SB 383

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 383 (Senators Currie and McFadden)
Budget and Taxation Ways and Means

Tobacco Tax - Moist Snuff

This bill alters the existing State tax on moist snuff tobacco from 15% of its wholesale price to $0.39 per ounce. Moist snuff tobacco tax revenue is redistributed to the Cigarette Restitution Fund to support cancer research.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: General fund revenues could decrease by $3.3 million in FY 2009 due to altering moist snuff tobacco tax rates and redistributing these revenues to CRF. CRF revenues would increase by $3.5 million in FY 2009. CRF expenditures would increase by the same amount.

($ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($3.3)	($3.5)	($3.8)	($4.1)	($4.4)
SF Revenue	3.5	3.7	3.9	4.0	4.2
SF Expenditure	3.5	3.7	3.9	4.0	4.2
Net Effect	($3.3)	($3.5)	($3.8)	($4.1)	($4.4)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: OTP, including moist snuff tobacco and all cigars, are taxed at a rate equal to 15% of the wholesale price. OTP revenues accrue to the general fund. In addition, the State sales tax of 6% is imposed on the final retail price of OTP.

CRF is a special, nonlapsing fund supported by revenue from a settlement with the five major tobacco companies. Under the Master Settlement Agreement participating manufacturers agreed to compensate the states for smoking-related medical costs and conform to certain marketing restrictions. CRF monies must be used to fund • the Tobacco Use Prevention and Cessation Program; • the Cancer Prevention, Education, Screening, and Treatment Program; and • other programs that serve health-related purposes as specified in statute. For each fiscal year for which CRF appropriations are made, at least 50% of the appropriations must be for these purposes.

Background: Tobacco snuff, a fine ground tobacco, comes in cans or pouches and it can be dry or moist. Data from the U.S. Centers for Disease Control and Prevention (CDC) showed that among adults ages 18 and older in 2004, about 3% of people (6% of men and 1% of women) were current users of either chewing or tobacco snuff (spit tobacco). Rates among young people, however, are higher. According to CDC's 2005 National Youth Risk Behavior Surveillance, about 14% of male high school students and 2% of female high school students were using spit tobacco. The CDC 2004 Tobacco Survey reported that 2.9% of middle school students reported using spit tobacco at least once in the 30 days before the survey. Regardless of race, male students were more likely to use spit tobacco than female students. A more recent influence increasing the use of spit tobacco is the newly enacted smoking bans many states and localities are enforcing.

The existing OTP tax is an ad valorem tax, one that is based on the value of the good being taxed. The amount of revenue collected depends on changes in the quantity sold and value of the good. The bill proposes to impose a per unit tax on moist tobacco snuff, one that is dependent only on the quantity sold. As a result, moist tobacco snuff products would be taxed without regard to their price. In addition to any change in the total amount of tax collected, the incidence of the tax would shift in relative terms from higher-priced goods to lower-priced goods. The moist snuff market is a competitive market generally composed of premium brands, value brands, and discount brands. In addition, several companies have recently expanded marketing and sales of Snus – spitless teabag-like pouches that a user sticks between the upper lip and gum. These products are designed to make using moist snuff tobacco more socially acceptable and have a total product weight substantially less than most moist snuff tobacco products.

Of the states that impose an OTP tax (Pennsylvania does not), 11 impose the tax on the basis of weight while the other 39 impose an ad valorem tax as illustrated in **Appendix 1**. In the last two years, multiple states have switched from an ad valorem tax to an excise tax. Of the surrounding states, New Jersey and Delaware tax moist snuff tobacco on a per unit basis. In addition, the federal government imposes a tax of 4 cents per ounce of moist snuff. Cigarettes in Maryland are taxed on both a per unit basis (excise tax of $2.00 per pack) and ad valorem (6% sales tax).

The OTP tax totaled $9.1 million in fiscal 2007. Of the monthly wholesaler reports filed with the Comptroller's Office, approximately 56% of taxes were generated from cigars, 32% from snuff, 10% from chewing tobacco, and less than 4% from pipe and other tobacco.

State Revenues: The bill alters the tax rate for moist snuff tobacco and deposits these revenues into CRF instead of the general fund beginning July 1, 2008. As a result, net general fund revenues would decrease by $3.3 million in fiscal 2009. CRF revenues would increase $3.5 million in fiscal 2009. The bill would have a minimal impact on TTF revenues.

This estimate is based on the following facts and assumptions:

- the total value of OTP sold in fiscal 2009 is estimated at $64.7 million;
- two-thirds of the OTP tax is collected from moist snuff tobacco;
- each can of moist snuff tobacco sold weighs 1.17 ounces;
- the Board of Revenue Estimates estimates that the OTP tax will grow by 7.3% annually from fiscal 2009 to 2013; and
- prices increase by 2.5% annually.

Legislative Services advises that the average retail price is estimated and not based on actual Maryland price data. To the extent that the average retail price is currently higher than estimated, revenue gains would be less than estimated or possibly negative. It is estimated that, in the long-run, switching to a per unit tax would lead to a decrease in revenues collected from moist snuff tobacco relative to current law.

Exhibit 1 shows the impact of the bill in fiscal 2009 through 2013.

Exhibit 1
Impact of OTP Tax Increases and Redistribution
Fiscal 2009-2013

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
General Fund:					
MST Tax	($3,302,100)	($3,543,100)	($3,801,800)	($4,079,300)	($4,377,100)
Sales Tax	5,800	(4,900)	(17,400)	(31,900)	(46,800)
Net Impact GF	**($3,296,300)**	**($3,548,000)**	**($3,819,200)**	**($4,111,200)**	**($4,423,900)**
Special Funds:					
CRF	$3,535,400	$3,696,800	$3,862,400	$4,031,300	$4,238,800
Net Impact	**$239,100**	**$148,800**	**$43,200**	**($79,900)**	**($185,100)**

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Federal Trade Commission, Comptroller's Office, Department of Legislative Services

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Appendix 1
Moist Snuff Tobacco Tax Rates

Per Unit States

State	Tax Per Ounce
Alabama	$0.01-$0.12
Arizona	$0.2225
Connecticut	$0.40
Delaware	**$0.56**
Iowa	$1.19
Montana	$0.85
New Jersey	**$0.75**
North Dakota	$0.60
Rhode Island	$1.00
Vermont	$1.49
Wisconsin	$1.31

Ad Valorem States

State	Tax Rate
Alaska	75% wholesale
Arkansas	32% Mfg.
California	46.76% wholesale
Colorado	40% Mfg.
District of Columbia	**12% Retail**
Florida	25% wholesale
Georgia	10% wholesale
Hawaii	40% wholesale
Idaho	40% wholesale
Illinois	18% wholesale
Indiana	18% wholesale
Kansas	10% Mfg.
Kentucky	7.5% wholesale
Louisiana	20% Mfg.
Maine	78% wholesale
Maryland	15% wholesale
Massachusetts	90% wholesale
Michigan	32% wholesale
Minnesota	70% wholesale
Mississippi	15% Mfg.
Missouri	10% Mfg.
Nebraska	20% wholesale
Nevada	30% wholesale
New Hampshire	19% wholesale
New Mexico	25% Mfg.
New York	37% wholesale
North Carolina	10% wholesale
Ohio	17% wholesale
Oklahoma	60% Mfg.
Oregon	65% wholesale
South Carolina	5% Mfg.
South Dakota	35% wholesale
Tennessee	6.6% wholesale
Texas	40% Mfg.
Utah	35% Mfg.
Virginia	10% Mfg.
Washington	75% taxable sales price
West Virginia	**7% wholesale**
Wyoming	20% wholesale