HB 1237

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1237 (Delegate Hixson, *et al.*)
Economic Matters and Ways and Means

Moist Snuff - Taxation and Regulation

This bill alters the existing State tax on moist snuff tobacco from 15% of its wholesale price to $0.75 per ounce. Moist snuff tobacco tax revenue is redistributed to the Cigarette Restitution Fund (CRF) to support cancer research. The bill also extends in a similar manner to moist snuff tobacco existing product marketing regulations on cigarettes agreed under the Master Settlement Agreement. The Comptroller must adopt regulations to implement a plan for removal within 150 days of all outdoor advertising relating to moist snuff tobacco as specified in the bill.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: General fund revenues decrease by $3.5 million in FY 2010 due to altering moist snuff tobacco tax rates and redistributing these revenues to CRF. CRF revenues increase by $5.4 million in FY 2010. CRF expenditures increase by the same amount.

($ in millions)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	($3.5)	($3.7)	($4.0)	($4.3)	($4.6)
SF Revenue	$5.4	$5.7	$5.9	$6.2	$6.5
SF Expenditure	$5.4	$5.7	$5.9	$6.2	$6.5
Net Effect	($3.5)	($3.7)	($4.0)	($4.3)	($4.6)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Other Tobacco Products (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 (1) the Tobacco Use Prevention and Cessation Program; (2) the Cancer Prevention, Education, Screening, and Treatment Program; and (3) 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 snuff tobacco, one that is dependent only on the quantity sold. As a result, moist snuff tobacco 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 tobacco 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. Cigarettes in Maryland are taxed on both a per unit basis (excise tax of $2.00 per pack) and *ad valorem* (6% sales tax).

Recent federal legislation reauthorizing the Children's Health Insurance Program increases federal tobacco taxes effective March 31, 2009. The federal tax of 4 cents per ounce of moist snuff tobacco increases to 11.3 cents per ounce.

The OTP tax totaled $9.7 million in fiscal 2008. Of the monthly wholesaler reports filed with the Comptroller's Office, approximately 58% of taxes were generated from cigars, 30% from moist snuff tobacco, and 12% from chewing tobacco, 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, 2009. As a result, net general fund revenues will decrease by $3.5 million in fiscal 2010. CRF revenues will increase by $5.4 million in fiscal 2010. The bill will also have a minimal impact on Transportation Trust Fund revenues.

This estimate is based on the following facts and assumptions:

- the total wholesale value of OTP sold in fiscal 2010 is estimated at $74.7 million;
- 30% 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 projects that the OTP tax will grow by 7.3% annually from fiscal 2010 to 2014; 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 will be less than estimated. In addition, moist snuff tobacco manufacturers may alter the pricing of their products in response to the federal tax increase.

Exhibit 1 shows the impact of the bill in fiscal 2010 through 2014.

Exhibit 1
Impact of OTP Tax Increases and Redistribution
Fiscal 2010-2014

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
General Fund:					
MST Tax	($3,363,600)	($3,609,200)	($3,872,800)	($4,155,600)	($4,459,000)
Sales Tax	(92,800)	(103,900)	(123,700)	(145,600)	(169,700)
Net Impact GF	**(3,456,400)**	**(3,713,100)**	**(3,996,500)**	**(4,301,200)**	**(4,628,700)**
Special Funds:					
CRF	5,403,900	5,663,300	5,935,200	6,220,200	6,518,800
Net Impact	**$1,947,500**	**$1,950,200**	**$1,938,700**	**$1,919,000**	**$1,890,100**

Additional Information

Prior Introductions: SB 383 of 2008 received a favorable with amendments report from the Senate Budget and Taxation Committee, passed the Senate, and received a favorable with amendments report from the House Ways and Means Committee but did not pass the House.

Cross File: SB 825 (Senator Currie, *et al.*) - Budget and Taxation.

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

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Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510