



Code: Select Code Section:



Code Search

Text Search

[Up^](#) [Add To My Favorites](#)

REVENUE AND TAXATION CODE - RTC

DIVISION 2. OTHER TAXES [6001 - 60709] (*Heading of Division 2 amended by Stats. 1968, Ch. 279.)*

PART 13. CIGARETTE TAX [30001 - 30483] (*Part 13 added by Stats. 1959, Ch. 1040.)*

CHAPTER 2. Imposition of Tax [30101 - 30131.6] (*Chapter 2 added by Stats. 1959, Ch. 1040.)*

ARTICLE 2.5. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 [30130.50 - 30130.58] (*Article 2.5 added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)*

30130.50. Definitions.

For the purposes of this article:

- (a) "Cigarette" has the same meaning as that in Section 30003 as it read on January 1, 2015.
- (b) "Tobacco products" has the same meaning as that in subdivision (b) of Section 30121, as amended by this act.

(*Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.*)

30130.51. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Cigarette Distribution Tax.

(a) In addition to any other taxes imposed upon the distribution of cigarettes under this part, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred mills (\$0.100) for each cigarette distributed on or after the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

(b) The board shall adopt regulations providing for the implementation of an equivalent tax on electronic cigarettes as that term is defined in subdivision (c) of Section 30121, and the methods for collection of the tax. Such regulations shall include imposition of an equivalent tax on any device intended to be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device when sold separately or as a package; any component, part, or accessory of such a device that is used during the operation of the device, whether sold separately or as a package with such device; and any liquid or substance containing nicotine, whether sold separately or as a package with any device that would allow it to be inhaled. Such regulations may include, but are not limited to, defining who is a distributor of electronic cigarettes pursuant to Section 30011 and the licensing requirements of any such person.

(c) Notwithstanding any other provision of this part, all revenues resulting from the tax imposed by subdivision (a) and all revenues resulting from the equivalent increase in the tax on tobacco products, including electronic cigarettes, imposed by subdivision (b) of Section 30123, shall be deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund created by Section 30130.53.

(*Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.*)

30130.52. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Cigarette Floor Taxes.

(a) (1) In addition to any other tax, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the rate of one hundred mills (\$0.100) for each cigarette.

(2) Every dealer and wholesaler shall file a return with the board on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this act on a form prescribed by the board, showing the number of cigarettes in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act. The amount of tax shall be computed and shown on the return.

(b) (1) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in its possession or under its control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the following rates:

(A) Two dollars and fifty cents (\$2.50) for each stamp bearing the designation "25."

(B) Two dollars (\$2) for each stamp bearing the designation "20."

(C) One dollar (\$1) for each stamp bearing the designation "10."

(2) Every licensed cigarette distributor shall file a return with the board on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act on a form prescribed by the board, showing the number of stamps described in subparagraphs (A), (B), and (C) of paragraph (1). The amount of tax shall be computed and shown on the return.

(c) The taxes required to be paid by this section are due and payable on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act. Payments shall be made by remittances payable to the board and the payments shall accompany the return and forms required to be filed by this section.

(d) Any amount required to be paid by this section that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from the first day of the first calendar quarter commencing 180 days after the effective date of this act, until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)

30130.53. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

(a) The California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund is hereby established in the State Treasury.

(b) All revenues raised pursuant to the taxes imposed by this article, less refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, shall be deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

(c) Notwithstanding any other law, the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund is a trust fund established solely to carry out the purposes of this act and all revenues deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, together with interest earned by the fund, are hereby continuously appropriated for the purposes of this act without regard to fiscal year and shall be expended only in accordance with the provisions of this act and its purposes.

(d) Notwithstanding any other law, revenues deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, including any interest earned by the fund, shall only be used for the specific purposes set forth in this act, and shall be appropriated and expended only for the purposes expressed in this act and shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this act, nor shall such revenues be loaned to the General Fund or any other fund of the state or any local government fund.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)

30130.54. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Effect on Tobacco

Consumption and Tax Revenue.

(a) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect that the additional taxes imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the board shall determine the fiscal effect the decrease in consumption has on the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988, statewide general election), the Breast Cancer Fund created by Section 30461.6, and the California Children and Families Trust Fund created by Section 30131 (Proposition 10 as approved by the voters at the November 3, 1998, statewide general election), and the revenues derived from Section 30101.

(b) The Controller shall transfer from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund to those affected funds described in subdivision (a) the amount necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this article.

(c) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect, if any, that the additional taxes imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state, including from the illegal sale of cigarettes and tobacco products. To the extent that there is a loss of state or local government sales and use tax revenues and such loss is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, including from the illegal sale of cigarettes and tobacco products, the board shall determine the fiscal effect on state and local government sales and use tax revenues.

(d) The Controller shall transfer from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund to the general fund of the state and those affected local governments described in subdivision (c) the amount necessary to offset the state and local sales and use tax revenue decrease directly resulting from the imposition of additional taxes by this article, including from the illegal sale of cigarettes and tobacco products.

