

May 8, 2017



Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: FIN-28-2017]

On April 6, 2017, the Department of Finance received the following request for access to information:

"Please provide copies of all briefing materials, and submissions to Cabinet, relating to tobacco taxes since January 1, 2016."

The Department of Finance is pleased to inform you that your request has been granted in part and is attached. The following is noted in the preparation of this response:

- Some information is considered as Cabinet Confidences and has been severed pursuant to sections 27.(1)(a), 27.(1)(h), and 27.(2)(a) of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA).
- Some information is considered Policy Advice or Recommendations and has been severed pursuant to section 29.(1)(a) of the ATIPPA.
- Some information is considered Harmful to the Financial or Economic Interests of a Public Body and has been severed pursuant to section 35.(1)(g) of the ATIPPA.
- Some information is considered Harmful to Business Interests of a Third Party and has been severed pursuant to section 39.(2) of the *Access to Information and Protection of Privacy Act, 2015*.
- Pages 3, 5, 11-12, and 16-17 are non-responsive to the above request and have been removed in their entirety.
- Pages 19-111 are considered Cabinet Confidences and have been removed in their entirety pursuant to sections 27.(1)(h) and section 27.(2)(a).
- Pages 112-176 are considered Cabinet Confidences and have been removed in their entirety pursuant to section 27.(1)(a) and 27.(2)(a).
- When referencing page numbering, please refer to the page number at the top right hand-corner of the attachment.
- Additional information regarding the exceptions applied above (sections 27, 29, 35, & 39 of ATIPPA) are available online at: <http://www.assembly.nl.ca/Legislation/sr/statutes/a01-2.htm>.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact the undersigned by telephone at 709-729-2082, or by email at bethbartlett@gov.nl.ca.

Sincerely,



Beth Bartlett
ATIPP Coordinator

Attachment

APPENDIX I
NEWFOUNDLAND AND LABRADOR
CONSOLIDATED REVENUE FUND
TAX EXPENDITURES

The principal function of the tax system is to raise revenues necessary to fund government programs and services. The tax system is an instrument of policy that serves to advance a wide range of economic, social and other public policy objectives. Measures that reflect such objectives include exemptions, deductions, rebates, deferrals and credits, and are typically referred to as tax expenditures. Tax expenditures are foregone revenues and serve as alternatives to direct program spending. Tax expenditures and other benefits listed below are separated into five sections: personal income tax and benefits, corporate income tax, sales tax, fuel tax and tobacco tax.

	Number of Beneficiaries	Data Source	2015-16 (\$ Millions)	2014-15 (\$ Millions)
Personal Income Tax and Benefits				
Child Benefit	10,500 Families / 17,000 Children	CRA 2015-16 Actual Benefit Payment Data	7.0	7.3
Child Care Tax Credit	13,000 Taxfilers	2013RF Personal Income Tax Data	4.4	3.6
Direct Equity Tax Credit	1 Applicant	Tax Administration	0.1	0.1
Home Heating Rebate	60,700 Households	Tax Administration	15.4	16.2
HST Credit	47,000 Payments	2015 Actual Benefit Payment Data	3.7	3.7
Labour Sponsored Venture Capital Tax Credit	44 Taxfilers	2013RF Personal Income Tax Data	0.1	0.1
Low Income Tax Reduction	32,500 Taxfilers	2013RF Personal Income Tax Data	12.2	11.1
Political Contributions Tax Credit	600 Taxfilers	2013RF Personal Income Tax Data	0.1	0.1
Progressive Family Growth and Parental Leave Benefits	4,500 Families	Tax Administration	10.4	10.6
Resort Property Tax Credit	39 Taxfilers	2013RF Personal Income Tax Data	0.6	1.6
Seniors' Benefit	44,680 Seniors/Senior Couples	2015 Actual Benefit Payment Data	42.1	40.4
Volunteer Firefighters' Tax Credit	4,600 Taxfilers	2013RF Personal Income Tax Data	1.0	1.0
Venture Capital Tax Credit	No Applicants to Date	Not Applicable	0.8	-
Corporate Income Tax				
EDGE Remissions	2 Applicants	Tax Administration	1.5	1.0
Film and Video Industry Tax Credit	22 Applicants	Tax Administration	4.1	6.0
Interactive Digital Media Tax Credit	2 Applicants	Tax Administration	1.0	-
Manufacturing and Processing Profits Tax Rate Reduction	112 Taxfilers	2013P Corporate Income Tax Data	7.9	7.7
Research and Development Tax Credit	98 Taxfilers	2013P Corporate Income Tax Data	11.5	11.6
Small Business Tax Rate Reduction	6,600 Taxfilers	2013P Corporate Income Tax Data	75.4	45.2
Sales Tax				
Book Rebate	Unknown		3.9	4.0
Labrador Building Materials Rebate	630 Applicants	Tax Administration	1.3	1.6
Residential Energy Rebate	Eliminated July 1, 2015 - All Households	Tax Administration	12.5	47.4
Fuel Tax				
Exemptions for Electricity Generation			5.4	5.9
Exemptions for Marine, Farming and Logging Sectors (i)			3.6	2.9
Exemptions for Municipal Governments			1.2	0.4
Other Exemptions (ii)			0.7	0.9
Tobacco Tax				
Labrador Border Zones Reduced Rates	25 Retailers - All Smokers in Lab West and South Coast are beneficiaries		1.2	-

