTION

This submission to the Commission on Taxation is presented by ITMAC - The Irish Tobacco Manufacturers Advisory Committee.

ITMAC is the umbrella body representing Ireland's three leading tobacco companies - P.J. Carroll & Company Limited, Gallaher (Ireland) Limited and John Player & Sons Limited.

Together, these companies manufacture or distribute some 98 per cent of all tobacco products sold on the Irish market.

ITMAC member companies are amongst the largest contributors to Government tax revenue with EUR1.246 billion collected from excise duties in 2008. In addition VAT raised on company sales and Corporation Profits Tax is also paid by the industry.

Through their purchases of goods and services, ITMAC member companies make a further significant contribution through tax revenue generated on goods and services provided by third-party suppliers and through PAYE tax revenue generated through employment which the industry provides and supports.

### TERMS OF REFERENCE AREA TO WHICH THE SUBMISSION RELATES

This submission deals specifically with the taxation of tobacco products and related issues that will be of interest to the Commission. This falls under the following area covered by the Commission's terms of reference:

- How best the tax system can support economic activity and promote increased employment and prosperity while providing the resources necessary to meet the cost of public services and other Government outlays in the medium and longer term

### PROPOSALS FOR CHANGE

In order to maximize Government revenue collection from duty applied to tobacco products, and at the same time fight the increasing prevalence of Non Irish Duty Paid (NIDP) tobacco products which results in huge losses to Government, ITMAC proposes that Government adopts the following measures:

- A fiscal policy exercising restraint and caution when determining the level of duty to be applied to tobacco products. ITMAC currently proposes that no further increase in duty be imposed on tobacco products to counteract the negative impact that such increases have had over the past years. If an increase were to be viewed as essential, ITMAC would strongly advise that any increase be in line with or below the rate of inflation.
- Policies that enable Government to give the necessary resources to Customs & Excise commensurate with what is needed to tackle the growing illicit tobacco market which has taken root in Ireland. Whilst tackling tobacco smuggling is a focus for Customs & Excise - and they have many successes in preventing the supply of illicit NIDP products onto the Irish market - the increasing incidence outstrips their ability to effectively tackle the problem on all fronts if their efforts are to make a significant contribution and help stem the tide of lost Government revenues.
- A third measure which completes a comprehensive action package to tackle the illicit market in tobacco products and protect Government revenues is increased application of existing penalties (sentencing and fines) for those found to be engaging in the criminal activity of supplying smuggled tobacco products. ITMAC further recommend that penalties be strengthened beyond the existing guidelines. ITMAC is engaging with Department of Justice on this issue.

The following supporting explanation and commentary provides the background and reasoning for the above proposals.

#### SUPPORTING COMMENTS

Ireland's 900,000 smokers are a frequent target for Budget-driven Excise Duty increases. Whether spurred by necessary finance-raising measures or driven by the lobbying of anti-tobacco campaign groups, or both, Governments have continued to place tax increases on tobacco products at levels often significantly higher than inflation. This has resulted in high price differentials when compared to other countries and enormous price differentials when compared to untaxed counterfeit tobacco products.

ITMAC estimates that approximately 20% of cigarettes smoked in Ireland are not purchased duty-paid in legitimate retail outlets in the country. This is what is termed as the Non Irish Duty Paid (NIDP) market. At this level, the loss in Government revenue annually is approximately €387m. More worrying is our estimate that this trade is likely to increase to 25% within the next 12 to 24 months meaning one out of every four cigarettes smoked will have evaded Irish duty resulting in a staggering annual loss to Government revenues of €528m.

The fact that Ireland has the highest retail price of tobacco in the EU is the principal reason why one in five cigarettes in Ireland is purchased in the NIDP market. Clearly many people are voting with their feet and choosing to bypass the Government's high tax policy by purchasing their tobacco products abroad or in the illegal supply network that has unfortunately become so embedded in Irish society.

As a direct consequence Ireland has become a prime target for the illegal smuggling of tobacco products bringing with it the burgeoning levels of crime associated with such activity.

With little evidence to prove that high tax increases result in a diminution in the level of tobacco consumption, ITMAC argues that it is no longer strategically advisable for Government to increase tobacco taxes if the looming spectre of tobacco smuggling is to be curtailed; if the burgeoning level of crime associated with this illicit trade is to be confined; if the adverse social consequences that flow from it are to be avoided.

As Revenue/Customs & Excise statistics indicate, tobacco smuggling is on the increase. In 2008, seizures by Customs & Excise amounted to in excess of 135 million cigarettes - almost double the 74.5 million seized in 2007.

