



## Cigarette and Other Tobacco Products Tax

Ohio has levied an excise tax on cigarettes since 1931. In fiscal year 2015, the cigarette excise tax rate was \$1.25 per pack. The rate was increased to \$1.60 per pack, effective July 1, 2015 (HB 64, 131st General Assembly). The tax is paid primarily by wholesale dealers through the purchase of stamps (tax indicia) that are affixed to packs of cigarettes. Individual consumers are responsible for paying the tax on cigarettes that are not taxed at the wholesale dealer level.

In fiscal year 2015, total state revenue from the sale of cigarettes amounted to \$746 million, an amount that does not include revenue from taxes on other tobacco products. This amount was credited to the state General Revenue Fund.

An excise tax on other tobacco products (OTP) – including cigars, chewing tobacco, snuff, smoking tobacco and other tobacco products – was enacted effective Feb. 1, 1993. The 17 percent tax is levied on the wholesale price of other tobacco products manufactured in Ohio or imported into Ohio. The excise tax on “little cigars” was raised to 37 percent in 2013. In fiscal year 2015, total revenue was over \$62.2 million. This amount was credited to the state General Revenue Fund.

The Department of Taxation administers and collects both the state tax and the permissive tax. For the permissive taxes, collection is made through sales of tax indicia for cigarettes to be sold in Cuyahoga County. See the **Local Cigarette Tax** chapter for details.

### Taxpayer

(Ohio Revised Code 5743.01)

The cigarette tax is paid by:

- wholesale dealers, meaning those who purchase cigarettes directly from manufacturers, producers, importers or other wholesalers and then sell cigarettes to retailers for the purpose of resale.
- persons or companies who have cigarettes in their possession on which the excise tax has not been paid.

The tax on other tobacco products is paid by:

- distributors, meaning all manufacturers, wholesalers or retailers who are licensed as other tobacco product distributors.
- any person who receives other tobacco products in this state on which the excise tax has not been paid.

### Tax Base

(R.C. 5743.02, 5743.021, 5743.32, 5743.62, 5743.63)

The base of the taxes discussed in this chapter includes:

- the sale of cigarettes in Ohio.
- the use, consumption or storage for consumption of cigarettes in Ohio.
- the receipt or import of other tobacco products for resale.

### Rates

(R.C. 5743.02, 5743.32, 5743.51, 5743.63)

The state tax rate on the sales, use, or consumption of cigarettes is \$1.25 per pack of 20 or 6.25 cents per cigarette.

The state tax rate on other tobacco products is 17 percent of the wholesale price.

The tax rate for “little cigars” is 37 percent of the wholesale price. Little cigars are defined as any roll for smoking, other than cigarettes, made wholly or in part of tobacco that uses an integrated cellulose acetate filter or other filter and is wrapped in any substance containing tobacco, other than natural leaf tobacco.

### Exemptions

Cigarettes sold in interstate or foreign commerce or to the U.S. government or its agencies are exempt (R.C. 5743.05).

### Special Provisions

**Discounts** (R.C. 5743.05, 5743.52, 5743.62)

As a consideration for affixing and canceling cigarette stamps, wholesale dealers receive a discount of 1.8 percent of the face value of stamps. Other tobacco products taxpayers receive a 2.5 percent discount for timely payment of the tax.

**Monthly reports** (R.C. 5743.072, 5743.15 and 5743.66)

Manufacturers and importers shipping cigarettes and other tobacco products into Ohio are required to register and file monthly reports with the Tax Commissioner.

**Authorized sales** (R.C. 5743.20)

The identities of all entities authorized to make cigarette and other tobacco products sales – including registered manufacturers and importers of cigarettes and other tobacco products, as well as all licensed cigarette whole-

salers and distributors of other tobacco products – are subject to public disclosure. As required by law, the Tax Commissioner maintains this list at **tax.Ohio.gov**.

**Unstamped cigarette prohibitions** (R.C. 5743.10, 5743.99, 5743.111, and 5743.112)

It is a crime to possess packs of cigarettes not bearing the stamps required to be affixed thereto. It is a felony for any person to possess packs of cigarettes not bearing the stamps required or bearing stamps that have been affixed in violation of the law when the total number of cigarettes exceeds 1,200. Any such person also is liable for the excise tax due plus any applicable penalties and interest.

**Authorized recipients of cigarettes** (R.C. 2927.023)

All cigarettes coming into Ohio can only be transported or shipped to an “authorized recipient of tobacco products,” such as a licensed cigarette dealer. All other exchanges of cigarettes must be made in “face-to-face” transactions. It is an offense, punishable by a fine of up to \$1,000, to transport, or cause to be shipped, cigarettes to a person other than an “authorized recipient of tobacco products.”

