

# STRUCTURAL CIGARETTE AND TOBACCO PRODUCTS EXCISE TAX EXPENDITURES



**SA**

We Set the Standard for Good Government

JANUARY 2020  
2020-TE5

## EVALUATION SUMMARY

THIS EVALUATION WILL BE INCLUDED IN COMPILATION REPORT SEPTEMBER 2020

	UNSALEABLE CIGARETTES CREDIT	RETURNED OR DESTROYED TOBACCO CREDIT	INTERSTATE CIGARETTE SALES EXEMPTION	OUT-OF-STATE TOBACCO SALES CREDIT (SALES TO RETAILERS ONLY)	BAD DEBT CREDIT FOR CIGARETTE SALES	BAD DEBT CREDIT FOR TOBACCO PRODUCTS SALES
YEAR ENACTED	1964	1986	1964	1986	2004	2004
REPEAL/EXPIRATION DATE	None	None	None	None	None	None
REVENUE IMPACT (CALENDAR YEAR 2017)	\$286,435	\$637,377	Could not determine	\$5,248,762	None	None
NUMBER OF TAXPAYERS	15	22	Could not determine	9	None	None
AVERAGE TAXPAYER BENEFIT	\$19,096	\$28,972	Could not determine	\$583,196	None	None
IS IT MEETING ITS PURPOSE?	Yes	Yes	Yes	Yes	Yes, but it is rarely used	Yes, but it is rarely used

## WHAT DO THE TAX EXPENDITURES DO?

The Unsalable Cigarette Credit and the Returned or Destroyed Tobacco Credit allow cigarette wholesalers or tobacco products distributors to claim a credit for excise taxes paid on unsalable cigarettes or tobacco products that have been returned to the manufacturer or destroyed by the wholesaler.

The Interstate Cigarette Sales Exemption exempts sales of cigarettes made by licensed distributors in interstate commerce from the Colorado cigarette excise tax.

The Out-of-State Tobacco Sales Credit allows tobacco products distributors to claim a credit for excise taxes paid on tobacco products that are shipped to retailers outside of Colorado.

The Bad Debt Credits allow cigarette wholesalers and tobacco products distributors to claim a credit for the excise tax portion of bad debts attributable to cigarette or tobacco products sales when the person who ordered the cigarettes or tobacco products does not pay.

### WHAT DID THE EVALUATION FIND?

We determined that the exemptions are likely meeting their purposes since eligible taxpayers are aware of them and use them when appropriate.

### WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to consider repealing the Bad Debt Credits because they are rarely used and have limited applicability.

### WHAT IS THE PURPOSE OF THESE TAX EXPENDITURES?

Statute does not directly state a purpose for the structural cigarette and tobacco products excise tax expenditures. We inferred the following purposes:

- The purpose of the Unsalable Cigarettes Credit and the Returned or Destroyed Tobacco Credit is to avoid taxing cigarette wholesalers and tobacco products distributors for products that cannot be sold.
- The purpose of the Interstate Cigarette Sales Exemption and the Out-of-State Tobacco Sales Credit is to prevent double taxation of cigarettes and tobacco products that are sold in other states.
- The purpose of the Bad Debt Credits is to reimburse cigarette wholesalers and tobacco products distributors for the excise taxes they paid, but for which payment was never received from the retailer.

# STRUCTURAL CIGARETTE AND TOBACCO PRODUCTS EXCISE TAX EXPENDITURES

## EVALUATION RESULTS

### WHAT ARE THESE TAX EXPENDITURES?

This evaluation covers the following six structural cigarette and tobacco products excise tax expenditures provided to licensed cigarette wholesalers and tobacco products distributors, and which apply to either the State's excise tax on cigarettes or the excise tax on tobacco products, which are administered separately.

