

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** John C. Watkins

3. **Committee** House Finance

4. **Title** Tobacco Products Tax; Moist Snuff

2. **Bill Number** SB 478

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would impose the tobacco products tax on moist snuff at the rate of \$0.18 per ounce based on net weight. Moist snuff would be defined as any finely cut, ground, or powdered tobacco that is not intended to be smoked but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

The bill would also impose the tobacco products tax on loose leaf tobacco at \$0.21 for each unit that is less than 4 ounces, \$0.40 for each unit that is at least 4 ounces but not more than 8 ounces, and \$0.70 for each unit more than 8 ounces. Other units would be taxed by net weight at \$0.21 per unit plus \$0.21 for each 4 ounce increment that the unit exceeds 16 ounces. Loose leaf tobacco would be defined as any leaf tobacco that is not intended to be smoked, but would not include moist snuff.

The bill would also require manufacturers shipping tobacco products into the Commonwealth to file a monthly report with TAX of the names and addresses of the persons receiving the shipments, and the type of product, brand, and quantities of tobacco products that were shipped. The Tax Commissioner may authorize a manufacturer to file such reports less frequently than monthly.

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

This bill would be effective on January 1, 2011.

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

6b. Revenue Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|---------------------------|-----------------------|--------------------|
| 2010-11 | \$0.24 million | HCF |
| 2011-12 | \$0.54 million | HCF |
| 2002-13 | \$0.27 million | HCF |
| 2003-14 | \$0.17 million | HCF |
| 2014-15 | \$0.15 million | HCF |
| 2015-16 | \$0.14 million | HCF |

7. Budget amendment necessary: Yes.

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297, Medicaid Program Services, Department of Medical Assistance Services

8. Fiscal implications:

Administrative Costs

TAX considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

Overall, compared to current law, imposition of the Tobacco Products Tax on moist snuff and loose leaf tobacco based on net weight is estimated to increase revenues by \$0.24 million in Fiscal Year 2011, \$0.54 million in Fiscal Year 2012, \$0.27 million in Fiscal Year 2013, \$0.17 million in Fiscal Year 2014, \$0.15 million in Fiscal Year 2015, and \$0.14 million in Fiscal Year 2016 to the Health Care Fund. The change in tax methods is estimated to have a minimal effect on sales tax revenues.

Imposition of the Tobacco Products Tax on moist snuff at the rate of \$0.18 per ounce is estimated to increase revenues by \$0.27 million in Fiscal Year 2011, \$0.63 million in Fiscal Year 2012, \$0.38 million in Fiscal Year 2013, \$0.29 million in Fiscal Year 2014, \$0.29 million in Fiscal Year 2015, and \$0.29 million in Fiscal Year 2016 to the Health Care Fund.

Imposition of the Tobacco Products Tax on loose leaf tobacco at the rates of \$0.21 per unit that has a net weight of less than 4 ounces, \$0.40 per unit that has a net weight of at least 4 ounces and not more than 8 ounces, and \$0.70 per unit that has a net weight of more than 8 ounces is estimated to decrease revenues by \$0.03 million in Fiscal Year 2011, \$0.09 million in Fiscal Year 2012, \$0.11 million in Fiscal Year 2013, \$0.13 million in Fiscal Year 2014, \$0.14 million in Fiscal Year 2015, and \$0.15 million in Fiscal Year 2016 to the Health Care Fund. This estimate assumes that each loose leaf tobacco single-unit has a net weight of 4 ounces, each loose leaf tobacco half pound-unit has a net weight of 8 ounces, each loose leaf tobacco pound-unit has a net weight of 16 ounces, and that there are no other units of loose leaf tobacco sold in the Commonwealth. To the extent that units of loose leaf tobacco are sold in the Commonwealth with different net weights, the revenue impact of this bill to the Health Care Fund would change.

9. Specific agency or political subdivisions affected:

Department of Taxation

Health Care Fund

Department of Medical Assistance Services

10. Technical amendment necessary: No.

11. Other comments:

Tobacco Products 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 “manufacturer’s 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. Retail and wholesale dealers are allowed a discount of 2% of the Tobacco Products Tax due.

As of January 1, 2010, 31 states taxed moist snuff tobacco based on price and 18 states taxed moist snuff using some form of weight based taxation.

Under current law, all revenues from the Tobacco Products Tax are deposited into the Health Care Fund. The federal government matches state funds spent on Medicaid, based on a state’s federal medical assistance percentage (FMAP) match rate. The FMAP determined for each state has a statutory minimum of 50 percent and maximum of 83 percent; although Medicaid expenditures for some selected services and supports are matched at a higher rate for all states.

Proposal

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taxed by net weight at \$0.21 per unit plus \$0.21 for each 4 ounce increment that the unit exceeds 16 ounces. Loose leaf tobacco would be defined as any leaf tobacco that is not intended to be smoked, but would not include moist snuff.

The bill would also require manufacturers shipping tobacco products into the Commonwealth to file a monthly report with TAX of the names and addresses of the persons receiving the shipments, and the type of product, brand, and quantities of tobacco products that were shipped. The Tax Commissioner may authorize a manufacturer to file such reports less frequently than monthly.

This bill would be effective on January 1, 2011.

Similar Legislation

House Bill 626 would impose the tobacco products tax on moist snuff at the rate of \$0.17 per ounce based on net weight.

House Bill 820 and **Senate Bill 476** would reduce and simplify the penalties related to unstamped cigarettes.

House Bill 874 would change the time for affixing tax stamps to cigarette packs from one business day after receipt to prior to shipping to other wholesale dealers or retail outlets.

cc : Secretary of Finance

Date: 2/16/2010 AM
DLAS File Name: SB478FS1161