An Economic Critique of SB17-139

Under consideration this session is Senate Bill 17-139, which aims to permanently extend the tax credit for tobacco products that a distributor ships or transports to an out-of-

Lastly, the Cigar On-line Sales Equalization Act is a tax incentive, which prioritizes the interests of certain beneficiaries at the cost of others while creating exacerbated market imperfections.

The primary argument for the retention of the Cigar Onprecedent to snub state officials (Graff). Most states simply do not have the resources to track and collect the taxes from individual consumers. To truly enforce excise tax on cigars and tobacco, states “must find the staff power to calculate individual tax obligations, generate tax bills, and pursue residents who decline to pay” (Graff). Increased enforcement remains both implausible and politically unacceptable in most jurisdictions around the country.

The Colorado General Assembly should consider that administratively it makes more sense to apply excise tax to the tobacco distributor in interstate situations. Otherwise, in many cases, no tax is being paid at all. This should be rather alarming for those who believe tobacco is rightly taxed by government. In practice, the Cigar On-line Sales Equalization Act does not eliminate double taxation, but instead helps facilitate known tax evasion on cigars and other tobacco products in out-of-state transactions.

One might argue that abetting tax evasion in other states is not necessarily a problem for Colorado. In fact, the goal was to give Colorado distributors a competitive advantage in the online industry. Without having to assess the 40% excise tax themselves, online distributors in Colorado could charge a lower price knowing they would attract out-of-state buyers looking to find lower deals than what is available in their state. If out-of-state residents believe it is unlikely to be forced to pay their own state’s sales tax, this is good for Colorado distributors.

This type of thinking may be rational in the short-term. However, if other states think economically they could enact their own laws eliminating their excise tax on out-of-state sales as well. This would nega.2 (t) 0. 0..2 (hi) 0 4.2 (hi) 0 4.2 (hi) 0 4.2 (hi) 0 50 r41n55 Q qT1 0 0.24 7199 0.2 (l) 0.

put Colorado distributors in a disadvantaged situation. Consumers in Colorado likely have the same incentive to find cheaper tobacco products across state lines or on the Internet. In-state purchases are still subject to the 40% excise tax the State of Colorado assesses. If other states pass measures similar to the Cigar On-line Equalization Act, their cigar distributors are then more attractive to Colorado residents who believe they too, can avoid paying taxes.

This creates a pressing issue for Colorado that SB17-139 does not address. Colorado, like other states, is ill equipped to assess sales tax on all tobacco purchases made out-of-state or online. Stimulating the growth of the online cigar market may in the long-term come at expense of both Colorado distributors who do business in state and the State of Colorado who relies on revenue from excise tax on tobacco.

This leads to the third and final argument against SB17-139. The Cigar On-line Equalization Act is essentially a tax incentive created to attract online tobacco distributors to Colorado. The tax credit heavily favors online distributors, while ignoring in-state brick and mortar shops and local Colorado companies.

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