

SC Taxation Realignment Commission (TRAC)

Draft Findings and Recommendations

Soft Drink Excise Tax

Findings:

- For more than 75 years (between 1925 and 2000), South Carolina imposed an excise tax on soft drinks.¹
- In 1995, the General Assembly began a 5-year phase-out, or repeal, of the soft drink excise tax, with the phase-out taking place between 1996 and 2000.²
- Revenue collections from the excise tax on soft drinks peaked during the final full year of the tax's imposition (FY1995-96) at approximately **\$27.2 Million**. By FY2001-02, revenue collections from the excise tax had fallen to \$0.³
- According to estimates provided by the Board of Economic Advisors, if the soft drink excise tax existed today as it did in 1995, expected revenue would approximate **\$34.2 Million** in the current fiscal year (FY2010-11).⁴
- Based on peak collections of **\$27.2 Million** and adjusting for the gradual phase-out of the tax, distributor/wholesaler tax savings (from repeal) have totaled approximately **\$303 Million** over the last 14 years (FY1996-97 and FY2009-10).⁵
- According to industry/trade testimony provided to TRAC, the soft drink industry employed approximately **2,800** persons roughly 15 years ago. Today, the industry estimates that it employs approximately **3,100** persons, a net gain of **300** jobs over the last 15 years, or **20** jobs per year.⁶
- According to industry/trade testimony provided to TRAC, repeal of the soft drinks excise tax ensured that soft drink distributors/wholesalers "stayed in the community" (e.g. did not close operations in South Carolina and move to another state).⁷
- The repeal's impact on soft drink prices? Industry/trade testimony did not provide information indicating that the tax savings for wholesalers/distributors (\$27.2 Million annually (now valued at more than \$34 Million annually) and more than \$300 Million over the last 14 years)) was passed on to consumers in the form of **lower prices**.
- In contrast, TRAC anecdotely finds that any consideration or discussion of reinstating some version of a soft drink excise tax will be met with claims that the tax will be passed on to consumers in the form of **higher prices**.
- During its lifespan, the items taxed (tax base), and the rate of tax (tax rate), changed several times.⁸

By 1995, the tax only applied to:

- 1) Bottled soft drinks such as colas
- 2) Bottled drinks such as fruit and vegetable drinks (but only those containing less than 30% natural juice).
- 3) Syrup used in compounding soft drinks.

- 4) Certain “base” ingredients (other than syrups) fundamental to a soft drink
- 5) Certain “powders” that are fundamental ingredients to a soft drink

The tax did not apply to:

- 1) Bottled water (non carbonated or non soda water)
- 2) Fruit juices containing at least 30% natural juice
- 3) Vegetable juices containing at least 30% natural juice
- 4) Natural liquefied milk (milk where flavoring or syrup has not been added)
- 5) Ice cream
- 6) Sundaes
- 7) Confections
- 8) Powders typically used for personal / individual drink preparation including:
 - a) tea
 - b) coffee
 - c) hot chocolate/cocoa
 - d) frozen concentrates where water is added to pure juices

By 1995, the excise tax rate(s) were as follows:

- 1) Bottled drinks = 1-cent per each 12 ounces
- 2) Soda/fountain drink syrups = 95-cents per gallon
- 3) Drinks not made from syrup (ie non-exempt powder drinks) = 16-cents per gallon

- The tax was collected primarily at the distributor or wholesaler level as is generally customary with excise taxes.
- Other states. TRAC finds that 7 states presently have some form of a soft drink excise tax. They are: Arkansas, Missouri, Rhode Island, Tennessee, Virginia, Washington, and West Virginia.⁹
- Of those states, all impose some form and/or amount of excise tax and a sales tax. (Note: Prior to its repeal, South Carolina imposed both an excise tax and a sales tax as well.)¹⁰
- 34 states impose a sales tax on soft drinks (South Carolina currently does not).¹¹
- 16 states exempt food from sales tax but impose a sales tax on soft drinks.¹²

Recommendations:

- TRAC recommends that the General Assembly thoroughly study the 75 year history of the soft drink excise tax in South Carolina and the impact of the repeal on wholesalers/distributors, consumers and the state for possible re-imposition of some form and/or amount of the soft drink excise tax in South Carolina.
- If the General Assembly decides to re-institute the excise tax on soft drinks, TRAC further recommends that it not impose the tax in-full immediately, but instead, “phase-in” the tax over a 5-year period in the same manner that it “phased-out” the tax between 1996 and 2000. Such an approach is fair and gives the industry time to adjust to the re-imposition and gives the General Assembly time to assess its impact on consumers, if any.

