



# Submission to the Australian Government's Re:think - Tax discussion paper consultation

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05 June 2015

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## 1. Executive summary

This submission is in response to the Australian Government's **Re:think - tax discussion paper** on tax reform in Australia. British American Tobacco Australia (BATA) is the nation's largest tobacco company and is an affiliate of the global British American Tobacco group of companies. We import, distribute, and sell tobacco products in Australia, including cigarettes and roll-your-own tobacco with approximately 40% share of the tobacco products market. As the leading tobacco company in Australia, BATA has a workforce comprising 517 employees.

BATA is a large taxpayer with approximately 70% of sales revenue being paid to the Federal and State governments. For example, in the year ended 31 December 2014, BATA paid:

- \$2.7 billion in tobacco excise;
- \$393 million in goods and services tax, FBT and other indirect taxes; and
- \$342 million in corporate tax.

It is our view that, an ideal tax system should be one which facilitates and supports economic growth and investment in Australia, and maintains its competitiveness in a global economy. BATA supports the Government's overarching commitment to a *'better tax system that delivers taxes that are lower, simpler, fairer.'*<sup>1</sup>

Pursuant to these objectives, BATA makes the following submissions:

### i. BATA's position on tobacco excise policy

The current approach to excise policy, specifically the ad hoc excise increases since 2010, has resulted in consumers downtrading (switching to cheaper tobacco products) to maintain consumption as well as driving record levels of illicit tobacco consumption. These unintended consequences mean the Government will not meet its smoking prevalence targets.

### ii. Administration of excise and excise equivalent goods (EEG)

- a) That the excise and duty refund, drawback and remission requirements are aligned for both domestically manufactured and imported products, with local processing available for both excisable tobacco products and EEG.
- b) In line with the Government's deregulation agenda, we are of the view that the administration of the Customs and Excise systems should be aligned within a single agency with responsibility for all in-market collection and enforcement.

### iii. Reduction of corporate tax rate

BATA supports the Government's long term policy objective of reducing the company income tax rate.

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<sup>1</sup> Department of the Treasury (Australia) , 2015, Re:think - tax discussion paper, Department of the Treasury (Australia), viewed 04 May 2015, <<http://apo.org.au/node/53883>>.

#### **iv. Tax reform and complexity – Base Erosion and Profit Shifting (BEPS)**

BATA acknowledges the Government's recent budget announcement that it would introduce the multinational anti-avoidance tax integrity rule. It is our view that BEPS is a complex global issue and that international cooperation and consensus is critical in this area. BATA does not support unilateral action by the Australian Government.

#### **v. Payroll tax**

It is BATA's view that in order to improve Australia's attractiveness as a location for foreign investment, payroll tax should be reduced, standardised or removed.

The following pages elaborate on these submissions more fully.

## 2. Introduction

On 29 March 2015, the Federal Government released the Treasury's tax discussion paper, **Re:think – Tax discussion paper**, to address the need for tax reform in Australia.

BATA agrees with the Government that the Australian taxation system requires structural change in order to adapt to the challenges brought about by over a decade of rapid globalisation. Additionally, concerns around the demographic changes of Australia over the next 40 years and the associated impacts, many of which were highlighted in the Government's recently released 2015 Intergenerational Report, need to be addressed in the context of this tax review.

Another primary issue identified in the discussion paper is the huge reliance placed on particular businesses to provide large portions of the country's tax requirements – a dozen companies pay one third of company tax.<sup>2</sup>

BATA supports the Government's tax reform agenda and its commitment to a *'better tax system that delivers taxes that are lower, simpler, fairer.'*<sup>3</sup>

BATA takes its taxation obligations to the Australian Government seriously and views it as an important part of our commitment to act with responsibility and integrity. We are a large taxpayer, with approximately 70% of sales revenue being paid to the Federal and State governments.

For example, in the year ended 31 December 2014, BATA paid:

- \$2.7 billion in tobacco excise;
- \$393 million in goods and services tax, FBT and other indirect taxes; and
- \$342 million in corporate tax.

Tobacco taxation is a complex matter and BATA acknowledges its role in public health policy. However any tobacco excise structure needs to factor in issues such as affordability, regressivity of the tax and ensuring increases are sustainable so as to avoid unintended consequences such as, downtrading, illicit trade and revenue volatility.<sup>4</sup> Indeed, some of these unintended consequences can have a negative impact on the Government's public health objectives.

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<sup>2</sup> Department of the Treasury (Australia) , 2015, Re:think - tax discussion paper, Department of the Treasury (Australia), viewed 04 May 2015, <<http://apo.org.au/node/53883>>.

<sup>3</sup> Department of the Treasury (Australia) , 2015, Re:think - tax discussion paper, Department of the Treasury (Australia), viewed 04 May 2015, <<http://apo.org.au/node/53883>>.

<sup>4</sup> Since 2010 the real rate of revenue return on excise increase has varied substantially year on year. For the latest tobacco revenue forecasts see: Budget.gov.au, 'Budget 2015 - Budget Paper No. 1 - Statement 4: Variations in Receipts Estimates' (2015) <[http://www.budget.gov.au/2015-16/content/bp1/html/bp1\\_bs4-03.htm](http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs4-03.htm)> accessed 1 June 2015.

