

BILL SUMMARY
2nd Session of the 57th Legislature

Bill No.:	HB 3532
Version:	CS
Request Number:	11437
Author:	Rep. Dustin Roberts
Date:	3/2/2020
Impact:	Tax Commission:

**Unknown Increase in
Tobacco Products Tax Revenue**

Research Analysis

The committee substitute for HB3532 amends numerous definitions as it relates to the levy and payment of excise taxes on tobacco products and cleans up statutory language to clarify that it is the wholesaler who is responsible for the payment of excise tax through monthly tobacco products tax reporting procedures established by the Oklahoma Tax Commission (OTC).

The measure also increases the monetary cap of numerous fines, fees and penalties administered by the commission and removes the requirement that retailers or consumer purchasing tobacco products in drop shipments file monthly reports the OTC.

Lastly, the measure requires retailers to only buy and sell tobacco products from an OTC-listed Oklahoma-licensed tobacco wholesaler or face a penalty of \$1000 or five times the unpaid taxes on such products. A second offense is punishable by revocation of the retailer's license.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

Section 4 provides the procedures for which tobacco products excise tax is to be collected, reported and remitted. The tobacco products excise tax shall be remitted monthly only by the wholesaler no later than the twentieth of the calendar month immediately following the calendar month in which the tobacco products were first received, delivered, possessed, used or in any manner dealt with in the state. In addition, the language provides that if the reporting and payment due date falls on a Saturday, Sunday, or holiday recognized by the executive department of the state or a date when the Federal Reserve Banks are closed, then the due date shall be the next official working day, and any report or payment not received after the due date shall be delinquent.

The Tax Commission pursuant to § 403.1 of the Tobacco Act abolished the payment of excise tax through the practice of purchasing and affixing stamps to tobacco products. Instead the payment of the required excise tax is paid through monthly tobacco product tax reports [OTC TOB 50001-nontribal sales & TOB 50003 for tribal sales]² generally by licensed wholesalers, first possessing, selling, using, distributing, exchanging, bartering, or in any manner dealing with such tobacco products in this State. OAC § 710:70-5-2. Tobacco Products wholesalers are allowed a 2% discount for timely filed reports.

Oklahoma levies a tax on the tobacco products listed below at the following rates:

Little Cigars³: \$2.03 per pack of 20⁴

(Class C) cigars⁵: \$0.12 each.

Smoking Tobacco - Eighty percent (80%) of the Factory List Price.⁶

Chewing Tobacco⁷ - Sixty percent (60%) of the Factory List Price.

An unknown increase in tobacco products excise tax is estimated for FY 21.

² A deduction recap schedule is also required to be filed to document sales exempted from tax. [TOB 50002]

³ Cigars weighing not more than three (3) pounds per thousand.

⁴ The tax is equal to the tax that is reported and paid on cigarettes.

⁵ Cigars weighing more than three (3) pounds per thousand.

⁶ "Factory list price" means the price the tobacco products manufacturer sells the product to a wholesaler before allowance of any trade or other discounts.

⁷ Includes moist tobacco, loose leaf chewing tobacco and snuff.

Prepared By: Mark Tygret

Other Considerations

None.