



## RESPONSES TO MISLEADING AND INACCURATE TOBACCO COMPANY ARGUMENTS AGAINST STATE CIGARETTE TAX INCREASES

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Based on decades of research and numerous published studies, the U.S. Surgeon General stated, "Raising prices on cigarettes is one of the most effective tobacco control interventions."<sup>1</sup> That is precisely why, whenever an increase to a state's cigarette tax rate is being seriously considered, the tobacco industry and its allies will present a number of misleading or false arguments against the increase. The following is a list of claims they have made in various states. Some were made publicly to policy-makers or the media, and others were made only behind closed doors. As outlined below, however, none of these arguments holds water when confronted with the actual, relevant facts.

*I. Tobacco Company Myth: Cigarette tax increases do not reduce youth smoking (or any smoking).*

- A. **It is amazing that the tobacco companies and allies continue to make this argument with a straight face despite the decades of research showing the effectiveness of price increases in reducing tobacco use, especially among youth.** Moreover, the tobacco companies have actually stated, both publicly and in internal company documents disclosed in tobacco lawsuits, that raising cigarette prices through state tobacco tax increases or other means significantly reduces smoking, especially among kids and lower-income communities. That fact is also well established by scientific research and by the actual experiences of states that have raised their tax rates. [See the Campaign for Tobacco-Free Kids (TFK) Factsheet, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <https://www.tobaccofreekids.org/assets/factsheets/0146.pdf>.]
- B. The 2014 Surgeon General's report stated, "**The evidence is sufficient to conclude that increases in the prices of tobacco products, including those resulting from excise tax increases, prevent initiation of tobacco use, promote cessation, and reduce the prevalence and intensity of tobacco use among youth and adults.**"<sup>2</sup>
- C. **A few recent studies questioning whether tobacco tax increases are still an effective way to reduce smoking do not negate the findings from hundreds of prior studies showing tax increases work.** Instead, these studies either provide misleading interpretations of their results or use methods that overemphasize state-level measures without accounting for the many local tobacco tax increases that have passed more recently.<sup>3</sup>
- D. **The 2009 federal tobacco tax increase had a substantial and immediate impact on youth smoking.** On April 1, 2009, the federal cigarette tax increased by 61.66 cents per pack, the largest one-time federal tax increase. Researchers found that the percentage of students who reported smoking in the past 30 days dropped between 9.7 percent and 13.3 percent immediately following the tax increase, resulting in an estimated 220,000 to 287,000 fewer current smokers among middle and high school students in May 2009.<sup>4</sup>

*II. Tobacco Company Myth: States will not receive as much net new revenue from their cigarette taxes as they expect.*

- A. **Every state that has ever increased its cigarette tax rate has received more revenue than it would have obtained absent the rate increase.** In fact, every state that has increased its cigarette tax by a significant amount has enjoyed a substantial increase in revenue, despite ongoing and tax-specific smoking declines and any ongoing or increased tax evasion.\* Put simply, the increased new

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\* In rare cases, a small state cigarette tax increase might not bring in enough new revenue to make up for significant ongoing state pack sales and revenue declines caused by other factors. For example, after New Jersey increased its \$2.40 per pack cigarette tax by another 17.5¢ in 2006 (which amounted to only a 3% increase to the average pack price), its total cigarette tax revenues still declined somewhat over the following year. But without the tax increase the state's cigarette tax revenues would have dropped much more sharply. In every other instance besides NJ in 2006, state cigarette tax rate increases have been followed by significant net increases to annual state tax revenues.

revenue the state receives on each pack sold in the state after a cigarette tax rate increase always significantly outweighs the revenue losses from the decline in total pack sales caused by the rate increase. [See TFK Factsheet, *Raising State Tobacco Taxes Always Increases State Revenues & Always Reduces Tobacco Use*, <https://www.tobaccofreekids.org/assets/factsheets/0098.pdf>.]