BATA is pleased to provide its views and evidence on tobacco excise as well as addressing other general corporate tax issues in the discussion paper which impact on our business operations in Australia.

### 3. BATA's position on tobacco excise policy

A point has been reached in the current excise model where it is no longer effective, nor is it sustainable. As such BATA agrees with Treasury that *'an ad hoc approach (to indirect taxes including tobacco excise) has contributed to a range of complexities and inconsistencies.'*<sup>5</sup>

Historically, increases in tobacco excise rates have had the dual policy objective of increasing government revenues whilst reducing consumption over the longer term. The latest trends in consumption call into question how effective the most recent significant ad hoc excise increases have been; from both a tobacco harm reduction and an excise revenue perspective.

The evidence put forward in this submission illustrates that consumers are increasingly maintaining consumption levels by downtrading to lower priced and illicit products. Indeed, both the illicit market and the low price market segment in legal products are experiencing strong growth. These market developments should be of concern to the Government as this creates revenue volatility,<sup>6</sup> and fails to reduce overall rates in tobacco consumption.

Between 2001 and 2009 the Government implemented a sustainable policy of bi-annual, CPI adjusted excise tax increases. In this period the proportion of adult smokers fell by 20%<sup>7</sup> and revenue from taxes on tobacco remained stable in real terms. As a result of a sustainable excise increases there was a minimal and relatively confined illicit tobacco market.<sup>8</sup>

In 2010 the then Rudd Government moved away from this effective and sustainable tobacco excise model and implemented a 25% ad hoc excise increase on tobacco products. In November 2013, the Government confirmed four increases in excise of 12.5% to be levied in December 2013, then September 2014, 2015 and 2016. These increases are in addition to the annual indexation linked to Average Weekly Ordinary Time Earnings (AWOTE).

The analysis and evidence provided in this submission illustrates that the current ad hoc approach to tobacco excise policy is neither sustainable nor effective and has resulted in a number of unintended consequences that have undermined government revenue and public health policy objectives.

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<sup>5</sup> Department of the Treasury (Australia) , 2015, *Re:think - tax discussion paper*, Department of the Treasury (Australia), viewed 04 May 2015, <<http://apo.org.au/node/53883>>.

<sup>6</sup> Since 2010 the real rate of revenue return on excise increase as varied year on year. For the latest tobacco revenue forecasts see: Budget.gov.au, 'Budget 2015 - Budget Paper No. 1 - Statement 4: Variations in Receipts Estimates' (2015) <[http://www.budget.gov.au/2015-16/content/bp1/html/bp1\\_bs4-03.htm](http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs4-03.htm)> accessed 1 June 2015.

<sup>7</sup> Aihw.gov.au, 'National Drug Strategy Household Survey Detailed Report: 2013 (AIHW)' (2015) <<http://www.aihw.gov.au/publication-detail?id=60129549469&tab=3>> accessed 1 June 2015.

<sup>8</sup> Defined as less than 10%. Source please see: KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report. Page 6. <[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

**Key point summary:**

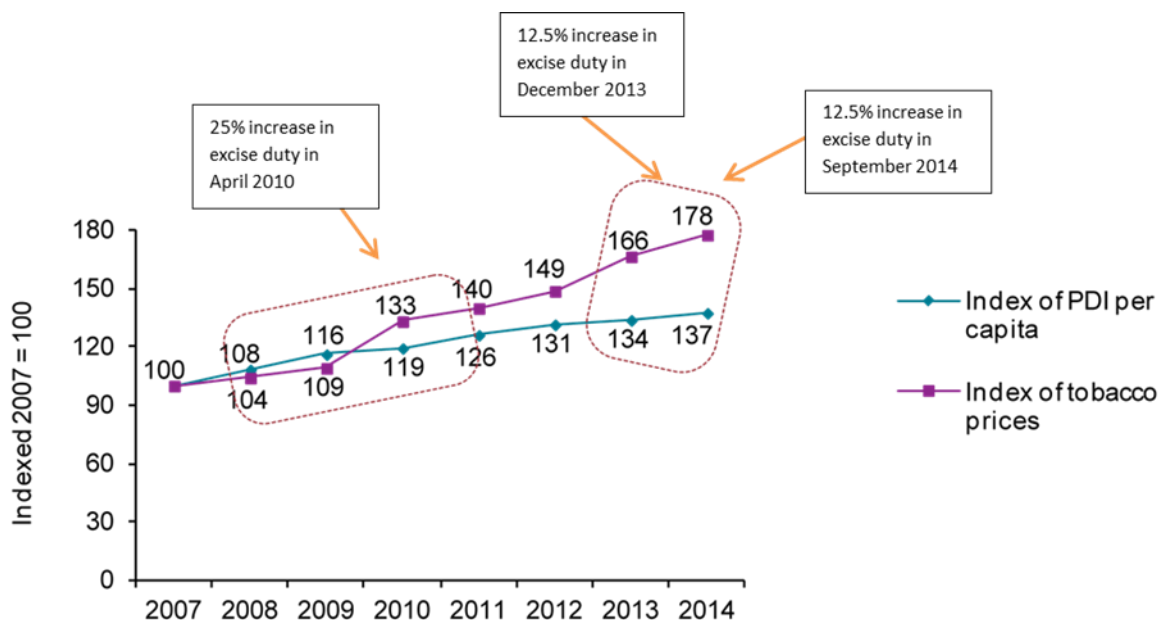
- The latest trends in consumption prove that a point has been reached in the current excise model where it is no longer effective or sustainable.
- In order to prevent the continuation of such a trend the Government needs to consider a more sustainable approach to tobacco excise policy.



