



IMPERIAL TOBACCO AUSTRALIA LIMITED
ABN 46 088 148 681
PO Box 7800, Bau kham Hills NSW 2153
Tel: +61 2 9881 0888
Fax: +61 2 9881 0700

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NATIONAL COMMISSION OF AUDIT
CONDITIONS FOR THE DRAWBACK OF DUTY

Imperial Tobacco Australia Limited (ITA) wishes to make a submission to the National Commission of Audit in relation to ***improving the overall efficiency and effectiveness with which government services are delivered.***

In this regard, ITA's submission concerns the conditions across excise when seeking a duty drawback refund.

There is currently inconsistency and inequality in the treatment of Excise and Customs Legislation and we would like to discuss a permanent streamlining of the process, as was the situation recently under the *Customs Amendment Regulation 2012 (No. 8)*.

Both excise and customs duties are designed to be imposed on products that are consumed in Australia. Refunds on returned goods should be equally applied for excise and customs for unsalable duty paid products. Excisable and EEG's should both be eligible for a refund of duty at the point of destruction, which should be in Australia.

Historically, for locally produced products, excise levied product is able to be destroyed locally, provided the pending destruction is approved by the Australian Tax Office (ATO). A refund of the relevant excise can then be obtained from the ATO. However, for products that are manufactured overseas, and therefore dealt with under the Customs Act, there is no equivalent process for local destruction. In order to claim a duty drawback refund, the duty paid goods must be re-exported to their origin.

The regulatory amendment set out in the Customs Amendment Regulation 2012 (No. 8) allowed for duty paid stock to be destroyed locally and a subsequent Duty Drawback refund. This was an interim measure which came into effect on 9 November 2012, until 30 April 2013.

This recent trial, given effect to assist with the implementation of plain packaging and high number of stock destructions as a result, proved that the process can be effective.

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." ITA does believe this process was managed well and would like to see the process made permanent.

The industry is a significant excise and duty contributor. ITA contributes an annual excise and duty liability in the vicinity of \$1.6 billion.

Since approximately June 2012, 100% of product distributed in Australia by ITA is imported product. ITA sources its products from a number of factories, located in various parts of the globe. These factories are located in the UK, Europe, Asia, the United States and New Zealand.

In order to claim a duty refund on unsaleable duty paid stock returned from the trade, ITA must re-export all said stock back to these various points of manufacture, rather than destroy the stock locally to obtain a duty refund.

In May 2007, following a public review, the former government announced its intentions to reform the rules concerning eligibility for refunds and drawbacks of excise and excise equivalent customs duty. The reform was to have the effect that all excise and excise-equivalent imported goods could be destroyed locally with the prior approval of the relevant administering authority, and would not be required to be re-exported to the point of manufacture.

The measure was to have effect from the later of 1 January 2008, or the date of Royal Assent. This legislation did not take effect.

It has been acknowledged that these impediments are an unnecessary exercise in red-tape compliance and costs. Accordingly, we seek a removal of the inconsistencies and artificial restrictions which currently apply when a return of duty is sought.

It is ITA's view, and a view we believe is shared by Customs, that the recent *Customs Amendment Regulation 2012* was effective, and significantly streamlined business efficiency and cash flow for manufacturers/importers including ITA. It also assisted Customs to achieve one of their key functions, namely protection of the revenue stream from legal tobacco products.

We would submit that the permanency of the *Customs Amendment Regulation 2012* (No. 8), in order to streamline access to a return of duty and reduce compliance costs in the future, would improve the overall efficiency and effectiveness with which this particular government service is delivered.

Yours Sincerely,



General Manager - Australasia