

**ANALYSIS OF 2003 LEGISLATIVE PROPOSAL
SPECIAL TAXES SUGGESTION No. 4-5**

**PREPARED BY
PROPERTY AND SPECIAL TAXES DEPARTMENT**

Amend Sections 30438 and 30449 of the Cigarette and Tobacco Products Tax Law to allow any person owning or claiming any interest in cigarettes, as specified, to file a petition with the Board requesting the release or recovery of the cigarettes.

Source: Honorable Claude Parrish

Pros

- State would recover tax revenue and receive additional revenue in the amount of the 35% penalty.
- Taxpayer would be able to recoup his working capital.
- Taxpayer would be educated about the need for legitimate stamps on the product in the future and would serve as a warning when buying cigarettes at an unusual discount.
- May shorten time for appeal cases related to small seizures.
- Would decrease BOE staff time and expense related to destruction of cigarettes.

Cons

- The BOE could be subject to litigation if illegally obtained counterfeit, contaminated or spoiled cigarettes are released into the market place.
- The Master Settlement Agreement (MSA) may be violated and payments to California jeopardized if seized cigarettes are released to the public that have not been reported by the California Distributor.
- May not deter future illegal purchases of cigarettes if the seized cigarettes are returned as the payment of tax, penalty and stamp cost may still be less than purchasing legitimate cigarettes from distributors.