### 3.1 Impacts of current ad hoc tobacco excise increases

The recent significant ad hoc excise increases have led to a sudden decline in consumer affordability. As illustrated in Figure 1 since 2007 the index of tobacco prices in Australia, has increased by 78%, while the index of per capita personal disposal income (PDI) has increased by 37%. Increased excise is designed to have a regressive impact on consumers with the objective of reducing tobacco consumption prevalence. However available evidence indicates that in the face of sudden price increase caused by ad hoc tobacco excise, consumers are maintaining consumption by downtrading to cheaper tobacco products.

**Figure 1:** Index of tobacco prices and per capita personal disposable income, Australia<sup>9</sup>



#### Key point summary:

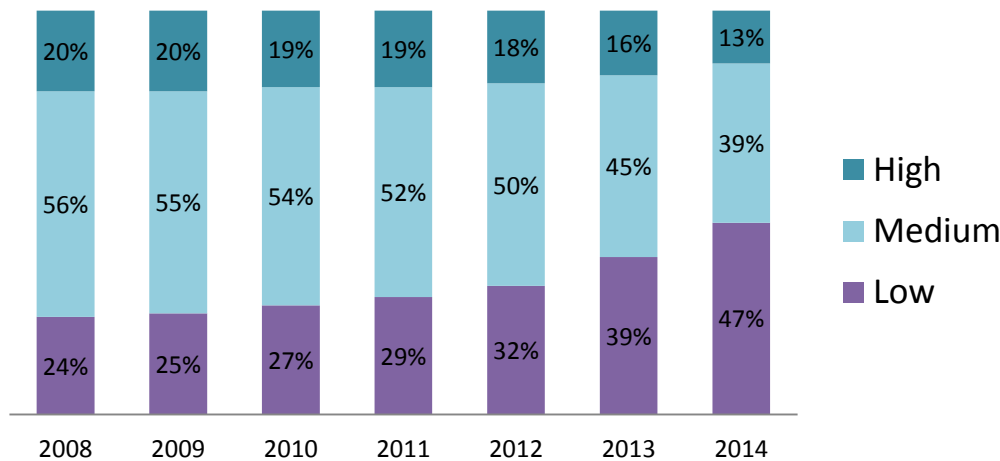
- Since 2010 ad hoc excise increases have driven tobacco prices well above disposable income.
- This has driven a sharp decline in consumer affordability.
- As a result consumers are increasingly downtrading or consuming illicit tobacco to maintain consumption.

<sup>9</sup> KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report., page 20 . <  
[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

### 3.2 Consumers downtrading to cheaper tobacco to maintain consumption

In the face of significant excise increases and falling consumer affordability, relatively few smokers are quitting or reducing consumption. This can be explained by downtrading trends within the market.

**Figure 2:** Market share of manufactured cigarettes by price category.<sup>10</sup>



**Figure 2: shows that:**

- The low price market segment is now the largest segment of the market.
- There have been substantial changes in the share of these market segments since 2010.

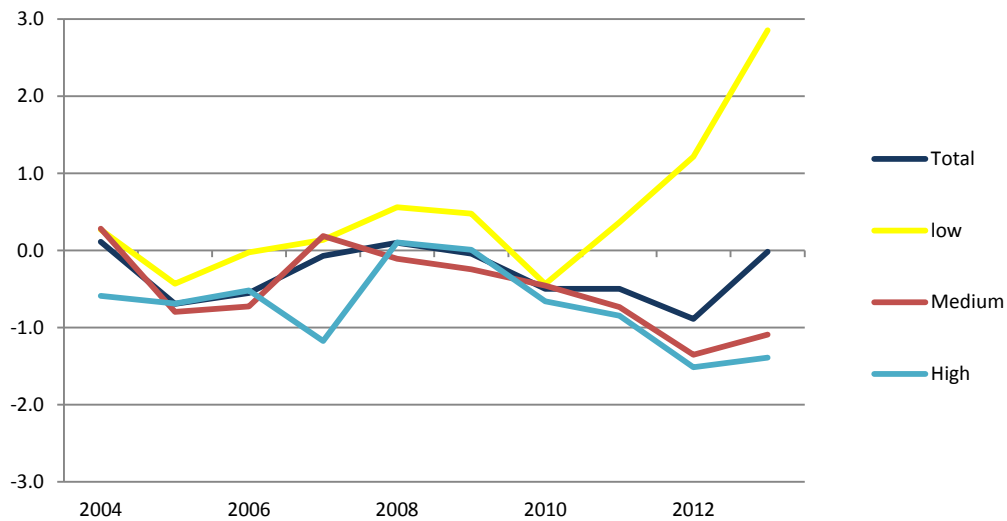
Since the 25% ad hoc excise increase in 2010 and subsequent two 12.5% ad hoc excise increases, the low price market segment has grown from 27% of the market to 47%. This growth has come at the expense of both the medium and high price market segments. In particular, since the 25% ad hoc excise increase:

- The low price market segment has grown by approximately 74%.
- The medium price market segment has fallen by approximately 28%.
- The high price market segment has fallen by approximately 32%.

