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Chair Ginny Burdick
Vice Chair Larry George
Senator Brian Boquist
Senator Mark Hass
Senator Diane Rosenbaum

Senate Finance and Revenue Committee
900 Court St. NE, S-213
Salem, OR 97301

Dear Chair Burdick, Vice-Chair George and Committee Members:

Core-Mark International, Inc., Portland Division is a broad line distributor of supplies and services to the convenience retail industry. In this capacity we employ approximately 200 Oregonians and also manage our Grants Pass distribution center which employs approximately 100 Oregonians. Aggregately, the two distribution centers supply approximately 950 convenience stores. In 2012 the two divisions collected over $73 million in cigarette stamp tax and another $16 million in tobacco and cigar taxes for the state of Oregon. This $89 million of the total $256 million of revenue represents 35% of the total revenue collected.

As a responsible licensed distributor, Core Mark opposes HB 2870 which changes Oregon's current law prohibiting Counties and municipalities from imposing a tobacco and cigarette tax in addition to Federal and in lieu of or addition to State excise taxes. With regard to cigarettes, HB 2870 fails to designate whether or not a county tax stamp will or will not be attached to an individual cigarette package which could inherently create a lack of enforcement from the counties and in turn create an environment that would diminish taxable revenue collection. Nor does HB 2870 address jurisdiction identification on tobacco and cigar products that currently are not subject to a tax stamp and are packaged by the manufacturer in a way that makes stamping cost prohibitive and ineffective.

1. **<u>Higher tobacco taxes do not significantly reduce consumption, but rather higher taxes drive customers to seek lower priced goods and thus to avoid/evade taxes.</u>**

The State of Oregon currently assesses a state tax of $11.80 per carton while the State of Washington assesses a state tax of $30.25 per carton. It is estimated that Washington fails to collect excise taxes and sales tax on 16 million cartons annually. Approximately 4.7 million of these cartons are purchased in the state of Oregon. That leaves 11.3 million cartons that were purchased primarily at tribal non-taxed reservations, other neighboring states, internet or black market.

The same phenomena will occur from county to county depending upon the rate of tax. Consumers are willing to drive miles to save costs and avoid higher taxation, as is evident with current Washington cross-border buying. County tax differentials therefore will cause tobacco customers to travel additional distances to save cost. Ancillary products purchased will also be lost as that customer is likely to reduce the number of stops in order to compensate for any additional mileage consumed and driving time. This will create an uneven playing field between competing counties.

Small format stores, mostly owned by independent business people, that are located on the border in a higher taxed county, will face direct competition from a competitor that resides in a lower taxed county. They will not be able to equitably compete. There are instances in the city of Portland where a convenience store located in Multnomah County competes with a large format grocery store located across the street in Clackamas County. They and similar others will literally be wiped out.

2. **<u>The bill does not address the mechanics of identifying county jurisdiction.</u>**

HB 2870 does not designate whether or not individual county stamp taxes will be applied to each package of cigarettes in a carton. If indeed tax stamps are not required to be specific to a county jurisdiction, enforcement of the tax will be difficult if not impossible to impose. As a distributor, it has not been determined how certain cash & carry's, including COSTCO, would determine the rate at which they would pass the county tax to their customer base. Would the tax rate for a cash & carry be determined by the county within which they are located or by the county in which their customers reside? With the former, a cash & carry located in a high tax county would likely see a dramatic decline in sales and possibly choose to discontinue that category. This would further decrease the revenue expected by the county. In the case of the latter, this bill does not address how proper identity would be determined for a customer to prove they should be charged the proper tax rate.

Legitimate law abiding wholesalers and distributors who have invested in information technology will be able to identify via county and assess the correct taxation amounts. Smugglers, who are not interested in the long term viability of their business or that of their customers, will gain a significant advantage to those who are doing business legally. Retailers and consumers, who are seeking the lowest possible cost of goods for competitive and economic reasons, will become easy prey to those who choose to avoid taxation. And unless the state and counties are willing to invest heavily in personnel whose sole purpose is enforcement of cigarette, cigar and tobacco tax conformity, legitimate distributors will face an unfair disadvantage which will significantly diminish sales and thereby tax collection for the state and counties.

3. **Multiple tax stamp jurisdictions create additional costs at the distribution level. These costs will get added to the end user which will further reduce consumption of in state product.**

If a stamp is assessed by county, the requirement to stamp multiple county jurisdictions will force distributors to stamp product on demand and by hand as opposed to the current system of machine pre-stamping product based upon daily state movement history. This will force production cost up at least three times that of what it costs at today's current rate. And while there are stamp machines that are capable of handling multiple jurisdictions (up to four jurisdictions), the lease amount is three times that of a single jurisdiction machine. These business costs must and will be passed to the retailer who in turn will pass the additional cost to the end consumer. This will create further incentive for the end user to shop for the lowest priced product, which could very well mean shopping out of state, via internet or black market. Inevitably, this will reduce tax revenues for the state and hurt the Oregon economy while creating a nightmare for legitimate tax abiding distributors.

Other Tobacco Products (OTP), which include chewing and pipe tobacco and cigars, currently do not require stamp identification. The product is packaged in a way that is not conducive to stamping and there is no machinery available that can separate the product from the package, apply a tax stamp then reseal. In order to apply a stamp the product would require individual selling units to be hand separated from the package, hand stamped and then hand banded together again for wholesale. As a consequence, wholesale costs would rise dramatically to cover the associated cost of labor. States who have attempted to apply a tax stamp in the past on chewing tobacco have met with resistance from manufactures who have stated that they will simply cease selling their product in those states rather than change their packaging for a single state.

In both cases, distributors are not equipped with machinery that can perform tax application in an effective low cost manner. If an individual county tax stamp is required wholesale/distributor costs will have to increase to cover the increased labor costs. Inevitably, this will reduce tax revenues for the state and hurt the Oregon economy while creating a nightmare for legitimate tax abiding distributors and wholesalers.

For the reasons above, I strongly oppose relinquishing the State's sole taxing authority on cigarettes and tobacco products to cities, counties or other municipal entities.

Respectfully submitted,

Brian Barry

Brian Barry
President, Portland Division
Core-Mark International, Inc.