- B. **The only time a state ever receives less new revenue than they expected from a cigarette tax increase is when the state made overly optimistic revenue projections.** The cigarette companies like to make a big deal out of their allegation that a large majority of states have received significantly less new revenue from past cigarette tax increases than they expected. But that is clearly a function of the state revenue folks making overly optimistic projections that fail to take account of either the increases in tax evasion and smuggling that can be prompted from a cigarette tax increase or the smoking declines from the tax increases. The more important point is that the cigarette tax increases worked effectively to increase state revenues significantly (often enormously) in each and every case. The fact that some states have expected larger revenue increases than they obtained simply means that states should make more careful projections and increase their cigarette tax rates by larger amounts in order to make sure there are no fiscal surprises.
- C. **There are very good models and formulas available for projecting state revenues from proposed cigarette tax increases that take full account of possible increases in tax evasion and smuggling.** Despite being fiscally conservative, these models show that states will still enjoy substantial additional new revenues from significant cigarette tax increases. States that use these more conservative models can be assured that there will be no “lower-than-expected” problems with future state cigarette tax revenues following the increase. [See *State Tobacco Tax Increases: Explanations and Sources for Projections of New Revenues & Benefits*, <https://www.tobaccofreekids.org/assets/factsheets/0281.pdf>.]
- D. **States can avoid less-than-expected new revenues from cigarette tax increases by avoiding administrative mistakes.**
- Most fundamentally, any state that increases its cigarette tax rate should be sure to follow standard practice and apply the cigarette tax increase to all cigarettes held in wholesaler or retailer inventories on the effective date of the increases (“inventory tax” or “floor stocks tax”). Virtually all states and the federal government remember this inventory tax, but some states (e.g., Illinois, Alabama, and Alaska) have failed to do so in the past. As a result, distributors and retailers there were able to evade the tax by sharply building up their cigarette pack inventories prior to the tax-increase effective date, paying the pre-increase rate, and then selling those under-taxed packs for months afterwards until their tax-evading inventories ran out.
  - By providing as little lead time as possible between the date the cigarette tax increase is passed and its actual effective date, states can also minimize the extent to which continuing smokers can stock up prior to the increase and avoid paying the increased tax until their hoard runs out. A related strategy is to cap the amount of tax stamps that wholesalers can buy and apply during the three months prior to the tax increase effective date at five percent more than the amount they purchased during those months in the prior year – and a similar anti-stockpiling cap could be placed on wholesaler sales to retailers.
  - Many states provide the wholesalers who apply state tax stamps to packs with a discount on the price they pay for the tax stamps to cover their tax-stamping costs. This discount, which reduces the state's net cigarette tax revenues, is often set as percentage of the state's cigarette tax rate. Accordingly, if this discount percentage is not reduced when the state substantially increases its tax rate, the state will lose revenue and the wholesalers will enjoy windfall tax discounts.
  - It is also important to make sure that all state tax law definitions are comprehensive and free from any loopholes. For example, the “cigarette” definition should reach any and all cigarettes and not allow any cigarettes to qualify wrongfully as “cigars;” any definition of “smoking tobacco” should include both roll-your-own tobacco for cigarettes as well as pipe tobacco to prevent circumvention of the tax; the “smokeless tobacco” definition should reach any product containing tobacco intended or expected to be consumed without being combusted; and any weight-based-tax “moist snuff” definition should not include any of the new generation of super-low-weight smokeless tobacco snus, orbs, lozenges, tabs, or pills.

III. *Tobacco Company Myth: Cigarette tax increases do not provide a reliable source of future state revenue.*

- A. **Every state that has ever increased its cigarette tax rate has received more revenue than it would have obtained absent the rate increase.** [See II.A., above.]
- B. **The higher revenue levels obtained by cigarette tax increases will decline over time as smoking rates continue to go down, but the revenue changes will be gradual and predictable.** There will be no surprises and the state can easily adapt – and the state will be enjoying significantly higher revenues each year than it would have received absent the cigarette tax rate increase. [See TFK Factsheet, *Tobacco Tax Increases are a Reliable Source of Substantial New State Revenue*, <https://www.tobaccofreekids.org/assets/factsheets/0303.pdf>.]
- C. **State cigarette and overall tobacco tax revenues are much more predictable and stable than state income tax or corporate tax revenues**, which can decline sharply during recessionary periods. [State budget reports provide useful examples of revenue sources that are much more erratic than cigarette tax revenues.]
- D. **A state could easily compensate for the predictable tobacco tax revenue declines by periodically increasing its tobacco tax rates, instituting an automatic inflation adjustment to its tobacco tax rates, and/or implementing automatic rate increases whenever tobacco tax revenues fall below an established floor.** One effective inflation adjustment could be based on the inflation adjustment used for state tobacco settlement payments (i.e., an annual increase of 3 percent or the actual rate of inflation for the prior year, whichever is highest). Another approach is to link the tax rates on all other tobacco products directly to the cigarette tax rate so that they all go up automatically whenever the cigarette tax rate is raised.
- E. **Smoking declines that reduce state cigarette tax revenues also lock in larger reductions to state government, private sector, and household smoking-caused costs.** The substantial monetary savings from lower state smoking levels will, over time, more than make up for any cigarette tax revenue reductions. [See TFK Factsheet, *Benefits & Savings from Each One Percentage Point Decline in Adult and Youth Smoking Rates in the United States* (state-specific versions of this factsheet are available by request), <https://www.tobaccofreekids.org/assets/factsheets/0235.pdf>.]
- F. **States can maximize their tobacco tax revenues (and related public health benefits) by ensuring that their tax rates on tobacco products other than cigarettes match their cigarette tax rates.** A portion of any cigarette tax revenue decline comes from some smokers shifting to other tobacco products, which are typically much cheaper because of lower state tax rates on tobacco products other than cigarettes. By raising their tax rates on other tobacco products to parallel the cigarette tax rate, states can not only promote tax equity and fairness, but also enjoy substantial increases to overall state tobacco tax revenues. In addition, equalizing the tobacco tax rates will promote quitting (by making it impossible to evade higher cigarette taxes by shifting to other tobacco products), which will lock in even larger state public health gains and related cost savings.

