



THE PROBLEM WITH ROLL-YOUR-OWN (RYO) AND OTHER SMOKING TOBACCO

Smoking roll-your-own (RYO) cigarettes is just as addictive and deadly as smoking regular cigarettes, but much cheaper.¹ To make matters worse, states typically fail to tax RYO and other smoking tobacco at rates anywhere close to the state tax rates on cigarettes. Because RYO and other smoking tobacco is so cheap and under-taxed, some smokers faced with higher cigarette taxes or prices switch to making their own cigarettes instead of quitting or cutting back, and some youth often find this method especially attractive. That means more smoking and higher related harms and costs. In addition, states lose substantial amounts of tobacco tax revenue every time a regular cigarette smoker switches to lower-taxed RYO cigarettes.

Between 2007 and 2008, for example, national sales of cigarettes declined by 4.2 percent while RYO tobacco sales increased by 14.9 percent.² The federal tobacco excise tax increase in April 2009 finally made the federal tax on RYO tobacco equal to the federal cigarette tax, but left pipe tobacco taxed at a much lower rate. So some RYO companies re-labeled their RYO tobacco as “pipe tobacco” to avoid paying the higher federal RYO tax rate.³ As a result, in the twelve months after the federal rate increases, nationwide RYO tobacco sales dropped by 61 percent, but “pipe tobacco” sales increased by 233 percent, with related federal tax revenue losses, compared to the same period the year before.⁴ This problem shows that to get all the revenues and public health benefits from tobacco tax equity the federal government, and states, must not only tax RYO tobacco at the same rate as cigarettes but must also set the tax rate on pipe and other smoking tobacco at that same rate, as well. Recent research has found that pipe smoking is, in any case, just as harmful and deadly as smoking cigarettes.⁵

Fixing the RYO and Smoking Tobacco Problem

States can prevent any revenue loss from smokers switching from regular cigarettes to RYO cigarettes (whether made from RYO tobacco or “pipe tobacco”), and make RYO cigarettes much less attractive and accessible to youth, by fixing their tobacco tax code definitions and tax rates.

- To make sure all RYO tobacco is taxed as RYO tobacco, it could be defined as “any loose tobacco sold for roll-your-own cigarettes or cigars or otherwise intended or expected to be smoked.” Most state definitions refer only to “tobacco used for RYO cigarettes,” which allows RYO sellers to escape proper taxation by re-labeling their RYO cigarette tobacco as being for RYO cigars or for pipe smoking.
- To tax all RYO and smoking tobacco at the same rate as regular cigarettes, states could tax RYO tobacco (and all other OTPs) at a percentage-of-price rate that parallels the state’s cigarette tax rate (e.g., a \$2.00 cigarette tax rate roughly matches an OTP tax rate of 45% of wholesale price). But that would still leave most RYO tobacco being taxed at a much lower per-cigarette rate than regular cigarettes. So states should also establish a minimum tax on RYO of “an amount equal to the total tax on a pack of 20 cigarettes per 0.65 ounces of RYO tobacco, with proportional amounts on any other weights, based on the net weight provided in good faith by the manufacturer.” That tax rate works because it takes roughly 0.65 ounces of RYO tobacco to make 20 cigarettes (0.0325 oz. per cigarette).⁶

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More information on state tobacco taxes is available at:
http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/.

¹ See, e.g., Darrall, KG & Figgins, JA, "Roll-your-own smoke yields: theoretical and practical aspects," *Tobacco Control* 7:168-175, 1998. Young, D, et al., "Prevalence and correlates of roll-your-own smoking in Thailand and Malaysia: Findings of the ITC-South East Asia Survey," *Nicotine & Tobacco Research* 10(5):907-915, 2008. Tverdal, A & Bjartveit, K, "Health consequences of pipe versus cigarette smoking," *Tobacco Control*, published online October 15, 2010.

² Alcohol and Tobacco Tax and Trade Bureau, Tobacco Statistics, <http://www.ttb.gov/tobacco/tobacco-stats.shtml>.

³ Apuzzo, M, "AP IMPACT: Tobacco execs quickly find tax loophole," *Associated Press*, November 17, 2009. Video available at: <http://www.youtube.com/watch?v=OWOqpQ06Guc>.

⁴ Alcohol and Tobacco Tax and Trade Bureau, Tobacco Statistics, <http://www.ttb.gov/tobacco/tobacco-stats.shtml>. See also, U.S. Centers for Disease Control and Prevention (CDC), "Consumption of Cigarettes and Combustible Tobacco—United States, 2000-2011," *Morbidity and Mortality Weekly Report (MMWR)* 61(30):565-569, August 3, 2012, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6130a1.htm>; U.S. Government Accountability Office (GAO), *Large Disparities in Rates for Smoking Products Trigger Significant Market Shifts to Avoid Higher Taxes*, GAO-12-475, April 18, 2012, <http://www.gao.gov/products/GAO-12-475>; Morris, DS & Tynan, MA, "Fiscal and Policy Implications of Selling Pipe Tobacco for Roll-Your-Own Cigarettes in the United States," *PLoS ONE* 7(5):e36487, doi:10.1371/journal.pone.0036487, May 2, 2012; GAO, *Various Schemes Are Used to Evade Taxes and Fees*, GAO-11-313, March 7, 2011, <http://www.gao.gov/products/GAO-11-313>.

⁵ Tverdal, A & Bjartveit, K, "Health consequences of pipe versus cigarette smoking," *Tobacco Control*, published online October 15, 2010.

⁶ Federal tax law takes 0.0325 ounces of RYO tobacco to equal a single manufactured cigarette. Also, the definition of "cigarette" in the MSA at II(m) states: "0.0325 ounces of "roll-your-own" tobacco shall constitute one individual 'Cigarette'" (see, also Exhibit Q); and the RYO tobacco companies' own packaging and materials are based on each RYO cigarette using about 0.025 to 0.030 oz. of RYO tobacco.