

# Governor's FY 2020 Budget: Articles

Staff Presentation to the House Finance Committee  
March 21, 2019

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# Introduction

- Article 5, Sections 4 & 13-16: Cigarette, Other tobacco & E-liquid products taxes
  - Raises cigarette tax by \$0.25 per pack
  - Raises cigar tax cap by \$0.30
  - Makes “e-liquid” products subject to similar regulation as tobacco products
    - Article 20 heard 3/20 imposes similar tax on CBD
  - Raises licensing fees and fines
    - Prohibits most unlicensed entity transactions

# Article 5 – E-liquid & Products

- Expands products subject to tax
  - E-liquid products
    - Liquid used in an electronic nicotine delivery system with nicotine or a derivative
- Article proposes a 40% excise tax
  - Effective September 1, 2019
- Budget assumes revenues of \$0.4 million
  - Electronic nicotine delivery systems
    - Used to simulate smoking via electronic cigarette, cigar, or related device or cartridge
    - Systems only taxed when paired with E-liquid

# Article 5 – E-liquid & Products

- 9 states and D.C. tax vapor products like tobacco; 8 other jurisdictions in 4 states have only local taxes
  - One new state and one new jurisdiction since March 2018
  - Two taxation methodologies
    - Percentage of wholesale cost of taxed product
    - Flat amount on volume sold (per milliliter)
  - No state applies both

# Article 5 – E-liquid & Products

Tax Type	State	FY 2018 Rate	FY 2019 Rate
Wholesale			
	California	65.1%	62.78%
	Washington, DC	60.0%	96.0%
	Minnesota	95.0%	95.0%
	Pennsylvania	40.0%	40.0%
Per Milliliter			
	New Jersey	\$ -	\$ 0.100
	West Virginia	\$ 0.075	\$ 0.075
	Delaware, Kansas, Louisiana, North Carolina	\$ 0.05	\$ 0.05

# Article 5 – E-liquid & Products

<b>Tax Type</b>	<b>Locality</b>	<b>Rate</b>
Wholesale		
	Juneau, Petersburg, NW Arctic Borough, Alaska	45.0%
	Mat-Su Valley, Alaska	55.0%
	Aspen, Colorado	40.0%
	Montgomery Co., Maryland	30.0%
Per Milliliter		
	City of Chicago*, Illinois	\$0.55
	Cook County, Illinois	\$0.20

*\*Chicago also has an \$0.80 unit tax; each e-cigarette or nicotine containing cartridge device to be used with an e-cigarette*

# Article 5 – E-liquid & Products

- Estimated collections on Minnesota experience
  - Consistent with FY 2019 budget proposal
  - First state to institute the tax, best data
  - Assumes use will be about 7.6% of estimated OTP collections
  - Vapor products already subject to 7.0% sales tax
- Governor adds \$0.4 million for 4 staff
  - Implementation and compliance

# Article 5 – Minnesota

- Taxes at 95% of wholesale cost
  - Wholesale is distributor's purchase price
  - One-time use e-cigarettes & cartridges containing nicotine
    - Not refillable devices or cartridges w/o nicotine
- Entities' Responsibilities
  - Distributors pay tax on product purchases
  - Retailers collect and remit sales tax
  - Consumers pay use tax on out-of-state purchases, including online sales



# Article 5 – Licensing

- RI General Law 44-20-2 requires all cigarette & OTP dealers & distributors to be licensed
  - 44-20-13.2(b) allows OTP dealers to self-report purchases from unlicensed entities w/in 5 days
- Article 5 narrows the OTP exemption to smoking bars only
  - Entities where tobacco products sold & consumed on premises account for most revenue

# Article 5 – Licensing

- Article 5 subjects e-liquid product sellers to tobacco licensing standards
  - Includes manufacturers, importers, dealers, & distributors
  - Currently regulated through the Department of Health
    - \$25 license fee for all types of entities

# Article 5 – Licensing

- Article 5 increases license fees
  - There are different fees depending on the role in the market
    - Applies to all product types
    - Increases application, license, & renewal
- Fees for importers and distributors who affix tax stamps would be unchanged at \$1,000

