



## CREATING FEDERAL TAX EQUITY AMONG ALL TOBACCO PRODUCTS WOULD INCREASE FEDERAL REVENUES & PROMOTE PUBLIC HEALTH

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The Children's Health Insurance Program Reauthorization Act of 2009 increased the federal tax rate on cigarettes and, for the first time, put the tax rates on cigarette-like small cigars and roll-your-own (RYO) cigarettes at directly parallel levels. But cigars, smokeless tobacco products, and pipe tobacco are still substantially under-taxed compared to cigarettes. In addition, the current tobacco tax code has numerous loopholes that fail to accurately classify and tax the various different types of tobacco products. These tax inequities and loopholes not only sharply reduce federal revenues but, by lowering tobacco product prices, increase overall tobacco use and harms.

The inequities in the current federal tobacco tax code include:

- The federal tax on a standard can of loose smokeless tobacco is less than one-eighth of the new tax on a standard pack of cigarettes. Not surprisingly, cigarette sales dropped significantly after the SCHIP tobacco tax increases, but smokeless tobacco sales went up sharply.
- The weight-based federal tax on “snuff” taxes the new generation of low-weight smokeless tobacco products (e.g., snus and candy-like dissolvables) at a rate that is as little as one-eighth the tax on regular loose moist snuff (because moisture has been removed from the new products to make them weigh less). As a result, the tax on each unit of these new low-weight smokeless products is as little as 1/70<sup>th</sup> of the tax on cigarettes.
- The tax on loose tobacco for pipe smoking is less than one-eighth the tax rate on loose tobacco used for rolling into cigarettes or cigars, which has led some manufacturers to re-label their RYO tobacco as “pipe tobacco” to get a lower tax rate. Before the SCHIP federal tax increases, the tax rates for RYO tobacco and pipe tobacco were the same. Since then, federally taxed RYO tobacco sales have declined by more than 60 percent while the much lower-taxed “pipe tobacco” sales have increased by more than 230 percent.\*
- To get a lower tax rate, cigarettes and “little cigars” can qualify as “large cigars” by slightly increasing their weight and, in the case of cigarettes, adding some tobacco into their wrapper paper.†
- By placing a maximum tax of 40.26¢ per cigar on the current 52.75 percent of price tax on cigars, the current tax code makes cheaper cigars face a 52.75% of price tax while expensive premium cigars are taxed at only 40.26¢ each, which amounts to only 5 percent or less of their price – and none of the cigars face a tax comparable to the \$1.00<sup>66/100</sup> tax per pack on cigarettes.

Core principles of tax equity call for eliminating all of the tobacco tax loopholes and setting all of the federal tobacco product tax rates at levels that parallel the federal cigarette tax rate. Doing that would stop current revenue losses and bring in roughly \$4 billion in net new federal revenues over the next five years – while also helping to reduce overall tobacco use, thereby locking in substantial future healthcare savings.‡

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\* See, also, Morris, DS, “Tobacco Manufacturing Data Demonstrate Industry Product Switching in Response to Tax Increases,” *Tobacco Control* 19(5):421-22, October 2010.

† See study cited in previous footnote. Being taxed as a “cigar” (instead of as a “cigarette”) also helps cigarettes evade being subject to other laws that apply to cigarettes but not cigars.

‡ The \$4 billion projection assumes that recent increases in cigar and smokeless sales would not only stop but reverse, and follows the Joint Committee on Taxation practice of reducing projected new revenues from tax increases by 25% to account for assumed related declines in other federal revenue. Raising tobacco tax rates increases revenue, despite reducing sales, because the revenue lost from fewer tobacco products being sold and taxed is much smaller than the revenue gained from the higher tax receipts on each tobacco product still consumed and taxed.

