

Cigarette & Tobacco Taxation



**ISSUE
MEMORANDUM
2017-07**

Introduction

Tobacco use is a leading cause of preventable disease and death in the United States. Cigarette and tobacco taxation have been commonly used not only to discourage tobacco use and enhance public health but also generate revenue. Cigarettes and other tobacco products are taxed by federal, state, and local governments in various ways, including excise taxes. This memorandum provides an overview of the taxation and regulation of cigarettes and tobacco products in South Dakota and an overview of other state cigarette excise tax and other tobacco product tax rates.

Cigarette Tax

The Legislature first levied a statewide excise tax on cigarettes in 1923. The cigarette tax is imposed on all cigarettes held in this state for sale by any person. The most recent change occurred in 2007, after voters adopted Initiated Measure 2, which increased the cigarette tax on a 20 pack of cigarettes from \$0.53 to \$1.53. Before that, the tax increased from \$0.33 to \$0.53 per pack of 20 cigarettes and from \$0.42 to \$0.67 on packs of 25 cigarettes in 2003. The table to the right shows the cigarette tax rates since 1959.

Retail sales of cigarettes are also subject to the state sales and use tax rate plus the municipal sales and use tax rate in addition to any cigarette excise tax. Of the surrounding states, South Dakota has one of the lowest general state sales tax rates at 4.5%. Iowa and Minnesota general state sales tax rates are 6% and 6.875%, respectively. Nebraska and North Dakota general state sales tax rates are slightly lower at 5.5% and 5%, respectively. Montana does not have a general state sales tax. In addition to the state excise tax, the federal government levies a \$1.01 excise tax on each pack of 20 cigarettes. The federal tax was increased from \$0.39 per pack in 2009.

**Table 1: Cigarette Tax Rates
Per Pack of Twenty Cigarettes**

Year	Tax Rate
1959	\$0.05
1963	\$0.06
1965	\$0.08
1969	\$0.12
1979	\$0.14
1981	\$0.15
1985	\$0.23
1995	\$0.33
2003	\$0.53
2007	\$1.53

Cigarette Tax in Other States

Every state imposes a tax on cigarettes, but states vary considerably regarding their tax rates. Almost all cigarette excise taxes were adopted before 1950; only 10 states have adopted taxes since 1951. Except for Minnesota and Montana, South Dakota has the highest excise tax on cigarettes of all the neighboring states. The rates of Wyoming (\$0.60/pack), Nebraska (\$0.64/pack), North Dakota (\$0.44/ pack), Minnesota (\$3.04/pack), Montana (\$1.70/pack) and Iowa (\$1.36/pack) is applied to each package of 20 cigarettes.

States with the lowest taxes on cigarettes include Missouri (\$0.17 cents per pack), and Virginia (\$0.30 cents per pack), although both Missouri and Virginia are among the few states that allow counties and cities to impose an additional tax on cigarettes (in Missouri, from \$0.04 to \$0.07 and in Virginia, \$0.02 to \$0.15). Fourteen states plus the District of Columbia impose a \$2.00 or greater tax on a pack of cigarettes, with the largest taxes in New York (\$4.35 per pack plus \$1.50 per pack in New York City), Connecticut (\$3.90 per pack) and Rhode Island (\$3.75 per pack). A comparison of all states' cigarette excise tax rates is found in Appendix A. These rates apply to packages of 20 cigarettes.

Other Tobacco Products Tax

Other tobacco products tax (OTP) is 35% of the wholesale price in South Dakota. This tax was first imposed in 1995 at the rate of 10%. The OTP was increased from 10% to 35% in 2007. The OTP tax applies to cigars, snuff, chewing tobacco, and any other tobacco product except cigarettes. This tax is paid by wholesalers and distributors. Of the surrounding states, Minnesota has the highest tax rate at 95%, while Wyoming and Nebraska have the lowest at 20%. A comparison of all states OTP rates is found in Appendix B.

Licensing, Registration and Sale of Cigarettes and Other Tobacco Products

The Department of Revenue is responsible for collecting the cigarette excise tax, the other tobacco products tax (OTP), and regulating brands of cigarettes and roll-your-own (RYO). All retailers selling cigarettes and tobacco products must be registered with the Department of Revenue. Retailers are required to purchase tobacco products only from distributors licensed in this state. Each retailer must ensure all packs of cigarettes offered for sale are stamped with the state tax stamp. Once a licensed distributor has paid the state tax, they receive stamps to affix to each tobacco product in order to sell at retail. Forty-seven states and the District of Columbia currently require a tax stamp affixed to tobacco products.

All distributors selling cigarettes or any tobacco product, except a retailer, must be licensed. The license fee is \$150 annually (SDCL 10-50-11). This licensing fee was last raised from \$20 to \$150 in 1966. License fees vary greatly by state, from no fee to upwards of \$1,500 in New York. Table 2 below shows the total revenue in the state from the cigarette tax, other tobacco products tax and cigarette licensing fees.

Table 2: Total Revenue from Cigarette Tax, Other Tobacco Products and Cigarette Licensing Fees.

