



## DEPARTMENT OF AUDITS AND ACCOUNTS

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**Greg S. Griffin**  
STATE AUDITOR  
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February 21, 2018

Honorable Jay Powell  
Chairman, House Ways and Means  
133 Capitol  
Atlanta, Georgia 30334

SUBJECT: Fiscal Note  
House Bill 877 (LC 34 5286)

Dear Chairman Powell:

The bill would reduce the excise tax rate for any product included in a modified risk tobacco (MRTP) order issued by the United States Department of Health and Human Services (HHS). The state tobacco excise tax on any product included in a MRTP order pursuant to U.S.C. Section 387k(g)(1) would be reduced by 50 percent, and the tax on any included in a MRTP order pursuant to U.S.C. Section 387k(g)(2) would be reduced by 25 percent. The tax reductions would be effective July 1, 2018.

### Impact on Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would lower state revenue by approximately \$185,000 in FY 2019 (Table 1). The loss would grow to \$207,000 in FY 2023. FRC's analysis assumes the federal approval of one product that would qualify at the 50 percent rate reduction. Details of the analysis are in the attached appendix.

**Table 1. Estimated State Revenue Effects of HB 877 LC 34 5286**

<i>(\$ thousands)</i>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Approved MRTPs Case	(\$185)	(\$190)	(\$196)	(\$201)	(\$207)

### Impact on Expenditures

The Department of Revenue (DOR) estimated both one-time and ongoing costs resulting from the bill. DOR estimated the need for one auditor position at a total cost of \$72,700 annually. One-time costs of \$53,100 were associated with IT system changes (\$50,000) and equipment for the new auditor position (\$3,100).

Sincerely,

A handwritten signature in blue ink that reads "Greg S. Griffin".

Greg S. Griffin  
State Auditor

A handwritten signature in blue ink that reads "Teresa A. MacCartney".

Teresa A. MacCartney, Director  
Office of Planning and Budget

GSG/TAM/mt

### **Analysis by the Fiscal Research Center**

A MRTP is a tobacco product approved by HHS for the right to label and market the product as reducing the risk of tobacco-related disease associated with commercially marketed tobacco products. To date no products have been approved as MRTPs, but two product lines are the subjects of pending applications.

The first is a “heat-not-burn” style tobacco product developed by Philip Morris, similar to existing vapor cigarettes except that it includes tobacco. Like vapor products, it would apparently not meet the definition of any currently taxed tobacco product. News reports have also recently cast doubt on the prospects for approval of the MRTP application for this product. For these reasons, no revenue impact is expected related to this product category.

The second pending MRTP application is for a product line of “Snus” made by R.J. Reynolds (RJR). Snus are packets containing pasteurized moist, powder tobacco that are currently taxable as a smokeless tobacco product under Georgia law. Snus is argued to have reduced health risks compared to its current labeling. RJR’s Camel Snus line is similar to another line of snus that was the subject of the very first MRTP application, but that application was denied in December of 2016. If RJR’s application is also denied, then it is likely that the revenue effect of the proposed partial exemption would be zero for the foreseeable future. On the other hand, if the application is approved, then other snus products likely would be approved as well and state revenues would be negatively impacted. Estimates of the revenue effects of HB 877 assuming one or more snus product lines are approved as MRTPs are based on the following:

- The Federal Trade Commission’s Smokeless Tobacco report of 2013 shows that after being introduced in the U.S. market in 2008, sales of snus increased to \$99 million in 2012 before declining to \$85 million in 2013, the most recent year of available data. Snus sales grew by 1.1 percent per year between 2010 and 2013, according to the FTC data.
- A CNBC news report from 2014, however, cited research implying a U.S. snus market size (manufacturer sales) of about \$150 million that year and expected growth of 19.7 percent cumulatively from 2013 through 2017 or about 4.6 percent per year.
- Thus, the estimates assume a 2014 U.S. market size between these two estimates of about \$120 million and growth of 2.85 percent per year.
- According to the State Tobacco Activities Tracking and Evaluation System (STATE), 2.68 percent of adult smokeless tobacco users in the U.S. live in Georgia. Thus, it is assumed that 2.68 percent of snus sales in the U.S. occur in Georgia.
- Based on the pending application, it is assumed that Camel Snus is approved under U.S.C. Section 387k(g)(1), qualifying the product for a 50 percent reduction in the existing 10 percent of wholesale price tax rate. In addition, it is assumed that all snus sales over the projections period are similarly designated as MRTPs.

**Table 2. Approved Snus MRTP Application Case Estimates**

<i>(\$ millions)</i>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
US Snus Wholesale Sales	\$138.1	\$142.0	\$146.1	\$150.3	\$154.5
Estimated Georgia Sales	\$3.70	\$3.81	\$3.92	\$4.03	\$4.14
Current Law Estimated Revenue	\$0.370	\$0.381	\$0.392	\$0.403	\$0.414