# Article 5 – Licensing

Type	Current	Article 5	GBA 6
Retailer App. Fee.	\$ 25	\$ 75	\$ 75
Cigarette/OTP Distributor License – no stamps	\$100	\$250	\$400
Cigarette/OTP Retailer License	\$25	\$250	\$400

- Budget assumes \$0.5 million of revenues
  - GBA draft inadvertently retains \$250 on renewal

# Article 5 – OTP Cigar Cap Increase

- Other Tobacco Products – tax on products sold or held for sale
  - Includes pipe tobacco, cigars, smokeless, mu'assel, chewing & other tobacco products & substitutes - except cigarettes
  - Current tax is 80% of wholesale
    - Cigars capped at \$0.50

# Article 5 – OTP Cigar Cap Increase

- Other Tobacco Products
  - Rate & cigar cap changes

Assembly	Rate	Per Cigar Cap
2004	30%	n/a
2005	40%	n/a
2006	40%	\$ 0.50
2009	80%	\$ 0.50

- Massachusetts
  - 40% of wholesale – not capped
- Connecticut
  - 50% of wholesale with \$0.50 cap

# Article 5 – OTP Cigar Cap Increase

- Article 5 raises the tax cap on cigars
  - Currently approximately 2.8 million cigars costing \$0.63 or more are taxed at the \$0.50 cap
  - Article proposes to raise cap by \$0.30 to \$0.80 - also proposed for FY 2019 budget
- Budget estimates \$0.6 million
  - Assumes 80% of cigars still subject to new cap; approximately 2.2 million
    - No adjustment for consumer behavior change

# Article 5 – Cigarette Tax

- Current law – tax on all cigarettes sold or held for sale in the state
  - Tax evidenced by stamps
  - Currently \$4.25 per pack of 20
    - Raised from \$3.75 in 2017
- Article 5 increases cigarette tax by \$0.25 to \$4.50 per pack of 20
  - Effective August 1, 2019



# Article 5 – Cigarette Tax

- FY 2020 budget includes \$3.1 million
  - Cigarette tax - \$2.5 million
  - Floor Tax - \$0.7 million
    - Tax on existing inventory – difference between the two tax rates
- Estimate assumes 3.5% demand drop
  - Reduces sales tax collections \$123,434

# Article 5 – Cigarette Tax

## Recent Annual Collections

<b>Fiscal Year</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019 REC</b>	<b>2020 REC</b>	<b>2020 Gov.</b>
Increase	\$ 0.25	\$ -	\$ 0.50	\$ -	\$ -	\$ 0.25
Per pack Tax	\$ 3.75	\$ 3.75	\$ 4.25	\$ 4.25	\$ 4.25	\$ 4.50
Total	\$138.3	\$ 134.4	\$137.8	\$128.8	\$123.0	\$126.2
Change to Prior	\$ 5.6	\$ (3.9)	\$ 3.4	\$ (9.0)	\$ (5.8)	\$ (2.6)*

\$ in millions \*Change to 2019 REC

# Article 5 – Cigarette Tax

- Each state/territory has own tax
  - Highest – D.C. \$4.50/pack
    - Increased \$2.00 October 1, 2018
  - CT & NY 2<sup>nd</sup> at \$4.35/pack
  - Lowest – Missouri, \$0.17/pack

<b>States &amp; DC</b>	<b>Tax</b>
36	Over \$1.00
19	At or over \$2.00
8	Over \$3.00

# Article 5 – Cigarette Tax

- Rhode Island would be tied w/ D.C. for the highest tax nationwide

<b>New England States</b>	<b>Tax</b>	<b>U.S. Rank</b>	<b>N.E. Rank</b>
Connecticut	\$ 4.35	2	1
Rhode Island	\$ 4.25	4	2
Massachusetts	\$ 3.51	5	3
Vermont	\$ 3.08	7	4
Maine	\$ 2.00	16	5
New Hampshire	\$ 1.78	23	6

