

**AMENDMENTS TO TOBACCO TAX**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Allen M. Christensen**

House Sponsor: Paul Ray

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Cigarette and Tobacco Tax Act.

**Highlighted Provisions:**

This bill:

- ▶ removes a provision relating to the allocation of funds that remain in the Cigarette Tax Restricted Account at the end of the fiscal year; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2010.

This bill coordinates with H.B. 196, Tobacco Tax Revisions, by providing substantive amendments.

**Utah Code Sections Affected:**

AMENDS:

**59-14-204**, as last amended by Laws of Utah 2008, Chapter 382

**Utah Code Sections Affected by Coordination Clause:**

**59-14-204**, as last amended by Laws of Utah 2008, Chapter 382

**59-14-215**, Utah Code Annotated 1953

**59-14-302**, as last amended by Laws of Utah 2008, Chapter 204



28 59-14-304, Utah Code Annotated 1953  
29 63J-1-201, as last amended by Laws of Utah 2009, Chapters 183 and 368



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section 59-14-204 is amended to read:

33 **59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**  
34 **revenues.**

35 (1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax  
36 upon the sale, use, storage, or distribution of cigarettes in the state.

37 (2) The rates of the tax levied under Subsection (1) are:

38 (a) 3.475 cents on each cigarette, for all cigarettes weighing not more than three  
39 pounds per thousand cigarettes; and

40 (b) 4.075 cents on each cigarette, for all cigarettes weighing in excess of three pounds  
41 per thousand cigarettes.

42 (3) Except as otherwise provided under this chapter, the tax levied under Subsection  
43 (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor,  
44 wholesaler, retailer, user, or consumer.

45 (4) The tax rates specified in this section shall be increased by the commission by the  
46 same amount as any future reduction in the federal excise tax on cigarettes.

47 (5) (a) There is created within the General Fund a restricted account known as the  
48 "Cigarette Tax Restricted Account."

49 (b) Beginning on July 1, 1998, \$250,000 of the revenues generated by the increase in  
50 the cigarette tax under this section enacted during the 1997 Annual General Session shall be  
51 annually deposited into the account.

52 (c) The Department of Health shall expend the funds deposited in the account under  
53 Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards  
54 children.

55 (d) The following revenue generated from the tax increase imposed under Subsection  
56 (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted  
57 Account:

58 (i) 22% of the revenue to be annually appropriated to the Department of Health for

59 tobacco prevention, reduction, cessation, and control programs;

60 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health  
61 Sciences Center for the Huntsman Cancer Institute for cancer research; and

62 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health  
63 Sciences Center for medical education at the University of Utah School of Medicine.

64 ~~[(e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the  
65 fiscal year shall be appropriated during the next fiscal year for the purposes set forth in  
66 Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into  
67 the account for each purpose.]~~

68 ~~[(f)]~~ (e) The Legislature shall give particular consideration to appropriating any  
69 revenues resulting from the change in tax rates under Subsection (2) adopted during the 2002  
70 Annual General Session and not otherwise appropriated pursuant to Subsection (5)(d) to  
71 enhance Medicaid provider reimbursement rates and medical coverage for the uninsured.

72 ~~[(g)]~~ (f) Any program or entity that receives funding under Subsection (5)(d) shall  
73 provide an annual report to the Health and Human Services Interim Committee no later than  
74 September 1 of each year. The report shall include:

- 75 (i) the amount funded;
- 76 (ii) the amount expended;
- 77 (iii) a description of the effectiveness of the program; and
- 78 (iv) if the program is a tobacco cessation program, the report required in Section  
79 51-9-203.

80 Section 2. **Effective date.**

81 This bill takes effect on July 1, 2010.

82 Section 3. **Coordinating S.B. 259 with H.B. 196 -- Substantive amendments.**

83 If this S.B. 259 and H.B. 196, Tobacco Tax Revisions, both pass, it is the intent of the  
84 Legislature that:

85 (1) Section 59-14-204 shall be amended to read as follows:

86 **"59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**  
87 **revenues.**

88 (1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax  
89 upon the sale, use, storage, or distribution of cigarettes in the state.

