

Hong Kong Government
Food and Health Bureau
Attention Dr York Chow Yat Ngok GBS JP sfhoffice@fhb.gov.hk Fax 2526 3753 Tel 2973 8100

24th February 2010

Dear Dr Chow,

The Financial Secretary has announced the following measures in his latest budget speech under the heading 'Tobacco Control':

1) "to abolish the duty-free concessions on tobacco products"

Clear the Air comments: **This is a good step forward.** The current duty free allowance is 60 sticks of cigarettes or 15 cigars or 75 grams of manufactured tobacco. Permitting duty free tobacco allowances has been shown overseas to lead to smuggling of tobacco products by tobacco companies and / or their distribution network and local 'mules'. Enforcement also absorbs considerable Customs Department manpower. Once this budget suggestion is enacted, airlines, cruise liners and ferries entering Hong Kong's territorial area must be directed not to sell duty free tobacco products on board and to remove any tobacco advertisement or offer of sale in their inflight magazines which many currently have.

2) "The Food and Health Bureau will closely monitor the effectiveness of the various tobacco control measures in the year ahead. I will consider a phased increase in Hong Kong's tobacco duty based on the Bureau's recommendations."

Clear the Air comments: **'Delay No More'**

The only additional tobacco control measure announced today is stated above – i.e. no more 'duty free tobacco allowances'. This will have minimal effect on current tobacco control measures other than helping to limit the supply of duty not paid (DNP) genuine product smuggled into Hong Kong and perhaps driving incoming passengers to seek alternative sources of supply. Moreover the Department of Health, University and medical experts and COSH have been lobbying the Financial Secretary to increase tobacco tax for 8 years between 2001-2009 'for health reasons' so nothing has changed; in effect the Financial Secretary is announcing yet another grace period and avoiding recommendations for yet another year, which will have measureable effects on avoidable morbidity and mortality. Further 'studies' by the Department of Health will certainly reveal that tobacco taxation is as he has already stated today **"WHO has clearly shown that increasing tobacco duty is an effective means of tobacco control"**. Accordingly the Department of Health must remind the Financial Secretary immediately that in his own words, "for health reasons", he must expeditiously introduce additional tax increases on tobacco products as a health measure to comply with FCTC requirements and by his own statement, our current local cigarette prices are far too low.

The 50% tax increase in last year's budget has resulted in more than 30% decrease in duty paid cigarette sales whilst raising excise duty income by 2% above 2008 receipts. Meanwhile the smuggling syndicates have scaled back their operations and the Customs seizures are down, showing that the syndicates will not risk holding large stocks of DNP product.

The Food and Health Bureau has already had ample time to assess the situation and the effect of the tax increase and the Customs Department data is already clear:

From: catherine_py_lam@customs.gov.hk [mailto:catherine_py_lam@customs.gov.hk]

Sent: Thursday, February 18, 2010 11:49 AM To: dynamco@netvigator.com

Thank you for your enquiry of 15.2.2010 regarding the data of duty-paid cigarettes. The quantity and revenue of duty-paid cigarettes in the last three years are as follow:

	2007	2008	2009
Quantity of duty-paid cigarette (Million sticks)	3,495.73	3,790.22	2,887.30
Revenue Collected (HK\$ Million)	2,810.57	3,047.33	3,109.97

(P Y LAM)
for Commissioner of Customs and Excise

Hong Kong Customs Department figures

Statistics on Cigarette Cases ⁽¹⁾	2007	2008	2009 [#]	compare 2007 with 2009
No. of Cases	1 819	1 577	2 898	up 59.3%
No. of Arrests	1 446	1 183	2 265	up 56.6%
Buyers	79	66	208	up 163.29%
Sellers	433	398	695	up 60.5%
Quantity of Cigarettes Seized (sticks)	109 000 000	73 000 000	59 000 000	down 54.1%
Significant Cases (>500 000 sticks)	15	13	16	

Notes:

⁽¹⁾ Including Importation, Exportation, Transshipment, Distribution, Storage and Peddling cases but excluding Compounding and Abandoned cases.

[#] Provisional figures and subject to slight revision.

However, we note from Customs information that only 30-40% of local seizures in 2009 were counterfeit tobacco items (source: W M Hui Divisional Commander Anti-Illicit Cigarette Investigation Hong Kong Customs and Excise Department) meaning that 2/3 of the contraband in Hong Kong in 2009 was smuggled **genuine** product, supplied to the syndicates whether directly or indirectly in their distribution chain by the tobacco companies themselves.

This is double the world norm of 30% (source The WHO Tobacco Atlas) for genuine DNP contraband. We urge Government to consider fraud and inland revenue tax evasion actions against the sources of the smuggled genuine DNP tobacco products whilst enacting similar punitive financial measures as adopted by the EU.