Notes: (i) Marine exemptions are provided for activities related to aquaculture, fishing and certain prescribed vessels.

(ii) Exemptions provided for prescribed activities including certain international flights, mineral exploration, quarries, rock crushing and screening aggregates, saw mills, visiting forces and remote stores.

39.(2)



	NL 23.5 cents per cig		QC 14.9 cents per cig			
	Price Per Carton	Price Per Cigarette	Price Per Carton	Price Per Cigarette		
Pre-Tax Price	30.00	0.150	30.00	0.150	22.39	
Federal Excise Duty	21.03	0.105	21.03	0.105	17.00	
Prov. Tobacco Tax	47.00	0.235	29.80	0.149	41.00	
Price Before HST	98.03	0.490	80.83	0.404	80.39	
Sales Tax	12.74	0.064	4.04	0.020	10.45	
Total Price	110.77	0.554	84.87	0.424	90.84	5.969

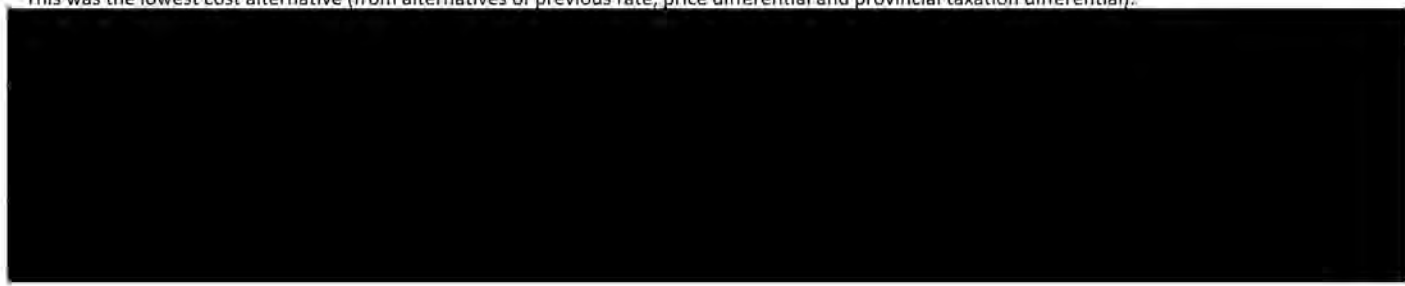
Analysis						
Total taxation	80.77	0.4038695	54.87	0.2743575	25.90	0.129512
LBZ Rebate	21.5	0.1075	0	0		
	59.27	0.30	54.87	0.27		

* pricing based on estimated representative product cost of \$3.00 for a mainstream premium brand of cigarettes per Physicians for a Smoke-Free Canada website.
Source: <http://www.smoke-free.ca/factsheets/pdf/taxrates.pdf>

Conclusions

- Currently the LBZ tobacco tax rebate does not entirely eliminate the taxation differential between Labrador and Quebec.

When re-introduced in 2015, it was implemented at the 2013 pre-elimination rate of 10.75 cents per cigarette and 23.36 cents per gram. This was the lowest cost alternative (from alternatives of previous rate, price differential and provincial taxation differential).



