

BILL SUMMARY
2nd Session of the 57th Legislature

Bill No.:	HB 3532
Version:	INT
Request Number:	9789
Author:	Rep. Dustin Roberts
Date:	2/17/2020
Impact:	Tax Commission:
	Unknown Increase in Tobacco
	Products Collections

Research Analysis

HB3532, as introduced, provides that the levy and payment of excise taxes on tobacco products are to be determined according to the administrative rules of the Oklahoma Tax Commission (OTC). Currently, the procedure for levying the excise tax are outlined in state statute and require all packages or containers of tobacco products to be labeled with a tobacco tax stamp to indicate that excise taxes have been paid.

The measure also increases the cap or amount of numerous fines, fees and penalties administered by the OTC and removes the requirement that retailers or consumer purchasing tobacco products via drop shipments file monthly reports the OTC. Lastly, the measure requires tobacco wholesalers and retailers to only buy and sell products to Oklahoma licensees. If a wholesaler or retailer purchases tobacco product from an unlicensed entity, the penalty is \$1000 for the first offense and \$2000 for all subsequent offenses.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

The measure provides amendments to the Tobacco Products Tax Act by striking definitions, tobacco product stamping requirements, and other terminology inconsistent with the current procedures for which tobacco products excise tax is collected. It also adds language which supports current tax collection practices. It also increases fines for selling untaxed products, operating without the required license and for knowingly shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband tobacco products. Further, the proposal provides that retailers must purchase tobacco products from wholesalers licensed as such in Oklahoma and that no wholesaler may sell tobacco products to any entity not holding a current Oklahoma retailer tobacco products license. Also, the measure proposes repeal of statutory provisions relating tobacco product stamps.

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]¹ 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 Cigars²: \$2.03 per pack of 20³

(Class C) cigars⁴: \$0.12 each.

Smoking Tobacco - Eighty percent (80%) of the Factory List Price.⁵

Chewing Tobacco⁶ - Sixty percent (60%) of the Factory List Price.

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

¹ A deduction recap schedule is also required to be filed to document sales exempted from tax. [TOB 50002]

² Cigars weighing not more than three (3) pounds per thousand.

³ The tax is equal to the tax that is reported and paid on cigarettes.

⁴ Cigars weighing more than three (3) pounds per thousand.

⁵ "Factory list price" means the price the tobacco products manufacturer sells the product to a wholesaler before allowance of any trade or other discounts.

⁶ Includes moist tobacco, loose leaf chewing tobacco and snuff.

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Other Considerations

None.