To: Mr. Moshe Kahlon,
Minister of Finance, Israel

CC: Mr. Moshe Asher
Director of Tax Authority, Israel

8 May 2017

Dear Minister

Policy on taxation of tobacco and nicotine products

We write as longstanding supporters of rational tobacco and public health strategy, including the use of 'harm reduction' approaches in public health, specifically in addressing the harms of smoking. That includes adopting a tax philosophy that reflects differences in risk among products. Our focus is on reducing smoking-related diseases and we do not speak for any of the industries involved.

We would like to provide some brief advice on the tax treatment of low risk nicotine products, recognizing that the Government of Israel is likely to be making decisions in this area imminently in the case of heated tobacco products.

The evolving market

The overwhelming majority of the risk associated with tobacco use comes from *tobacco smoke* and combustion, not from nicotine. Nicotine is the primary reason why people smoke, but it is the tobacco smoke that holds and transports the nicotine to the lungs where it is absorbed that is the cause of cancer, cardiovascular and respiratory illnesses. Combusted tobacco smoke is the most effective delivery system for nicotine, but there are products that deliver a nicotine experience that is nearly as satisfying *but without the smoke* – and therefore with greatly reduced health risks. These products have four main generic forms:

1. *E-cigarettes and vaping products*. These create much lower exposures to toxic agents[1 2 3 4 5 6] and are likely to be at least 95% lower risk than smoking and possibly substantially lower[7 8].

2. *Heated tobacco products*, in which a vapor is created by heating but not burning tobacco. Most of the research on these products has been conducted by the tobacco companies that make them. However, it is published in peer-reviewed journals. The emissions and biomarker data suggest these products are likely to be at least 90-95% lower risk than smoking[9 10 11 12 13 14]. It is possible that they will be a closer substitute for smoking for many smokers. Their health benefit will arise from reaching more smokers who would not find vaping satisfactory or in helping smokers to make the first stage of a longer transition.

3. *Unheated nicotine products*, such as lozenges, films, inhalers and some forms of pharmaceutical nicotine replacement therapy (NRT). These are likely to approximate to NRT in their risk profile - some side effects, but negligible or very low risk of serious harms[15].

4. *Smokeless tobaccos* such as well-established products like snus, which is likely to be at least 98% lower risk than smoking [16] and has been responsible for the lowest levels of smoking in the developed world in Sweden[17] leading to significant health gains[18]. Sweden provides a strong proof-of-concept for tobacco harm reduction.

Policy intent

Public health policy should be structured to exploit the opportunities that these technologies provide, while minimising any residual risks. Policymakers should also be wary of harmful unintended consequences of any policy interventions. For example, applying an excessive tax to these products may have the harmful effect of protecting the cigarette trade, promoting relapse to smoking, and reducing the number of smokers switching from high-risk to low-risk products.

Taxation philosophy

Our view is that taxation of these products should reflect the opportunity to realise significant health gains by encouraging smokers to switch from the high-risk behaviour to the low-riskalternative, an approach that has been emphasised by globally recognised public health experts on tobacco tax policy[19]. Taxation should, as far as possible, be proportional to risk and involve fair and equal treatment (similar products treated the same, different products treated differently). As far as we are aware, every jurisdiction where heated tobacco products are available rightly applies a lower level of tax than for cigarettes.

For both a coherent tax policy and tobacco control policy, we recommend the following approach:

1. Tobacco taxation policy is a matter of balance between public health goals, revenue raising, costs of tax administration and potential for perverse consequences, such as increasing illicit trade. The public health case for taxing low-risk alternatives to smoking is very weak, given these products provide significant health benefits to people who switch and stop smoking, and that, given the role of cross elasticity, a greater price differential will encourage more switching.

2. Retain a zero rate of tax for vaping products and other pure nicotine products, including NRT, due to low risks, costs of administration, complexity of products and the scope for illicit trade.[20]

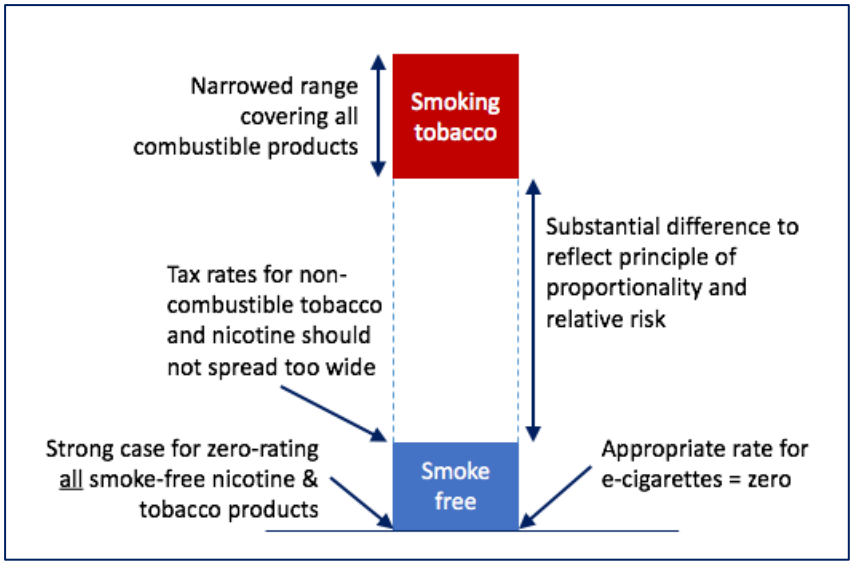
3. Introduce a separate ‘smoke-free tobacco’ definition that applies to tobacco products that do not involve combustion – this allows differentiation of treatment of smoke-free tobacco products for health policy reasons.

4. Apply excise duty as specific duty per kilo mass of tobacco for this category, with the same or

separate rates for smokeless tobacco and heated tobacco products.

5. To preserve the health-based differential between smoke-free and smoked tobacco, set a duty rate that reduces the tax burden substantially for the low-risk products compared to smoking. If the policy was to faithfully reflect risk, then the tax burden should be 10 percent or less. There is a case for zero taxation, if the benefit arising from smoking cessation is considered. The precise calculation would depend on the typical level of cigarette taxation, a policy intent to have the tax set at a given lower level, and some way of determining the equivalence of a pack of 20 cigarettes and weight of tobacco consumed by a smoke-free tobacco user.

A conceptual representation of a rational framework for nicotine product taxation is shown below.



We provide these views in the hope that Israel will take on a leadership role in modern and rational tobacco taxation policy. There is little to be gained by using the fiscal system in a way that protects the incumbent cigarette trade from competition or promotes illicit cross-border trade in alternative, much safer products that many smokers are legitimately seeking to improve their health.

Yours sincerely

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