29.(1)(a)

Comparison of Provincial Taxes

2006

Tobacco Tax (as of Mar. 31, 2006)

- 18 cents per cigarette
- 30 cents per gram of fine-cut tobacco

Corporate Income Tax

- General rate – 14%
- M&P rate – 5%
- Small business rate – 5%

Insurance Companies Tax – 4%

Financial Corporations Capital Tax – 4%

2016

Tobacco Tax (as of April 15, 2016)

- 24.5 cents per cigarette
- 40 cents per gram of fine-cut tobacco

Corporate Income Tax

- General rate – 15%
- M&P rate – 15%
- Small business rate – 3%

Insurance Companies Tax – 5%

Financial Corporations Capital Tax – 6%



29.(1)(a)

29.(1)(a)

29.(1)(a)

Increase Tobacco Tax Rate (Effective Midnight Budget Day)

- Increase rate by 1 cent per cigarette
- Annual revenue of \$5 million

Non Responsive

Information Note
Department of Finance
Meeting With the Atlantic Convenience Store Association
February 17, 2016 @ 4:00 p.m.
Finance Boardroom

Attendees:

Mike Hammoud - President, Atlantic Convenience Store Association
 Glenn Sullivan - Director ACSA, C-Gas Management Inc.

Purpose of Meeting:

- ACSA has requested a meeting with the minister to discuss issues that are relevant to their membership, namely convenience stores in the Atlantic region. Past meetings with ACSA have included such issues as:
 - an increase to the bottle handling fee for Brewer's Agents and Liquor Express stores;
 - an increase in the commission paid on retail beer sales; and
 - illegal tobacco sales and the impact of tobacco tax increases on those sales.
- ACSA had three requests for Budget 2015 in their pre-budget submission. They requested:
 - no tax increases in tobacco tax;
 - in the event of a tobacco tax increase, a modest tax increase based on inflation and implemented at regular intervals (i.e. every year, every two years or every five years) similar to the federal approach announced in Budget 2014 (indexed every five years);
 - consideration of taxing e-cigarettes; and
 - introduction of tougher legislation on illegal tobacco, citing Quebec's Bill 59 as a good example of fines and penalties .

Tobacco Taxation

- ACSA has traditionally requested no increase in the tobacco tax citing concerns for price increases driving an increase in demand for contraband tobacco, and the impact on their members through reduced sales, among other public safety concerns.
- While still requesting no increase in tobacco taxes, they acknowledge that such increases may happen. In the event that there is a tobacco tax increase, ACSA is requesting a predictable approach of modest increases, such as an adjustment for inflation, in regular intervals (i.e. every year, every two years or every five years).
 - This is the approach announced by the federal government in the 2014 budget – federal excise tax on tobacco will be adjusted for inflation every five years starting in 2014.
 - In their 2016 Budget, New Brunswick also announced a planned tobacco tax increase for February 1, 2017 in addition to their immediate tobacco tax increase for February 3, 2016.
- Budget 2014 saw tobacco tax increase by 3¢ per cigarette and 6¢ per gram of fine cut tobacco. This increase came shortly after the federal increase in excise tax on tobacco products.
- There was no provincial tobacco tax increase in Budget 2015.

- The following table outlines the tobacco tax rates across the country.

	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	Fed
Cigarette (¢ / cig)	23.5	25.0	23.52	22.26	14.9	13.975	29.5	25.0	25.0	23.9	10.515
Fine Cut (¢ / g)	38.0	21.5	22.0	22.26	14.9	13.975	28.5	25.0	37.5	23.9	13.144

- NL taxes on cigarettes are the fourth lowest. MB, SK, AB, PE, BC and NS have higher rates than this province. NL continues to have the highest tax rate on fine cut tobacco, which was increased significantly in response to manufacturers' move to expanded tobacco, which resulted in a higher yield of cigarettes per gram of tobacco.
- Government also announced the elimination of the Labrador Border Zone tobacco tax rebate the day after Budget 2013. The rebate program was re-introduced effective May 1, 2015 for Labrador West and July 1, 2015 for Southern Labrador. The rebate program reduces the effective tobacco tax in those areas to 12.75¢ per cigarette and 14.64¢ per gram.
- Tobacco tax revenues are as follows:

Year	Revenue (\$ thousands)
2006-07	108,482
2007-08	107,758
2008-09	111,953
2009-10	123,458
2010-11	135,334
2011-12	135,334
2012-13	137,821
2013-14	147,000
2014-15	160,943
2015-16 (b)	157,078