- **EXCISE TAX CREDIT FOR UNSALABLE CIGARETTES RETURNED TO MANUFACTURER OR DESTROYED BY DISTRIBUTOR [SECTION 39-28-104(3), C.R.S.]** (Unsalable Cigarettes Credit) was created by House Bill 64-1086 in 1964 and allows cigarette wholesalers to claim a credit for taxes paid on unsalable cigarettes that have been returned to the manufacturer or destroyed by the wholesaler.
- **EXCISE TAX CREDIT FOR UNSALABLE TOBACCO PRODUCTS RETURNED TO MANUFACTURER OR DESTROYED BY DISTRIBUTOR [SECTION 39-28.5-107(1), C.R.S.]** (Returned or Destroyed Tobacco Credit) was created by House Bill 86-1340 in 1986 and allows tobacco products distributors to claim a credit for taxes paid on tobacco products that are returned to the manufacturer by the distributor or destroyed by the distributor.
- **INTERSTATE CIGARETTE SALES EXCISE TAX EXEMPTION [SECTION 39-28-111, C.R.S.]** (Interstate Cigarette Sales Exemption) was created by House Bill 64-1086 in 1964 and exempts sales of cigarettes made by licensed distributors in interstate commerce from the cigarette excise tax.

- **EXCISE TAX CREDIT FOR TOBACCO PRODUCTS SHIPPED OUTSIDE THE STATE TO RETAILERS** [SECTION 39-28.5-107(1), C.R.S.] (Out-of-State Tobacco Sales Credit) was created by House Bill 86-1340 in 1986 and allows tobacco products distributors to claim a credit for excise taxes paid on tobacco products that are shipped to retailers outside of Colorado. This credit does not include taxes paid on tobacco products that are shipped to consumers outside of the state.
- **BAD DEBT CREDIT FOR EXCISE TAXES PAID ON CIGARETTE SALES** [SECTION 39-28-104(4), C.R.S.] and **BAD DEBT CREDIT FOR EXCISE TAXES PAID ON TOBACCO PRODUCTS SALES** [SECTION 39-28.5-107(2), C.R.S.] (Bad Debt Credits) were created by House Bill 04-1071 in 2004 and allow cigarette wholesalers and tobacco products distributors to claim a credit for the excise tax portion of bad debts attributable to cigarette or tobacco products sales when the person who ordered the cigarettes or tobacco products does not pay. To be eligible for these credits, the wholesaler or distributor must have written off the bad debt as uncollectible on their books, and the bad debt must be eligible to be claimed as a deduction pursuant to Section 166 of the Internal Revenue Code. When a wholesaler or distributor claims the Bad Debt Credits, the responsibility for paying the cigarette or tobacco products excise tax shifts to the purchaser that did not pay the wholesaler or distributor.

All of these tax expenditures have remained substantially unchanged since their enactment.

Colorado first imposed an excise tax on cigarettes in 1964, and in 2004 Colorado voters approved a constitutional amendment to impose an additional excise tax on cigarettes. Currently, the total excise tax on cigarettes is \$0.042 per cigarette, which is \$0.84 per pack of 20 cigarettes or \$1.05 per pack of 25 cigarettes. Statute [Section 39-28-102(1), C.R.S.] requires wholesalers that sell or offer for sale cigarettes in the state to obtain a license from the Department of Revenue. Wholesalers are any people, firms, limited liability companies, partnerships, or corporations that import cigarettes into Colorado for sale or resale. Although cigarette excise taxes are typically passed on to

consumers, cigarette wholesalers are responsible for paying the tax. Cigarette wholesalers indicate that they have paid the tax by affixing a stamp purchased from the Department of Revenue to each pack of cigarettes.

Colorado first imposed an excise tax on tobacco products in 1986, and in 2004 Colorado voters approved a constitutional amendment to allow an additional excise tax on tobacco products. Tobacco products are any products made completely or partially from tobacco, with the exception of cigarettes, which are taxed separately from tobacco products. Currently, the total excise tax on tobacco products is 40 percent of the manufacturer's list price, which is, per statute [Section 39-28.5-101(3), C.R.S.], "the invoice price for which a manufacturer or supplier sells a tobacco product to a distributor exclusive of any discount or other reduction." Statute [Section 39-28.5-104(1), C.R.S.] requires tobacco products distributors to obtain a license from the Department of Revenue. Tobacco products distributors are anyone who first receives tobacco products in the state, sells tobacco products in this state who is liable for the tobacco products excise tax, or first sells or offers for sale in this state tobacco products that were imported into this state from another state or country. Although tobacco products excise taxes are typically passed on to consumers, tobacco products distributors are responsible for paying the tax.

