

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** Harry R. Purkey

3. **Committee** House Finance

4. **Title** Cigarette Tax; Moist Snuff

2. **Bill Number** HB 1764

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would impose the tobacco products tax on moist snuff at the rate of \$0.25 per ounce based on net weight. Moist snuff would be defined as any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the mouth.

Under current law, the tobacco products tax is imposed on all tobacco products, including moist snuff, at the rate of 10% of the manufacturer's sales price.

The effective date on this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2006-07	\$50,580	0	GF

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2006-07	\$0	Health Care Fund
2007-08	\$470,000	Health Care Fund
2008-09	\$780,000	Health Care Fund
2009-10	\$610,000	Health Care Fund
2010-11	\$430,000	Health Care Fund
2011-12	\$230,000	Health Care Fund
2012-13	\$30,000	Health Care Fund

7. **Budget amendment necessary:** Yes.

ITEM(S): 265 and 269, Department of Taxation
Page 1, Revenue Estimates

8. Fiscal implications:

In order to allow time for TAX to make the required systems changes, this bill is assumed to be effective January 1, 2008.

Administrative Costs

It is estimated that TAX would incur administrative expenses of \$50,580 in Fiscal Year 2007 to make the changes to its forms and systems to implement this bill.

Revenue Impact

It is estimated that this bill would increase revenues to the Virginia Health Care Fund by \$470,000 in Fiscal Year 2008, \$780,000 in Fiscal Year 2009, \$610,000 in Fiscal Year 2010, \$430,000 in Fiscal Year 2011, \$230,000 in Fiscal Year 2012, and \$30,000 in Fiscal Year 2013.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to provide TAX with sufficient time to make the changes to its forms and systems necessary to implement this bill, the following technical amendment is suggested:

Page 1, Line 55, After Constitution.

Insert: 2. That the provisions of this act shall become effective January 1, 2008.

11. Other comments:

Virginia Tobacco Products ("OTP") Tax

Under current law, a tobacco products tax is imposed on cigars, smokeless tobacco, and pipe tobacco. Cigarettes are not subject to the tax on tobacco products. Tobacco products include the following:

- Cigars -- any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette).
- Smokeless tobacco --
 - Snuff -- any finely cut, ground, or powdered tobacco not intended to be smoked.
 - Chewing tobacco -- any leaf tobacco not intended to be smoked.

- Pipe tobacco -- any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

The tax is imposed at the rate of 10% on the "manufacturers sales price," which is defined as the actual price for which a manufacturer, manufacturers' representative, or any other person sells tobacco products to an unaffiliated distributor. The tax is imposed on the first "distributor" who possesses the taxable product in Virginia. Out-of-state distributors are allowed, but not be required to obtain a license. A "distributor" is:

- Any person engaged in the business of selling tobacco products within Virginia who brings, or causes to be brought, tobacco products into Virginia for sale.
- Any person who manufactures or stores tobacco products in Virginia for sale in Virginia.
- Any person engaged in the business of selling tobacco products without the Commonwealth who ships or transports tobacco products to any person in the business of selling tobacco products in the Commonwealth.
- Any retail dealer in possession of untaxed tobacco products in the Commonwealth.

The tobacco products tax was first imposed on March 1, 2005. The provisions of the tax were substantially changed beginning January 1, 2006 by 2005 House Bill 1885 (Chapter 71, Acts of Assembly, 2005 Regular Session). The most significant change made by House Bill 1885 was to impose the tobacco products tax on the actual price paid by distributors of tobacco products rather than the selling price charged by wholesalers. House Bill 1885 also required distributors to obtain a license from TAX, pay a licensing fee and undergo a background check prior to selling tobacco products. Additionally, House Bill 1885 changed the due date of the tobacco products tax return from the tenth to the twentieth of each month, provided detailed recordkeeping and audit requirements for the tax, and authorized TAX to seize tobacco products from persons who fail to pay the tax and destroy the products.

Weight Based Taxation

As of January 1, 2006, 43 states taxed moist snuff tobacco based on price and 6 states taxed moist snuff based on weight. Alabama, Arizona and Kentucky have always taxed moist snuff based on weight. Connecticut, North Dakota, and Montana previously taxed moist snuff based on price, but have all switched to taxing moist snuff based on weight during the last decade. During calendar year 2006, Vermont, Rhode Island, and New Jersey all changed to weight based taxation of moist snuff.

Proposal

This bill would impose the tobacco products tax on moist snuff at the rate of \$0.25 per ounce based on net weight. Moist snuff would be defined as any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the mouth. In

order to give TAX sufficient time to make the changes to its forms and systems, TAX has proposed an amendment that would provide an effective date of January 1, 2008.

cc : Secretary of Finance

Date: 1/23/2007 AM

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