- Tobacco tax revenue had been increasing in the province over the past few years above and beyond what is attributable to tax increases. This is an indication that legitimate sales are also increasing.
- Tobacco sales trends across the country in 2014 are showing an increase in sales values (dollar amounts are increasing due to increases in federal excise tax on tobacco products and manufacturer's price increases) but the volumes of cigarettes sold are down. As this is a trend across the country, and is not a phenomenon that is concentrated in one area as has previously been experienced from time to time, Health Canada believes this is an indicator of lower prevalence and/or a migration to other products (i.e. e-cigarettes) rather than an increase in the contraband market.
- NL has not yet moved on taxation of e-cigarettes. Health Canada is in the process of evaluating the pending treatment e-cigarettes. They have not yet officially determined whether e-cigarettes should be treated as a replacement/substitute or alternative to tobacco (and therefore likely to be

taxed as tobacco), or as a cessation aid. It is prudent to wait on this determination by the federal government prior to implementing any policy decisions regarding this new product and market to avoid applying an inappropriate taxation policy.

Contraband Tobacco

- RCMP reports indicate that both the number of seizures of contraband tobacco and the quantity of tobacco seized are down in the Atlantic Region over previous years.



Tobacco Legislation

29.(1)(a), 35.(1)(g)

- Quebec's Bill 59 increased penalties and fines for contraband tobacco offences.
 - Penalties range from the greater of \$1,000 and (dependant on the offence) 3 or 5 times the tax that would have been payable. For larger quantities (10,000 cigarettes, 10kg of fine cut/leaf tobacco) penalties are the greater of \$2,000 or 5 times the tax. For cigars, the penalty is the greater of \$1,000 or 300% of the purchase price.
 - Fines vary depending on the nature of the offence, the quantity and nature of product involved, and the progression (i.e. first vs. subsequent offence). The fine structure for contraband is as follows:

Offence	Minimum	Maximum	Imprisonment (Court Discretionary)
Sale without permit			
1 st offence	\$5,000	\$50,000	
Subsequent offences	\$10,000	\$125,000	
Various Contraband Offences	Greater of		
1 st offence	\$6,000 or 4x tax due	\$1,000,000	Up to 2 years
Subsequent offences	\$12,000 or 5x tax due	\$2,500,000	Up to 2 years

- Tobacco penalties and fines in this province were reviewed for appropriateness and effectiveness during the 2009 consolidation of the province's various tax acts into the *Revenue Administration Act* (RAA). The only change to the contraband fines was an increase in the minimum fine for a first offence. The penalty imposed was decreased from 5 times the tax owing to 3 times the tax owing. This was done because the former level (5 times the tax) was seen as ineffective. It was excessively punitive, and collection difficulties of this magnitude of penalty rendered the penalty ineffective, and to bring the province more in-line with other provinces' penalties.
- It is difficult to compare NL contraband tobacco fines and penalties with those in Quebec as the nature of offences is not identical. The contraband penalty in the RAA is a penalty of 3 times the tax payable. Court imposed fines are as follows:

Offence	Minimum	Maximum	Imprisonment for failure to pay fine
1 st Offence	\$300	\$10,000	180 days
2 nd Offence	\$500	\$50,000	365 days
3 rd and subsequent	\$1,000	\$100,000	730 days

