



Tobacco Public Policy Center

at Capital University Law School

303 E. Broad Street, Columbus, Ohio 43215 • (614) 236-6770 • Fax: (501) 636-3864
www.tobaccopolicy.org

Ohio Must Correct the Other Tobacco Products (OTP) Tax

What is the OTP tax?

The OTP (other tobacco products) tax is an excise tax imposed by the state government on tobacco products other than cigarettes. This includes snuff, chewing tobacco, pipe tobacco, cigars, and mini-cigars. In Ohio, the excise tax on cigarettes has been raised numerous times, while the OTP tax has not been changed since it was created in 1993. Ohio now has one of the lowest OTP tax rates in the U.S.¹

How is the OTP tax measured?

Taxes on OTP are measured differently than taxes on cigarettes. Most states, like Ohio, measure the OTP tax as a percentage of the wholesale or manufacturer's price. Cigarettes are measured at a price-per-pack rate. Ohio's OTP tax is 17% of wholesale price, while the cigarette tax is \$1.25 per pack. When put in equivalent terms, the OTP tax rate is less than half of the cigarette tax rate.

Correcting the OTP Tax Will Decrease Youth Use

Numerous studies show that adolescents are extremely sensitive to changes in taxes on tobacco products.² If the OTP tax continues to stay the same while the cigarette tax rises, youth will be drawn to OTP.³ By contrast, correcting the OTP tax will make other tobacco products a less appealing purchase and prevent many teens from ever becoming addicted to tobacco.

- Correcting the price of OTP will prompt a reduction in smokeless tobacco use, especially among adolescents and young adults.⁴ This has become even more important since both R.J. Reynolds and Philip Morris have recently entered the smokeless tobacco industry. Both companies have a history of marketing to youth while falsely denying that they were doing so.⁵
- A correction of OTP tax rates resulting in rates equivalent to those applicable to cigarettes would keep many teens from using tobacco products and could cause over half of those who already use OTP products to quit.⁶
- If OTP was taxed at a 30% rate, OTP consumption would drop as much as 4.6%. If OTP was taxed at a 34% rate, OTP consumption would drop as much as 6%. If OTP was taxed at a 55% rate (a rate comparable to the current tax on cigarettes), OTP consumption would drop as much as 13.3%.⁷

This information is provided for educational purposes only and is not to be construed as a legal opinion or as a substitute for obtaining legal advice from an attorney. The Tobacco Public Policy Center provides legal information and education about tobacco and health, but does not provide legal representation. Readers with questions about the application of the law to specific facts are encouraged to consult legal counsel familiar with the laws of their jurisdictions.

Cheap OTP Leads to More Tobacco Use

Although smokeless tobacco products may be less deadly than cigarettes, these products are not safe. A low OTP tax may make smokeless tobacco a cheaper alternative to smoking that provides a gateway to lifelong tobacco addiction.⁸ Moreover, the OTP tax applies to other products, like cigars and mini-cigars, that are every bit as dangerous as cigarettes.

- People who smoke may switch to OTP instead of quitting tobacco entirely because of a perceived reduction in harm to their health, tobacco industry marketing, and decreased out-of-pocket costs.⁹
- Tobacco companies have begun marketing mini-cigars and smokeless tobacco products to youth because they are cheaper to purchase, they have fewer advertising regulations, and they can be manufactured in a variety of kid-friendly flavors.¹⁰

¹ Orzechowski & Walker, *The Tax Burden on Tobacco*, Federation of Tax Administrators Press Report 2004, Available at <http://www.tobaccofreekids.org/research/factsheets/pdf/0169.pdf> [hereinafter *SET Rates*].

² Chaloupka, F. & Warner, K., *The Economics of Smoking*, National Bureau of Economic Research (1999), available at <http://www.sciencedirect.com>.

³ Ringel, J.S., et al., *Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey*, 95 Am. J. Pub. Health 995 (2005).

⁴ Chaloupka, F. et al., *Public Policy and Youth Smokeless Tobacco Use*, 64 S. Econ. J. 503 (1997), available at <http://www.tobaccofreekids.org/research/factsheets/pdf/0180.pdf> [hereinafter *PPYST*].

⁵ As the judge found in the recent U.S. Department of Justice lawsuit against the major cigarette manufacturers, "From the 1950s to the present, different Defendants, at different times and using different methods, have intentionally marketed to young people under the age of twenty-one in order to recruit "replacement smokers" to ensure the economic future of the tobacco industry." *United States v. Philip Morris USA, Inc.*, 2006 U.S. Dist. LEXIS 61412 (D.D.C. 2006).

⁶ Chaloupka, et al., *supra* note 4.

⁷ http://www.law.capital.edu/tobacco/documents/OH_smokeless_tax_benefits.pdf

⁸ Delnevo, C.D., et al., *Cigar use before and after a cigarette excise tax increase in New Jersey*, Science Direct/Addictive Behaviors 29 (2004), available at <http://www.sciencedirect.com>.

⁹ *Id.*

¹⁰ *Attorney General Lockyer Petitions Federal Government to Crack Down on Cigarettes Masquerading as "Little Cigars"*, U.S. State News (May 18, 2006), available at <http://communitydispatch.com/cgi-bin/artman/exec/view.cgi/22/4969>.