



ARIZONA STATE SENATE
Forty-ninth Legislature, First Regular Session

PROGRAM PRESENTATION
Tobacco Tax Enforcement

Background

Arizona law prohibits a licensed distributor of tobacco, cigarettes or cigars from selling or offering for sale any product unless the appropriate luxury tax has been paid. Each pack of cigarettes must contain an official luxury stamp affixed to the pack, thus serving as evidence the tax has been paid. Further, the distributor may not sell cigarettes with affixed tax stamps unless that luxury tax has actually been paid.

Title 42, Chapter 3 of the Arizona Revised Statutes (A.R.S.) prescribes the laws by which the Department of Revenue (DOR) may levy a luxury tax. Currently in Arizona, alcohol and tobacco products are considered luxury items and are taxed at specific rates. Article 5 of this chapter provides the laws specific to cigarettes, cigars and other tobacco products. The tax rate varies by product. Cigarettes are the largest producer of revenue and have a tax rate set at \$2.00 per pack of 20.

Under A.R.S. § 44-7111, the Attorney General is required to compile and publish a list of all tobacco product manufacturers that have provided current and accurate proof of certification and the brand families that are listed in the certifications. This list is published on the Attorney General's website and serves as a directory of cigarettes approved for stamping and sale in Arizona.

A.R.S. § 42-1125 imposes the following penalties for cigarette manufacturers, importers or distributors who knowingly and intentionally sell or possess cigarettes with false manufacturing labels or counterfeit tax stamps:

- 1) For the first violation involving 2,000 or more cigarettes: \$1,000.
- 2) For subsequent violations involving 2,000 or more cigarettes: \$5,000.

A.R.S. § 42-1127 makes it a class 5 felony for any distributor to sell or possess, with the criminal intent to evade any tax requirements, more than 2,000 cigarettes with false manufacturing labels or counterfeit tax stamps. The person shall pay a penalty of:

- 1) \$2,000 or three times the retail value of the cigarettes, whichever is greater, for a first violation involving 2,000 or more cigarettes.
- 2) \$50,000 or three times the retail value of the cigarettes, whichever is greater, for subsequent violations involving 2,000 or more cigarettes.

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Cigarette Tax Distribution

The \$2.00 cigarette tax is distributed as follows:

- 1) \$1.00 of the cigarette tax is dedicated to health care by providing:
 - a) \$.40 to the Tobacco Tax and Health Care Fund.
 - b) \$.60 to the Tobacco Products Tax Fund.
- 2) \$.80 of the cigarette tax is dedicated to childhood development and health, which is deposited into the Early Childhood Development Health Fund.
- 3) \$.16 of the \$2.00 cigarette tax is deposited into the state General Fund, \$.02 is deposited into the Corrections Fund and the remaining \$.02 is deposited into the Smoke-Free Arizona Fund.

Fiscal Information

For FY 2007-2008, the total tax collected from both tobacco and cigarette products was \$407.4 million, of which \$32.5 million was deposited into the state General Fund.

Attachments

- 1) Cigarette and Tobacco Tax Collections and Distribution [source: *2008 Tax Handbook*, published by JLBC].
- 2) A.R.S § 42-3202 and A.R.S. § 42-3202.03, relating to cigarette tax stamps.

Prepared by Senate Research

January 27, 2009

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