<sup>10</sup> KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report, page 11 . <  
[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

Analysis of the recent price elasticity of demand for cigarette consumption supports this view. Figure 3 shows the observed price elasticity of demand by price band market segment using wholesale data.

**Figure 3:** 10-year observed price elasticity of demand by price category<sup>11</sup>



This analysis of consumption and price data over the last decade implies that the price elasticity of demand is experiencing a step change in the low price market segment, illustrating that an increasing number of consumers are downtrading to cheaper tobacco products.

**Key point summary:**

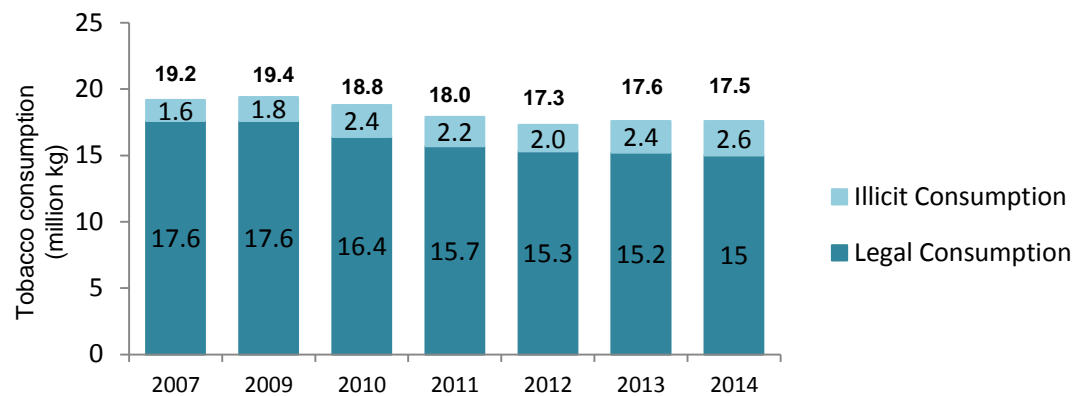
- The 25% ad hoc excise increase in 2010 and subsequent ad hoc excise increases have driven rapid growth in the low price market segment.
- The increasing tendency for consumers to shift to cheaper cigarettes is demonstrated by the increasing price elasticity of demand for the low price segment.
- Since 2010 the low priced category has grown by 74%.

<sup>11</sup> Industry exchange of sales data compiled by Infoview Technologies Pty Ltd.

### 3.3 Illicit tobacco

Total tobacco consumption also needs to take into account the illicit tobacco consumption. Figure 4 shows that since 2010 total tobacco consumption has remained relatively stable.

**Figure 4:** Total tobacco consumption in Australia.<sup>12</sup>



After the 25% excise increase, in 2010 there was a 59% increase in illicit tobacco. In 2014 KPMG concluded, that: *“The total level of tobacco consumption in Australia was estimated at 17.5 million kilograms in 2014.”*<sup>13</sup> Of the total consumption, 2.6 million kilograms, or 14.5% of total consumptions were estimated to be illicit.

The net result is that the consumption of illicit tobacco as a proportion of total consumption has increased from 8.3% in 2007 to 14.5% in 2014.<sup>14</sup> That growth has been particularly high since the 25% ad hoc excise increase in 2010 and the introduction of plain packaging.

<sup>12</sup> Based on data sourced from: KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report. <

[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

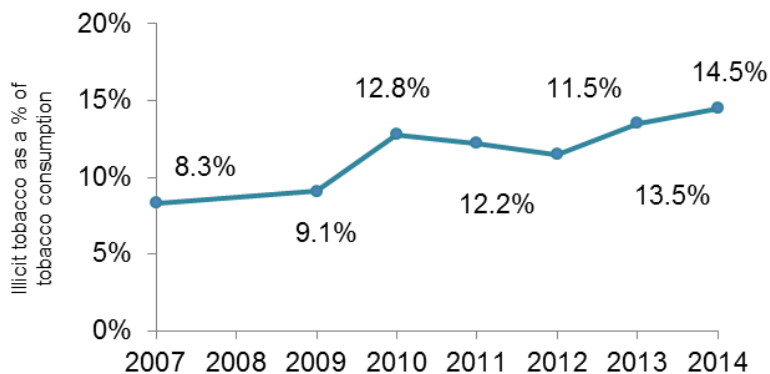
<sup>13</sup> KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report, page 29. <