**Existing Federal Tobacco Product Tax Rates**

	<u>Rate in Tobacco Tax Code</u>	<u>Amount per Unit or Standard Package</u>
<b>Cigarettes</b>	<b>\$50.33 per thousand</b>	<b>\$1.00<sup>66/100</sup> per pack of 20</b>
<b>Small Cigars (≈cigarettes)</b>	<b>\$50.33 per thousand</b>	<b>\$1.00<sup>66/100</sup> per pack of 20</b>
<b>RYO Tobacco</b>	<b>\$24.78 per pound</b>	<b>\$1.00<sup>66/100</sup> per 20 cigarettes worth</b>
<b>Smokeless - loose moist snuff</b>	<b>\$1.51 per pound</b>	<b>11.3¢ per 1.2 oz. can</b>
<b>Smokeless - snus &amp; dissolvables</b>	<b>\$1.51 per pound</b>	<b>1.6¢ to 3.2¢ per pack of 20</b>
<b>Smokeless - chewing tobacco</b>	<b>50.3¢ per pound</b>	<b>9.4¢ per 3 oz. pouch</b>
<b>Pipe Tobacco</b>	<b>\$2.83 per pound</b>	<b>17.7¢ per 20 cigarettes worth</b>
<b>Regular Cigars</b>	<b>52.75% of manufacturer price with 40.26¢ per cigar maximum</b>	
– 25¢ cigar (mfrs price)		<b>13.2¢ per cigar (52.75%)</b>
– 50¢ cigar (mfrs price)		<b>26.4¢ per cigar (52.75%)</b>
– \$1 cigar (mfrs price)		<b>40.26¢ per cigar (40.26%)</b>
– \$5 cigar (mfrs price)		<b>40.26¢ per cigar (8.05%)</b>
– \$10 cigar (mfrs price)		<b>40.26¢ per cigar (4.03%)</b>

Pack = 20 sticks or units. A pack-worth of RYO tobacco is 0.65 ounces (0.0325 oz per cigarette). Listed cigar prices are the Manufacturer Price (the price charged when manufacturers sell to wholesalers and distributors). A standard can of smokeless moist snuff (e.g., Skoal, Bandit, Copenhagen) is 1.2 ounces. Marlboro and Camel Snus and other new smokeless tobacco products sold in discrete single-use tablets or candy-like lozenges weigh as little as one-eighth to one-tenth as much as regular smokeless tobacco.

**Setting All Federal Tobacco Product Tax Rates at Equal Levels**

The following table shows all the federal tax rates set at parallel levels, on either a per unit or per standard package basis – e.g., taxing each tobacco product sold in single-use or single-dose units at the same rate as cigarettes (\$1.00<sup>66/100</sup> per 20), and taxing each standard package of other tobacco products at the same rate as a standard pack of cigarettes (\$1.00<sup>66/100</sup> per pack).

<u>Tobacco Product</u>	<u>New Tax Equity Tax Rates</u>
<b>Cigarettes</b>	<b>\$1.00<sup>66/100</sup> per pack (no change)</b>
<b>Small Cigars (≈cigarettes)</b>	<b>\$1.00<sup>66/100</sup> per pack (no change)</b>
<b>RYO Tobacco</b>	<b>\$1.00<sup>66/100</sup> per 20 cigarettes worth (no change)</b>
<b>Smokeless - loose moist snuff</b>	<b>100.66¢ per 1.2 ounce can</b>
<b>Smokeless - snus and dissolvables</b>	<b>100.66¢ per 20 units</b>
<b>Smokeless - chewing tobacco</b>	<b>100.66¢ per 3 ounce pouch</b>
<b>Pipe Tobacco</b>	<b>100.66¢ per 20 cigarettes worth</b>
<b>Cigarillos, blunts, other cheaper cigars</b>	<b>Current 57.25% rate with \$1.00<sup>66/100</sup> per 5 minimum</b>
<b>Premium Cigars</b>	<b>Current 57.25% rate with \$1.00<sup>66/100</sup> per cigar maximum</b>

20 cigarettes worth of RYO tobacco = 0.65 ounces (0.0325 oz per cigarette). Cigarillos, blunts and other cheaper cigars typically come in packs of five. The new tax rate on such cigars takes a pack of five such cheaper cigars to equal a pack of cigarettes by applying a \$1.00<sup>66/100</sup> per five cigars minimum tax rate. Similarly, the new rates, above, take a single expensive premium cigar to equal a pack of cigarettes by raising the maximum tax on premium cigars to \$1.00<sup>66/100</sup> per cigar. Pipe tobacco is taxed at the same rate as RYO tobacco, which is taxed to directly parallel the cigarette tax rate.