The Department of Revenue requires that cigarette wholesalers and tobacco products distributors file their cigarette and tobacco products excise tax returns electronically through Revenue Online, the Department of Revenue's online tax filing system. Cigarette wholesalers must submit monthly returns, and tobacco products distributors must submit quarterly returns.

- Cigarette wholesalers claim the **UNSELLABLE CIGARETTES CREDIT** on Line 11 (Credit for Returned Stamps) of the online Cigarette Tax Return (Form DR 0221) and must attach a certification or affidavit from the manufacturer stating that the cigarettes were returned.

- The Department of Revenue does not have any reporting requirements for cigarette wholesalers to claim the **INTERSTATE CIGARETTE SALES EXEMPTION**, and taxpayers receive this exemption by not purchasing and affixing Colorado cigarette stamps to the cigarettes that they sell outside of the state.
- Tobacco products distributors claim the **RETURNED OR DESTROYED TOBACCO CREDIT** on Line 6 (Returned to Manufacturer) or Line 7 (Destroyed by Distributor) of the online Tobacco Products Tax Return.
- Tobacco products distributors claim the **OUT-OF-STATE TOBACCO SALES CREDIT** on Line 5 (Shipped to Retailers Outside Colorado) of the online Tobacco Products Tax Return.
- Cigarette wholesalers and tobacco products distributors claim the **BAD DEBT CREDITS** by submitting the Claim for Refund form (Form DR 0137). They must provide sufficient documentation to verify that the cigarette excise tax was paid by the wholesaler and that the wholesaler never received payment from the purchaser, including (1) a copy of the original invoice issued by the wholesaler/distributor, (2) evidence that the cigarettes or tobacco products described in the invoice were delivered to the person that ordered them, (3) evidence that the wholesaler/distributor did not receive payment from the purchaser, (4) evidence that the wholesaler/distributor used reasonable collection practices to attempt to collect the debt, and (5) documentation that the bad debt is eligible to be claimed as a deduction under 26 USC 166 for federal tax purposes.

#### WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURES?

Statutes do not directly state the intended beneficiaries of these tax expenditures. Based on our review of statutes, we inferred that the intended beneficiaries of the structural cigarette and tobacco products excise tax expenditures are cigarette wholesalers and tobacco products distributors in the state. According to Department of Revenue data, as

of September 2019, there were 26 licensed cigarette wholesalers and 207 licensed tobacco products distributors operating in Colorado.

### WHAT IS THE PURPOSE OF THESE TAX EXPENDITURES?

Statutes do not explicitly state a purpose for any of the structural cigarette and tobacco products excise tax expenditures. Based on the statutory language, we inferred the following purposes:

The purpose of the **UNSALEABLE CIGARETTES CREDIT** and the **RETURNED OR DESTROYED TOBACCO CREDIT** is to avoid taxing cigarette wholesalers and tobacco products distributors for products that cannot be sold. Although cigarette wholesalers and tobacco products distributors are responsible for paying the excise taxes, it is generally intended that these taxes be passed through to consumers in the form of higher prices. Since unsalable products cannot be sold, the taxes already paid on the products cannot be passed through to consumers. Every state has some form of cigarette and tobacco excise tax, and credits or refunds for taxes paid on unsalable cigarettes and returned or destroyed tobacco products on which excise taxes have been paid are common structural provisions in most states.

The purpose of the **INTERSTATE CIGARETTE SALES EXEMPTION** and the **OUT-OF-STATE TOBACCO SALES CREDIT** is to prevent double taxation of cigarettes and tobacco products that are sold in other states. An exemption or credit for interstate sales or products shipped outside the state is a common structural provision among states that is necessary to avoid taxing the same products multiple times when they are sold through interstate sales.

The purpose of the **BAD DEBT CREDITS** is to reimburse cigarette wholesalers and tobacco products distributors for the excise taxes they paid, but for which they never received payment by the retailer. Cigarette and tobacco products excise taxes are generally built into the price of products as they move through the supply chain from the wholesaler or distributor (who initially pays the tax), to the retailer, and ultimately to the consumer. In the case of a bad debt, because the

cigarette wholesaler or tobacco products distributor has not been paid by the retailer, they are unable to pass on the excise taxes. These credits shift the liability of the excise tax from the cigarette wholesaler or tobacco products distributor to the nonpaying purchaser.

