

## Tobacco Control Progress 2010, first half (January-June, 2010)

September 20, 2010

### Tax increases

- The following table summarizes tobacco tax increases in the first half of 2010, including the effective date of the tobacco tax increase, and the amount of the tax increase for 200 cigarettes and for 100g of roll-your-own (which makes 200 cigarettes).

<u>Effective date</u>		<u>Cigs</u>	<u>RYO</u>	
Mar. 24, 2010	Man.	\$4.00	\$2.00	
Mar. 25, 2010	Sask.	\$5.40	\$2.70	
Mar. 30, 2010	N&L	\$2.00	\$2.00	
Apr. 1, 2010	NWT	\$1.20	-\$0.60	NWT implemented a policy that tobacco tax rates are to keep up with inflation, beginning April 1, 2010. Unfortunately, in the case of roll-your-own, the approach used resulted in an initial decrease to the tax rate on ryo.
July 1, 2010	Ont	~\$5.00	~\$2.00	(not a change to tobacco tax, but implementation of the 8% provincial portion of Harmonized Sales Tax (HST) This HST tax change had been approved in 2009).
July 1, 2010	BC	~\$6.00	~\$2.40	(not a change to tobacco tax, but implementation of the 7% provincial portion of Harmonized Sales Tax (HST) This HST tax change had been approved in 2009).
July 1, 2010	NS	~\$1.54	~\$0.69	(not a change to tobacco tax, but increase in provincial portion of HST from 8% to 10% The HST increase was announced in the April 6, 2010 provincial budget.)

- Saskatchewan *Tobacco Tax Amendment Regulations, 2010* adopted on June 24, 2010 containing a provision specifying that any cigarette longer than 102mm is treated as two cigarettes. Section 2(3) of the regulations reads: “For the purposes of the Act and these regulations, if a cigarette is greater than 102 millimetres in length: a) each 76-millimetre-long portion is to be considered as one cigarette; and b) the portion remaining after the 76-millimetre-long portions mentioned in clause (a) is to be considered as one cigarette.” The effect of this is to double the cigarette tax on 120mm cigarette brands such as More and Carreras, if they are sold in Saskatchewan (Alberta has a similar provision).
- In BC, in the March 2, 2010 provincial budget, the government clarified the tax rate on cigars and increased the maximum tax per cigar from \$5 to \$6. These changes were implemented in Bill 2, the *Budget Measures Implementation Act, 2010*, which received first reading on Mar. 2, 2010 and third reading on Mar. 31, 2010.

- In BC, Bill 6, the *Finance Statutes Amendment Act, 2010*, was introduced on March 25, 2010 and received Royal Assent on March 31, 2010. The bill includes an amendment to the B.C. *Tobacco Tax Act*, to define the term “cigar” to clarify which products are taxed as cigars under the *Tobacco Tax Act* [definition to be the same as under federal Excise Act].

## **Contraband**

- At the federal level, contraband prevention developments included:
  - On May 28, 2010 the federal government announced that:
    - the RCMP will create a Combined Forces Special Enforcement Unit Contraband Tobacco Team
    - the government will allocate \$20 million over four years to combat tobacco contraband (previously announced as part of July 31, 2008 settlements with Imperial Tobacco Canada Ltd. and Rothmans, Benson & Hedges, an re-announced in August 2008).
    - the Canada Revenue Agency will develop a multi-media ad campaign to raise awareness among Canadians of the negative impacts of purchasing contraband cigarettes (previously announced)
  - On April 7, 2010, the RCMP, OPP, Cornwall Community Police Service and the Ontario Ministry of Revenue jointly announced the re-establishment of the Cornwall Regional Task Force.
  - On March 29, 2010, the budget bill, Bill C-9, *Jobs and Economic Growth Act*, received first reading. The bill received Royal Assent on July 12, 2010. The bill contains new legislative authority to require an enhanced tax stamp.
  - The House of Commons Standing Committee on Public Safety and National Security held a one-day hearing on contraband on April 27, 2010.
  - The Senate Inquiry on Contraband Tobacco initiated by Senator Hugh Segal continued with a further Senate speech by Senator Segal on May 12, 2010.
  - On April 13, 2010, the federal government announced that it had entered into civil agreements with JTI-Macdonald Corp. and R.J. Reynolds Tobacco Company; that JTI-Macdonald Corp. pleaded guilty in the Ontario Court of Justice to "aiding persons to be in possession of tobacco not packaged in accordance with the *Excise Act*,"; and that Northern Brands International Inc., a company related to RJR, pleaded guilty to a conspiracy offence under the *Criminal Code*. Here are the amounts payable:

\$325 million - RJ Reynolds Tobacco Co. to pay civil settlement  
 \$75 million - RJ Reynolds Tobacco Co. subsidiary Northern Brands International Inc. pay \$75 million fine, having pleaded guilty to contraband

\$150 million - JTI-Macdonald Corp to pay \$150 million fine,  
 having pleaded guilty to contraband  
 \$550 million – TOTAL

The agreement with JTI-Macdonald Corp. includes legally-enforceable obligations for some contraband prevention measures. The agreement with R.J. Reynolds Tobacco Company includes a provision that RJR, should it conduct business in Canada within the next 10 years, will enter into a Tobacco Compliance Measures Protocol acceptable to the Canadian Government. [there was criticism of the inadequacy of the settlements]

- In Saskatchewan: Bill 143, *Tobacco Tax Amendment Act, 2010* received first reading on April 26, 2010 and Royal Assent May 20, 2010 – the bill contains numerous contraband prevention measures.
- In Saskatchewan, *The Tobacco Tax Amendment, Regulations, 2010*, were approved June 24, 2010, and came into force on June 25, 2010. The new regulations include a 200 unit limit on the quantity of tax-exempt tobacco that a status native may purchase per week (a unit is one cigarette, one tobacco stick, one cigar/cigarillo, or one gram of loose tobacco). There is a limit on a status native possessing more than 800 units of tax-exempt tobacco at any one time. All on-reserve retailers selling tobacco products without provincial tobacco taxes are required to register with the provincial government (same as a licence requirement). Duty-free stores are also required to register with the province.
- In Nova Scotia, Bill 51, *An Act to Amend Chapter 17 of the Acts of 1995-96, the Revenue Act*, received first reading on Apr. 28, 2010, and Royal Assent May 11, 2010. This bill will result in the suspension of a driver's licence where a person is convicted of a tobacco tax offence involving the use of a vehicle to transport or store tobacco.
- In Quebec, Bill 64, *An Act giving effect to the Economic Statement delivered on 14 January 2009, to the Budget Speech delivered on 19 March 2009 and to certain other budget statements*, received Assent on April 20, 2010, having received first reading on Nov. 5, 2009. The bill amends the *Tobacco Tax Act* to authorize a court to suspend a driver's licence if someone is convicted of an offence that involves a road vehicle.

### **Advertising and Promotion**

- Newfoundland and Labrador retail display ban implemented as of Jan. 1, 2010. Point of sale regulations (adopted Dec. 22, 2009) also come into force on Jan. 1, 2010.

- Yukon *Tobacco Product Sales Regulation* adopted Feb. 19, 2010 – the regulations include restrictions on point of sale signage. Also adopted in the Yukon on Feb. 19, 2010 is the *Regulation to Amend the Summary Conviction Regulations*, Y.O.I.C. 2010/28, re ticketing.
- In Ontario on December 15, 2009, Royal Assent was given to Bill 212, the *Good Government Act, 2009*. This bill amended many Ontario statutes. One amendment in Schedule 19 of the bill modified the *Smoke-free Ontario Act* to clarify that a ban on certain types of promotion not only "in" any place where tobacco is sold, but also "at" any such place. Historically, some gas stations have argued that a promotion outside was not considered "in" the place. Regulations (section 7) under the *Smoke-free Ontario Act* already prohibit point of sale signs visible from outside a place where tobacco is sold.

### **Retail Locations**

- Yukon adopts *Tobacco Product Sales Regulation* on Feb. 19, 2010. The regulations include a ban on tobacco sales in pharmacies and establishments containing a pharmacy effective Feb. 19, 2011.
- In Saskatchewan, Bill 133 *Tobacco Control Amendment Act, 2010* adopted May 20, 2010. The bill contains a provision to prohibit tobacco sales in pharmacies and establishments containing a pharmacy. On Aug. 4, 2010, the government announced that it intended to proclaim this provision into effect in early 2011.