**Cigarettes legal for sale in Ohio** (R.C. 1346.04 – 1346.10)

The office of the Ohio Attorney General maintains a list on its web site of all cigarette brands that may be sold in Ohio. This list represents brands that are produced by manufacturers that are certified to be in compliance with the tobacco Master Settlement Agreement. It is illegal to sell in Ohio any brand of cigarette not on this list.

**Master Settlement Agreement reports** (R.C. 5743.03)

Persons who pay the cigarette or other tobacco products excise taxes are required to report the quantity of all cigarettes and roll-your-own cigarette tobacco sold in Ohio for each brand not covered by a manufacturer participating in the tobacco Master Settlement Agreement. A penalty of up to \$250 per month may be imposed for failing to file this report.

**Local Permissive Cigarette Tax levies** are described in the **Local Taxes** section.

## Filing and Payment Dates

### Method of tax payment

All cigarette wholesale dealers are required to purchase stamps from the Treasurer of State. Dealers are required to pay for stamps at the time of purchase unless they have been authorized to make purchases on credit. The Tax Commissioner may authorize wholesale dealers to purchase stamps on credit, payable within 30 days. Credit sales are allowed during the months of July through April of each fiscal year.

Any person in possession of unstamped cigarettes (for example, a consumer who makes an out-of-state purchase) is required to pay the tax by direct payment to the Department of Taxation.

## Filing Dates

(R.C. 5743.03, 5743.33, 5743.52)

Wholesale dealers file semi-annual returns on July 31 for the January to June period and on January 31 for the preceding July through December. The returns are required even though such dealers may have paid all their tax through the purchase of stamps. Any payment due on cigarettes not previously taxed is included.

Persons with untaxed cigarettes file monthly by the 15th day of each month for the preceding month.

Distributors or importers of other tobacco products file monthly reports by the last day of each month for the preceding month. Distributors with minimal sales activity may, upon authorization by the Tax Commissioner, file quarterly returns for the previous quarter’s liability. Effective Sept. 12, 2014, distributors or importers of other tobacco products file monthly reports by the 23rd day of each month for the preceding month.

## Disposition of Revenue

(R.C. 5743.02, 5743.51)

Revenue from the state cigarette and other tobacco products taxes is deposited in the state General Revenue Fund.

## Administration

The state cigarette tax, the county cigarette tax and the tax on other tobacco products are administered by the Tax Commissioner.

## Ohio Revised Code Citations

Chapter 5743.

## Recent Legislation

**House Bill 64, 131st General Assembly (FY 2016-2017 biennial budget bill; budget provisions effective July 1, 2015)**

Cigarette and OTP related provisions include an increase, effective July 1, 2015, of the cigarette excise tax from \$1.25 per pack to \$1.60 per pack, and a requirement that the Tax Commissioner submit a quarterly report on tobacco-tax enforcement activities to the chairpersons of the House and Senate standing committees normally responsible for tax legislation.

**House Bill 59, 130th General Assembly, (FY 2014-2015 biennial budget bill; budget provisions effective July 1, 2013)**

Amends R.C. 5743.51 effective for invoices dated Oct. 1, 2014, to raise the other tobacco products tax on little cigars from 17 percent to 37 percent. A “little cigar” is “any roll for smoking, other than cigarettes, made wholly or in part of tobacco that uses an integrated cellulose acetate filter or other filter and is wrapped in any substance con-

taining tobacco, other than natural leaf tobacco.”

**House Bill 492, 130th General Assembly**

Items concerning cigarette and OTP taxes include: changing the due date for other tobacco products tax returns and payments to the 23rd of the month (both for monthly and quarterly filers) from the last day of the month; moving the selling of tax stamps from the Treasurer of State to the Ohio Department of Taxation; and eliminating the Tobacco Settlement Enforcement Fund. These provisions became effective Sept. 17, 2014.