These products are entering Ireland in many forms.

In its simple form, a significant volume is imported by returning holidaymakers, brought here for own-consumption from lower-taxed EU member states where tobacco can be purchased at prices far lower than in Ireland. This trade brings no benefit to the Irish economy. (See price map)

Next, and more relentlessly, product is arriving in the form of organised 'ant smuggling' whereby product is transported here by organised courier gangs on low-cost flights from those new EU Baltic states where tobacco can be purchased at a fraction of the Irish price (See price map). It is traffic that the authorities find difficult to curtail with volumes of up to 0.5 million cigarettes being detected on some flights.

Even more alarming are the developments taking place in relation to the smuggling into Ireland of counterfeit cigarettes manufactured in China and other areas of the Far East. For the first time, our industry has secured clear evidence to prove that Ireland is now a major target for counterfeit tobacco traffickers whose illegal trade has now reached an industrial scale. For every consignment that is discovered, how many escape detection to make their way into the marketplace?

Recently, a consignment of counterfeit cigarettes produced in the style of one of Ireland's most popular brands (a leading brand produced by an ITMAC member company exclusively for the Irish market) was seized by Irish Customs & Excise. This consignment of some 17 million cigarettes represented a loss to the Government of some €5.44million in VAT and excise duties.

This consignment contained expertly replicated cartons, each one bearing a superbly forged Irish tax stamp of such a high quality that it was virtually indistinguishable from the legitimate product, other than to a very expert eye, and then only with the use of an ultra violet implement. On any street in any town, this product would be mistaken for the real thing. The second consignment also contained an expertly forged pack but these cartons were marked for Duty Free sale. Samples of these counterfeit products were found in Co Meath indicating that amounts of this counterfeit product had already penetrated the market.

As a consequence of this and other seizures, our industry now has undeniable proof that Chinese and Far Eastern counterfeiters are producing product exclusively for sale in Ireland bearing an expertly forged Irish tax stamp - product that is making its way into the market through various means many of which are known to the authorities.

We have no doubt that this illegal trade is being driven by the high tax levels applicable to legitimate tobacco products - tax that has pushed the retail price of tobacco products in Ireland so high that a criminal enterprise has developed which is carving out a market for their illegal products. This illegal trade is targeted at those large numbers in the lower socio-economic population for whom duty-paid cigarettes have become unaffordable and who are now turning to illegally traded products in increasing numbers.

If this trade is allowed to develop and take root deeper than exists already, it will cause serious damage to both the retail sector and our industry, bring about an even bigger loss in Government tax revenues and underpin serious criminal activity that will be impossible to break down.

Moreover, the accessibility of smuggled tobacco products undermines the Government's youth smoking prevention policies and drives a coach and four through every health objective that Government and its agencies promote.

Furthermore, the trade in illegitimate tobacco products is a serious threat to the viability of legitimate retailers, particularly small, community based stores. It undermines the genuine efforts of small businesses and local shopkeepers to stay in business and provide employment opportunities and basic retail services to local communities. (The Convenience Stores and Newsagents Association estimates that the average newsagent's turnover from cigarette sales is between 20% and 22% of their total sales.)

## CONCLUSION

Irish people spend €2 billion on cigarettes annually - approximately 20% of which are smuggled into Ireland resulting in a loss to Government revenues of some €387 million. Ireland is clearly now at the stage where the law of diminishing returns is beginning to apply.

ITMAC strongly believes that a fiscal policy exercising firm restraint over future tobacco duty increases, combined with non fiscal measures and dedicated resources to combat smuggling, can, given the opportunity, be successful in turning the tide to reduce the level of illicit trade in tobacco products and, at the same time, improve revenue collection.

ITMAC member companies are determined in their efforts to stamp out this growing trend and are working in close co-operation with Customs & Excise on the non-fiscal activities to combat this criminal activity.

ITMAC urges Government and the Commission on Taxation to recognise and act on the impact which increases in the excise duty on tobacco products is causing - an impact which is counterproductive, serving only to drive more smokers to buy on the illegal market while at the same time completely undermining the Government's public health objectives.

ITMAC believes that the time has come for Government to rethink its approach to tobacco taxation in the light of these developments.

For the reasons outlined, we commend this submission to the Commission on Taxation for their most serious consideration.

February 2009

### CONTACT FOR FURTHER INFORMATION:

John D Hall  
Secretary  
Irish Tobacco Manufactures Advisory Committee  
1 Northumberland Road  
Dublin 4

Tel: 660 9683  
Email: [pr@hall.ie](mailto:pr@hall.ie)

