

Fiscal: No Fiscal Impact
Revenue: Has minimal revenue impact

Action Date:

Action:

Meeting Dates: 02/11

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WHAT THE MEASURE DOES:

Removes expiration of cigarette tax stamps following tax increases in January 2016 and January 2018. Limits distributor purchases of cigarette tax stamps in two months prior to each scheduled tax increase to no more than 150 percent of six-month average beginning May 1, 2015 through October 31, 2015 for tax increase scheduled in 2016 and six-month average beginning May 1, 2017 through October 31, 2017 for tax increase scheduled in 2018. Directs department of Revenue to determine six-month average purchase of tax stamps for each distributor.

ISSUES DISCUSSED:

- Floor tax applications generally
- Possibility of de minimis floor tax

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

Three cigarette tax increases were passed as part of HB 3601 during the 2013 1st special session. The first tax increase was in the amount of \$0.13 per pack (assuming pack consists of 20 cigarettes) and took effect January 1, 2014. Two subsequent tax increases, both in the amount of \$0.01 per pack, are scheduled to take effect on January 1, 2016 and January 1, 2018.

The tax increase that took effect on January 1, 2014 included a provision levying a cigarette floor tax. Generally, the purpose of a floor tax is to impose the difference between tax rates, in this case \$0.13 per pack, on all inventory of both retailers and distributors that have an affixed tax stamp. Distributor inventory of stamps not affixed also are subject to the floor tax. The floor tax ensures that distributors and retailers cannot avoid the tax increase on current inventory.

Perhaps in recognition of the administrative burdens for distributors, retailers, and the Department of Revenue in complying with and administering a floor tax, HB 3601 (2013) did not include floor tax language relating to the \$0.01 increases effective in 2016 and 2018. Rather, language was included requiring cigarette stamps to expire January 31, 2016 and January 31, 2018. After the January 31 expiration dates, any pack of cigarettes with an expired stamp affixed will be considered contraband and subject to seizure with the possibility of civil or criminal penalties.

Under current law, in anticipation of the cigarette tax stamp expirations in 2016 and 2018, it is expected that distributors and retailers will have to manage their inventories in such a way as to minimize inventory levels leading up to the two scheduled tax increases followed by a rapid replenishment of inventory following the January 1 tax increase effective dates.