ACSA Butt Survey

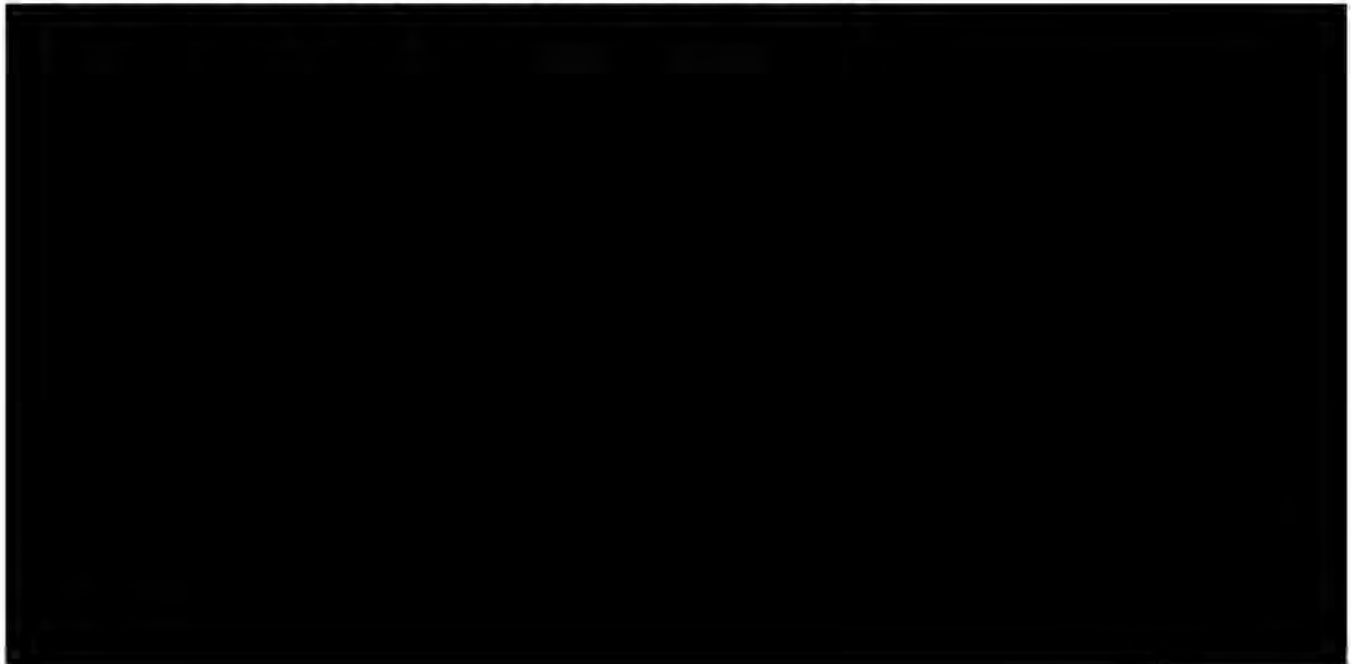
- For the past few years, the ACSA has commissioned a Butt Survey in the Atlantic Provinces. The study is conducted by a Montreal firm, NIRIC. The definition of 'contraband' as employed by the study has been:
 - Duty not paid
 - Counterfeit and suspected international brands were classified as contraband tobacco products
 - Contraband butts and those without branding, foreign or untaxed (native) brands.
- A comparison of the same sites in the 2010 survey and the 2014 survey (as indicated in ACSA letter to the Minister) is as follows:

Site	2010 Illegal Cigarettes (%)	2014 Illegal Cigarettes (%)
Confederation Building	46.3	20.9
George Street*	7.4	29.1
Memorial University	27.2	31.3

*2014 survey combined Adelaide Street and George Street

- A review of the 2010 study and its methodology indicated that there was potential for overstating the prevalence of contraband cigarettes. There should have been a category for unknown that would include unbranded butts or butts of foreign origin thereby reducing the potential for misclassification of legitimate cigarettes as contraband. Sample sizes were not well defined, and there was no margin of error noted in the methodology making it difficult to assess the accuracy of the information presented.
- The 2014 survey has not yet been reviewed by Department of Finance officials.

Other Potential (Previously Raised) Convenience Store Issues



Non Responsive

Information Note
Department of Finance
Meeting With the Atlantic Convenience Store Association
March 17, 2017 @ 10:00 a.m.
Finance Boardroom

Attendees:

Mike Hammoud - President, Atlantic Convenience Store Association
 Glenn Sullivan - Director ACSA, C-Gas Management Inc.

Purpose of Meeting:

- ACSA has requested a meeting with the minister to discuss issues that are relevant to their membership, namely convenience stores in the Atlantic region. The meeting request indicated that they wished to discuss “new information on the ACSA’s member research regarding beer sales in convenience stores.”
- Past meetings with ACSA have included such issues as:
 - an increase to the bottle handling fee for Brewer’s Agents and Liquor Express stores;
 - an increase in the commission paid on retail beer sales; and
 - illegal tobacco sales and the impact of tobacco tax increases on those sales.
- ACSA had three requests for Budget 2015 in their pre-budget submission. They requested:
 - no tax increases in tobacco tax;
 - in the event of a tobacco tax increase, a modest tax increase based on inflation and implemented at regular intervals (i.e. every year, every two years or every five years) similar to the federal approach announced in Budget 2014 (indexed every five years);
 - consideration of taxing e-cigarettes; and
 - introduction of tougher legislation on illegal tobacco, citing Quebec’s Bill 59 as a good example of fines and penalties .
- In a meeting with Minister Bennett in 2016, ACSA expressed concern with the impact illicit tobacco is having on the convenience store industry.

**Tobacco Taxation****Non Responsive**

- ACSA has traditionally requested no increase in the tobacco tax citing concerns for price increases driving an increase in demand for contraband tobacco, and the impact on their members through reduced sales, among other public safety concerns.