IV. *Tobacco Company Myth: Cigarette tax increases will promote cigarette smuggling, black markets, and smoker tax avoidance, which will eliminate state revenue gains.*

- A. **Every single state that has significantly increased its state cigarette tax rate has enjoyed substantial increases in state revenue** – despite the consumption declines prompted by the tax increase and any related tax avoidance, black market sales, or smuggling. Smuggling and other tax evasion only reduce the total amount of net new additional revenues the states receive from cigarette tax increases; they do not come close to eliminating revenue gains or making tax increases unproductive. [See TFK Factsheet, *Raising State Tobacco Taxes Always Increases State Revenues & Always Reduces Tobacco Use*, <https://www.tobaccofreekids.org/assets/factsheets/0098.pdf>.]
- B. **The smuggling/tax avoidance problem is a lot smaller than the tobacco companies and their allies say.** Specifically, the National Research Council and Institute of Medicine's (NRC-IOM) 2015 report, *Understanding the U.S. Illicit Tobacco Market: Characteristics, Policy Context, and Lessons from International Experiences*, found that "one of the tobacco industry's principal arguments against

increased tax rates and more stringent regulatory changes is that such measures will fuel the growth of the illicit tobacco market, although industry-sponsored estimates of the size of the illicit market tend to be inflated. More generally, concerns have been raised about the quality and transparency of industry-funded research on the illicit tobacco trade.”<sup>5</sup>

Although smuggling and tax evasion are worst in those jurisdictions with the highest state-local cigarette tax rates and the most established smuggling and tax evasion infrastructures and customs (e.g., Chicago and New York City), the vast majority of states – with lower actual or proposed cigarette tax rates and much less established smuggling infrastructures or tax evasion patterns – have little to worry about. But even Chicago and New York City have each gained substantial new revenues from their cigarette tax increases, despite worries of smuggling and tax evasion. [See the above-referenced TFK factsheet.]

- C. **U.S. and international economists have found that the extent of tax evasion and avoidance does not invalidate the benefits of tobacco tax increases.** After reviewing the science and state experiences, the NRC-IOM report stated, “even though tax avoidance and tax evasion might increase in response to higher taxes, the loss from those actions would be less than the gain from the higher taxes.”<sup>6</sup> Similarly, the NCI-WHO monograph stated, “research demonstrates that many factors besides tobacco taxes are of equal or greater importance in determining the level of tax evasion, and that governments can raise taxes and at the same time effectively decrease tax evasion.”<sup>7</sup>
- D. **The state that increases its cigarette tax always gains more than its neighbors.** In example after example, when analyzing revenues and pack sales between the state that increased its cigarette tax and its neighboring states, even if the neighboring state gained some revenue, it is only a small fraction compared to the considerable increase in new revenue collected by the state that increased its tax rate. For instance, after Minnesota’s \$1.60 per pack cigarette tax increase in 2013, cigarette tax revenue in North Dakota and South Dakota increased by only \$2 million between both states, and cigarette tax revenue and sales in Iowa and Wisconsin decreased. In contrast, Minnesota generated more than \$204 million in new cigarette tax revenue and pack sales declined by 24 percent.<sup>8</sup>
- E. **There are simple, low-cost, steps a state can take to minimize any revenue reductions from cigarette smuggling or smoker tax evasion.** One particularly useful strategy is to implement high-tech tax stamps that cannot be counterfeited and enable enforcement officials to readily identify smuggled cigarettes. California introduced a new high-tech tax stamp and saw its cigarette tax revenues go up by roughly \$100 million in the following 20 months (with no rate increase). [See the TFK factsheets, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*, <https://www.tobaccofreekids.org/assets/factsheets/0274.pdf>; *The Case for High-Tech Cigarette Tax Stamps*, <https://www.tobaccofreekids.org/assets/factsheets/0310.pdf>; and the TFK materials on curtailing illegal Internet cigarette sales and purchases that evade paying taxes, <https://www.tobaccofreekids.org/fact-sheets/tobacco-control-policies/internet-sales-of-tobacco-products>.]
- F. **The Internet is no longer a viable option for evading paying cigarette taxes.** The combination of 2010 federal Prevent all Cigarette Trafficking (PACT) law, which designates cigarettes and smokeless tobacco as nonmailable matter and implements other measures to stop illegal Internet sellers from using the U.S. mails to avoid complying with state tax and tobacco laws, and settlements with major credit card and shipping companies have significantly reduced Internet sales of cigarettes in the U.S.<sup>9</sup>
- V. *Tobacco Company Myth: Cigarette tax increases will reduce the revenues of low-tax “supplier” states by eliminating or reducing state cigarette sales to smokers in other states (e.g., it will reduce a state’s cross-border sales, Internet sales, and sales to interstate smugglers).*
- A. **Low-tax, “supplier” states will receive substantially more state revenues from increasing their own relatively low state cigarette tax rates than they will lose from any corresponding reduction to their sales to cigarette smugglers or tax-avoiding shoppers from other states.** In many cases the new state revenues from the cigarette tax increase will not only exceed current state tax revenues from sales to out-of-state buyers but also exceed all retailer profits from those sales to out-of-state buyers. Significantly raising a relatively low state cigarette tax rate brings in large amount of money

directly to the state government. But a low tax rate does the state government little good and provides only marginal benefits to in-state distributors and retailers that sell to illegal buyers.