ARE THE TAX EXPENDITURES MEETING THEIR PURPOSE  
AND WHAT PERFORMANCE MEASURES WERE USED TO  
MAKE THIS DETERMINATION?

We determined that these tax expenditures are accomplishing their purposes, to some extent, since cigarette wholesalers and tobacco products distributors are generally aware of the tax expenditures and claim them when they are eligible. Statute does not provide quantifiable performance measures for these tax expenditures. Therefore, we created and applied the following performance measures to determine the extent to which these tax expenditures are meeting their purposes.

**PERFORMANCE MEASURE #1:** *To what extent do eligible taxpayers claim the UNSALABLE CIGARETTES CREDIT or the RETURNED OR DESTROYED TOBACCO CREDIT to avoid paying excise taxes on unsalable cigarettes or returned or destroyed tobacco products?*

**RESULT:** Overall, it appears that eligible taxpayers are likely claiming the credits. In Calendar Year 2017, 15 of the 37 cigarette wholesalers in Colorado that filed a Cigarette Tax Return (41 percent) claimed the Unsalable Cigarettes Credit using Line 11 of the return (labeled on the form as Credit for Returned Stamps). However, Line 11 is used to report both the Unsalable Cigarettes Credit and the return of unused cigarette stamps (i.e., cigarette stamps that were purchased but never affixed to cigarette packs) to the Department of Revenue. Therefore, it is possible that fewer than 15 taxpayers claimed the Unsalable Cigarettes Credit. We were not able to break out the total credit amount claimed on this line between these two reasons that an amount may have been entered. In Calendar Year 2017, 22 of the 169 (13 percent) tobacco products distributors that filed a Tobacco Products Tax Return claimed the Returned or Destroyed Tobacco Credit. Furthermore, although we lacked data to assess whether all eligible taxpayers took

the credits, we spoke with five licensed cigarette wholesalers and tobacco products distributors in Colorado, as well as a trade association that represents distributors in Colorado, and most were aware of the credits and said that they claim them when they are eligible.

**PERFORMANCE MEASURE #2: *To what extent do eligible taxpayers claim the INTERSTATE CIGARETTE SALES EXEMPTION and the OUT-OF-STATE TOBACCO SALES CREDIT?***

**RESULT:** Although they only apply to a limited number of transactions in Colorado, we found that eligible taxpayers are likely using these tax expenditures. In Calendar Year 2017, 9 of the 169 licensed tobacco products distributors in Colorado (5 percent) claimed the Out-of-State Tobacco Sales Credit. Taxpayers are not required to report the Interstate Cigarette Sales Exemption on the Cigarette Tax Return. Therefore, the Department of Revenue does not have data on how many taxpayers claimed the exemption. However, we spoke with five licensed cigarette wholesalers and tobacco products distributors in Colorado, as well as a trade association that represents distributors in Colorado, and they were all aware of both of these tax expenditures. According to stakeholders, these tax expenditures are generally not claimed by cigarette wholesalers and tobacco products distributors unless they have a distribution center or substantial distribution operations in Colorado. This is because the distributors without distribution centers in Colorado ship products into Colorado to be sold only by retailers in Colorado, and the products are not subsequently exported from the state by the distributor. Therefore, these tax expenditures are applicable to only a small segment of the licensed cigarette wholesalers and tobacco products distributors in the state that ship cigarettes and tobacco products outside of Colorado. However, one stakeholder that ships cigarettes and tobacco products outside of Colorado reported that these tax expenditures are very important since out-of-state sales makes up a significant portion of their business, and if these tax expenditures did not exist, their products would be subject to excise tax in Colorado and the state in which the products are sold.

**PERFORMANCE MEASURE #3:** *To what extent are cigarette wholesalers and tobacco products distributors claiming the BAD DEBT CREDITS when they are not paid by purchasers?*

**RESULT:** No licensed cigarette wholesalers or licensed tobacco products distributors claimed the Bad Debt Credits in Calendar Years 2014 through 2018. There were claims of both Bad Debt Credits in Calendar Year 2013, but data on those claims is not releasable because publishing the data could violate taxpayer confidentiality, which is required under Section 39-21-113(4)(a) and (5), C.R.S., due to the small number of taxpayers claiming them. We spoke with five licensed cigarette wholesalers and tobacco products distributors in Colorado, as well as a trade association that represents distributors in Colorado, and three of the wholesalers and distributors and the trade association were aware of the Bad Debt Credits. One stakeholder reported that they do not claim the credits for their bad debts because the substantiation requirements outweigh the benefit they receive from the credits, and that the excise tax portion of the bad debt would have to be substantial for them to use the credits. Other stakeholders reported that bad debts resulting from retailers filing for bankruptcy or going out of business would be two common reasons that they would use the credits, and that these credits are important if those circumstances arise.

#### WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURES?

According to Department of Revenue taxpayer data, for Calendar Year 2017:

- The **UNSALEABLE CIGARETTES CREDIT** reduced state tax revenue by approximately \$286,000, a decrease of about 6 percent from the Calendar Year 2015 revenue impact of about \$305,000. However, these revenue impacts may include some amount of unused stamps that cigarette wholesalers returned to the Department of Revenue since returned unused stamps are reported on the same line on the cigarette excise tax return as the Unsalable Cigarettes Credit.

- The **RETURNED OR DESTROYED TOBACCO CREDIT** reduced state tax revenue by approximately \$637,000, a decrease of about 32 percent from the Calendar Year 2015 revenue impact of \$937,000.
- The **OUT-OF-STATE TOBACCO SALES CREDIT** reduced state tax revenue by approximately \$5.2 million, a decrease from the Calendar Year 2015 revenue impact. However, the 2015 revenue impact is not releasable because publishing the data could violate taxpayer confidentiality, which is required under Sections 39-21-113(4)(a) and (5), C.R.S.
- The Department of Revenue does not collect data on the **INTERSTATE CIGARETTE SALES EXEMPTION** since it does not require that taxpayers report this exemption on the Cigarette Tax Return. Therefore, no revenue impact is available for this exemption.
- The **BAD DEBT CREDITS** did not reduce state revenue in Calendar Years 2014 through 2018. The credits had a revenue impact in Calendar Year 2013, but the revenue impact cannot be released because publishing the data could violate taxpayer confidentiality, which is required under Sections 39-21-113(4)(a) and (5), C.R.S., due to the small number of taxpayers claiming them. Therefore, it appears that these tax credits are claimed infrequently.

#### WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURES HAVE ON BENEFICIARIES?

If the **UNSALEABLE CIGARETTES CREDIT** and the **RETURNED OR DESTROYED TOBACCO CREDIT** were eliminated, it would result in cigarette wholesalers and tobacco products distributors paying for excise taxes that are intended to be passed through to consumers, since the products are ultimately not sold. Although most stakeholders reported that the need for these credits does not arise frequently, some said that when they do have unsalable product, the credits are important to them.

If the **INTERSTATE CIGARETTE SALES EXEMPTION** and the **OUT-OF-STATE TOBACCO SALES CREDIT** were eliminated, cigarettes and tobacco

products could be subject to excise tax both in Colorado and in the jurisdiction in which the products are eventually sold. For example, if a Colorado cigarette wholesaler that sells cigarettes to Oklahoma retailers were responsible for paying Colorado cigarette excise taxes (\$0.84 per pack of 20 cigarettes) in addition to the Oklahoma cigarette excise taxes (\$2.03 per pack), the total tax on a pack of cigarettes would be \$2.87, a 41 percent increase in the amount of tax due with the exemption in place. Likewise, if a Colorado tobacco products distributor were responsible for paying Colorado tobacco products excise taxes (40 percent of the manufacturer's list price) and Oklahoma tobacco products excise taxes (60 percent of the factory list price), the total tax would be 100 percent of the manufacturer's/factory list price, which would be significantly higher than the current tax. Many stakeholders reported that their business is not structured in a way that makes these tax expenditures necessary because they do not ship products into Colorado to be exported outside of Colorado. However, for the Colorado wholesalers and distributors that ship cigarettes and tobacco products to other states, one stakeholder reported that these tax expenditures are important because shipments to out-of-state retailers make up a substantial part of their business. Additionally, every other state has a similar exemption or credit, and eliminating these tax expenditures would make Colorado an outlier among the states.

