



OKLAHOMA TAX COMMISSION

STATE OF OKLAHOMA

STEVE BURRAGE, Chairman
CLARK JOLLEY, Vice Chairman
THOMAS E. KEMP, JR., Secretary-Member

2501 NORTH LINCOLN BLVD.
OKLAHOMA CITY, OK 73194-0001

May 10, 2018

The Honorable Mike Hunter
Attorney General of Oklahoma
313 N.E. 21st Street
Oklahoma City, OK 73105

Dear Attorney General Hunter:

HB 1010XX was enacted pursuant to Sections 33 and 57 of Article V of the Oklahoma Constitution as a general revenue bill. Pursuant to Section 33 of Article 5 the bill is effective ninety days after acted on by the Governor. Governor Mary Fallin signed HB 1010XX on March 29, 2018.

HB 1010XX, based on the signing by the Governor, will be effective June 28, 2018 and

- Levies an additional excise tax on the sale of cigarettes in this state in the amount of fifty (50) mills per cigarette,
- Provides for the taxation of little cigars in the same manner and tax rate as cigarettes,
- Levies an additional motor fuel excise tax in the amount of three cents (\$0.03) per gallon of gasoline sold and six (\$0.06) per gallon of diesel fuel sold, and
- Increases the current two percent (2%) gross production tax rate for oil and natural gas production in the first thirty-six (36) months of production to five percent (5%).

A petition has been filed with the Secretary of State to refer HB 1010XX to a vote of the people. The petition was filed as referendum petition under Section 3 of Article 5 of the Constitution which provides:

Referendum petitions shall be filed with the Secretary of State not more than ninety (90) days after the final adjournment of the session of the Legislature which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures voted on by the people. All elections on measures referred to the people of the state shall be had at the next election held throughout the state, except when the

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Legislature or the Governor shall order a special election for the express purpose of making such reference. Any measure referred to the people by the initiative or referendum shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and not otherwise.

The style of all bills shall be: "Be it Enacted By the People of the State of Oklahoma."

Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people. The Legislature shall make suitable provisions for carrying into effect the provisions of this article.

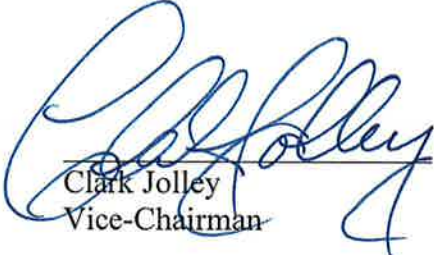
Based upon the filing of the petition, the Oklahoma Tax Commission requests an opinion from the Attorney General on the legal effect of the filing of the referendum petition. Specific questions include:

1. Does a referendum petition delay the provisions of HB 1010XX from becoming operative?
2. If the provisions of HB 1010XX are delayed due to a referendum petition, what act in the petition process initiates the delay – certification by the Secretary of State, order of the Oklahoma Supreme Court, proclamation by the Governor, etc.?
3. What action should the Tax Commission take if the delaying action occurs after June 28, 2018 (the effective date of the bill)?
4. If the provisions of HB 1010XX are delayed, when are the provisions of the bill operative if approved by the voters?




Steve Burrage
Chairman

Sincerely,



Clark Jolley
Vice-Chairman



Thomas E. Kemp, Jr., Secretary-Member