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FISCAL IMPACT REPORT

SPONSOR: Rodella DATE TYPED: 01/24/01 HB 106
 SHORT TITLE: Amend Cigarette Tax Act SB _____
 ANALYST: Eaton

REVENUE

Estimated Revenue*		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
		*	Recurring	General Fund

* See narrative under FISCAL IMPLICATIONS below.

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill eliminates the license fee imposed on out-of-state cigarette wholesalers for the privilege of affixing New Mexico Cigarette Excise Tax stamps to packages of cigarettes while outside the state. Section 7-12-5, Subsection D would still require "Stamps shall be affixed inside the boundaries of New Mexico, unless the department has granted a license allowing a person to affix stamps outside New Mexico". However, the one-eighth percent (0.125%) fee imposed on the value of the cigarettes would be eliminated.

Significant Issues

The current law "license fee" associated with cigarettes stamped at out-of-state locations raised about \$175 thousand during fiscal year 1999-2000 for the State General Fund. The fee has been growing at about \$25 thousand per year in recent years, so the fee represents about \$200 thousand to \$225 thousand of state general fund revenue.

However, a formal protest contesting the constitutionality of the fee was filed by an out-of-state taxpayer and the department found itself unable to defend the fee against the accusation of it being an unconstitutional fee under the Commerce Clause of the United States Constitution. The department settled the protest in favor of the taxpayer, granted the taxpayer's request for refund, and anticipates further refund claims from other taxpayers.

FISCAL IMPLICATIONS

The General Fund revenue estimate has been adjusted to reflect anticipated refund claims, and assumes the fee will not be collected after the current fiscal year. Since the state General Fund revenue estimate has already been adjusted to reflect the loss of this fee, the bill presents no fiscal impact.

JBE/ar:prr