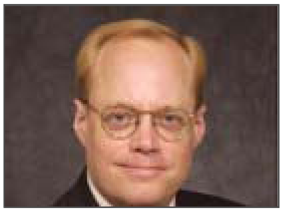

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Mexico's Coca-Cola Tax Beats Bloomberg's New York Big Soda Ban

The U.S. and Mexico share more than a big stretch of border. They share a big waistline too. And some of what is plaguing Mexico's blossoming obesity problem is the great-tasting real sugar formula of Mexico's Coca-Cola. The New York Times called it The Cult of Mexican Coca-Cola. The problem is deeper than any one beverage and any one food.

Still, sweet drinks and junk food are a place to start. So Mexican President Enrique Peña Nieto has proposed taking a knife to the fat by taxing heavily sweetened soft drinks. That would combat the country's weight and diabetes problems, he claims.

There's even a chance it will take effect. Mexico's lower House has approved the soft drink tax of 1 peso (8 US cents) per liter and a 5% excise tax on high-calorie packaged foods like potato chips, peanut butter and sweetened breakfast cereals.

The Mexican Senate is expected to pass both measures. Still, a media campaign suggests otherwise.

It should be no surprise that Mr. Peña Nieto has angered some big players. Some of Mexico's biggest companies are involved. Take Femsa, which makes and distributes Coca-Cola and conveniently owns the Oxxo convenience stores. Femsa and Bimbo are two of Mexico's 19 largest public companies, according to Forbes 2013 list Global 2000 Largest Companies. Grupo Bimbo owns Sara Lee, Entenmann's, Boboli and Thomas' English Muffins.

70% of Mexico's adults and 30% of its children are overweight or obese. That means it is overtaking the U.S., hardly an accolade. There is a corollary rise in chronic illnesses including adult-onset Type 2 diabetes. The latter effects an estimated 15% of Mexicans over age 20. The cost of weight-related illness to the country's public health system is said to exceed $3 billion a year.

But soda consumption in Mexico is especially bad, claiming the highest per-capita consumption in the world. The massive bottler, Coca-Cola Femsa SAB, operates in 10 countries. Femsa is already moping about the tax and its negative impact, grumbling that the proposed tax will cut its sales and even force cuts in its workforce.

Still, the company admits that consumers are likely to foot the bill. That may mean price increases of 12% to 15%. After all, these are sin taxes, excise taxes like those on alcohol, cigarettes and candy.

Although they are imposed on producers or sellers, they are almost inevitably passed on to buyers. They differ from sales taxes mostly by being more targeted. Suspect services can be targeted too. An example was the 10% tanning tax. It was projected to raise $2.7 billion over 10 years from America's 20,000 indoor tanning salons.

Projections may not prove true. All manner of studies are commissioned and debated too. Many are well-intentioned and may be rock-solid. Yet amid the rhetoric it can be hard to identify which are and which are not.

When New York's soda tax or soda ban was being debated, a study published in *Health Affairs* said experts estimated that a 15% cut in consuming sugared beverages among 25 to 64 year olds would prevent staggering numbers of deaths and serious illnesses, not to mention saving billions in medical costs. It is difficult to pooh-pooh such figures, particularly when the stakes seem so high. Yet money talks in any language.

As reported here—Mexico's Proposed Tax On Soda, Junk Food Opposed By Billionaire Beverage And Food Barons—Mexican companies that will be hurt by the tax have gone to the media. "You don't fight obesity with taxes," said full page anti-tax advertisements in Mexican newspapers. They blamed the tax on foreign influences, including New York's anti-soda Mayor Michael Bloomberg.

Of course, even the powerful Mr. Bloomberg failed against Big-Soda there. And Mexico is hardly New York. And while now the New York Soda Ban to Go Before State's Top Court, it may be that a soda tax in New York would have been far easier to swallow than a big soda ban. Like sugar.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.