### **Retailer Licensing**

- Effective Jan. 1, 2010, the municipal tobacco retailer licence fee in St. Albert, Alberta increased from \$150 to \$400 per year, establishing a new high for Canada. The increase in the fee had been approved by municipal council on Nov. 16, 2009.
- In the BC budget of March 2, 2010, the government announced its intention to implement a provincial licence fee for tobacco retailers, with the amount of the fee to be announced later in the year. Enabling legislative changes to authorize a fee were implemented in Bill 2, the *Budget Measures Implementation Act, 2010*, which received first reading on Mar. 2, 2010 and Royal Assent on Mar. 31, 2010.
- In Ontario, Bill 16, *Creating the Foundation for Jobs and Growth Act, 2010*, the budget implementation bill, received first reading on Mar. 25, 2010 and Royal Assent on May 16, 2010. As part of this bill, the Ontario Government will be phasing in provincial tobacco permit requirement in order to sell tobacco products. As a starting point, effective July 1, 2010, any new tobacco retailers will have to obtain a provincial tobacco retail permit under the provincial *Tobacco Tax Act*, in addition to a retail sales tax permit.

### **Flavoured Tobacco Products**

- The amendments in Bill C-32 to the federal *Tobacco Act* prohibiting flavoured cigarettes, cigarillos and blunt wraps (menthol excepted) came into force on April 6, 2010 at the manufacturer/importer level, and on July 5, 2010 at the retail level. (The minimum pack size of 20 for cigarillos came into force at the manufacturer/importer and retail levels on April 6, 2010.)

- In Ontario, on June 29, 2010, the provincial government announced that the ban on flavoured cigarillos had been proclaimed to come into force on July 1, 2010. A regulation (Ontario Regulation 237/10) was adopted June 2, 2010 to define cigarillo. Bill 16, the Ontario budget implementation bill, the *Creating the Foundation for Jobs and Growth Act, 2010*, received Royal Assent on May 16, 2010; this bill, in schedule 27, amends the provision regarding flavoured tobacco products that would eventually be proclaimed into force on July 1, 2010.
- In Saskatchewan, Bill 133 *Tobacco Control Amendment Act, 2010* adopted May 20, 2010. The bill contains a provision to prohibit flavoured cigarillos, and regulatory authority to prohibit other flavoured tobacco products. The proclamation date is not yet set.

### **Smoke-free vehicles with kids**

- In Manitoba, on June 17, 2010, the Government announced that it had proclaimed the ban on smoking in cars with kids under age 16 to come into force effective July 15, 2010.
- In Saskatchewan, Bill 133 *Tobacco Control Amendment Act, 2010* adopted May 20, 2010. The bill contains a ban on smoking in vehicles with kids under age 16. The Government announced on August 4, 2010 that it intended to proclaim this part of the bill into force effective Oct. 1, 2010. There are now 8 provinces/territories that have adopted legislation prohibit smoking in vehicles with kids: BC, SK, MB, ON, NB, NS, PEI, and the Yukon. The remaining 5 provinces/territories are Alta, Que, Nfld and Lab, NWT and Nunavut.

### **Smoke-free outdoors**

- Numerous municipalities continued the trend of adopting smoke-free outdoor bylaws. A prominent example was Vancouver which, through its Parks Board, announced on April 20, 2010 that it would prohibit smoking on beaches, in parks and on trails effective Sept. 1, 2010. In February 2010, the city of L'Ancienne-Lorette, a suburban city west of Quebec City, became the first Quebec municipality to ban smoking in parks (the smoke-free parks requirement includes application to soccer fields).
- In Saskatchewan, Bill 133 *Tobacco Control Amendment Act, 2010* adopted May 20, 2010. The bill contains regulatory authority to ban smoking within a distance (to be prescribed) of doorways, windows and air intakes.
- The Quebec Ferry Corporation implements a policy making all ferries, including decks, smoke-free effective April 1, 2010. The policy had been approved in December 2009 and received media coverage at least by Feb. 23, 2010.
- On May 20, 2010, voters of Coquitlam, B.C., in a municipal plebiscite, overwhelming expressed support (72% to 28%) for a stronger municipal bylaw to prohibit smoking in public patios and additional public spaces where minors under 16 are permitted. This plebiscite was non-binding, but prompted municipal council to amend the bylaw with final approval given on July 19, 2010.

