



SENATE BILL 99: Appropriations Act of 2018, Sec. 38.7: Modified Risk Tobacco Product Tax Reduction

2017-2018 General Assembly

Committee:		Date:	July 13, 2018
Introduced by:		Prepared by:	Nicholas Giddings Staff Attorney
Analysis of:	Sec. 38.7 of S.L. 2018-5		

OVERVIEW: *Sec. 38.7 of S.L. 2018-5 provides an excise tax rate reduction for modified risk tobacco products. A modified risk tobacco product is a product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially-marketed tobacco products. For a product to qualify as a modified risk tobacco product, it must be issued an order by the United States Food and Drug Administration (FDA). To date, the FDA has not issued any such orders.*

This section became effective June 12, 2018.

CURRENT LAW: Under G.S. 105-113.5, cigarettes are taxed at 45¢ per pack. Other tobacco products (OTP), including pipe tobacco and roll-your-own tobacco, are taxed under G.S. 105-113.35 at 12.8% of the cost of the product. The tax on cigarettes is paid by the distributor of the product. The tax on OTP products is payable by the wholesale dealer or retail dealer who first acquires or otherwise handles the product.

BILL ANALYSIS: Sec. 38.7 of S.L. 2018-5 provides an excise tax rate reduction for modified risk tobacco products. A modified risk tobacco product is a product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially-marketed tobacco products. For a product to qualify as a modified risk tobacco product, it must be issued an order by the FDA. The rate would be reduced by 50% if the product is issued a risk modification order by the FDA under 21 U.S.C. 387k(g)(1) or by 25% if the product is issued an exposure modification order by the FDA under 21 U.S.C. 387k(g)(2).

To date, the FDA has not issued any such orders. Currently, there are two pending applications awaiting decision: IQOS system with Marlboro Heatsticks and Camel Snus. The IQOS system with Marlboro Heatsticks is a smokeless cigarette that heats tobacco sticks instead of burning them, releasing nicotine vapor rather than smoke. Camel Snus is a smokeless, spit-free, moist tobacco powder pouch that is placed between the lips and gums.

EFFECTIVE DATE: This section became effective June 12, 2018.

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