[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

<sup>14</sup> KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report, page 6. <

[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

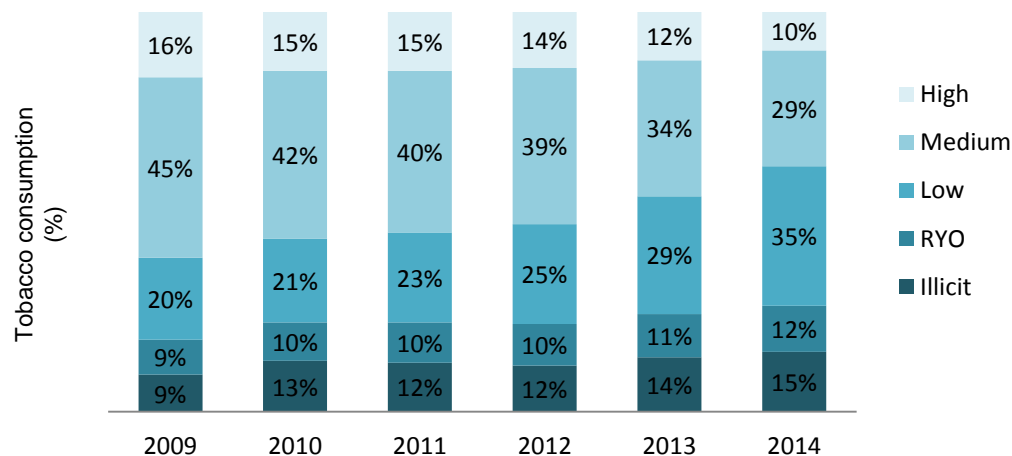
**Figure 5: Illicit tobacco consumption as a percent of total consumption in Australia.**<sup>15</sup>



For example, it appears to have increased by:

- Approximately 59% after the 25% excise increase.
- Approximately 26% since 2013, after the first 12.5% ad hoc excise increase was introduced.
- Total tobacco consumption (including illicit use) has fallen by less than the evidence from the legal market would suggest.
- Despite the tax hikes, total tobacco consumption in Australia has remained stable.

**Figure 6: Estimated market share of legal and illicit tobacco**<sup>16</sup>



<sup>15</sup> Based on data sourced from: KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report . <  
[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

<sup>16</sup> Aztec scan data, Defined Total Market Database, percentages have been rounded into the nearest full number

Evidence illustrated in Figure 6 suggests that:

Ad hoc excise increases are causing some consumers to move into the illegal market, most likely from the low price market segment, as they have no capacity to legally downtrade.

Australia has some of the highest tobacco prices in the world, 75% higher than the most expensive non Australasian markets.<sup>17</sup> This large price differential between Australia and nearby markets provides the economic opportunity for smugglers, organised crime groups, counterfeiters, and other black market operatives to make lucrative profit by evading excise taxes. The current duty/GST value for a single 40 foot shipping container filled with 20 tons of loose leaf tobacco is worth approximately \$12.9 million, in 2016 this is set to increase to approximately \$17.1 million in duty/GST.<sup>18</sup>

In February 2015, the CEO of the Australian Customs and Border Protection Service, Roman Quaadvlieg, listed illicit tobacco as one of the agency's top six priorities, he told Senate Estimates that:

*"Serious and organised crime will use the same infrastructural spine upon which it imports prohibited drugs to import tobacco ... We are seeing an increase in organised crime entities involved in this. I put it down partially to the fact that the excise in duty payable on tobacco is increasing. We are halfway through a four-year incremental increase to a tune of 12.5 per cent".<sup>19</sup>*

The evidence indicates that levels of illicit trade have grown sharply when tax rates have increased rapidly and have stabilised when tax rates were applied in an efficient and sustainable way. This results in revenue erosion for the Government and the legitimate tax-paying industry.

In 2014 the illicit market cost the Government \$1.35 billion in foregone revenue at the average excise rate for 2014.<sup>20</sup> Revenue leakages to the illicit trade are underlying the current marginal diminishing returns of increasing excise. Between 2009 and 2014 the excise rate increased by 79% whilst total revenue receipts to Government from tobacco excise only increased by 28%.

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<sup>17</sup> KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report, page 22. <

[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

<sup>18</sup> Value based on 40 foot shipping container with 20,000 kgs of loose leaf tobacco at June 2015 excise/GST rates. 2016 estimates a twice yearly AWOTE increase of 1.5%

<sup>19</sup> Legal And Constitutional Affairs Legislation Committee : 23/02/2015 : Senate Estimates: Department Of Immigration And Border Protection'<<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Festimate%2F726d2567-78be-48ef-a9df-f7302dbb884c%2F0002;query=Id%3A%22committees%2Festimate%2F726d2567-78be-48ef-a9df-f7302dbb884c%2F0005%22>> accessed 1 June 2015.