**History of Major Changes**

Year	Item	Rate (Cigarettes per pack of 20)
1893	Legislature enacts annual tax of \$300 on wholesalers and \$100 on retailers.	---
1894	Annual tax is lowered to \$30 for wholesalers and \$15 for retailers.	---
1920	Annual tax is hiked to \$200 for wholesalers and \$50 for retailers.	---
1931	Legislature enacts cigarette tax, including the use of stamps. Wholesale and retail license fees fall to \$100 and \$25, respectively.	2 cents
1956	Rate increases by one cent.	3 cents
1959	Rate increases by two cents.	5 cents
1969	Rate increases by five cents.	10 cents
1971	Rate increases by five cents; cigarettes are exempted from sales tax.	15 cents
1981	Rate is cut by one cent; cigarettes again become subject to sales tax.	14 cents
1983	Tax is modified to a per-cigarette rate of 0.7 cents.	14 cents
1987	Rate increases by 0.2 cents per cigarette.	18 cents
1991	All cigarette tax revenues are allocated to the General Revenue Fund when capital improvement bonds retired in 1992.	18 cents
1992	Legislature enacts tax on other tobacco products at 17 percent of the wholesale price; cigarette rate increases by 0.3 cents per cigarette.	Cigarettes - 24 cents, OTP - 17%
2001	Minimum stamp discount rate is lowered from 3.6 percent to 1.8 percent.	Cigarettes - 24 cents, OTP - 17%
2002	Legislature increases cigarette tax by 1.55 cents per cigarette.	Cigarettes - 55 cents, OTP - 17%

2005	House Bill 66 increases the cigarette tax by 3.5 cents.	Cigarettes - \$1.25, OTP - 17%
2009	House Bill 1 increases the annual license fee for cigarette wholesalers and tobacco distributors to \$1,000 and for retailers to \$125 per place of business. The Cigarette Tax Enforcement Fund receives 100 percent of cigarette wholesale license fees. Sixty percent of revenue from retail license fees is allocated for enforcement and 30 percent to the political subdivision where the business is located and 10 percent to the county.	Cigarettes - \$1.25, OTP - 17%
2013	House Bill 59 increases the tax on “little cigars” from the 17 percent OTP rate on wholesale price to 37 percent.	Cigarettes - \$1.25; OTP - 17%, Little Cigars - 37%
2014	House Bill 492 moved the selling of stamps and collection of revenue from the Treasurer of State to the Ohio Department of Taxation.	Cigarettes - \$1.25; OTP - 17%, Little Cigars - 37%
2015	House Bill 64 increases the cigarette excise tax by 0.0175 cents per cigarette effective July 1, 2015.	Cigarettes - \$1.60, OTP - 17%, Little Cigars - 37%

**Comparison with Other States**

(As of July 1, 2015)

In the table below, the cigarette tax rates are applied per pack of 20 and rounded to the nearest cent. Taxes on other tobacco products are expressed as a percentage of wholesale cost, unless specifically noted (Texas, for example). Some states apply special tax rates to specific tobacco products like cigars, moist snuff tobacco, and loose tobacco that are not shown here.

State	Cigarette Rate Per Pack	Other Tobacco Products Rate
Georgia	\$0.37	23%
Indiana	\$0.995	24%
Kentucky	\$0.60	15%
Michigan	\$2.00	32%
North Carolina	\$0.45	12.8%
Pennsylvania	\$1.60	none
Tennessee	\$0.62	6.60%
Texas	\$1.41	\$1.22 per ounce
West Virginia	\$0.55	7%

<b>Table 1</b>			
<b>Cigarette and Other Tobacco Products Tax Revenue: Fiscal Years 2011 - 2015 (in millions rounded)</b>			
<b>Fiscal Year</b>	<b>Cigarette</b>	<b>Other Tobacco Products</b>	<b>Total</b>
2011	\$803.8	\$51.9	\$855.7
2012	789.8	53.4	843.2
2013	773.3	54.1	827.4
2014	757.0	57.0	814.0
2015	746.0	62.2	808.2
Source: Office of Budget and Management fiscal reports.			

<b>Table 2</b>			
<b>Cigarette Tax Receipts: Fiscal Years 2011 - 2015 (in millions rounded)</b>			
<b>Fiscal Year</b>	<b>Gross Stamp Tax</b>	<b>Discount</b>	<b>Net Tax Collected</b>
2011	\$818.4	\$14.7	\$803.7
2012	786.0	14.1	771.9
2013	788.4	14.2	774.2
2014	771.6	13.9	757.7
2015	765.1	13.8	751.4
Source: Department of Taxation records			

<b>Table 3</b>			
<b>Other Tobacco Products Tax Receipts: Fiscal Years 2011 - 2015 (in millions rounded)</b>			
<b>Fiscal Year</b>	<b>Gross Tax</b>	<b>Discount</b>	<b>Net Tax Collected</b>
2011	\$53.5	\$1.3	\$52.2
2012	54.8	1.4	53.4
2013	55.5	1.4	54.1
2014 <sup>1</sup>	58.5	1.5	57.0
2015	63.8	1.6	62.2
<sup>1</sup> Reflects correction to prior year.			
Source: Office of Budget and Management fiscal reports			