Fiscal Year	Cigarette Tax-State	Other Tobacco Products	Cigarette Licensing Fees
FY08	\$57,159,643	\$5,306,176	\$12,675
FY09	\$57,190,869	\$5,356,550	\$12,300
FY10	\$56,657,446	\$5,734,603	\$12,150
FY11	\$51,787,334	\$6,056,806	\$14,175
FY12	\$50,976,072	\$6,514,247	\$12,753
FY13	\$51,621,443	\$6,883,716	\$13,950
FY14	\$51,981,414	\$7,444,528	\$12,750
FY15	\$50,470,002	\$7,647,312	\$17,678
FY16	\$54,659,076	\$8,308,636	\$12,752
FY17	\$52,992,498	\$8,816,651	\$12,975

Distribution of Tax Revenue

Currently, the first \$30 million generated from the tax revenue on cigarettes and other tobacco products is allocated to the state general fund. The next \$5 million collected annually is deposited in the Tobacco Prevention and Reduction Trust Fund (SDCL 34-46-12). The Tobacco Prevention and Reduction Trust Fund is used to implement the Tobacco Prevention and Reduction Program. In 2014, the Legislature approved using \$500,000 annually from the tax dollars previously allocated for the Tobacco Prevention and Reduction Program, for municipal mosquito control efforts. The Tobacco Prevention and Reduction Program is allocated the remaining \$4.5 million, in addition to federal funds.



In November 2006, the voters of South Dakota adopted Initiated Measure 2, which affected the distribution of tax revenue from cigarettes and other tobacco products. Prior to 2007, all the tax revenue from cigarettes and other tobacco products was deposited to the state general fund. From FY07 through FY15, any tobacco tax revenue in excess of \$35 million was divided among the Property Tax Reduction Fund (33% share), the Education Enhancement Tobacco Tax Fund (33% share), and the Health Care Tobacco Tax Fund (34% share). HB 1050, passed during the 2015 legislative session, repealed the Property Tax Reduction Fund, the Health Care Tobacco Tax Fund, and the Education Enhancement Tobacco Tax Fund. Beginning in FY2016, all the tobacco taxes collected in excess of \$35 million are allocated to the state general fund.

Conclusion

The regulation and taxation of cigarettes and other tobacco products has and will continue to provide significant revenue for the general fund. The last major change to the state's tobacco tax rates was decided by South Dakota voters in 2007. The issue is a hardy perennial, however, and it is only a matter of time before the Legislature or the voters face the question of raising cigarette and other tobacco product taxes once again.

This issue memorandum was written by Amanda Jacobs, Senior Research Analyst, on 11/09/2017 for the Legislative Research Council. It is designed to provide background information on the subject and is not a policy statement made by the Legislative Research Council.



Appendix A-State Excise Tax Rates on Cigarettes

STATE EXCISE TAX RATES ON CIGARETTES

(January 1, 2017)

STATE	TAX RATE (¢ per pack)	RANK	STATE	TAX RATE (¢ per pack)	RANK
Alabama (a)	67.5	40	Nebraska	64	41
Alaska	200	13	Nevada	180	19
Arizona	200	13	New Hampshire	178	20
Arkansas	115	33	New Jersey	270	9
California (b)	87	37	New Mexico	166	23
Colorado	84	38	New York (a)	435	1
Connecticut	390	2	North Carolina	45	47
Delaware	160	24	North Dakota	44	48
Florida (c)	133.9	29	Ohio	160	24
Georgia	37	49	Oklahoma	103	35
Hawaii	320	5	Oregon	132	30
Idaho	57	45	Pennsylvania	260	10
Illinois (a)	198	18	Rhode Island	375	3
Indiana	99.5	36	South Carolina	57	45
Iowa	136	28	South Dakota	153	26
Kansas	129	31	Tennessee (a) (d)	62	42
Kentucky	60	43	Texas	141	27
Louisiana	108	34	Utah	170	21
Maine	200	13	Vermont	308	6
Maryland	200	13	Virginia (a)	30	50
Massachusetts	351	4	Washington	302.5	8
Michigan	200	13	West Virginia	120	32
Minnesota (e)	304	7	Wisconsin	252	11
Mississippi	68	39	Wyoming	60	43
Missouri (a)	17	51			
Montana	170	21	Dist. of Columbia (f)	250	12
			U. S. Median	153.0	

Source: Compiled by FTA from state sources.

(a) Counties and cities may impose an additional tax on a pack of cigarettes: in Alabama, 1¢ to 25¢; Illinois, 10¢ to \$4.18; Missouri, 4¢ to 7¢; New York City, \$1.50; Tennessee, 1¢; and Virginia, 2¢ to 15¢.

(b) California tax rate is scheduled to increase to \$2.87 per pack on 4/1/17.

(c) Florida's rate includes a surcharge of \$1 per pack.

(d) Dealers pay an additional enforcement and administrative fee of 0.05¢ in Tennessee.