*Source: Campaign for Tobacco-Free Kids, Dec. 21, 2018*

# Article 5 – Cigarette Tax

- State cigarette tax not only factor in final price
- Federal tax - \$1.01 since 2009
- Local cigarette taxes in addition to state tax
  - Highest Chicago - \$1.18 local tax, \$3.00 city tax – Total \$6.16
  - New York City - \$1.50 local tax – Total \$5.85
- RI total cigarette tax burden rank: 13
  - Would move to 8<sup>th</sup> with proposed change

# Article 5 – Cigarette Tax

- Base price of product
  - Product use/popularity
- Minimum markup – retail and wholesale
  - Lowest price at which product can be sold
  - To prevent sales below cost or unfair pricing
  - 1939 Assembly enacted initial minimum markup laws

# Article 5 – Cigarette Tax

## Manufacturer

Sets the product base price  
Includes federal tax



## Distributors (Wholesalers)

Pay cigarette tax  
Must include wholesale minimum markup in price to dealers



## Dealers (Retailers)

Must include retail minimum markup in price to consumers



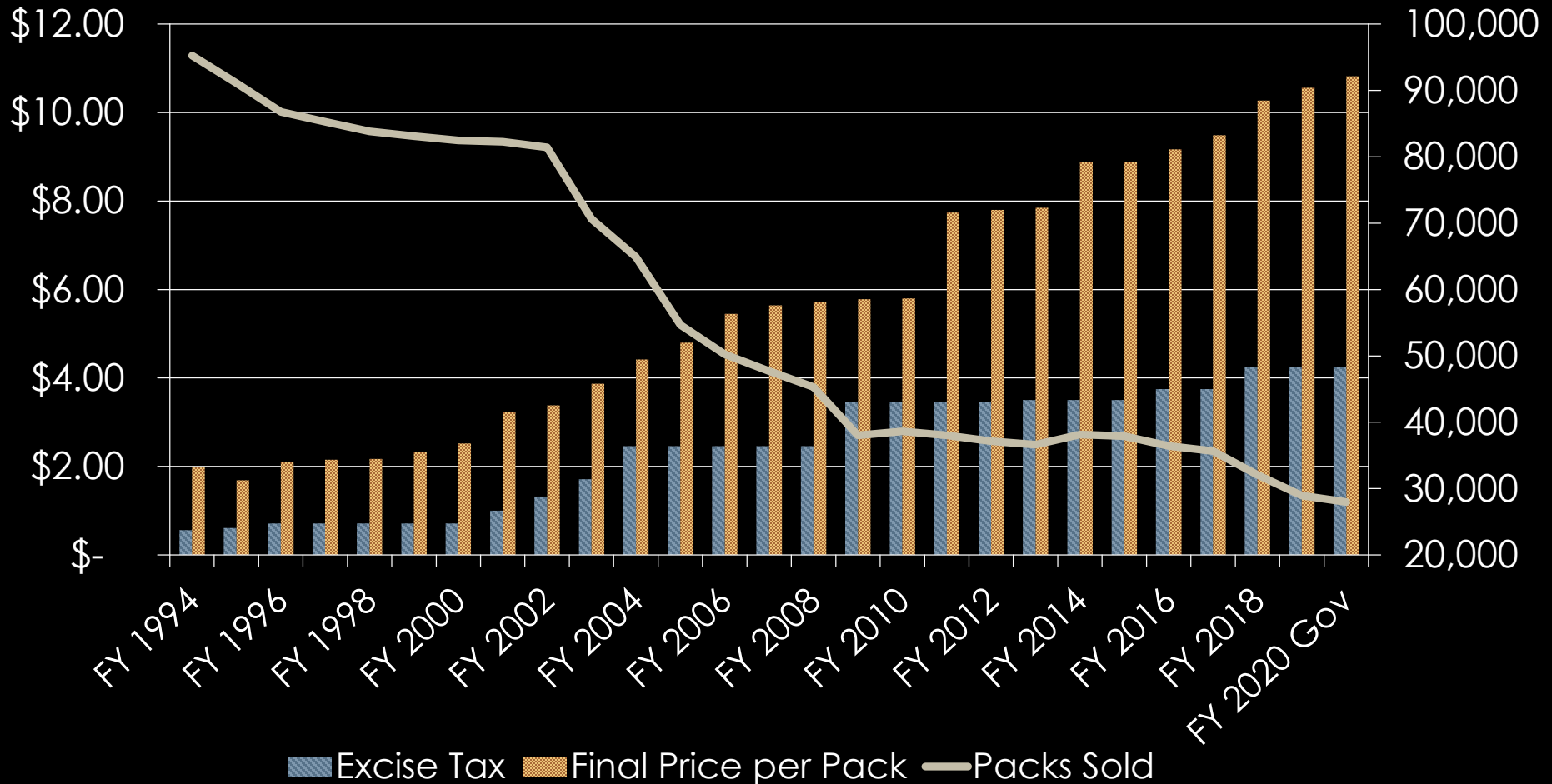
**Consumer – Pays retail price plus sales tax**