B. **See IV.D., above.**

C. **Supplier states can only gain so much by depending on cross-border sales.** The National Research Council and Institute of Medicine's (NRC-IOM) 2015 report, *Understanding the U.S. Illicit Tobacco Market: Characteristics, Policy Context, and Lessons from International Experiences*, stated that "Although revenues will be higher in low-tax jurisdictions because of avoidance and evasion, the magnitude of this increase will be smaller than the magnitude of the revenue decline in high-tax jurisdictions."<sup>10</sup> In other words, tax avoidance and evasion into low-tax states may generate some revenue for those states and may result in some decline in revenue for higher-tax states (or states that increased their tax rates), but that activity will not completely offset revenue gains for the higher-tax state and cannot completely explain the drop in sales for the higher-tax state.

D. **Low-tax states would gain more from increasing their own tax rates than from relying on its neighbors to increase their revenues for them.** In example after example, the state that increases its tobacco tax rates significantly always collects more revenue, regardless of any tax evasion or avoidance, than its neighboring states, even if those neighbors have lower tax rates. A prime example of where claims of cross-border sales fell flat is in New Hampshire, where the legislature reduced its tobacco tax rates in 2011 because the New Hampshire Grocer Associations' managed to convince lawmakers that doing so would raise revenue from people flocking into the state for cheaper cigarettes. Instead, the state lost revenue for each of the following two years until the taxes were restored to their original rates.

E. **Low-tax states should not support the in-state sale of cigarettes to illegal smugglers, internet sellers, or tax-avoiding shoppers from other states.** By raising their cigarette tax rates, low-tax supplier states can raise their own revenues while also reducing or eliminating the illegal profit margins from these criminal activities, thereby reducing the extent of such smuggling and tax evasion. States should strengthen enforcement, including increasing penalties, but should also take the more obvious and effective step to reduce the incentive for this activity by increasing their cigarette tax rates.

F. **Low-tax states looking to save revenue can also benefit from reducing health care costs as a result of lower smoking rates as people quit in response to a significant tax increase.**

VI. *Tobacco Company Myth: Cigarette tax increases are regressive and hurt poor people.*

A. **The cigarette companies have it backwards: it is the harms from smoking that are regressive.** Lower-income communities already suffer disproportionately from smoking-caused disease, disability, death, and costs. By prompting more lower-income smokers to quit and cut back, raising state cigarette tax rates will reduce those regressive harms and costs, directly helping lower-income smokers and also reducing smoking-caused costs and harms to their families. [See the TFK Factsheet, *Tobacco Tax Increases Benefit Lower-Income Residents*, <https://www.tobaccofreekids.org/assets/factsheets/0147.pdf>.]

B. **Low-income smokers are much more likely to quit because of tobacco tax increases than higher-income smokers.** Studies show that low-income smokers are very sensitive to price, so by raising cigarette prices, substantial cigarette tax increases would prompt these smokers to quit or cutback and stop kids from ever starting.<sup>11</sup> U.S. and International health agencies reinforce these findings:

- The Centers for Disease Control and Prevention's *Best Practices User Guide on Health Equity in Tobacco Prevention and Control* states, "Evidence also shows that increasing the price of tobacco products can reduce tobacco-related disparities among different income groups and may reduce disparities among different racial and ethnic groups."<sup>12</sup>
- The National Cancer Institute (NCI) and World Health Organization (WHO) concluded in their 2017 report, *The Economics of Tobacco and Tobacco Control*, "Lower income populations often respond more to tobacco tax and price increases than higher income populations. As a result, significant tobacco tax and price increases can help reduce the health disparities resulting from tobacco use."<sup>13</sup>

[Additional quotes available in the TFK Factsheet, *Tobacco Tax Increases Benefit Lower-Income Residents*, <https://www.tobaccofreekids.org/assets/factsheets/0147.pdf>.]

- C. **Data show that most of the benefits from the quitting after a cigarette tax increase are enjoyed by low-income smokers and their families.** When researchers evaluated the impact of the 2009 federal tobacco tax increase, they found nearly half of the lives saved due to smoking reductions from the 2009 federal tobacco tax increase will be among those below the poverty line, despite the fact that this group will pay the smallest share of the tax increase.<sup>14</sup>

Jason Furman, the Chairman of the Council of Economic Advisers, described benefits from the 2009 federal tobacco tax increase as “strongly progressive,” stating, “health benefits of tobacco taxes far exceed the increase in tax liability, and these health benefits accrue disproportionately to lower-income households.” The 2009 federal tax increase further benefited lower-income families since the revenues from the tax increase were allocated to expanding the state Children’s Health Insurance Program.<sup>15</sup>