<sup>20</sup> KPMG LLP, 'Illicit Tobacco in Australia' (2015). 2014 Full Year Report, page 6 . <

[http://www.bata.com.au/group/sites/bat\\_7wykg8.nsf/vwPagesWebLive/DO9T9289/\\$FILE/medMD9W6RKB.pdf?openelement](http://www.bata.com.au/group/sites/bat_7wykg8.nsf/vwPagesWebLive/DO9T9289/$FILE/medMD9W6RKB.pdf?openelement)>

Furthermore in 2013 -2014 excise increased 33%, whereas according to the latest Treasury estimates revenue from excise is set to fall by 3%.<sup>21</sup>

**Key point summary:**

- **Growth in illicit tobacco can be attributed to increasing tobacco prices.**
- **The trade in illicit tobacco is underlying current marginal diminishing returns of increasing excise.**
- **In 2014 the illicit tobacco market cost the Government \$1.35 billion in foregone revenue.**
- **This demand is being met by organised crime groups that can make lucrative profits.**
- **One shipping container of illicit tobacco is currently worth \$12.9 million in duty/GST, in 2016 it will be worth \$17.1 million in duty/GST<sup>22</sup>**

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<sup>21</sup> Budget.gov.au, 'Budget 2015 - Budget Paper No. 1 - Statement 4: Variations in Receipts Estimates' (2015) <[http://www.budget.gov.au/2015-16/content/bp1/html/bp1\\_bs4-03.htm](http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs4-03.htm)> accessed 1 June 2015.

<sup>22</sup> Value based on 40 foot shipping container with 20,000 kgs of loose leaf tobacco at June 2015 excise/GST rates. 2016 post September estimates includes two 12.5% ad hoc increases and a twice yearly AWOTE indexation of 1.5%

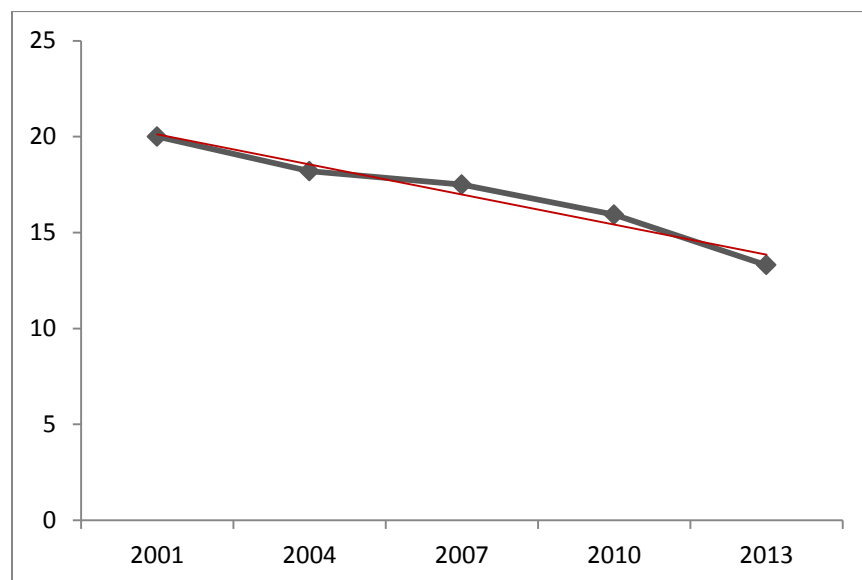
### 3.4 Smoking prevalence

The ultimate impact of these ad hoc excise increases and the subsequent downtrading both within the legal and into the illicit market, is that smoking prevalence is not reducing at a rate which will achieve the Government's objective of a daily adult smoking rate of 10%, by 2018, as outlined in the National Tobacco Strategy.

The number of adult daily smokers or smoking 'prevalence' as the National Tobacco Strategy describes it is measured by the Australian Federal Government's National Drug Strategy Household Survey (ANDSHS)<sup>23</sup>, the survey was last completed in 2013.

The data shows that smoking prevalence has been declining steadily since 1995 and the proportion in 2013 is almost exactly on the long-term trend-line despite the 25% tax increase on tobacco in 2010.

**Figure 7:** Daily smokers aged 18 years or older 1995-2013 (percent)



Based on current trends it would appear that the Government's objective of reducing the daily adult smoking rate to 10%, by 2018, is unlikely to be achieved. In 2013 it was estimated that 13.3% of Australian adults aged 18 years or older were daily smokers. This represents a 3.3 percentage point reduction (or a 25% reduction over five years, or about 5% per annum) and represents an ambitious target based on the above historical experience and current market trends.

<sup>23</sup> Aihw.gov.au, 'National Drug Strategy Household Survey Detailed Report: 2013 (AIHW)' (2015) <<http://www.aihw.gov.au/publication-detail/?id=60129549469&tab=3>> accessed 1 June 2015.



