

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 139 (Delegate Hixson, *et al.*)
 Ways and Means

Tobacco Tax - Premium Cigars - Rate

This bill decreases, from 15% to 7.5%, the other tobacco product (OTP) tax imposed on the wholesale price of premium cigars.

The bill takes effect July 1, 2016, and terminates June 30, 2021.

Fiscal Summary

State Effect: General fund revenues decrease by \$1.2 million in FY 2017 due to a decrease in the OTP tax imposed on premium cigars. Future year estimates reflect projected increases in premium cigar sales. General fund expenditures increase by \$33,000 in FY 2017 and by \$34,000 in FY 2021 due to notification costs at the Comptroller’s Office.

(\$ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	(\$1.2)	(\$1.2)	(\$1.3)	(\$1.3)	(\$1.4)
GF Expenditure	\$0.0	\$0	\$0	\$0	\$0.0
Net Effect	(\$1.2)	(\$1.2)	(\$1.3)	(\$1.3)	(\$1.4)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law/Background: Chapter 121 of 1999 imposed a 15% tax on the wholesale price of OTPs such as cigars and smokeless tobacco. Chapter 2 of the 2012 first special session increased the OTP tax rate from 15% to 30% of the wholesale price for all products

except cigars, effective July 1, 2012. The tax rate for cigars that are classified as premium cigars remained at 15% of the wholesale price; all other cigars are taxed at 70% of the wholesale price. OTP tax revenues accrue to the general fund. In addition, the State sales tax rate of 6% is imposed on the final retail price of OTP.

Under the Tax-General Article a premium cigar is defined as a cigar that (1) has a hand-rolled wrapper made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture or flavor or (2) is designated as a premium cigar by regulation by the Comptroller.

COMAR 03.02.02.09 further specifies that a premium cigar includes cigars that are made from 100% whole tobacco leaves and include no tips, filters, or nontobacco mouthpiece.

In fiscal 2015, a total of \$2.1 million in OTP taxes were collected from premium cigars and \$21.6 million from all other cigars. **Exhibit 1** shows the total wholesale value of OTP sold in fiscal 2015 and OTP tax revenues generated from each product.

Exhibit 1
OTP Wholesale Value and Taxes Imposed
Fiscal 2015
(\$ in Millions)

<u>OTP</u>	<u>Wholesale Value</u>	<u>Total Tax</u>
Premium Cigars	\$13.8	\$2.1
All Other Cigars	30.8	21.6
Chewing Tobacco	4.5	1.4
Moist Snuff	23.1	6.9
Pipe Tobacco	1.5	0.4
Other	2.4	0.7
Total	\$76.1	\$33.1

Source: Comptroller's Office

Exhibit 2 shows the OTP tax rates imposed in Maryland and surrounding states as of January 1, 2015, and if cigars are taxed at a different rate.

Exhibit 2
OTP and Cigar Tax Rates in Surrounding States

<u>State</u>	<u>OTP Tax Rate</u>	<u>Cigar Tax Rate Limitations</u>
Delaware	15%	None
District of Columbia	67%	Imposed only on retail price <\$2.00 ¹
Maryland	30%	15% rate for premium cigars ²
Pennsylvania	None	None ³
Virginia	10% ⁴	None
West Virginia	7%	None

¹Little cigars, as defined in statute, are taxed as cigarettes. Premium cigars are subject to a general sales tax of 5.75%.

²All other cigars taxed at 70% rate.

³Little cigars, as defined in statute, are taxed as cigarettes.

⁴Applied to manufacturing price.

Source: Campaign for Tobacco-Free Kids; District of Columbia Office of Tax and Revenue; Federation of Tax Administrators

State Revenues: The bill decreases to 7.5% the OTP tax imposed on premium cigars in fiscal 2017 through 2021. As a result, general fund revenues decrease by \$1.2 million in fiscal 2017. Future revenue losses increase by about 4% annually and total \$1.4 million in fiscal 2021. Any revenue impact from the sales tax imposed on premium cigars is expected to be minimal.

State Expenditures: The Comptroller's Office will incur expenditures to implement the change in the OTP tax rate for notification costs relating to mailing and postage. As a result, general fund expenditures may increase by \$33,000 in fiscal 2017 and by \$34,000 in fiscal 2021.

Small Business Impact: Premium cigar retailers and wholesalers who are small businesses may be positively impacted from the proposed tax rate reduction. The impact depends on the extent to which the tax decrease increases sales in these products and the extent to which any savings from the tax decrease is passed along to customers.

Additional Information

Prior Introductions: None.

Cross File: SB 320 (Senators Astle and DeGrange) – Budget and Taxation.

Information Source(s): Campaign for Tobacco-Free Kids, Comptroller's Office, District of Columbia Office of Tax and Revenue, Federation of Tax Administrators, Department of Legislative Services

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