### **Smoke-free multiple-unit dwellings (MUDs)**

- Peterborough City-County establishes policy of requiring certain social housing buildings to be smoke-free. Peterborough joins St. John's, NL and Waterloo, ON in taking action for smoke-free social housing.
- The Waterloo Region social housing 100% smoke-free policy came into force on April 1, 2010 applying to 2,700 units, except for existing tenants (unless they move to a new unit)

### **Smoking and litter**

- On April 1, 2010, Ontario Liberal MPP Dave Levac introduced Bill 28, *Cigarette and Cigar Butt Litter Prevention Act, 2010*. The bill increases the fine for littering under the *Environmental Protection Act*. The bill also creates an offence under the *Highway Traffic Act* for discarding cigarette or cigar butts, or other waste, on or adjacent to a highway (the definition of "highway" includes any public road.)

### **Tobacco-free school grounds**

- In Saskatchewan, Bill 133, *Tobacco Control Amendment Act, 2010*, was adopted May 20, 2010. The bill contains a provision prohibiting tobacco use on elementary and school property. The government announced on Aug. 4, 2010 that this part of the bill would come into force on Aug. 15, 2010.

### **Sales to minors**

- Manitoba increases fines as of Jan. 1, 2010. See provincial government news release of March 3, 2010.

### **Divestment**

- On May 10, 2010, NDP MP Bruce Hyer introduced motion M-532 calling on the federal government to adopt a regulation to require the Canada Pension Plan to divest of tobacco holdings. This in effect replaced an identical private member's motion, M-57, that had been introduced by NDP Judy Wasylycia-Leis and withdrawn on April 30, 2010 after she resigned as an MP.

### **Helplines**

- In Nunavut, on April 15, 2010, the territorial government announced the launching of the Nunavut Quitline.

### **Setbacks**

- The PST exemption for NRT in BC and Ontario removed as of July 1, 2010 coincident with implementation of the HST in these provinces.
- Bill C-36, *Canada Consumer Product Safety Act*, re-introduced with first reading on June 9, 2010. The bill continues to contain a provision excluding tobacco products from being covered by the Act or regulations under the Act (the bill was previously introduced as Bill C-52 and later as Bill C-6 before dying on the Order Paper on each occasion).

**List of Tobacco Bills/Regulations Introduced/Adopted, first half of 2010**

(does not include tobacco tax increases)

**Federal:** Bill C-9, *Jobs and Economic Growth Act*, received first reading on Mar. 29, 2010 and Royal Assent on July 12, 2010.

**British Columbia:** Bill 2, the *Budget Measures Implementation Act, 2010*, first reading on Mar. 2, 2010 and Royal Assent on Mar. 31, 2010.

**British Columbia:** Bill 6, *Finance Statutes Amendment Act, 2010*, first reading March 25, 2010 and Royal Assent on March 31, 2010.

**Saskatchewan:** Bill 133 *Tobacco Control Amendment Act, 2010*, Royal Assent May 20, 2010, having received first reading Dec. 2, 2009.

**Saskatchewan:** Bill 143, the *Tobacco Tax Amendment Act, 2010*, first reading April 26, 2010, Royal Assent on May 20, 2010.

**Saskatchewan:** *The Tobacco Tax Amendment Regulations, 2010*, SR 69/2010.

**Ontario:** Bill 16, *Creating the Foundation for Jobs and Growth Act, 2010*, first reading March 25, 2010, Royal Assent May 16, 2010.

**Ontario:** Ontario Reg. 237/10 adopted June 2, 2010 under the *Smoke-free Ontario Act*.

**Ontario:** Bill 28, *Cigarette and Cigar Butt Litter Prevention Act, 2010*, first reading April 1, 2010.

**Quebec:** Bill 64, *An Act giving effect to the Economic Statement delivered on 14 January 2009, to the Budget Speech delivered on 19 March 2009 and to certain other budget statements*, received Assent on April 20, 2010, having received first reading on Nov. 5, 2009.

**Nova Scotia:** Bill 51, *An Act to Amend Chapter 17 of the Acts of 1995-96, the Revenue Act*, first reading Apr. 28, 2010, Royal Assent May 11, 2010.

**Yukon:** *Tobacco Products Sales Regulation*, Y.O.I.C. 2010/27.

**Yukon:** *Regulation to Amend the Summary Conviction Regulations*, Y.O.I.C. 2010/28.