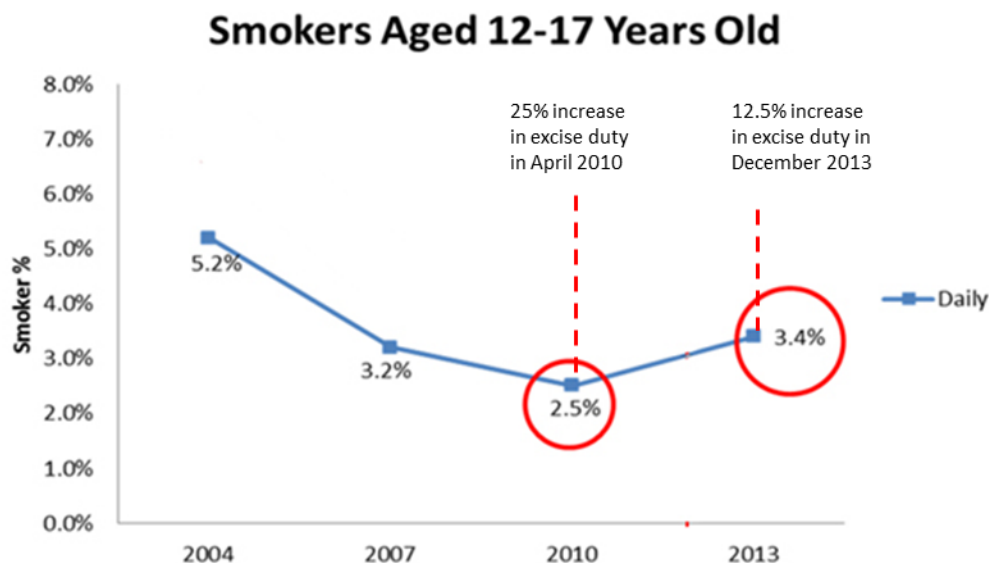
**Key point summary:**

- **There has been no acceleration in the long-term smoking rate decline.**
- **The current ad hoc excise increases are not an efficient way for the Government to meet smoking prevalence targets.**

### 3.5 Youth smoking rates

ANDSHS data shows an increase in the rate of under-age smoking. The number of daily and occasional smokers aged 12 to 17 years increased by 36% between 2010 and 2013 to its highest level in 7 years.<sup>24</sup> Ad hoc excise increases have failed to arrest this increase. One potential cause is downtrading and the growth of the low priced tobacco segment as price has a major impact on youth smoking rates.

**Figure 8:** Daily smokers aged 12-17 years old<sup>25</sup>



#### Key point summary:

- From 2010 to 2013, the period impacted by a 25% ad hoc excise increase, the number of smokers aged 12 to 17 years increased by 36%.
- Downtrading, the growth of the low priced tobacco segment and the illicit market increase affordability and accessibility, which has a negative impact on youth smoking rates.

<sup>24</sup> Aihw.gov.au, 'National Drug Strategy Household Survey Detailed Report: 2013 (AIHW)' (2015) <<http://www.aihw.gov.au/publication-detail/?id=60129549469&tab=3>> accessed 1 June 2015.

<sup>25</sup> Aihw.gov.au, 'National Drug Strategy Household Survey Detailed Report: 2013 (AIHW)' (2015) <<http://www.aihw.gov.au/publication-detail/?id=60129549469&tab=3>> accessed 1 June 2015. Cancer Council Victoria claims that this data should not be used as the change between 2010 and 2013 was not statistically significant and much more reliable data on youth smoking from the Australian Secondary School Survey of smoking was collected in 2014 and will be available late in 2015. However until the Australian Secondary School Smoking Survey data is made available the best estimate of the change in daily smoking between 2010 and 2013 among those aged 12-17 is that it is more likely to have increased than it is to have decreased

#### **4. Administration of excise and excise equivalent goods (EEG)**

##### **a) Drawback and refunds – excisable and excise equivalent goods**

BATA welcomes the Federal Government's deregulation agenda and believes that consistent with this policy agenda, the customs duty and ATO excise systems should be aligned. This would remove duplication and inconsistencies in the practical application of excise and customs duty, provide administration and resource savings for industry and government, and also deliver a single audit and compliance regime providing further streamlining and savings benefits. Excise and excise equivalent payments (namely, customs duty) are designed to be imposed on products that are consumed in Australia. Currently there is an inconsistency in the treatment of excisable goods and EEGs with respect to the availability of an entitlement to recover duty paid on goods when they are processed in Australia. To obtain a refund of excise duty paid on domestically manufactured tobacco or cigarettes, the products are required to be returned to the seller of those goods. However, there is no equivalent refund entitlement for the local assessment and processing of imported tobacco products. That is, the assessment of imported tobacco products are treated differently to domestically manufactured products when it comes to recovery of customs duty paid on such products. Such an entitlement can only arise on the exportation of the imported goods in circumstances where, relevantly, the "FOB price" of the goods at the time of export is not less than 25% of the customs value of the goods at the of import.

It is BATA's submission that the entitlement to recover excise and customs duty should be aligned and for both domestically manufactured and imported products.