90 (2) The rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:

91 (a) ~~[3.475]~~ 8.5 cents on each cigarette, for all cigarettes weighing not more than three  
92 pounds per thousand cigarettes; and

93 (b) ~~[4.075]~~ 9.963 cents on each cigarette, for all cigarettes weighing in excess of three  
94 pounds per thousand cigarettes.

95 (3) Except as otherwise provided under this chapter, the tax levied under Subsection  
96 (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor,  
97 wholesaler, retailer, user, or consumer.

98 (4) The tax rates specified in this section shall be increased by the commission by the  
99 same amount as any future reduction in the federal excise tax on cigarettes.

100 (5) (a) There is created within the General Fund a restricted account known as the  
101 "Cigarette Tax Restricted Account."

102 (b) Beginning on July 1, 1998, \$250,000 of the revenues generated by the increase in  
103 the cigarette tax under this section enacted during the 1997 Annual General Session shall be  
104 annually deposited into the account.

105 (c) The Department of Health shall expend the funds deposited in the account under  
106 Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards  
107 children.

108 (d) The following revenue generated from the tax increase imposed under Subsection  
109 (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted  
110 Account:

111 (i) 22% of the revenue to be annually appropriated to the Department of Health for  
112 tobacco prevention, reduction, cessation, and control programs;

113 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health  
114 Sciences Center for the Huntsman Cancer Institute for cancer research; and

115 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health  
116 Sciences Center for medical education at the University of Utah School of Medicine.

117 ~~[(e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the~~  
118 ~~fiscal year shall be appropriated during the next fiscal year for the purposes set forth in~~  
119 ~~Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into~~  
120 ~~the account for each purpose.]~~

121           ~~[(f)]~~ (e) The Legislature shall give particular consideration to appropriating any  
 122 revenues resulting from the change in tax rates under Subsection (2) adopted during the 2002  
 123 Annual General Session and not otherwise appropriated pursuant to Subsection (5)(d) to  
 124 enhance Medicaid provider reimbursement rates and medical coverage for the uninsured.

125           ~~[(g)]~~ (f) Any program or entity that receives funding under Subsection (5)(d) shall  
 126 provide an annual report to the Health and Human Services Interim Committee no later than  
 127 September 1 of each year. The report shall include:

- 128           (i) the amount funded;
- 129           (ii) the amount expended;
- 130           (iii) a description of the effectiveness of the program; and
- 131           (iv) if the program is a tobacco cessation program, the report required in Section  
 132 51-9-203.";

133           (2) Section 59-14-215 shall be amended to read as follows:

134           **"59-14-215. Transitional inventory tax on cigarettes -- Penalties and interest for  
 135 failure to comply -- Credit or refund for outdated, unaffixed stamps.**

136           (1) In addition to the tax described in Section 59-14-204, there is imposed, beginning  
 137 on July 1, 2010, an inventory tax on all cigarettes subject to the tax described in Section  
 138 59-14-204, upon the sale, use, storage, or distribution of those cigarettes in the state, as  
 139 follows:

140           (a) the tax imposed in this section applies only to cigarettes sold, used, stored, or  
 141 distributed in the state on or after July 1, 2010:

142           (i) that have a stamp that reflects that the tax paid on those cigarettes was paid at the  
 143 tax rate imposed under Section 59-14-204 that was applicable on June 30, 2010; and

144           (ii) for which the tax imposed in this section has not been paid; and

145           (b) the tax imposed in this section is equal to the difference between:

146           (i) the tax imposed on those cigarettes under Section 59-14-204, beginning on July 1,  
 147 2010; and

148           (ii) the tax imposed on those cigarettes under Section 59-14-204 on or before June 30,  
 149 2010.

150           (2) Except as otherwise provided under this chapter, the tax imposed under this section  
 151 shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler,

152 or retailer.

153 (3) A person described in Subsection (2) shall remit the tax imposed in this section, on  
154 a return prescribed by the commission, on or before July 31, 2010.

155 (4) Failure of a person to comply with the requirements of this section subjects the  
156 person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

157 (5) The commission may not waive the interest or penalties imposed on a person for  
158 failure to comply with the requirements of this section.

159 (6) (a) Beginning on July 1, 2010, it is unlawful to affix a stamp to cigarettes that  
160 reflects payment of the tax imposed under Section 59-14-204 at the rate that was applicable on  
161 or before June 30, 2010.

