

SB 970



CIGAR ASSOCIATION OF AMERICA, INC.

WE ARE WORKING ON FUNCTIONAL SOLUTIONS TO PROVIDE FOR TOBACCO TAX COLLECTIONS IN E-COMMERCE THAT CAN BE SUPPORTED BY BOTH THE INDUSTRY AND THE STATE.

There is a very long list of states that are now collecting sales tax on transactions for online sales of tobacco, cigar, nicotine and vapor products and would like to collect excise tax on those same transactions. However, most if not all states don't have the clear-cut authority or mechanisms to collect excise tax without statutory changes.

Ohio and Maryland are the two states that have directed their revenue agencies, through legislation, to collect Tobacco Taxes from on-line cigar sales and neither has not been able to effectively collect the tax.

The issues are as follows;

- This is a tax levied at wholesale but, there is no visible wholesale transaction that can be verified. There is no three-tier distribution system.
- The requirement needs to be effectively applied to **all** on-line sellers.
- Software must be configured to integrate the tax into the retail price for at least 52 jurisdictions in one shopping cart based the ship-to destination, then calculate the sales tax.
- Neither Michigan's current nor proposed definition of "wholesale price" does not establish a taxable value that can be verified by the states and the industry.
- It would be a never-ending task to chase down the on-line venders both large and small only to end up in litigation because your statute of authority is not clearly focused on this group.

Finding solutions that can be applied in a uniform manner across the country means finding solutions in three very murky areas;

- Establishment of the tax base or taxable value that can be verified by the states and the industry.
- Establishment of clear tax liability or point of taxation.
- Establishment of a relatively uniform licensure structure to allow online sellers to be licensed as excise taxpayers in states where they have a sales tax presence only because of their online sales portal.

Our people are willing to engage in a remote meeting later this week and if necessary, with the chairman or staff or anyone the Chairman wishes, in order to begin to work through the issues that need to be resolved in Michigan's statute.

Finally, our people are working the issue across the country alongside the member states of the Federation of Tax Administrators Tobacco Section. Our goal is to develop a menu of model legislation that will provide solutions for states to consider to create as much uniformity as possible.