Such a regime was in place between 9 November 2012 and 30 April 2013 pursuant to the *Customs Amendment Regulation (No. 8) 2012*. That regulation was introduced as an interim measure, to assist with the implementation of tobacco plain packaging legislation. It set out a process whereby customs duty paid stock could be assessed and processed locally and it entitled the importer to recover duties it had paid on that stock. In the Australian Taxation Office's Compliance in Focus 2013-2014 report, it was noted that:

*'...plain packaging legislation led to the largest ever assurance process around the refund of excise duty and remission claims for excisable and customable tobacco. The industry provided feedback that we managed this process well'*

It is BATA's view that Customs managed local processing of EEG well during this period and that this interim measure, introduced by the *Customs Amendment Regulation (No. 8) 2012*, was effective, reduced compliance red-tape and significantly streamlined business efficiency. In BATA's submission, this process should be re-introduced and made permanent.

**a) Providing a single agency with responsibility for all in-market enforcement is both a more efficient and effective model.**

This could be facilitated by the introduction of a single “document” administrator and decision-maker for all excise and excise equivalent payments. This would ensure consistency and remove uncertainty for the industry. This is also consistent with the Government’s deregulation agenda, as it would provide administration and resource savings for both government and industry.

## **5. Reduction of corporate tax rate**

BATA supports the Government's long term objective of a reduction in the company income tax rate. As acknowledged in the Discussion Paper and the Henry Review, Australia has a high company tax rate (30%) as compared with other Organisation for Economic Cooperation and Development (OECD) countries (average of around 25%). A reduction in the company tax rate to 25% would bring Australia in line with the average rate for comparable OECD countries as well as reducing the significant differential that currently exists with other key countries that compete with Australia for investment in the Asia Pacific region.

The Government's proposed 1.5% cut in the company tax rate for small business entities from 1 July 2015 is a welcome step forward, however, BATA would encourage the Government to pursue reform to cut the company tax rate for all companies.

## **6. Tax reform and complexity - Base Erosion and Profit Shifting (BEPS)**

BATA acknowledges the Government's recent budget announcement that it would introduce the multinational anti-avoidance tax integrity rule to stop multinational entities using artificial or contrived arrangements to avoid a taxable presence in Australia. Whilst we firmly believe that companies should meet their tax obligations, BEPS is a complex, multi-layered global issue. It is critical that unilateral action by the Australia Government does not act as an impediment to cross border trade and investment, thereby placing further pressure on economic growth.

We believe that a coherent multilateral framework for modernising the international tax system is required. Accordingly we support multilateral efforts to develop effective approaches through BEPS, such as the Action Plan being pursued by the OECD and supported by the G20 in relation to international tax reform.

Australia's tax system contains significant integrity measures in the existing transfer pricing, thin capitalisation and general anti-avoidance rules that limit tax minimisation activities and these rules have been further strengthened in recent years (for example, the reconstruction provisions in the transfer pricing rules and the tax transparency measures). Together the rules act as a deterrent to taxpayers engaging in unacceptable corporate tax avoidance.

BATA believes that any further reforms should be an outcome of international cooperation and agreement rather than unilateral action by Australia. Importantly, BATA also believes that any changes should be efficient and simple to apply for taxpayers and reduce the current high level of complexity and uncertainty in this area.

## **7. Payroll tax**

BATA believes that payroll tax should be reduced or removed to encourage employment in Australia and to improve Australia's attractiveness as a location for international investment.

Australian businesses face a number of complexities and high costs in complying with their payroll tax obligations. This is particularly the case for businesses operating across different jurisdictions, dealing with different definitions of wages for payroll tax purposes and different rates of tax payable on wages.

BATA supports reform to harmonise the different rates, thresholds and exemptions existing across the various states and territories in order to reduce the administrative burden, costs and complexity associated with compliance.

## 8. Conclusion

The current system of ad hoc excise taxation has reached a point where it is no longer sustainable or effective. Based on current trends the Government will not meet its objective of reducing smoking rates to 10%, by 2018.

Trends in total consumption would appear to suggest that, in the face of falling consumer affordability, relatively few smokers are quitting or reducing consumption despite continued material excise increases.

This trend can be explained by the emerging evidence which indicates that instead of quitting smoking consumers are generally downtrading to cheaper or illicit tobacco in response to higher taxes.

In order to prevent the continuation of such a trend the Government needs to consider more sustainable approaches to tobacco excise policy.

Furthermore BATA's submission contends:

- There are opportunities to further simplify the process of administering excise and EEG by removing inconsistencies with respect to the availability of an entitlement to recover duty paid on goods when they are processed in Australia. There is such an entitlement in respect of excisable goods, but not for EEG.
- That the customs and excise systems should be administered by one body and BATA would like to see a single 'document', administrator and decision-maker for all excise and excise equivalent payments
- That a reduction in the company income tax to 25% would bring Australia in line with the average rate for comparable OECD countries as well as reducing the significant differential that currently exists within the region.
- BEPS is a complex global issue and international cooperation and consensus is critical. BATA does not support unilateral action by the Australian Government in the short term in this area.
- BATA believes that payroll tax should be reduced, or removed to encourage employment in Australia and to improve Australia's attractiveness as a location for international investment.

BATA appreciates this opportunity to contribute to the **Governments Re:think - tax discussion paper** on tax reform in Australia and would be happy to engage in further discussion on the issues in this submission as the review process begins to formulate its conclusions.