# Article 5 – Cigarette Tax

<b>Current Prices</b>	<b>RI</b>	<b>CT</b>	<b>MA</b>
Base price/pack of 20 (incl. fed. excise tax)	\$ 4.78	\$ 4.78	\$ 4.86
State Cigarette Tax	4.25	4.35	3.51
<b>Total Base Price/pack of 20</b>	<b>\$ 9.03</b>	<b>\$ 9.13</b>	<b>\$ 8.37</b>
Minimum Markup – Wholesaler	2.75%	6.50%	2.75%
Minimum Markup – Retailer	6.00%	8.00%	25.00%
Total Markup/pack of 20	8.93%	15.02%	28.44%
<b>Post Markup Price/pack of 20</b>	<b>\$ 9.83</b>	<b>\$ 10.50</b>	<b>\$ 10.74</b>
Sales Tax Rate	7.0%	6.35%	6.25%
<b>Final Minimum Retail Price</b>	<b>\$ 10.52</b>	<b>\$ 11.16</b>	<b>\$ 11.42</b>



# Article 5 – Cigarette Tax



# Article 5 – Cigarette Tax

<b>Current Prices</b>	<b>RI - Art. 5</b>	<b>CT</b>	<b>MA</b>
Base price/pack of 20	\$ 4.78	\$ 4.78	\$ 4.86
State Cigarette Tax	4.50	4.35	3.51
<b>Total Base Price/pack of 20</b>	<b>\$ 9.28</b>	<b>\$ 9.13</b>	<b>\$ 8.37</b>
Minimum Markup – Wholesaler	2.75%	6.50%	2.75%
Minimum Markup – Retailer	6.00%	8.00%	25.00%
Total Markup/pack of 20	8.93%	15.02%	28.44%
<b>Post Markup Price/pack of 20</b>	<b>\$ 10.11</b>	<b>\$ 10.50</b>	<b>\$ 10.74</b>
Sales Tax Rate	7.0%	6.35%	6.25%
<b>Final Minimum Retail Price</b>	<b>\$ 10.82</b>	<b>\$ 11.16</b>	<b>\$ 11.42</b>

# Article 5 – Fiscal Impact

- Estimate annual fiscal impact

<b>Fiscal Year</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
E-liquid & products	\$ 0.4	\$ 0.5	\$ 0.5	\$ 0.6	\$ 0.6
Licensing	0.5	0.5	0.5	0.5	0.5
Cigar cap increase	0.6	0.8	0.8	0.9	1.0
Cigarette taxes	3.1	2.5	2.4	2.3	2.2
<i>Total revenues</i>	\$ 4.6	\$ 4.2	\$ 4.2	\$ 4.3	\$ 4.3
Expenses	(0.4)	(0.4)	(0.4)	(0.4)	(0.4)
<b>Total Fiscal Impact</b>	<b>\$ 4.2</b>	<b>\$ 3.9</b>	<b>\$ 3.9</b>	<b>\$ 3.9</b>	<b>\$ 3.9</b>

\$ in millions

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