

Where We Stand – The Need for State Excise Stamps

Philip Morris USA firmly believes that the application of state excise tax stamps is an important component of a comprehensive approach to address contraband cigarettes. Because excise tax rates vary from state to state, it is important that each state require stamps that signify the tax has been paid, and identifies that the product is for sale in a specific state.

Some criminals engaged in contraband cigarette trafficking exploit the variance in state excise taxes to generate illegal profits at the expense of legitimate, tax-paying businesses that are the backbone of our economy. To address this problem Philip Morris USA believes that all states should require that a tax stamp be affixed to each pack of cigarettes. These stamps should include a serial number or, where applicable, a stamp that denotes that the cigarettes are tax-exempt (e.g. qualified Native American sales). North Dakota is one of only three states that do not require tax stamps on cigarette packs.

Untaxed cigarettes are the most common form of contraband. Untaxed cigarettes include those that are sold with no tax stamp in a jurisdiction that requires one, cigarettes with the wrong tax stamp for the jurisdiction in which it was sold, and cigarettes sold with counterfeit tax stamps. Philip Morris USA believes the enactment of tax stamping legislation would help reduce the trade in untaxed cigarettes and would help address issues facing the legitimate North Dakota cigarette trade. Among other things:

- Native American cigarette sales in North Dakota are exempt from state excise taxes for sales to tribal members and sales of two-hundred cigarettes or less to non-tribal members. By not requiring wholesalers to stamp product, there is no way to physically distinguish if the cigarettes are intended to be sold in Native American outlets or other retail locations.
- Law enforcement information indicates that traffickers of contraband cigarettes are intent on buying unstamped cigarettes for their illegal operations¹. Businesses in North Dakota may unknowingly sell unstamped cigarettes to criminals who then re-sell the products – often with counterfeit tax stamps – to buyers in states with higher excise taxes.
- Contraband cigarettes are often sold in violation of a variety of laws, including age verification laws, and thus can be more accessible to underage purchasers.
- Tax stamps typically use serial numbers that can enable law enforcement to determine the identity of the wholesaler that applied the tax stamp – a useful tool when attempting to investigate contraband issues.
- Marker technology is available for tax stamps that provide law enforcement the ability to readily determine if the tax stamp is genuine or counterfeit.
- The vast majority of wholesalers who ship cigarettes to North Dakota retailers also ship to surrounding states that require tax stamps, so they have the infrastructure necessary to apply stamps.

Philip Morris USA supports a comprehensive legislative approach designed to protect the legitimate cigarette distribution channel and to address contraband trade in cigarettes. We urge states to enact all elements of the Philip Morris USA model anti-contraband legislation, including serialized tax stamping, licensing of the wholesale and retail trade, enhancing record-keeping and reporting requirements of retailers and wholesalers, strengthening penalties for violations of contraband cigarette-related laws and increasing law enforcement resources.

¹ April 9, 2008 AP article entitled, Tobacco Bust Nets 6 Million in Fake Stamps