(e) Transfers under this section shall be made by the Controller at such times as the Controller determines necessary to further the intent of this section.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)

30130.55. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Distribution of Revenue.

After deducting and transferring the necessary funds pursuant to Section 30130.54 and subdivisions (a), (b), (c), (d), and (e) of Section 30130.57, the Controller shall annually allocate and transfer the remaining funds in the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund as follows:

(a) Eighty-two percent shall be transferred to the Healthcare Treatment Fund, which is hereby created, and shall be used by the State Department of Health Care Services to increase funding for the existing healthcare programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code, including those that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions, by providing improved payments, for all healthcare, treatment, and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. To the extent possible given the limits of funding under this article, payments and support for the nonfederal share of payments for healthcare, services, and treatment shall be increased based on criteria developed and periodically updated as part of the annual state budget process, provided that these funds shall not be used to supplant existing state general funds for these same purposes. These criteria shall include, but not be limited to, ensuring timely access, limiting specific geographic shortages of services, or ensuring quality care. Consistent with federal law, the funding shall be used to draw down federal funds. The funding shall be used only for care provided by health care professionals, clinics, health facilities that are licensed pursuant to Section 1250 of the Health and Safety Code, and to health plans contracting with the State Department of Health Care Services to provide health benefits pursuant to this section. The funding can be used for the nonfederal share of payments from governmental entities where applicable. The department shall, if required, seek any

necessary federal approval for the implementation of this section.

(b) Thirteen percent shall be used for the purpose of funding comprehensive tobacco prevention and control programs, provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:

(1) Eighty-five percent to the State Department of Public Health Tobacco Control Program to be used for the tobacco control programs described beginning at Section 104375 of the Health and Safety Code. The State Department of Public Health shall award funds to state and local governmental agencies, tribes, universities and colleges, community-based organizations, and other qualified agencies for the implementation, evaluation, and dissemination of evidence-based health promotion and health communication activities in order to monitor, evaluate, and reduce tobacco and nicotine use, tobacco-related disease rates, and tobacco-related health disparities, and develop a stronger evidence base of effective prevention programming with not less than 15 percent of health promotion, health communication activities, and evaluation and tobacco use surveillance funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities with the goal of eliminating tobacco-related disparities.

(2) Fifteen percent to the State Department of Education to be used for school programs to prevent and reduce the use of tobacco and nicotine products by young people as described in Section 104420 of the Health and Safety Code with not less than 15 percent of these funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities for the purpose of eliminating tobacco-related disparities.

(c) Five percent to the University of California for medical research of cancer, heart and lung tobacco-related diseases pursuant to Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code to supplement the Cigarette and Tobacco Products Surtax Medical Research Program, provided that these funds be used under the following conditions:

(1) The funds shall be used for grants and contracts for basic, applied, and translational medical research in California into the prevention of, early detection of, treatments for, complementary treatments for, and potential cures for all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases. Notwithstanding any other provision of law, the University of California, through the Tobacco Related Disease Research Program, shall have authority to expend funds received under this act for the purposes set forth in this subdivision.

(2) Any grants and contracts awarded shall be awarded using existing medical research program infrastructure and on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality.

(3) Individuals or entities that receive the grants and contracts pursuant to this subdivision must reside or be located entirely within California.

(4) The research must be performed entirely within California.

(5) The funds shall not be used to supplant existing state or local funds for these same purposes.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)

30130.56. Independent Audit and Disclosure.

To provide full public accountability concerning the uses to which funds from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 are put, and to ensure full compliance with the California Healthcare, Research and Prevention Tobacco Tax Act of 2016:

(a) The nonpartisan California State Auditor shall conduct at least biennially an independent financial audit of the state and local agencies receiving funds pursuant to the California Healthcare, Research and Prevention Tobacco Tax Act of 2016. An audit conducted pursuant to this section shall include, but not be limited to, a review of the administrative costs expended by the state agencies that administer the fund.

(b) Based on the independent audit, the nonpartisan California State Auditor shall prepare a report detailing its review and include any recommendations for improvements. The report shall be made available to the public.

(c) Each state agency and department receiving funds pursuant to this act shall, on an annual basis, publish on its respective Internet Web site an accounting of how much money was received from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund and how that money was spent. The annual accounting shall also be posted on any social media outlets the state agency or department deems appropriate.

(d) The use of the funds received by the State Department of Health Care Services pursuant to subdivision (a) of Section 30130.55 shall be subject to the same restrictions, including, but not limited to, audits and prevention of fraud, imposed by existing law.

(e) The use of the funds received by the State Department of Public Health, the State Department of Education, and the University of California pursuant to subdivisions (b) and (c) of Section 30130.55 shall be subject to oversight by the Tobacco Education and Research Oversight Committee pursuant to Sections 104365 and 104370 of the Health and Safety Code.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)

30130.57. Implementation and Administrative Costs.

(a) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund shall be used to reimburse the board for expenses incurred in the administration, calculation, and collection of the tax imposed by this article and for expenses incurred in the calculation and distribution of funds and in the promulgation of regulations as required by this act, provided, however, that after deducting the necessary funds pursuant to subdivision (b) of Section 30130.54, not more than 5 percent annually of the funds remaining in the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund shall be used for such administrative costs.

