

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

17-0876

SB 207-FN-A, *relative to the tax on chewing tobacco.*

Senate Ways & Means

The proposed bill amends RSA 78:7-c by taxing chewing tobacco at a rate of \$1.55 per ounce effective upon passage. Chewing tobacco is currently taxed under RSA 78:7-c as Other Tobacco Product (OTP) at a rate of 65.03% of the wholesale sales price.

There is no way for the DRA to determine the fiscal impact of taxing chewing tobacco by weight instead of as a percentage of the wholesale sales price because the DRA does not have complete data on existing sales volumes by weight of chewing tobacco in NH.

Wholesalers who sell smokeless and loose tobacco in NH are required to file a monthly return that requires the wholesaler to report their sale, in dollars, of smokeless tobacco products sold or distributed in NH. NH does not currently breakdown taxpayer reporting by the various types of smokeless tobacco, which includes but is not limited to, chewing tobacco. In FY16, \$10,742,832 in smokeless tobacco sales were reported in NH, resulting in \$6,986,064 in tobacco tax paid. This figure represents sales of chewing tobacco and all other forms of smokeless tobacco.

The DRA would be responsible for updating all necessary tax return forms and electronic management systems related to this bill. These updates would include making adjustments to forms showing the new proposed weight based tax for chewing tobacco. Appropriate updates to policies and procedures will be implemented prior to the effective date of this bill.

The proposed legislation could be administered by the DRA without any additional costs that could not be absorbed within our operating budget. However, the proposed effective date of upon passage does not give the Department sufficient time to update all necessary tax return forms and electronic management systems related to this bill. The Department would recommend either a prospective effective date falling on the first of the selected month or the addition of an applicability date of “taxable periods beginning on or after” the first of the month.

The proposed legislation does not contain a definition of chewing tobacco. RSA 78:1, XIV defines “tobacco products” to include smokeless tobacco however the statute does not provide a definition of chewing tobacco or otherwise differentiate chewing tobacco from the various other types of smokeless tobacco products. The DRA would suggest adding a definition of chewing tobacco to ensure that the statute appropriately identifies which products are intended to be taxed based on weight instead of as a percentage of the wholesale sales price.