- TRAC recommends that if the General Assembly decides to re-impose the excise tax on soft drinks, it do so at rates no higher than 1995, and possibly lower after a comparative analysis is conducted of rates in other states (imposing the tax).
- TRAC further recommends that if the General Assembly decides to re-impose the excise tax on soft drinks, it not expand the tax base (e.g., the list of items subject to tax) and consider narrowing the base to a more finite list (but only after a comparative analysis of taxable items in other states).
- Tax Relief. TRAC recommends that if the General Assembly decides to re-impose an excise tax on soft drinks, it provide broader based (rather than specific industry targeted) tax relief compared to that provided by the repeal, possibly in the form of property tax relief for manufacturing and/or commercial property (as has been done by the General Assembly with other trust fund type tax relief) or sales tax relief by lowering the overall state base sales tax rate (currently 6%) to a commensurately lower amount (as is consistent with other TRAC recommendations).

Notes:

1 Exhibits "A" and "B" from June 8, 2010 TRAC meeting. Exhibit "A" is a history of the soft drink tax between 1925 and 1986 prepared by DOR ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(A\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(A).pdf)). Exhibit "B" is an advisory document compiled by DOR detailing the repeal/phase-out of the soft drink tax ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(B\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(B).pdf)).

2 The soft drink excise tax was repealed in the annual appropriation act (Act 145) in 1995. Exhibits "B" and "C" from June 8, 2010 TRAC meeting. "B" ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(B\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(B).pdf)). "C" ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(C\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(C).pdf)).

3 Board of Economic Advisors "advisory letter" (and attached table) to TRAC dated June 1, 2010. This is Exhibit "C" from June 8, 2010 TRAC meeting. "C" ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(C\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(C).pdf)).

4 Board of Economic Advisors "advisory letter" (and attached table) to TRAC dated June 1, 2010. This is Exhibit "C" from June 8, 2010 TRAC meeting. "C" ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(C\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(C).pdf)).

5 Board of Economic Advisors "advisory letter" (and attached table) to TRAC dated June 1, 2010. This is Exhibit "C" from June 8, 2010 TRAC meeting. "C" ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(C\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(C).pdf)). Based on TRAC staff's preliminary analysis of Exhibit "C" provided by the Board of Economic Advisors, savings are approximated as follows: FY97-\$4M; FY98-\$8M; FY99-\$12M; FY00-\$16M; FY01-\$20M; FY02 thru FY10-\$27M (each year), for a cumulative savings of \$303 M.

6 "Soft Drink Industry Facts (with changes)", SC Beverage Association, provided to TRAC at its June 8, 2010 meeting. (www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drink%20Industry%20Facts%20with%20Changes.pdf)

7 Testimony by SC Beverage Association representative at TRAC's June 8, 2010 meeting. (www.scstatehouse.gov/citizensinterestpage/TRAC/ApprovedMinutes060810.pdf)

8 Exhibits "A" and "B" from June 8, 2010 TRAC meeting. Exhibit "A" is a history of the soft drink tax between 1925 and 1986 prepared by DOR ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(A\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(A).pdf)). Exhibit "B" is an advisory document compiled by DOR detailing the repeal/phase-out of the soft drink tax ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(B\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(B).pdf)).

9 Analysis provided to TRAC by the Board of Economic Advisors in a June 1, 2010 "advisory letter". ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(C\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(C).pdf)) (pages 3 and 4)

10 Analysis provided to TRAC by the Board of Economic Advisors in a June 1, 2010 "advisory letter". ([www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20\(C\).pdf](http://www.scstatehouse.gov/citizensinterestpage/TRAC/060810Meeting/Soft%20Drinks%20Tax%20(C).pdf)) (pages 3 and 4) and analysis prepared by DOR for TRAC - 50 state analysis of sales tax on groceries and/or soft drinks. (www.scstatehouse.gov/citizensinterestpage/TRAC/AllStates-FoodSoftDrinks.pdf)

11 Analysis prepared by DOR for TRAC - 50 state analysis of sales tax on groceries and/or soft drinks. (www.scstatehouse.gov/citizensinterestpage/TRAC/AllStates-FoodSoftDrinks.pdf)

12 analysis prepared by DOR for TRAC - 50 state analysis of sales tax on groceries and/or soft drinks. (www.scstatehouse.gov/citizensinterestpage/TRAC/AllStates-FoodSoftDrinks.pdf)