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Second Thoughts About Oklahoma's Second Amendment Tax Holiday Proposal

Gun Sales Tax Holidays Are Poor Tax Policy and Suggest that Rights Need Governmental Encouragement

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Oklahoma State Sen. John Sparks (D-Norman) has introduced a bill to create a tax-free weekend for purchases of handguns, shotguns, and rifles, stating that the objective of the bill is “to defend our Second Amendment rights.”¹ The Second Amendment needs neither a sale nor a holiday to commemorate it, and Oklahomans should not misuse tax policy for that purpose.

Sales Tax Holidays Are Poor Tax Policy

Legislators and taxpayers should be wary of sales tax holidays because they are based on poor tax policy and distract policymakers and taxpayers from real, permanent, and economically beneficial tax reform. Rather than stimulating new sales, sales tax holidays merely shift them in time. Sales tax holidays also introduce unjustifiable government distortions into the economy without providing any significant boost to the economy or relief to taxpayers.

The sales tax base should be as broad as possible, encompassing all end-user retail products. This allows the sales tax rate to be as low as possible. A narrow sales tax base, one characterized by numerous exemptions, benefits some consumers while leaving others out and leads to higher sales tax rates on non-exempt products. If lawmakers want to cut sales taxes, they should do so in a way that benefits all consumers regardless of what they buy or when they buy it. (See our Aug. 2009 report, “Sales Tax Holidays: Politically Expedient but Poor Tax Policy,” <http://www.taxfoundation.org/publications/show/25052.html>, for more.)

¹ Associated Press, “Norman lawmaker proposes tax-free ‘Second Amendment Weekend’,” (Dec. 29, 2009).

Product-Specific Tax Holidays Can Have Unintended Consequences

There are always unintended consequences when government starts taxing products in a non-neutral manner. One that was observed during South Carolina's gun sales tax holidays is that because associated safety equipment did not qualify, customers bought fewer vests, gun safes, carrying cases and locks when they purchased tax-exempt guns. It may not be a serious problem, but the net result is that the government encouraged people to buy guns but not the associated safety equipment, probably not what they intended.

Similarly, Louisiana's hurricane preparedness holiday applies to candles, even though the state's official hurricane preparedness guide warns people not to use candles because of the danger of gas leaks and fire.²

Using the Tax Code for Gun Rights Can Undermine Those Rights

Gun sales tax holidays are perverse in that they suggest that our rights need governmental encouragement through the tax code to be meaningful. Giving tax credits to individuals who plead the Fifth Amendment or assemble to present grievances would be absurd. The fewer economic decisions that are made for tax reasons, the better.

South Carolina's Negative Experience with Its Gun Sales Tax Holiday

South Carolina and Louisiana have held a similar gun sales tax holiday in the past year, framed as a reaffirmation of support for gun rights. The trend follows the 2008 U.S. Supreme Court decision in *Heller v. District of Columbia*, striking down a gun ban for infringing on an individual right to bear arms protected by the Second Amendment to the U.S. Constitution. The Court is currently considering whether state laws can infringe upon that right.

In South Carolina, State Representative Michael Pitts (R), who sponsored the House bill, stated that the holiday "was politically designed to bring recognition to the importance of the Second Amendment."³ The taxpayer savings were estimated to be minimal: just \$15,000. The bill was put into law over the veto of Governor Mark Sanford (R), who wrote, "While we support the intent underlying sales tax holidays, we are vetoing this bill because we don't believe that sales tax holidays are an effective method of promoting energy efficiency or the Second Amendment." The South Carolina Policy Council also criticized the holiday: "This is a symptom of a problem we have; there will always be pet projects that individuals support. If we allow lawmakers to tinker with the tax code for everything they support at the expense of those they do not, we'll end up with what we have now, which is an absurdly complicated tax code."⁴

In May 2009, the South Carolina Supreme Court struck down the gun sales tax holiday law because it combined different sales tax holiday topics into one bill, violating a state constitutional provision barring such "logrolling."⁵ The legislature re-enacted the gun sales tax holiday,

² Louisiana Office of Homeland Security & Emergency Preparedness, "Before & After a Hurricane Fact Sheet," at <http://www.ohsep.louisiana.gov/factsheets/todohurrsht.htm> ("Don't light candles.").

³ Sarita Chourey, "Critics say sales tax holiday makes code too complicated," *Augusta Chronicle* (Nov. 23, 2008).

⁴ See Joseph Henchman, "South Carolina Prepares for Gun Sales Tax Holiday," Tax Foundation Tax Policy Blog (Nov. 26, 2008), at <http://www.taxfoundation.org/blog/show/23972.html>.

⁵ See *American Petroleum Institute v. South Dakota Dept. of Revenue*, 677 S.E.2d 16 (S.C. 2009).

scheduling it for November 27-28, 2009. In July 2009, the media attention resulted in Louisiana's enactment of a similar "Second Amendment" tax holiday, held in early September 2009.⁶

Conclusion

Buying products, including guns, is a personal decision best made by individuals without legislative encouragement or discouragement through the state tax code. Enshrinement of one group's favorite products in a tax loophole merely invites other groups to campaign for similar treatment.

⁶ See Joseph Henchman, "Louisiana Tax Credits: Politicians Picking Winners and Losers," Tax Foundation Tax Policy Blog (July 11, 2009), at <http://www.taxfoundation.org/blog/show/24845.html>.