

Governor's FY 2019 Budget: Articles

Staff Presentation to the House Finance Committee
March 28, 2018

Introduction

- Article 4 – Taxes and Revenues
 - Section 6: Other Tobacco Products
 - Prohibits transactions among unlicensed entitles
 - Extends current tax to vapor products
 - Increases max tax for cigars by 30 cents
 - Section 7 & 8: Cigarette Tax
 - Raises tax by 25 cents per pack
 - Estimated budget impact \$6.1 million

Article 4, Section 6 – OTP Licensing Standards

- Amends current law to require state licensing of entities involved in other tobacco product transactions
 - Manufacturer, distributor, retail, importer
 - Restricts transactions to state licensed
 - Same standard as cigarettes
- To enhance voluntary compliance and collections
 - Enforcement activities show increased shift from cigarettes to OTP

Article 4, Section 6 – OTP Licensing Standards

- RI General Law 44-20-2 requires cigarette & OTP dealers & distributors to be licensed
 - 44-20-13.2(b) allows retailers to purchase from unlicensed dealers; undercuts compliance
- Governor's amendment repeals 44-20-13.2(b)

Article 4, Section 6 – OTP Licensing Standards

- Budget assumes \$1.0 million in new revenues for FY 2019
 - Based on enforcement experience

Fiscal Year	Collections
2013	\$3,824,007
2014	\$4,762,300
2015	\$5,224,990
2016	\$6,076,826
2017	\$7,873,842
2018*	\$5,831,260

**As of February 2018*

Article 4, Section 6 – Other Tobacco Products

- 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
 - Sellers must have proof of payment
 - Current law is 5 days to self-report

Article 4, Section 6 – OTP Vapor Products

- Expands products subject to tax
 - E-cigarettes: vaporizers, electric inhaler or nicotine delivery systems and solutions
 - 2017-H 5175 clarified products already subject to taxation, did not expand/include to vapor products
 - Entities required to register consistent with other proposed change
 - Non-compliance subject to enforcement mechanisms

Article 4, Section 6 – OTP Vapor Products

- 8 states and D.C. tax vapor products like tobacco; 7 other jurisdictions have local taxes
 - Two taxation methodologies
 - Percentage of wholesale cost of taxed product
 - Flat amount on volume sold (per milliliter)
 - No state applies both

Article 4, Section 6 – OTP Vapor Products

Tax Type	State	Rate
<i>Wholesale</i>		
	California	65.1%
	Washington, DC	60.0%
	Minnesota	95.0%
	Pennsylvania	40.0%
<i>Per Milliliter</i>		
	Delaware, Kansas, Louisiana, North Carolina	\$0.05
	West Virginia	\$0.075

Article 4, Section 6 – OTP Vapor Products

Tax Type	Locality	Rate
<i>Wholesale</i>		
Alaska	Juneau, Petersburg, NW Artic Borough	45.0%
	Mat-Su Valley	55.0%
Maryland	Montgomery Co.	30.0%
<i>Per Milliliter</i>		
Illinois	City of Chicago*	\$0.55
	Cook County	\$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 4, Section 6 – OTP Vapor Products

- Estimated collections on Minnesota experience
 - First state to institute the tax, best data
 - Assumes use will be about 7.6% of OTP collections using Nov. 2017 estimate
 - Effective Aug 1 – conflicts with July 1 as drafted
 - Budget assumes use of \$0.7 million for FY 2019 & \$0.8 million in FY 2020
 - Vapor products already subject to 7.0 % sales tax

Article 4, Section 6 – Minnesota Vapor Tax

- 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 4, Section 6 – OTP Cigar Cap Increase

- OTP - Cigars
 - Cigar tax set a \$0.50 in 2005 when Assembly raised OTP tax from 30% to 40%
 - OTP rate increased to 80% by 2009 Assembly
 - Massachusetts
 - 40% of wholesale
 - Connecticut
 - 50% of wholesale with 50 cent cap