- D. **Smokers who quit or cut back because of a cigarette tax increase save a lot of money, and most of those who quit or cut back are low-income smokers.** Because lower-income smokers are more likely than higher-income smokers to quit or cut back in response to a cigarette tax increase, lower-income smokers are more likely to end up actually getting a big tax cut. Smokers who quit or cut back because of a tax increase not only stop paying any cigarette taxes but also stop spending any of the other amounts they previously paid for cigarettes. In the United States, every pack-a-day smoker who quits in response to a cigarette tax increase will not only avoid the tax increase but also save an average of more than \$2,500 per year from no longer buying cigarettes.<sup>16</sup>

- E. **The new revenues from cigarette tax increases can be used to fund new programs that benefit low-income communities (or avert cuts), including tobacco prevention and cessation assistance programs.** Low-income smokers and their communities will benefit more when some of the new revenues from tobacco tax increases are directed to programs to help people quit and to prevent kids from starting. New revenues from tobacco tax increases can also provide funding for or prevent cuts to government programs that provide critically needed services to low-income families or communities. For instance, the 2009 federal tobacco tax increases raised revenue for the state children’s health insurance program and new revenue from Maryland’s 2008 cigarette tax increase helped to expand health insurance coverage in the state.

- F. **Tobacco tax increases improve the health of low-income smokers and their families and significantly reduce their related costs.** Those who stop smoking in response to cigarette tax increases will greatly improve their own health, which could significantly reduce their health costs. Smokers die younger than nonsmokers but because of their higher rates of illness and disability they still have substantially higher annual and lifetime health care costs.<sup>17</sup> Nationwide, smoking-caused health care expenditures total about \$170 billion per year, with billions being paid directly by smokers through direct health care payments and increased health insurance premiums.<sup>18</sup> Smoking among Medicaid enrollees costs states and the federal government at least \$39.6 billion each year.<sup>19</sup>

- G. **Tobacco companies’ concerns for low-income populations are insincere.** The tobacco industry and its allies may claim that they oppose tobacco tax increases because they hurt lower-income smokers, but remember, this is the industry that said, “We don’t smoke that s\_ \_ \_ . We just sell it. We reserve the right to smoke for the young, the poor, the black and stupid.”<sup>20</sup> Tobacco companies have targeted low-income Americans with marketing and other promotional activity for decades to get them addicted to these deadly products in the first place.<sup>21</sup> In a 2015 report, Wall Street analysts celebrated the tobacco industry’s opportunities to “drive” tobacco sales among those they call “lower-income consumers – i.e. the tobacco consumer.”<sup>22</sup> It is hypocritical for the tobacco industry to claim that they oppose tobacco tax increases out of concern for the lower income population, while at the same time targeting them for increasing sales and maximizing profits.

VII. *Tobacco Company Myth: Cigarette tax increases will hurt the state’s economy by reducing cigarette sales and related employment, retailer revenues, etc.*

- A. **Studies and actual experiences from states do not support the industry’s claims.** Reports of reduced employment as a result of cigarette tax increases, often based on exaggerated assumptions,

are often bought and paid for by tobacco companies. One example is a report released in Minnesota by a research firm paid by multiple tobacco companies and their allies. While the tobacco companies' report estimated job losses based on unrealistic assumptions, actual data from the Minnesota Department of Employment and Economic Development did not reflect the claims made in the report.<sup>23</sup>

- B. State cigarette tax increases and declines in cigarette consumption do not have a negative impact on the number of convenience stores or employment in convenience stores.** Studies have found that state cigarette tax increases and declines in cigarette consumption do not have a negative impact on the number of convenience stores or employment in convenience stores.<sup>24</sup> In addition, the NCI-WHO monograph concluded, "In nearly all countries, national tobacco control policies will have either no effect or a net positive effect on overall employment because tobacco-related job losses will be offset by job gains in other sectors."<sup>25</sup> [See TFK Factsheet, *State Tobacco Tax Increases Have a Minimal Impact on State Retailers and Jobs*, <https://www.tobaccofreekids.org/assets/factsheets/0330.pdf>.]
- C. Money spent currently on cigarette sales will not disappear when the smoking declines from a cigarette tax increase reduces cigarette sales, it will simply shift to consumer expenditures on other products or to consumer savings or investments.** In its 2017 report, *The Economics of Tobacco and Tobacco Control*, the National Cancer Institute (NCI) and World Health Organization (WHO) stated, "Decreases in tobacco expenditures do not disappear from the economy; rather, they are redistributed to the consumption and production of other goods and services, generating income and employment in other sectors."<sup>26</sup> For example, a pack-a-day smoker who quits because of a state cigarette tax increase can save the more than \$2,400 per year that is no longer spent on cigarettes to spend on other goods and services, including other products sold in convenience stores. And if the smoker just cuts back to half a pack a day, he or she will still have more than \$1,000 available to spend in different ways.
- Tobacco companies and their retailer allies know this. An industry-sponsored report from 1984 stated, "if consumers were faced with no available tobacco products, they would reallocate their spending to other goods and services. This reallocated spending would generate additional business opportunities in other sectors of the economy along with the associated employment and incomes."<sup>27</sup>
- D. Economic studies have found that even if smoking were entirely eliminated in the United States, the net economic effect on each state would be positive** (except in a few of the major tobacco states), with more jobs created as well as other increases in productive economic activity.<sup>28</sup> A study from Indiana found that because of the high toll of tobacco use, if tobacco was no longer used or grown there, the state's economy would thrive. Specifically, lower health care costs would reduce business costs, allowing them to hire more workers and pay higher wages; living longer means more spending and longer working lives.<sup>29</sup> These studies show that the kinds of smoking reductions possible from raising state cigarette tax rates (even by very large amounts) will not produce any negative net overall economic consequences in any state.
- E. A Maryland study of the impact of a state cigarette tax increase on near-border retailers by the State Comptroller found that: "When all taxable sales throughout the entire study area for retailers typically selling cigarettes are examined, there is no evidence that the increase in tobacco taxes has had a direct and measurable impact on gross revenues."**<sup>30</sup>
- F. A cigarette tax increase will reduce government and business smoking-caused expenditures and costs, which further strengthens and improves the state's economy** – especially because those savings are inevitably shifted to much more productive uses.
- G. By reducing smoking, cigarette tax increases improve worker productivity.** CDC currently estimates that productivity losses caused by smoking amount to \$151 billion per year – and that total does not even include business losses from cigarette breaks, increased sick days, or from workers being less productive when on the job because of smoking caused health problems.<sup>31</sup> Reducing smoking rates among the workforce would directly reduce these productivity losses, thereby strengthening the state's economy.