If the **BAD DEBT CREDITS** were eliminated, it would result in cigarette wholesalers and tobacco products distributors being financially responsible for the excise tax portion of bad debts that result from retailers not paying for the products. Because these credits have been claimed infrequently, there would likely be minimal impact to beneficiaries if these credits were eliminated. However, one stakeholder reported that these credits serve as protective measures for cigarette and tobacco products distributors to recover the excise tax portion of bad debts, especially in cases when a nonpaying retailer has declared bankruptcy or gone out of business.

#### ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

Every other state and the District of Columbia levies excise taxes on

cigarettes and tobacco products. We examined the tax laws of the 49 other states (excluding Colorado) and the District of Columbia and found that:

- All 49 other states (excluding Colorado) and the District of Columbia either explicitly exempt interstate cigarette and tobacco products sales from excise tax, provide a credit for taxes paid on products shipped outside the state, and/or effectively exempt interstate sales because they only tax products that are sold within the state.
- Forty-five states (excluding Colorado) and the District of Columbia provide a credit for excise taxes paid on unsalable cigarettes, and 38 states (excluding Colorado) provide a credit for excise taxes paid on unsalable tobacco products.
- Nine states (excluding Colorado) allow a bad debt credit for cigarettes, and eight states (excluding Colorado) allow a bad debt credit for tobacco products.

Therefore, interstate cigarette and tobacco products sales excise tax exemptions and credits, and credits for excise taxes paid on unsalable cigarettes and tobacco products are common structural provisions in other states' tax codes. Bad debt credits are less common structural provisions, and the only other state in the Rocky Mountain region that has a similar credit is Idaho.

#### ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

There is a federal excise tax credit or refund [26 USC 5705] of any federal cigarette and tobacco products excise taxes paid on products that are withdrawn from the market, lost (except for theft), or destroyed by fire, casualty, or natural disasters when they are in possession of the claimant. The credit or refund must be claimed within 6 months of when the products are withdrawn from the market, lost, or destroyed.

We did not identify any similar tax expenditures or programs with similar purposes as the **INTERSTATE CIGARETTE SALES EXEMPTION**, **OUT-OF-STATE TOBACCO SALES CREDIT**, or **BAD DEBT CREDITS**.

#### WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURES?

The Department of Revenue does not require cigarette wholesalers to report their interstate sales on the Cigarette Tax Return. Therefore, we were unable to determine the extent to which the **INTERSTATE CIGARETTE SALES EXEMPTION** is being used or its revenue impact to the State. To collect this additional information, the Department of Revenue would need to add a reporting line specifically for the exemption on the Cigarette Tax Return (Form DR 0221) and add programming to GenTax, its tax processing and information system, to capture and extract this information, which would require additional resources (see the Tax Expenditures Overview section of the Office of the State Auditor's *Tax Expenditures Compilation Report* for additional details on the limitations of Department of Revenue data and the potential costs of addressing the limitations).

#### WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

**THE GENERAL ASSEMBLY MAY WANT TO CONSIDER REPEALING THE BAD DEBT CREDITS BECAUSE THEY ARE RARELY USED AND HAVE LIMITED APPLICABILITY.** In Calendar Years 2013 through 2018, the Bad Debt Credits were claimed only in 2013, but data on those claims is not releasable because publishing the data could violate taxpayer confidentiality, which is required under Sections 39-21-113(4)(a) and (5), C.R.S., due to the small number of taxpayers claiming them. Statutes [Sections 39-28-104(4)(b) and (d), and Sections 39-28.5-107(2)(b) and (d), C.R.S.] provide an extensive list of substantiation documents that must be provided in order for a taxpayer to claim the Bad Debt Credits. One stakeholder reported that they do not claim the credits for their bad debts because the substantiation requirements outweigh the benefit they receive from the credits, and that the excise

tax portion of the bad debt would have to be substantial for them to use the credit. One stakeholder also reported that these credits serve as protective measures for cigarette and tobacco products distributors to recover the excise tax portion of bad debts, especially in cases when a nonpaying retailer has declared bankruptcy or gone out of business. However, the need for these credits appears to be limited to infrequent circumstances.

Additionally, we only identified nine other states with a bad debt credit for cigarette excise taxes and eight other states with a bad debt credit for tobacco products excise taxes, so these types of credits are not a common structural element of most states' tax codes.