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CONTACT: [Aaron Fobes](#) , [Julia Lawless](#)
(202) 224-4515

Hatch Statement at Finance Committee Hearing on Tobacco Taxation

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following opening statement at a committee hearing tobacco taxation:

Thank you, Mr. Chairman, for holding today's hearing.

According to written testimony we received today, the Alcohol and Tobacco Tax and Trade Bureau collected approximately \$23 billion in taxes in fiscal year 2013, making it the third largest tax collection agency in the U.S. government.

This amount is even more significant when you consider the number of tobacco-related transactions undertaken and that millions of Americans are represented somewhere in that \$23 billion. Of that amount, around \$14 billion came from collecting taxes on tobacco products. It seems that there is some truth to the quip attributed to former House Majority Leader Thomas Foley, that "If you don't drink, smoke, or drive a car, you're a tax evader."

Because of the large sums of money involved in this issue and because of the number of people and businesses affected, it is important that federal excise taxes are administered accurately and fairly.

As with the income tax, and our tax system as a whole, compliance needs to be based on a belief that clear rules are consistently enforced in a way that doesn't put taxpayers at a disadvantage to those who do not follow the rules.

We also need to keep in mind – and this is true for all tax policy – that tax avoidance and tax evasion are very different behaviors.

The tax code should consist of clear rules, and people will either follow them or they won't.

To the taxpayer, the tax code is not a bill for a government program or a claim on whatever someone might consider to be the patriotic amount. It is a set of rules for arriving at a specific and definite number.

During today's hearing, we will specifically discuss two market shifts in tobacco products that seem prevalent since the passage of the Children's Health Insurance Program Reauthorization Act in 2009, which increased tobacco taxes.

One of these is an apparent shift from roll-your-own tobacco to pipe tobacco, which is taxed at a lower rate.

As one of our witnesses noted in his written testimony, one tobacco manufacturer has "acknowledged that there was no real difference between its roll-your-own tobacco and its pipe-cut tobacco."

Given the fact that roll-your-own tobacco is taxed at around 10 times the rate of pipe tobacco, this market shift deserves our attention.

Another market trend that I expect to be highlighted in this hearing concerns an apparent shift from what the Internal Revenue Code defines as "small cigars" to "large cigars" which results in tax savings if the manufacturer's price is below a certain amount.

In addition to these recent market shifts, we need to be mindful of more longstanding issues that clearly deal with tax evasion. For example, smuggling of counterfeit or diverted products where federal taxes have not been paid is a serious problem, possibly costing the U.S. billions of dollars in tax revenue every year.

Finally, since we are discussing tobacco, the health component of this issue is also important. Evasion, counterfeiting and black markets, in addition to denying federal, state, and local governments revenue, also sidestep health-related requirements along with restrictions intended to reduce the appeal of tobacco to minors.

I hope this hearing sheds light on how we can improve tax administration by ensuring that our tax laws are being enforced appropriately. I also hope that it will help us understand if the laws themselves have not been written in a way to accomplish what was intended. Though we're talking about a specific set of federal excise taxes on a product that is controversial, that should not distract us from the fundamentals of good tax policy.

Thank you, once again, Mr. Chairman, for holding this hearing. I look forward to hearing from our witnesses.

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