- H. **Directing the new state government revenues from a cigarette tax increase to reduce state budget deficits or to fund economically productive programs (such as increased tobacco prevention) will further improve the state's fiscal health and strengthen the state economy.**

VIII. *Tobacco Company Myth: Cigarette tax increases unfairly target smokers and make them shoulder the burden for statewide budget problems.*

- A. **Total state revenues from cigarette taxes (and tobacco settlement payments) are currently far less than conservative estimates of smoking-caused costs in the state.** [For actual state-specific data to show comparisons, see TFK Factsheet, *State Tobacco-Prevention Spending vs. State Tobacco Revenues*, <https://www.tobaccofreekids.org/assets/factsheets/0219.pdf>.]
- B. **After any politically possible increase, the state cigarette tax per pack will still be far less than the state's smoking-caused healthcare costs and related productivity losses per pack.** The national average is \$19.16 per pack (and that total does not even include all smoking-caused productivity losses. [See TFK Factsheet, *State Cigarette Tax Rates & Rank, Date of Last Increase, Annual Pack Sales and Revenues, and Related Data*, <https://www.tobaccofreekids.org/assets/factsheets/0099.pdf>, for state health costs per pack.]
- C. **To make the tax increases even more fair to smokers (and better for public health), the state should allocate a portion of the new tax revenues to initiate or expand programs to help adult and youth smokers quit** (e.g., quitlines, public education, school-based programs, etc.). Cessation programs, along with comprehensive tobacco prevention programs, are cost-effective. [See TFK Factsheet, *Comprehensive State Tobacco Prevention Programs Save Money*, <https://www.tobaccofreekids.org/assets/factsheets/0168.pdf>.]
- D. **Smokers who do not want to pay the tax increase can quit smoking or cut back.** While quitting is not easy, the whole point of cigarette tax increases from a public health perspective is to make smoking more expensive so that more current smokers will quit (and fewer kids will become new smokers). Moreover, as shown above, the economic and health benefits to each smoker who quits or cuts back (and to his or her family or household) is far greater than the increased costs to those who continue smoking as before.

IX. *Tobacco Company Myth: Cigarette tax increases will reduce the state's tobacco settlement payments.*

- A. **There is no automatic offset that reduces tobacco settlement payments to the state if the state increases its cigarette taxes.** [There was such an offset for certain *federal* cigarette tax increases, but even that provision expired in 2002.]
- B. **An individual state's smoking or pack sales declines have only a small, indirect effect on settlement payment adjustments.** The "volume adjustment" that reduces settlement payments to the states is based only on reductions to nationwide (not state) cigarette sales of the major cigarette companies. Any reduction in pack sales prompted by a state cigarette tax increase in any given state would have only a very small impact on those nationwide sales – and even less of an impact on the downward volume adjustment given the formulas in the settlement agreements. In addition, those states that reduces their own smoking rates and pack sales faster than the nationwide average will be the net winners, as far as the nationwide downward volume adjustment goes – reaping disproportionately large public health benefits and cost savings from their smoking declines compared to the amount their settlement payments are reduced.

X. *Tobacco Company Myth: The state is already getting tons of tobacco money; seeking more is excessive.*

- A. **See VIII.A., above.**
- B. **Adding state tobacco settlement payments to state tobacco tax receipts still does not show any excessive state demands on tobacco products for revenue.** To try to make additional cigarette tax increases look unfair, the cigarette companies like to total up all the revenues a state gets from tobacco products, including the payments made to the state from the tobacco settlement agreements



with the major tobacco companies. But there is nothing unfair or excessive about the states getting those settlement payments, which are meant to reimburse the states for their past and future costs caused by the tobacco companies' illegal and wrongful acts prior to the settlement of the states' lawsuits against the major cigarette companies.<sup>†</sup> In addition, the amount the states are getting from those settlement payments are significantly less than the total of the states' actual costs from the cigarette companies' wrongful acts. Moreover, even if annual tobacco settlement payments to a state are added to its tobacco tax revenues, the total is still less than just the smoking-caused healthcare costs in the state and makes up an even smaller portion of all smoking-caused costs in the state.

