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UPDATE: SUPREME COURT GRANTS TEMPORARY STAY

Cigarette tax due on cigarettes manufactured by commercial roll-your-own machines beginning July 1

OLYMPIA – June 29, 2012 – Retailers operating machines that allow their customers to roll their own cigarettes must begin affixing cigarette tax stamps to those products beginning July 1.

The Washington State Supreme Court today issued a temporary stay of a pending lower court preliminary injunction that would have prevented a new law from taking effect.

A Franklin County Superior Court judge issued a preliminary injunction earlier this week barring the state from collecting the tax. The preliminary injunction, however, was contingent on the plaintiffs filing a \$200,000 bond to protect the state's interest should the state ultimately prevail.

The plaintiffs stated in a brief to the Supreme Court today that they do not intend to post the bond at this time due to pending federal legislation that would define the operators of roll-your-own cigarette machines as manufacturers requiring federal permits.

However, the plaintiffs reserved the right to post bond at a later date, which would trigger the injunction. In its order, the Supreme Court indicated it was granting the temporary stay due to the possibility that the plaintiffs might post bond at a later date. The Court will consider a more permanent stay on July 10, 2012.

At issue is legislation that the state contends simply provides a more effective enforcement mechanism to prevent evasion of taxes that are already due on all cigarettes. The plaintiffs in the case contend it is a new tax subject to a two-thirds vote of the Legislature under Initiative 1053.

More information on the issue is available at <http://dor.wa.gov/RYO>.

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