

Tobacco Administration Changes

Revenue Laws Study Committee

October 3, 2012

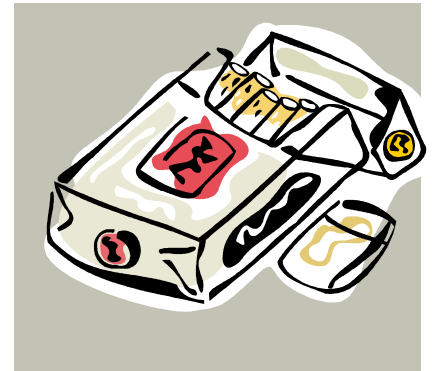
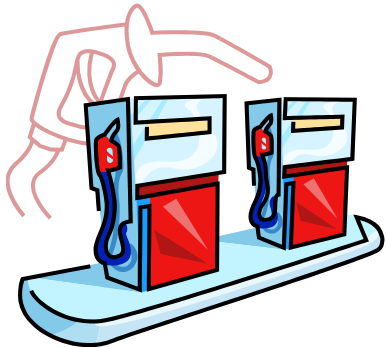
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Revenue Reorganization

Excise Taxes consolidated into one Division:

- Tobacco
- Alcohol
- Motor Fuels
- Privilege Tax



Taxation of Tobacco

Cigarettes – 45¢ per pack

- 7th lowest state tax
- Last increased in 2009 (35¢ per pack)

OTP – 12.8% of product price

- Cigars, pipe tobacco, chewing tobacco, snuff
- Last increase in 2009 (10% of product price)

Tobacco Administration

License – Each distributor must be licensed. A distributor is the first entity handling the product in the State.

Bond – A bond may be required in an amount determined by the Secretary of Revenue to protect the State.

Discount – Each distributor receives a discount of 2% for filing a timely return.

Administrative Changes

Obtaining a license.

- Clarifies the information each applicant must provide: name address, federal ID #, any other information requested by the Secretary.
- Clarifies that business entities must be authorized to transact business in the State.

Administrative Changes

When a license may be denied.

- **Current:** Applicant willfully withholds information, submits false information, applied for license in bad faith.
- **New:**
 - Had a tobacco products license issued cancelled by the Secretary for cause.
 - Had a tobacco products license or registration issued by another state cancelled for cause.
 - Been convicted of fraud, misrepresentation, or any other offense that indicates the applicant may not comply with the statutes governing tobacco taxation.
 - Failed to file a return, or remit payment for a tax debt to the State.

Administrative Changes

Cancellation of license.

- **Current:** After a hearing, the Secretary may cancel for (1) holding or selling cigarettes meant for export, or (2) any violation of Article 2A.
- **New:** Clarifies the violations of Article 2A.
 - Failing to obtain a license, file a return, or pay a tax.
 - Making a false statement in an application or return required under the Article, or failing to disclose the correct amount of tobacco product taxable in this State.
 - Failing to keep records as required, or refusing to allow the Secretary or a representative of the Secretary to examine the person's books, accounts, and records concerning tobacco product.
 - Failing to file a bond as required by the Article.

Administrative Changes

Two new requirements for Department.

(1) The Department must include all of the following on each license:

- Legal name of business and name under which business is conducted (DBA).
- Physical address.
- License number.

(2) The Department must maintain list of license holders.

Bond Changes - Not in draft.

- Current bond requirements for tobacco and OTP.
 - Current: Secretary may require a bond based on anticipated tax liability. No minimum or maximum bond.
 - Proposed:
 - All license holders must obtain bond.
 - Amount set at two times monthly tax liability.
 - Minimum \$2,000. Maximum \$500,000.

Policy questions for Committee:

1. Should the administrative changes be adopted?
2. What, if any, changes should be made in the bond requirements?
 - a) Should all license holders be required to obtain a bond or irrevocable letter of credit?
 - b) Should the amount be tied to tax liability.
 - c) Should there be a minimum and maximum.