(b) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund shall be used to reimburse the independent nonpartisan California State Auditor up to four hundred thousand dollars (\$400,000) annually for actual costs incurred to conduct each of the audits required by Section 30130.56 for the purpose of providing public transparency and ensuring that the revenues generated by this article are used for healthcare, tobacco use prevention and research.

(c) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund in the amount of forty million dollars (\$40,000,000) annually shall be used to provide funding to the University of California for the purpose and goal of increasing the number of primary care and emergency physicians trained in California. This goal shall be achieved by providing this funding to the University of California to sustain, retain, and expand graduate medical education programs to achieve the goal of increasing the number of primary care and emergency physicians in the State of California based on demonstrated workforce needs and priorities.

(1) For the purposes of this subdivision, "primary care" means internal medicine, family medicine, obstetrics/gynecology, and pediatrics.

(2) Funding shall be prioritized for direct graduate medical education costs for programs serving medically underserved areas and populations.

(3) For the purposes of this subdivision, all allopathic and osteopathic residency programs accredited by federally recognized accrediting organizations and located in California shall be eligible to apply to receive funding to support resident education in California.

(4) The University of California shall annually review physician shortages by specialty across the state and by region. Based on this review, to the extent that there are demonstrated state or regional shortages of nonprimary care physicians, funds may be used to expand graduate medical education programs that are intended to address such shortages.

(d) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund in the amount of thirty million dollars (\$30,000,000) annually shall be used to provide funding to the State Department of Public Health state dental program for the purpose and goal of educating about, preventing and treating dental disease, including dental disease caused by use of cigarettes and other tobacco products. This goal shall be achieved by the program providing this funding to activities that support the state dental plan based on demonstrated oral health needs, prioritizing serving underserved areas and populations. Funded program activities shall include, but not be limited to, the following: education, disease prevention, disease treatment, surveillance, and case management.

The department shall have broad authority to fully implement and effectuate the purposes of this subdivision, including the determination of underserved communities, the development of program protocols, the authority to reimburse state-sponsored services related to the program, and the authority to contract with one or more individuals or public or private entities to provide program activities.

(e) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund in the

amount of forty-eight million dollars (\$48,000,000) annually shall be used for the purpose of funding law enforcement efforts to reduce illegal sales of tobacco products, particularly illegal sales to minors; to reduce cigarette smuggling, tobacco tax evasion, the sale of tobacco products without a license and the sale of counterfeit tobacco products; to enforce tobacco-related laws, court judgments, and legal settlements; and to conduct law enforcement training and technical assistance activities for tobacco-related statutes; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:

(1) Thirty million dollars (\$30,000,000) annually to the California Department of Justice/Office of the Attorney General to be distributed to local law enforcement agencies to support and hire front-line law enforcement peace officers for programs, including, but not limited to, enforcement of state and local laws related to the illegal sales and marketing of tobacco to minors, and increasing investigative activities and compliance checks to reduce illegal sales of cigarettes and tobacco products to minors and youth.

(2) Six million dollars (\$6,000,000) annually to the board to be used to enforce laws that regulate the distribution and retail sale of cigarettes and other tobacco products, such as laws that prohibit cigarette and tobacco product smuggling, counterfeiting, selling untaxed cigarettes and other tobacco products, and selling cigarettes and other tobacco products without a proper license.

(3) Six million dollars (\$6,000,000) annually to the California Department of Public Health to be used to support programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for the enforcement of state and local laws related to the illegal sales of tobacco to minors, increasing investigative activities, and compliance checks, and other appropriate activities to reduce illegal sales of tobacco products to minors, including, but not limited to, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code.

(4) Six million dollars (\$6,000,000) annually to the California Attorney General to be used for activities, including, but not limited to, enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, selling tobacco without a proper license and selling tobacco to minors, and enforcing tobacco-related laws, court judgments, and settlements.

(f) Not more than 5 percent of the funds received pursuant to this article shall be used by any state or local agency or department receiving such funds for administrative costs.

(g) The California State Auditor shall promulgate regulations pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to define administrative costs for purposes of this article. Such regulations shall take into account the differing nature of the agencies or departments receiving funds.

(h) The board shall determine beginning two years following the effective date of this act, and annually thereafter, any reduction in revenues, following the first year after the effective date of this act, resulting from a reduction in the consumption of cigarettes and tobacco products due to the additional taxes imposed on cigarettes by this article, and the increase in the tax on tobacco products required by subdivision (b) of Section 30123. If the board determines there has been a reduction in revenues, the amount of funds allocated pursuant to subdivisions (c), (d) and (e) shall be reduced proportionately.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)

30130.58. Statutory References.

Unless otherwise stated, all references in this act refer to statutes as they existed on January 1, 2016.

(Added November 8, 2016, by initiative Proposition 56, Sec. 4.1.)