(e) In addition, Minnesota imposes an in lieu cigarette sales tax determined annually by the Department. The current rate is 55.0¢ through December 31, 2017.

(f) In addition, District of Columbia imposes an in lieu cigarette sales tax calculated every March 31. The current rate is 42¢.



Appendix B – Other Tobacco Products Tax

OTHER TOBACCO PRODUCTS TAX

(January 1, 2017)

State	Tax Rate/Base (1)	State	Tax Rate/Base (1)
Alabama (2)		Minnesota (7)	95% Wholesale Price
Cigars	3.0¢-40.5¢/ 10 cigars	Mississippi	15% Manufacturer's Price
Tobacco/Snuff	2¢-8¢/ ounce	Missouri	10% Manufacturer's Price
Alaska	75% Wholesale Price	Montana (4)	50% Wholesale Price
Arizona		Nebraska (4)	20% Wholesale Price
Cigars	22.01¢-\$2.18/10 cigars	Nevada	30% Wholesale Price
Tobacco/Snuff	22.3¢/ounce	New Hampshire	65.03% Wholesale Price
Arkansas	68% Manufacturer's Price	New Jersey (4)	30% Wholesale Price
California (7)(8)	27.30% Wholesale Price	New Mexico	25% Product value
Colorado	40% Manufacturer's Price	New York (4)	75% Wholesale Price
Connecticut (4)	50% Wholesale Price	North Carolina (7)	12.8% Wholesale Price
Delaware (4)	15% Wholesale Price	North Dakota	
Florida (5)		Cigars & Tobacco	28% Wholesale Price
Tobacco/Snuff	85% Wholesale Price	Chew Tobacco & Snuff	16¢-60¢ /ounce
Georgia		Ohio	17% Wholesale Price
Little Cigars	2.5¢/10 cigars	Oklahoma	
Other Cigars	23% Wholesale Price	Cigars Little&Large	\$1.20/ 10 cigars
Tobacco	10% Wholesale Price	Snuff&Tobacco	60%-80% Factory list price
Hawaii (6)		Oregon (4)	65% Wholesale Price
Large Cigars	50% Wholesale Price	Pennsylvania (6)(7)	\$0.55 /ounce - tobacco
Tobacco/Snuff	70% Wholesale Price	Rhode Island	80% Wholesale Price
Idaho	40% Wholesale Price	South Carolina	5% Manufacturer's Price
Illinois (4)	36% Wholesale Price	South Dakota	35% Wholesale Price
Indiana	24% Wholesale Price	Tennessee	6.6% Wholesale Price
Iowa (6)	50% Wholesale Price	Texas	
Kansas (7)	10% Wholesale Price	Cigar	1.0¢-15.0¢ /10 cigars
Kentucky	15% Wholesale Price	Tobacco/Snuff	\$1.22 /ounce
Louisiana (7)		Utah (4) (6)	86% Manufacturer's Price
Cigars	8%-20% Manufacturer's Price	Virginia (4)	10% Manufacturer's Price
Snuff/Smoking Tobacco	20%-33% Manufacturer's Price	Vermont (4)	92% Wholesale Price
Maine		Cigar	\$20-\$40 /10 cigars
Chewing Tob./Snuff	\$2.02/ounce	Tobacco/Snuff	\$2.57 /ounce
Smoking Tob./Cigars	20% Wholesale Price	Washington (4) (6)	95% Wholesale Price
Maryland		West Virginia	12% Wholesale Price
Tobacco/Snuff	30% Wholesale Price	Wisconsin	71% Manufacturer's Price
Cigars	70% Wholesale Price	Wyoming (4)	20% Wholesale Price
Massachusetts	40% Wholesale Price		
Michigan	32% Wholesale Price	Dist.of Columbia (3) (7)	65% Wholesale Price

Source: Compiled by FTA from various sources.

- (1) The volume-based tax rates were converted to cents per 10 cigars or per ounce for consistency.
- (2) Alabama's cigar tax rate rises with the retail price; the rate on smoking tobacco and snuff depends on package weight.
- (3) The Dist. of Columbia adjusts the tax rate annually, effective October 1st each year.
- (4) Tax rate on Snuff per ounce is \$1.00 in CT, 54¢ in DE, 30¢ in IL, 19¢ in KY, 85¢ in MT, 44¢ in NE, 75¢ in NJ, \$2.00 in NY, \$1.78 in OR, \$1.83 in UT, 18¢ in VA, \$2.57 in VT, \$2.105 in WA and 60¢ in WY.
- (5) Florida's rate includes a 60% surtax.
- (6) Little cigars are taxed as cigarettes.
- (7) Six states apply tax to E-cigarette/Vapor Products. DC and MN apply general OTP tax. LA and NC applies a 5 cent/milliliter of vapor product. KS applies a \$0.20/milliliter tax. PA applies a 40% tax on the wholesale price. CA will apply OTP tax beginning 4/1/17.
- (8) Proposition 56 will increase the OTP rate effective July 1, 2017. A rate that is equivalent to cigarettes will be determined.