As regards 'closely monitoring effectiveness' , in July 2007 the Hon Cheng Kar Foo tabled a question in Legco regarding outdoor smoking. The Health Secretary replied " *As stated in part (a) of my reply, we will conduct survey and study after the new law has been in force for some time. We should also note that no matter by how much the no-smoking areas were expanded, clear and conspicuous demarcations between smoking areas and no-smoking areas would still be needed.*"

That was already 3 1/2 years ago and we are all still awaiting a reply or action on this matter and so we would urge the Minister to make this current budget 'tax delay' proposal a priority action matter.

Ineffective manpower staffing.

Hong Kong has almost 11,000 licensed restaurants and 5,000 liquor licensed premises but there is no onus on the licensees to enforce the smoking laws as there is overseas; hence patrons can still smoke with impunity since the Tobacco Control Office is hopelessly understaffed with less than 100 officers.

Hong Kong law requires the forced infusion of air from the street to bars and restaurants; the fan intake is usually above the entrance door; as such sidestream smoke from those congregated outside the door is sucked back into the premises. In addition many bar / restaurants are open fronted making a fallacy of 'indoor' smoking laws for the like reason.

Overseas , sensible jurisdictions have restrictions on smoking within a set distance of office, residence , bar and restaurant entrances to prevent people having to wade through toxic sidestream plumes which are between 4 and 50 times more toxic than mainstream smoke. 'Personal freedom' to smoke is not a licence to kill others and more than 1300 Hongkong people a year die from passive smoking whilst HK\$ 6 billion is spent on treating tobacco related illnesses versus half that amount is received in tobacco taxation.

The SAR Macau is bringing in anti smoking laws and staffing its enforcement body with 70 officers to police less than one thirteenth the population of Hongkong. There is no way that the Hong Kong Government can 'step up enforcement' with so few officers that it now allocates.

Government here needs to increase our Tobacco Control Office by 1000% to show it means business in enforcement, regular tobacco tax increases should be made to bring the cost of cigarettes in line with first world countries like Ireland where the price for 1000 sticks is Euro 432 compared to Hong Kong's Euro 159 per 1000. The smoking fixed penalty ticket system will more than pay for the extra manpower levels once enforcement action is increased by extra staffing whilst more people will quit once licensees are forced to prevent smoking in their premises or face loss of their licences to trade.

Budget Proposals 2010

<http://www.budget.gov.hk/2010/eng/budget51.html>

Hong Kong 24 Feb 2010 speech by Financial Secretary John Tsang

Tobacco Control

133. For public health reasons, I increased tobacco duty substantially by 50 per cent last year. This year I propose to abolish the duty-free concessions on tobacco products for incoming passengers. To facilitate law enforcement, small amounts of tobacco products for own consumption will be exempted. The Food and Health Bureau and Customs and Excise Department will announce the details. This measure will take effect on completion of the legislative process.

134. Studies by the World Health Organization have clearly shown that increasing tobacco duty is an effective means of tobacco control. I am aware that tobacco duty in Hong Kong currently accounts for only about 60 per cent of the retail prices of cigarettes, some way below the 75 per cent recommended by the World Health Organization. The retail prices of cigarettes in Hong Kong are also lower than those in some international cities. The Food and Health Bureau will closely monitor the effectiveness of the various tobacco control measures in the year ahead. I will consider a phased increase in Hong Kong's tobacco duty based on the Bureau's recommendations.

Previous statements by Hong Kong Financial Secretaries

"It has been put to me persuasively... that for health reasons a hefty increase [in tobacco excise] is now justified. So with a particular view to reducing the attractiveness of smoking to young people, I am proposing an increase of 200% in the rate of duty".
Piers Jacobs . Second Reading of Appropriation Bill, 1991, Official Report of Proceedings, Hong Kong Legislative Council. 1991. Hong Kong Office of the Legislative and Executive Councils, p. 38

Text of the Budget speech by Financial Secretary John Tsang on Tobacco Tax: Feb 25 2009 Medical and Health 108. Separately, for public health reasons, I propose to increase tobacco duty by 50 per cent with immediate effect. The duty on cigarettes will increase from around \$0.8 to about \$1.2 per stick. We will also continue to step up our efforts on smoking cessation, as well as on publicity and enforcement in tobacco control.

Price comparisons with First World cities

In a letter to the LEGCO Panel on Health Services on 17 November 2009, *Clear the Air* compared the Euro retail price of 1000 most popular price category cigarettes between Hong Kong and other high income cities:

Hong Kong €159, Vienna €180, Melbourne €203, Copenhagen €214, Helsinki €220, Frankfurt €235, Paris €265, Singapore €265, New York €300, London €369, Dublin €423. In other words, cigarette price in Hong Kong is only 60%, 53%, 43% and 37% of that in Singapore, New York, London and Dublin respectively whilst having a higher cost of living than the above.

Yours sincerely,

James Middleton

Chairman
Anti Tobacco Committee
<http://tobacco.cleartheair.org.hk>