Oregon: Newest frontier for soda tax?

David M. Kall | Thursday, October 19, 2017

In early April, organizers in Multnomah County, Oregon, where the city of Portland is located, began the process for enacting an ordinance that would impose a .015 cent per fluid ounce excise tax on "the privilege of distributing sugar-sweetened beverage products." The proceeds from the tax would be put toward the Children's Health and Education Fund, and dedicated to funding projects that serve children in low-income families and communities of color in the county that:

- Expand access to early childhood education and early literacy initiatives
- Increase physical activity and physical fitness of children
- Improve the nutrition of children
- Improve the dental health of children
- Reduce health disparities of children

The measure, known as the Multnomah Children's Health and Education Act, is a ballot initiative that voters would see in May 2018. If passed, it would become operational on Jan. 1, 2018, and tax collections would begin on July 1, 2018.

In mid-September the Yes for Healthy Kids and Education coalition officially launched its effort, emphasizing that "reducing consumption of sugary drinks is an important step to ensure all our kids grow up healthy…Forty percent of children will develop diabetes in their lifetimes unless we do something about it. And for kids of color, that number is even higher. We cannot stand by while an epidemic of sugar related diseases puts the lives and the futures of our kids at risk."

The coalition anticipates that the tax will generate more than $28.4 million per year in Multnomah County. Half of the revenue will expand preschool programs to low-income children. The other half will "help fund programs that support the health and wellbeing of kids, like more physical education, school gardens, improved playgrounds and more."

According to the coalition, "[r]esearch shows that early learning boosts brain development along with children's educational attainment and earnings later in life. Yet only 25 percent of low-income children in Oregon have access to high quality preschool."

Pointing to Seattle and Berkeley as other jurisdictions that have successfully instituted soda taxes, the coalition observed that there is "momentum behind the issue." The group highlighted research showing that in Berkeley, the tax "cut down consumption by up to 20 percent in some neighborhoods with minimal to no impact on small businesses."

One supporter, the Main Street Alliance of Oregon likewise advocates for the tax as an investment in healthy kids and their education. Rebutting opponents by calling out other cities that have newly installed beverage taxes, the alliance argues that in Berkeley, "[t]here was no loss of revenue for stores.
While sugary beverage sales dropped by nearly 10 percent, the purchase of water, milk, fruit and vegetable juices, and untaxed tea increased. In addition, overall grocery bills did not go up." Similarly, the group asserted that in the first six months of 2017, Philadelphia "officials concluded that the tax has not damaged employment, contrary to what the big soda industry warned."

We have been writing about soda taxes nearly monthly. In our August post, we looked to Philadelphia, and noted that a Tax Foundation analysis found that the city's actual collections in the first six months were about 15 percent below original expectations.

The argument in Oregon for the tax, which is largely that it raises money for kids' health and education while reducing usage, takes no heed of the difficulty that results when lower consumption leads to less funding for the very initiative the tax is meant to support. Our post looked to that as a major flaw. Others that we mentioned include the negative impact on the labor market in the beverage industry, and the regressive nature of the tax, which is made worse when wealthier people buy their sugary beverages outside the city limits, thus avoiding the extra cost.

Illinois' litigation

In our September post about beverage taxes, we described several class action lawsuits that consumers had filed against various retailers in Cook County, like 7-Eleven, McDonalds, and Walgreens. Two weeks after that, Bloomberg wrote that the volume of these kinds of actions "continues to climb" and that "additional suits are expected shortly." Defendants in these new cases include Yum! Brands, the parent of Kentucky Fried Chicken; HMS Host Corp., the operator of concessions at O'Hare airport; Subway; Jewel-Osco, a grocery store chain; and Pepsico, as the operator of vending machines throughout Chicago.

The crux of the allegations against these defendants is that they have not implemented the new levy correctly, and are therefor unlawfully taxing people. A lawyer who has filed six cases and has "additional actions in the pipeline," told Bloomberg that "[i]t may seem like a small amount of money on an individual purchase, but when you add it up over thousands of people it adds up to a lot of money. And it's just not right that the retailers are not doing it properly."

All of this is now moot. Last week, the Finance Committee of the Cook County Board of Commissioners voted to repeal the loathed beverage tax. The repeal language states that "it has becoming increasingly clear that this is a regressive tax which will cause immediate and irrevocable hardship to businesses in Cook County and put those businesses in competitive disadvantage to businesses nearby." The full board approved the repeal.

Iowa and Michigan take opposite approaches

Taking no lesson from its neighbor's woes, Iowa may soon enter the fray. A *Des Moines Register* editorial takes the position that the state "needs a soda tax [because] empty calories can help replenish state budget." Claiming that "Iowa is now the 13th-fattest state in the country and that "[m]ore than 30 percent of our adults are considered obese," along with the fact that a budget shortfall is looming, the piece wonders why not a sugar beverage tax. Iowa's cigarette tax raised $230 million in fiscal year 2016, and the one on alcoholic beverages tax raised $7.6 million in 2016.

On the other hand, Michigan is hoping to stay out of the soda tax business. On October 4, 2017, the senate passed SB 583, which prohibits any "local unit of government" from taking action that imposes a "tax or fee on, the manufacture, distribution, wholesale, or retail sale of food for immediate consumption or nonimmediate consumption, except as otherwise provided by federal law or a law of this state." The measure is now working its way through the House.

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