Article 4, Section 6 – OTP Cigar Cap Increase

- Raises tax cap on cigars
 - Cigars taxed at 80% of wholesale cost, up to \$0.50
 - Currently approximately 1.7 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
- Budget estimates \$0.6 million in FY 2019
 - Assumes 80% of cigars still subject to new cap; approximately 1.4 million
 - No adjustment for consumer behavior change

Article 4, Sections 7-8 - Cigarette Tax

- Current law – Tax on all cigarettes sold or held for sale in the state
 - Tax evidenced by stamps
 - Current state tax is \$4.25 per pack of 20 (effective August 16, 2017)
- FY 2019 Proposal - Increase cigarette tax by \$0.25 to \$4.50 per pack of 20
 - Effective 12:01 am, August 1, 2018

Article 4, Sections 7-8 - Cigarette Tax

- FY 2019 Budget includes \$3.9 million
 - Cigarette tax - \$3.2 million
 - Floor Tax - \$0.7 million
 - Tax on existing inventory – difference between the two tax rates
 - Governor requested an amendment to correct calculation reference
- Estimate includes 2.8% demand drop
 - Reduces sales tax collections \$22,459

Article 4, Sections 7-8 - Cigarette Tax

Recent Annual Collections

Fiscal Year	2015	2016	2017	2018	2019 REC	2019 Gov.
Per pack Tax	\$ 3.50	\$ 3.75	\$ 3.75	\$ 4.25	\$ 4.25	\$ 4.50
Increase	\$ -	\$ 0.25	\$ -	\$ 0.50	\$ -	\$ 0.25
Total	\$ 132.7	\$136.6	\$132.2	\$134.2	\$129.3	\$133.2
Change	\$ (\$1.9)	\$ 3.9	\$ (4.4)	\$ 2.1	\$ (5.0)	\$ (1.0)

Article 4, Sections 7-8 - Cigarette Tax

- Each state/territory has own tax
 - Highest – CT & NY, \$4.35/pack
 - CT increased \$0.45 last year
 - RI is 2nd highest at \$4.25/pack
 - Lowest – Missouri, \$0.17/pack
- 35 states & DC have tax of >\$1.00
- 19 states & DC have tax of \geq \$2.00
- 8 states have tax of \$3.00 or more

Article 4, Sections 7-8 - Cigarette Tax

New England States	Tax	U.S. Rank
Connecticut	\$ 4.35	1
Rhode Island	4.25	3
Massachusetts	3.51	4
Vermont	3.08	6
Maine	2.00	15
New Hampshire	1.78	22

Source: Campaign for Tobacco-Free Kids, Jan. 1, 2018

Article 4, Sections 7-8 - Cigarette Tax

- State cigarette tax not only factor in final price
- Federal tax - \$1.01 since 2009
- Some states allow local cigarette tax options in addition to state tax
 - New York City - \$1.50 local tax
 - Chicago - \$1.18 local tax, \$3.00 cty. tax
- RI total cigarette tax burden rank: 13
 - Would move to 8th with proposed change

Article 4, Sections 7-8 - 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 4, Sections 7-8 - 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