XI. *Tobacco Company Myth: The state (or federal, state, and local government) is already getting more per pack than the cigarette companies.*

- A. **Every state actually suffers a net loss for every pack sold within its borders, but the tobacco companies make a net profit on every pack sale.** The cigarette companies' comparison between their alleged *profits* per pack against total state or government *revenues* per pack is unfair and misleading. Company profits per pack equal what the companies gain, free and clear, after paying for all their costs associated with producing and marketing the cigarettes they sell. In contrast, the state's "profit" (or loss) per pack equals the state's cigarette tax revenues minus the state's cigarette-caused costs; and doing the math shows that every state has a per-pack loss. Those state per-pack losses even hold true when tobacco settlement payments to the state are counted as state cigarette revenues, as well. [The fact that each state is a net loser from smoking in the state can be shown by subtracting CDC's state smoking-caused costs per pack totals from each state's actual or proposed per-pack tax (and state tobacco settlement payments per pack could be added in, too). But the CDC estimates of state costs per pack are not even comprehensive (they include only smoking-caused health costs and a portion of related productivity losses; other productivity losses and non-health costs from smoking are not included). See TFK Factsheet *State Cigarette Tax Rates & Rank, Date of Last Increase, Annual Pack Sales and Revenues, and Related Data*, <https://www.tobaccofreekids.org/assets/factsheets/0099.pdf>.]
- B. **Adding state tobacco settlement payments per pack sold in the state does not make sense, and does not change the math: the states are still net losers from smoking.** See VIII.A., above. Dividing current state settlement receipts by the number of packs sold could provide a per pack state settlement revenue figure which could be added to the state's cigarette tax rate. But that total would still be significantly lower than the smoking-caused costs in the state per pack. Note, also, that the tobacco companies are able to take a big "business expense" tax deduction for all of their tobacco settlement payments, which reduces their taxes by at least \$1.0 to \$1.5 billion per year (thereby increasing their per-pack profits).<sup>32</sup> [See TFK Factsheet, *Actual Payments Received by the States from the Tobacco Settlements, 1998-2019*, <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.]
- C. **It does not make sense to include state sales tax revenues on cigarette sales as state cigarette income** because in most states, sales taxes apply to virtually all non-necessity products sold in the states and are neither tobacco-specific nor meant in any way to compensate the state for tobacco-caused harms. But even if sales tax revenues from cigarettes were included, the state would still be receiving less revenue per pack than is lost to smoking-caused costs per pack in the state.

XII. *Tobacco Company Myth: Cigarette tax increases will hurt the state's tobacco farmers.*

- A. **Tobacco growing in the U.S. has been on the decline for years, mostly due to changes made by manufacturers to increase efficiency and profits, not reductions in consumption.** According to the most recent Census data, the amount of land used to grow tobacco is down to 0.04% of all farm acreage in the U.S.<sup>33</sup>

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<sup>†</sup> Those illegal and wrongful acts – e.g., marketing to kids, failing to disclose known dangers and harms caused by their products, interfering with scientific research and public awareness regarding product harms – have been fully established by court rulings and in the internal industry documents disclosed in various lawsuits against the companies. [See, e.g., the findings of court in the United States lawsuit against the major cigarette companies, *United States v. Philip Morris USA*, 449 F. Supp. 2d 1, U.S. District Court for the District of Columbia, August 17, 2006. For related summaries and information, see the TFK website at <https://www.tobaccofreekids.org/what-we-do/industry-watch/doj>.]

- B. **A combination of factors, including changes by tobacco manufacturers and not only a decline in tobacco use, has led to a reduction in tobacco production in the U.S.** As explained in the NCI-WHO monograph, these factors include technological advances and U.S. manufacturers' use of imported leaf, which is less expensive than U.S.-grown tobacco leaf. Further, the report states, "declines in tobacco consumption as a result of tobacco control policies occur gradually, allowing the economy to adjust slowly during this transition. In fact, tobacco-growing communities have made economic adjustments for decades. For example, a survey of U.S. tobacco farmers indicated that not only are tobacco farms increasingly more diversified, but younger and more educated generations of tobacco farmers are also less interested in choosing tobacco farming as a career."<sup>34</sup>
- C. **U.S. tobacco farmers have already received billions of dollars in total for support programs to help adjust to declines in demand.** These payments were meant to help farmers transition to other crops or practices and reduce their dependence on tobacco. Compared to these massive payments, any financial impact on tobacco farmers from a state cigarette tax increase would be trivial.

XIII. *Tobacco Company Myth (the "death benefit"):* Cigarette tax increases will not save money because the smoking reductions from the cigarette tax increase will reduce the number of people dying early from smoking, which means that more people will be requiring state health care and other services for longer lifetimes.

