

Connecticut Committee on Finance, Revenue and Bonding
Support of Amendment to Raised Bill 437 - To restore the progressive tax on snuff tobacco products
Statement of Swisher International, Inc.

Chairman Staples, Chairwoman Daily and members of the Committee. On behalf of Swisher International, Inc., a manufacturer of price value smokeless tobacco products, we write to express support for and consideration of an amendment to Raised Bill 437 to restore tax progressivity, fairness and competitive benefits to adult consumers of Moist Snuff Tobacco (MST) products in Connecticut.

Swisher International Inc. has strong ties to Connecticut. The company is owned by a Connecticut family that, in addition to the Swisher International, Inc., holding, is also one of the largest private land holders in the state. The family has been very active, for over a century, in many local charitable organizations and causes in Fairfield County. Their philanthropic generosity to civic organizations, hospitals and educational institutions is widely renowned and recognized.

Mr. Chairman and Members, "Sunlight is the best disinfectant." Thank you for holding this hearing today. In 2000, the then Connecticut-based dominant smokeless tobacco manufacturer added a provision to the annual budget bill that converted the tax on MST from ad valorem to a weight-based tax. Then, and now, we continue to oppose this conversion and appear today to seek redress and rectification of this past occurrence.

Given that this Committee has shed sunlight on this matter, we address the issue of "why change" and why amend Raised Bill 437 would be better public and tax policy.

An amendment to restore an ad valorem MST tax would restore progressivity to the state MST product tax and generate additional, new revenue to the State. The ad valorem tax works for all Other Tobacco Products. It works for all; the states, taxpaying constituents and competition. Ad valorem addresses and sweeps in all changes –price, value or volume- in the Other Tobacco Product marketplace in real-time without any legislative action. Ad valorem is a progressive tax; benefits consumer choice, value and variety and is the proper tax for this economy.

For example, last year, Congress expanded the State Children's Health Insurance Program (SCHIP) funded by increased tobacco product excise taxes. As a result of the dramatic federal tax increases, many tobacco manufacturers raised their prices. An ad valorem tax methodology would have captured Connecticut's share of manufacturer-lead price increases resulting from the federal tax increases.

Last year, Congress also passed Federal Food and Drug Administration regulation of cigarette and smokeless tobacco products financed by industry user fees. This year, the user fee requirement will increase \$215 million to \$450 million. Many observers speculate that this dramatic bump in industry user fees will require certain manufacturers to increase prices.

The implementation of the unit-based tax for the dominant industry proponent, but not the State, worked - as intended! As a result of the unit-based tax method, the state tax was capped and the state received no additional revenues from moist snuff resulting from the price increases.

Under an ad valorem tax system, the state would share in the increased prices and additional new revenues.

Instead, according to available industry resources, OTP tax revenues have remained statistically static from 2000 to 2007.

An amendment to restore an ad valorem MST tax would benefit adult taxpaying in-state consumers. From premium pricing architecture and lack of price-gap management to litigation from the states, competitors, customers and consumers, the dominant industry proponent supporting weight-based taxation has a checkered past as it relates to providing adult consumer choice, cost savings and competition. These bad business practices have attempted to squeeze competition and adult consumers and monopolize the marketplace. Dynamics are changing in the marketplace and competition is thriving undaunted by these past business practices, primarily as a result of judicial actions.

Given the description of this Committee as relates to “fair trade and sales practices and consumer protection”, we wish to maintain the current evolving, consumer-centric market dynamic and implore the legislative branch to help restore ad valorem and build upon recent gains to achieve a true-state competitive market.

An ad valorem tax method is agnostic; it chooses neither winners nor losers. Manufacturers make independent business decisions, based on all economic factors, and decide to enter and compete in the marketplace based on those factors. Adult consumers win in that, with competition, affordable choice, variety and selection at fair and multiple consumer price points follows.

From the standpoint of tax efficiency, a tax methodology set at a uniform rate within a category will alleviate market distortions and denial of consumer choice

An amendment to restore an ad valorem MST tax is fair and ends the promotion of one dominant company’s business plans. As referenced earlier, the end-game of the industry proponent in seeking a weight-based tax on MST is, in reality, a three-pronged strategy to expand market dominance: 1) Eliminate the progressive nature of the current ad valorem tax; 2) Stabilize their dominant premium-based MST market share and, 3) Cap and shrink the state tax price-gap component in the future.

This is exactly how the converted tax on MST has functioned in Connecticut and we support an amendment to Raised Bill 437 to re-set the correct tax methodology for adult consumers, the state and competition.

Members of the Committee, armed with cognizance of the matter, we hope that today a dialogue begins with all stakeholders to restore a progressive tax methodology to MST products in the state.

In these difficult financial times for the State of Connecticut, why not change the method of taxation to generate new, additional revenues for the state today and tomorrow.

Thank you for this open opportunity to voice support of an amendment to restore an ad valorem MST tax to this legislation.

Connecticut General Assembly

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January 23, 2009

TO: Sen. Eileen Daily

FROM: Robert Wysock

SUBJECT: Snuff Taxes

You asked our office what would be the fiscal impact if the basis of taxing snuff was changes from the current rate of 40 cents per ounce to 20% of the wholesale price.

Fiscal Impact

Under current law, Connecticut collects approximately \$1 million from the tax on snuff tobacco products. If the tax was levied at the rate of 20% of the wholesale price, this would result in a revenue gain of between \$140,000 and \$150,000 per fiscal year (about a 16% increase in revenue collections). The estimate is based on data provided by the Department of Revenue Services on the quantities of these products sold by distributors, current tax collections, and wholesale price data.

History

Public Act 00-170 §§ 35 and 36 changed the tax on snuff tobacco products from 20% of the wholesale price to 40 cents per ounce and a proportionate share on smaller amounts. The tax is computed based on the product's net weight as listed by the manufacturer. As under prior law, the tax is paid by distributors and unclassified importers when the product is first manufactured, brought, imported, received, or acquired in Connecticut. The tax does not apply to snuff

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products that are exported from Connecticut or that are exempt from state taxes by federal law.

I hope you find this information useful. Please contact me if you have any questions.