- While still requesting no increase in tobacco taxes, they acknowledge that such increases may happen. In the event that there is a tobacco tax increase, ACSA is requesting a predictable approach of modest increases, such as an adjustment for inflation, in regular intervals (i.e. every year, every two years or every five years).
 - This is the approach announced by the federal government in the 2014 budget – federal excise tax on tobacco will be adjusted for inflation every five years starting in 2014.
 - In their 2016 Budget, New Brunswick also announced a planned tobacco tax increase for February 1, 2017 in addition to their immediate tobacco tax increase for February 3, 2016.
- Budget 2014 saw tobacco tax increase by 3¢ per cigarette and 6¢ per gram of fine cut tobacco. This increase came shortly after the federal increase in excise tax on tobacco products.
- There was no provincial tobacco tax increase in Budget 2015.
- Budget 2016 saw a tobacco tax increase of 1¢ per cigarette and 2¢ per gram of fine cut tobacco.
- Tobacco sales trends across the country in 2014 are showing an increase in sales values (dollar amounts are increasing due to increases in federal excise tax on tobacco products and manufacturer's price increases) but the volumes of cigarettes sold are down. As this is a trend across the country, and is not a phenomenon that is concentrated in one area as has previously been experienced from time to time, Health Canada believes this is an indicator of lower prevalence and/or a migration to other products (i.e. e-cigarettes) rather than an increase in the contraband market.
- NL has not yet moved on taxation of e-cigarettes. Health Canada is in the process of evaluating the pending treatment e-cigarettes. They have not yet officially determined whether e-cigarettes should be treated as a replacement/substitute or alternative to tobacco (and therefore likely to be taxed as tobacco), or as a cessation aid. It is prudent to wait on this determination by the federal government prior to implementing any policy decisions regarding this new product and market to avoid applying an inappropriate taxation policy.

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- Fines vary depending on the nature of the offence, the quantity and nature of product involved, and the progression (i.e. first vs. subsequent offence). The fine structure for contraband is as follows:

Offence	Minimum	Maximum	Imprisonment (Court Discretionary)
Sale without permit 1 st offence	\$5,000	\$50,000	
Subsequent offences	\$10,000	\$125,000	
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- Tobacco penalties and fines in this province were reviewed for appropriateness and effectiveness during the 2009 consolidation of the province's various tax acts into the *Revenue Administration Act* (RAA). The only change to the contraband fines was an increase in the minimum fine for a first offence. The penalty imposed was decreased from 5 times the tax owing to 3 times the tax owing. This was done because the former level (5 times the tax) was seen as ineffective. It was excessively punitive, and collection difficulties of this magnitude of penalty rendered the penalty ineffective, and to bring the province more in-line with other provinces' penalties.
- It is difficult to compare NL contraband tobacco fines and penalties with those in Quebec as the nature of offences is not identical. The contraband penalty in the RAA is a penalty of 3 times the tax payable. Court imposed fines are as follows:

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3 rd and subsequent	\$1,000	\$100,000	730 days

Other Potential (Previously Raised) Convenience Store Issues



Non Responsive

Budget 2016

Revenue Measures

Tax Measure	Effective Date	Annualized Impact
HST Increase by 2% (from 13% to 15%)	1-Jul-16	224.0
PIT Rate Increase (8.7%, 14.5%, 15.8%, 17.3% and 18.3%)	1-Jul-16	204.3
Corporate Income Tax – General and M&P Rate Increase (from 14% to 15%)	1-Jan-16	26.0
Reinstate RST on Insurance Premiums at 15%	1-Jul-16	111.0
Increase RST on Used Vehicles to 15%	1-Jul-16	0.7
Gasoline Tax Increases (Gas 16.5 cents / Diesel 5 cents / Aviation Fuel 1.8 cents)	2-Jun-16	142.8
Temporary Deficit Reduction Levy	1-Jul-16	61.0
Increase Financial Corp. Capital Tax by 1% (from 5% to 6%)	1-Jan-16	5.8
Increase Insurance Companies Tax by 1% (from 4% to 5%)	1-Jul-16	16.9
Tobacco Tax Increase of 1 cent per cigarette and 2 cents per gram of fine-cut tobacco	15-Apr-16	5.5
Dividend Tax Credit Rate (decrease rate for non-eligible dividends from 4.1% to 3.5%)	1-Jul-16	1.4
	TOTAL	799.4