- A. **The average smoker actually has significantly higher total lifetime health care costs than the average nonsmoker, even though the average smoker dies a lot sooner than the average nonsmoker.** So reducing smoking always reduces total health care costs.<sup>35</sup>
- B. **The vast majority of alleged non-health "death benefit" expenditure reductions from smokers dying early relate to Federal (not state or local) government programs** (e.g., Social Security and housing subsidies) – and those are offset by other savings and benefits from smoking reductions.
- C. **Any increased expenditures caused by kids not starting and smokers quitting and living longer would occur only at the very end of the smokers' lives (the extra years they get to enjoy because they quit or did not start), but the savings in avoided smoking-caused costs start a lot sooner, if not immediately.** On average, when smokers quit, their health problems and costs start to decline immediately and their productivity increases. Similarly, when youth are prevented from smoking, they avoid an entire lifetime of smoking-caused increased costs and lost worker productivity. In both cases, their larger demands on government services from living longer, smoke-free lives, don't start until the very end of their lives. So states that reduce smoking initiation and increase smoker cessation enjoy decades of massive savings and reduced costs before any offset from increased demands for end-of-life services even begins.
- D. **These "death benefit" arguments are not only ghoulish, but are based on faulty reasoning and bad math.**

XIV. *Cigarette Company Myth:* Legislators cannot vote for tobacco tax increases if they have taken a "no-new-taxes" pledge.

- A. **Legislators have a clear responsibility and duty to take action to promote the public good and protect the public health, regardless of what pledges they may have made beforehand.** That means supporting tobacco tax increases despite any no-new-taxes pledges or promises.
- B. **"No-new-taxes" pledges are meant to stop broad-based tax increases made solely for revenue raising purposes (e.g., increases to property, sales or income taxes) – not to block legislative actions, such as tobacco tax increases, that will save lives, reduce suffering, and reduce government, business and household costs.**
- C. **Tobacco taxes are actually user fees, not regular taxes.** Taxes on tobacco products simply help to recoup a portion of the enormous costs caused by the sale and use of tobacco products. [See item VIII, above.]

- D. **Unlike other tax increases, those subject to tobacco tax increases may legally avoid them by quitting their tobacco use or cutting back** – and doing that will also save them a ton of additional money (all the other money they pay for tobacco products), improve their health and productivity, and reduce other tobacco-caused household costs. Other tax increases cannot be legally avoided without causing the taxpayer considerable economic harm (e.g., income tax increases can be legally avoided only by reducing one's income; sales taxes can be avoided only by reducing one's purchases of many useful and necessary products).
- E. **Because tobacco products are more harmful than any other consumer products, increasing taxes on tobacco products is different – and more justified and more constructive – than increasing taxes on any other products.** There is no way to consume tobacco products safely and tobacco products are unavoidably harmful and deadly even when used exactly as intended. Moreover, tobacco products are highly addictive and tobacco use typically starts before the consumer is of legal age. So increasing the taxes on tobacco products, which directly reduces tobacco use and harms, is much more beneficial than any other tax increases.
- F. **Strong majorities of voters support tobacco tax increases** – and they are more popular among voters than other tax increases and more popular than spending cuts.
- G. **No legislator who has taken a no-new-taxes pledge could possibly have meant for that pledge to be used to protect tobacco company sales and profits or to block effective action to reduce the number of the legislator's constituents who will otherwise unnecessarily suffer and die prematurely from tobacco use.** Using no-new-taxes pledges to stop tobacco tax increases means more tobacco-caused death, disease, suffering and other harms and costs. That cannot be right.
- XV. *Cigarette Company Myth: What's next, raising taxes on fatty foods? Raising cigarette taxes is just the first step in the public health Nazi's plan to tax everything that is bad for you.*
- A. **There are strong, clear reasons to treat cigarettes and other tobacco products differently and more harshly than any other consumer products.** First, there is absolutely no consumer product or category of consumer product other than cigarettes and tobacco products that inevitably causes disease, disability, and death and enormous social and economic costs even when used exactly as intended and directed. Second, there is also no consumer product or category of consumer products other than cigarettes and tobacco products that, as actually used by consumers, directly causes as much disease, disability, and death and enormous social and economic costs. For example, smoking kills many more people each year than alcohol, illegal drugs, murder, suicide, accidents, and AIDS, combined. Taxing cigarettes works directly to reduce smoking rates and related harms and costs and does not harm or restrict any beneficial uses of cigarettes because there are not any. In sharp contrast, increasing taxes on other consumer products (e.g., alcohol or certain foods) might help to improve public health by reducing abusive uses of those products; but they would also interfere with uses of those consumer products that cause no harm or are actually healthy and productive.

**Campaign for Tobacco-Free Kids, January 14, 2020 / Ann Boonn**

**Additional information on state cigarette taxes and the many benefits from increasing them is available at <https://www.tobaccofreekids.org/fact-sheets/tobacco-control-policies/tobacco-taxes>.**

Please send any comments, new response ideas, or new anti-tax arguments to:

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