

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 710  
Economic Matters

(Delegate Tarrant, *et al.*)

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Cigarette - Definition

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This bill alters the definition of a cigarette to include any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and is either (1) wrapped in paper containing tobacco and, with the wrapper, weighs less than three pounds per 1,000 rolls; or (2) contains tobacco, in any form, that is functional in the product and is likely to be purchased or offered as a cigarette because of its appearance, the type of tobacco used in the filler, or its packaging. A cigarette does not include a product that has a wholesale price of at least 50 cents per roll or a product that is wrapped exclusively in tobacco.

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Fiscal Summary

**State Effect:** General fund revenues may increase beginning in FY 2012 due to increased tobacco tax collections. Given the limited number of products expected to be impacted and the estimated average amount of the change in the tobacco tax, any increase is not expected to be significant. Potential minimal increase in general fund expenditures beginning in FY 2012 due to increased administrative expenses at the Comptroller's Office.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Current Law/Background:** The Business Regulation Article defines a "cigarette" as any size or shaped roll for smoking that is made of tobacco or mixed with another

ingredient and wrapped in paper or in any other material except tobacco. The Commercial Law and Tax-General articles also contain the definition above and explicitly exclude cigars from the definition.

Cigarettes are taxed at a rate of \$2.00 per pack. The discount rate on the purchase price of tobacco tax stamps offered by the Comptroller to cigarette wholesalers is 0.82%. Other tobacco products (OTP) are taxed at a rate equal to 15% of the wholesale price. Cigarette and OTP revenues accrue to the general fund. The State is projected to collect \$408.7 million in total tobacco taxes in fiscal 2012, of which \$13.6 million is from OTP.

In addition, the State sales tax of 6% is imposed on the final retail price of cigarettes and other tobacco products. A portion of sales tax revenues are distributed to TTF.

Federal law provides for four classifications related to cigarettes and cigars, with each classification having a specified tax rate. The federal Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) contains several provisions related to federal tobacco taxes and regulation. As a result of CHIPRA, small cigars and small cigarettes (standard-sized cigarettes) are taxed equally as shown in **Exhibit 1**.

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**Exhibit 1**  
**Federal Taxation**  
**Of Tobacco Products**

<b><u>Product</u></b>	<b><u>Definition</u></b>	<b><u>Tax Rate</u></b>
Small Cigarette	Weights 3 lbs. or less per 1,000	\$50.33 per carton / \$1.0066 per pack
Large Cigarette	More than 3 lbs. per 1,000	\$105.69 per 1,000
Small Cigar	Weights 3 lbs. or less per 1,000	\$50.33 per 1,000
Large Cigar	More than 3 lbs. per 1,000	52.75% of sales price, not to exceed \$0.4026 per cigar

Source: Alcohol and Tobacco Tax and Trade Bureau

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CHIPRA increased tobacco taxes effective April 1, 2009. National little cigar sales decreased significantly, with a corresponding increase in sales of large cigars. Through the end of calendar 2010, small cigar sales have decreased by a total of 83% while large cigar sales increased by 117% over this period. Little cigar sales comprised an estimated 7.4% of all taxable cigar sales in 2010, down from about one-half in 2008.

**State Revenues:** The bill taxes specified tobacco products as cigarettes beginning October 1, 2011. As a result, general fund revenues may increase beginning in fiscal 2012. Any increase in revenues, however, is not expected to be significant. This estimate is based on the following facts and assumptions:

- taxes collected from cigars will total an estimated \$8.6 million in fiscal 2012;
- an estimated 7% of all national cigar sales in 2010 were small cigars;
- the bill does not apply to specified tobacco products wrapped exclusively in tobacco or with a wholesale price of at least 50 cents per roll;
- the average wholesale price of small cigars is less than large cigars; and
- revenue increases will be partially offset as consumers reduce tobacco consumption and/or substitute less expensive tobacco products.

**State Expenditures:** The bill will subject specified tobacco products to certain cigarette regulations, including the Maryland Fire Safety Performance Standard for Cigarettes. The Comptroller's Office advises that it will incur minimal expenditures beginning in fiscal 2012 to implement changes necessary for the additional regulation of these products.

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### **Additional Information**

**Prior Introductions:** Similar legislation was introduced in the 2010 and 2008 sessions. HB 957 of 2010 and HB 617 of 2008 received an unfavorable report from the House Economic Matters Committee.

**Cross File:** None.

**Information Source(s):** Alcohol and Tobacco Tax and Trade Bureau, Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2011  
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