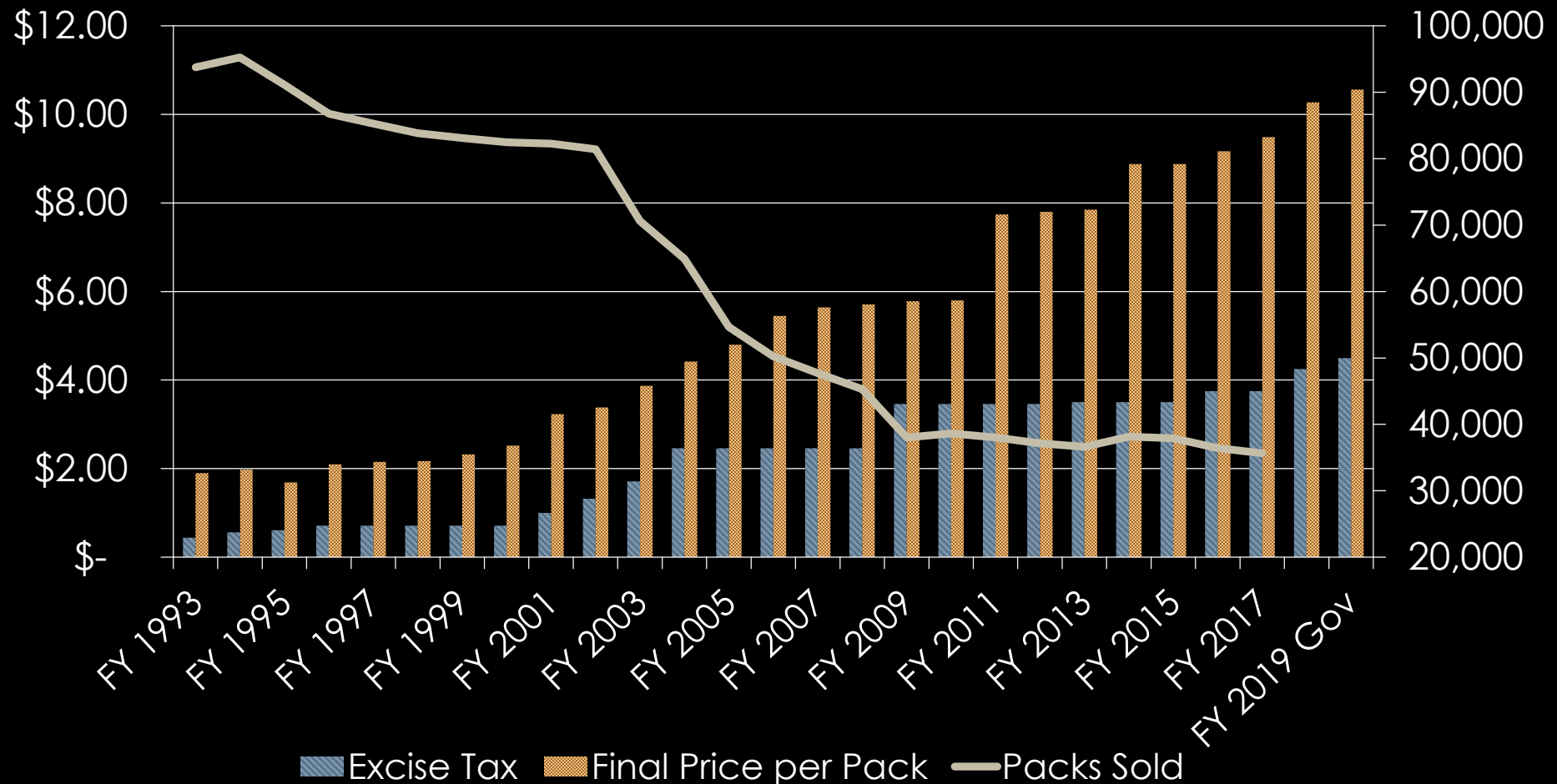


Consumer – Pays retail price plus sales tax

Article 4, Sections 7-8 - Cigarette Tax

Current Prices	RI	CT	MA
Base price/pack of 20 (<i>incl. fed. excise tax</i>)	\$ 4.56	\$ 4.56	\$ 4.34
State Cigarette Tax	4.25	4.35	3.51
Total Base Price/pack of 20	\$ 8.81	\$ 8.91	\$ 7.85
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%
Post Markup Price/pack of 20	\$ 9.60	\$ 10.25	\$ 10.09
Sales Tax Rate	7.0%	6.35%	6.25%
Final Retail Price	\$ 10.27	\$ 10.90	\$ 10.72

Article 4, Sections 7-8 - Cigarette Tax



Article 4, Sections 7-8 - Cigarette Tax

Current Prices	RI (Art. 4)	CT	MA
Base price/pack of 20	\$ 4.56	\$ 4.56	\$ 4.34
State Cigarette Tax	4.50	4.35	3.51
Total Base Price/pack of 20	\$ 9.06	\$ 8.91	\$ 7.85
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%
Post Markup Price/pack of 20	\$ 9.87	\$ 10.25	\$ 10.09
Sales Tax Rate	7.0%	6.35%	6.25%
Final Retail Price	\$ 10.56	\$ 10.90	\$ 10.72

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