

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 14-0763  
**Prime Sponsor(s):** Sen. Hill  
 Rep. Wright

**Date:** February 5, 2014  
**Bill Status:** Senate Health & Human Services  
**Fiscal Analyst:** Larson Silbaugh (303-866-4720)

**SHORT TITLE:** TOBACCO CREDIT FOR SALES TO OUT-OF-STATE CONSUMERS

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>	<b>(Up to \$50,000)</b>	<b>(Up to \$50,000)</b>
<i>Revenue Change</i>		
General Fund	(Up to \$25,000)	(Up to \$25,000)
Cash Funds	(Up to \$25,000)	(Up to \$25,000)
<i>State Transfers</i>		
Cash Funds	(Up to \$25,000)	(Up to \$25,000)
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None		

\* This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.

\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

**Summary of Legislation**

This bill creates a credit against tobacco excise tax equal to Colorado excise taxes paid on tobacco products other than cigarettes sold by a distributor to an out-of-state consumer.

**Background**

An excise tax equal to 40 percent of the manufacturers list price of tobacco products is due when a distributor buys tobacco products from a manufacturer. Examples of these include cigars, chewing tobacco, and loose tobacco used for roll-your-own cigarettes. When a distributor sells tobacco products to an out-of-state *retailer*, they receive a credit for Colorado excise taxes. There is not a similar provision when a distributor sells tobacco products directly to an out-of-state *consumer*.

Half of the tobacco products tax revenue is deposited in the General Fund and the other half is transferred to the tobacco tax cash fund. Pursuant to the state constitution<sup>1</sup>, money in the tobacco tax cash fund is appropriated in the following manner:

- 46 percent to the Department of Healthcare and Policy Financing for the children's basic health plan and Medicaid;

<sup>1</sup> Colo. Const. art. X §21(5).

- 19 percent to the Department of Healthcare and Policy Financing for comprehensive primary care;
- 16 percent to the Department of Public Health and Environment for tobacco education programs;
- 16 percent to the Department of Public Health and Environment for cancer, cardiovascular, and pulmonary programs; and
- 3 percent to state and local governments to make up for a reduction in sales of tobacco products because of the increase in excise taxes.

**State Revenue**

This bill will reduce General Fund revenue by up to \$25,000 per year and tobacco tax cash fund revenue by up to \$25,000 per year.

**Assumptions.** There are 170 registered tobacco distributors in Colorado that paid a total of \$31.6 million in tobacco products excise taxes in FY 2012-13. Less than 1 percent of these distributors market tobacco products online to out-of-state consumers. Based on confidential taxpayer information, it is estimated that distributors that sell tobacco products to out-of-state consumers would be eligible for new excise tax credits of less than \$50,000 per fiscal year.

**State transfers.** The reduction in tobacco cash fund revenue will reduce transfers out of the fund as shown in Table 1.

<b>Department, Fund</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
HCPF, Children's Basic Health Plan and Medicaid	(Up to \$11,500)	(Up to \$11,500)
HCPF, Comprehensive Primary Care	(Up to \$4,750)	(Up to \$4,750)
CDPHE, Tobacco Education Programs	(Up to \$4,000)	(Up to \$4,000)
CDPHE, Cancer, Cardiovascular and Pulmonary Programs	(Up to \$4,000)	(Up to \$4,000)
State and Local Governments	(Up to \$750)	(Up to \$750)
<b>TOTAL</b>	<b>(Up to \$25,000)</b>	<b>(Up to \$25,000)</b>

**State Expenditures**

The policy change in this bill can be accomplished within existing resources.

**Assumptions.** This bill will require the Department of Revenue to redesign the tobacco products excise tax form and program the state's tax administration software to capture the new information on the form. These changes can be accomplished within existing resources.

**Local Government Impact**

This bill will reduce the transfer of money from the tobacco products tax fund to local governments by up to \$750 per year.

**Effective Date**

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Revenue  
Healthcare Policy and Financing