162 (b) A person who violates Subsection (6)(a) may be required by the commission to pay  
163 as part of the tax, and in addition to any other penalty provided in this chapter, a penalty of \$25  
164 for each offense, to be assessed and collected by the commission in accordance with Chapter 1,  
165 Part 14, Assessment, Collections, and Refunds Act.

166 (c) A person who, on or after July 1, 2010, possesses tax stamps described in  
167 Subsection (6)(a), may return the stamps to the commission for a credit or refund.";

168 (3) Section 59-14-302 shall be amended to read as follows:

169 **"59-14-302. Tax basis -- Rates.**

170 (1) As used in this section:

171 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco  
172 product charges after subtracting a discount.

173 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,  
174 regardless of:

175 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

176 (ii) who pays the original Utah destination freight charge.

177 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

178 (3) The tax levied under Subsection (2) shall be paid by the manufacturer, jobber,  
179 distributor, wholesaler, retailer, user, or consumer.

180 (4) The rate of the tax under this section is, beginning on July 1, 2010:

181 (a) for tobacco products except for moist snuff, [~~35% of~~] .86 multiplied by the  
182 manufacturer's sales price; [or] and

183 (b) subject to Subsection (5), for moist snuff, [~~\$.75~~] \$1.83 per ounce.

184 (5) (a) The tax under this section on moist snuff shall be imposed on the basis of the  
185 net weight of the moist snuff as listed by the manufacturer.

186 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,  
187 a proportionate amount of the tax described in Subsection (4)(b) is imposed:

188 (i) on that fractional part of one ounce; and

189 (ii) in accordance with rules made by the commission in accordance with Title 63G,  
190 Chapter 3, Utah Administrative Rulemaking Act.";

191 (4) Section 59-14-304 shall be amended to read as follows:

192 **"59-14-304. Transitional inventory tax on tobacco products -- Penalties and**  
193 **interest for failure to comply.**

194 (1) In addition to the tax described in Section 59-14-302, there is imposed, beginning  
195 on July 1, 2010, an inventory tax on all tobacco products subject to the tax described in Section  
196 59-14-302, upon the sale, use, or storage of those tobacco products in the state, as follows:

197 (a) the tax imposed in this section applies only to tobacco products sold, used, or stored  
198 in the state on or after July 1, 2010:

199 (i) for which the tax was paid at the tax rate imposed under Section 59-14-302 that was  
200 applicable on June 30, 2010; and

201 (ii) for which the tax imposed in this section has not been paid; and

202 (b) the tax imposed in this section is equal to the difference between:

203 (i) the tax imposed on those tobacco products under Section 59-14-302, beginning on  
204 July 1, 2010; and

205 (ii) the tax imposed on those tobacco products under Section 59-14-302 on or before  
206 June 30, 2010.

207 (2) The tax imposed in this section shall be paid by the manufacturer, jobber,  
208 distributor, wholesaler, or retailer.

209 (3) A person described in Subsection (2) shall remit the tax imposed in this section, in  
210 a return prescribed by the commission, on or before July 31, 2010.

211 (4) Failure of a person to comply with the requirements of this section subjects the  
212 person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

213 (5) The commission may not waive the interest or penalties imposed on a person for

214 failure to comply with the requirements of this section.":  
215 (5) the amendments to Section 63J-1-201 in H.B. 196, Tobacco Tax Revisions, do not  
216 take effect;  
217 (6) the effective date of H.B. 196 is July 1, 2010; and  
218 (7) the Office of Legislative Research and General Counsel prepare the Utah Code  
219 database for publication in accordance with Subsections (1) through (6) of this coordination  
220 clause.

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**Legislative Review Note**  
**as of 3-5-10 9:03 AM**

**Office of Legislative Research and General Counsel**



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**S.B. 259 - Amendments to Tobacco Tax**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

If this bill and "Tobacco Tax Revisions" (H.B. 196, 2010 General Session) both pass, this bill will eliminate a \$250,000 earmark in H.B. 196 for the Gold Medal Schools for a net appropriation of \$0. This bill also eliminates a tax adjustment clause in H.B. 196 that would have affected future revenue beginning in FY 2014. This bill does not impact the FY 2011 and FY 2012 General Fund revenue created by H.B. 196.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	(\$250,000)	(\$250,000)	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>(\$250,000)</b>	<b>(\$250,000)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.