

Department of Legislative Services  
 Maryland General Assembly  
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 631 (Senators Jones-Rodwell and Madaleno)  
 Budget and Taxation

Tobacco Tax - Maryland Tobacco-Free Kids Initiative

This bill increases the other tobacco product (OTP) tax rate from 15% to 70% of the wholesale price. The bill also (1) mandates specified minimum and maximum tax rates for certain other tobacco products and specifies that small-cigar cigarettes as defined by the bill are taxed as cigarettes; and (2) requires a wholesaler who files a tobacco tax return to declare the amount of other tobacco products sold.

The bill takes effect July 1, 2012.

Fiscal Summary

**State Effect:** General fund revenues increase by \$17.4 million in FY 2013, which reflects increased OTP tax revenues and the floor tax imposed, net of decreased sales tax revenues. Future revenue increases reflect both OTP and sales tax impacts. Expenditures are not affected.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	\$17.4	\$17.8	\$18.3	\$18.9	\$19.4
Expenditure	0	0	0	0	0
Net Effect	\$17.4	\$17.8	\$18.3	\$18.9	\$19.4

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The bill increases the OTP tax from 15% to 70% of the wholesale price. In addition, the bill provides specified minimum and maximum tax rates for certain other tobacco products. The tax rate on other tobacco products is equal to:

- 70% of the wholesale price for cigars, not to exceed \$3.00 per cigar; and
- the greater of 70% of the wholesale price or (1) \$3.00 per 1.2 ounce container of moist snuff tobacco; (2) 15 cents per dose of single dose smokeless tobacco; and (3) \$3.00 per 0.65 ounces of roll-your-own tobacco.

In addition, small-cigar cigarettes are taxed at the same rate as cigarettes. A small-cigar cigarette is defined as a small, thin cigar with the approximate dimensions of a cigarette or a cigarette wrapped in tobacco instead of paper.

**Current Law:** Cigarettes are taxed at a rate of \$2.00 per pack. OTP are taxed at a rate equal to 15% of the wholesale price. Cigarette and OTP tax revenues accrue to the general fund. The State is projected to collect \$406.9 million in total tobacco taxes in fiscal 2013.

In addition, the State sales tax rate of 6% is imposed on the final retail price of cigarettes and other tobacco products.

**Background:** Chapter 121 of 1999 imposed a 15% tax on the wholesale price of other tobacco products such as cigars and smokeless tobacco. In fiscal 2010, of the total amount of OTP reported sold by wholesalers, 63% was cigars followed by moist snuff (25%), chewing tobacco (7%), roll-your-own tobacco (4%), and pipe tobacco (1%).

**Exhibit 1** shows the OTP tax rates imposed in surrounding states as of January 1, 2012, and the tax rate for moist snuff tobacco in those states that provide for a separate tax.

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**Exhibit 1**  
**OTP and Moist Snuff Tobacco Tax Rates in Surrounding States**

<u>State</u>	<u>OTP Tax Rate</u>	<u>Moist Snuff Tobacco (per Ounce)</u>
Delaware	15%	\$0.54
District of Columbia	12%*	0.75
Maryland	15%	
Pennsylvania	None	
Virginia	10%**	0.18
West Virginia	7%	

\*Applied to retail price.

\*\*Applied to manufacturing price, chewing tobacco taxed per unit.

Source: Federation of Tax Administrators

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**State Revenues:** The bill increases the OTP tax rate from 15% to 70% of the wholesale price. In addition, the bill mandates specified minimum and maximum tax rates for certain other tobacco products and specifies that small-cigar cigarettes as defined by the bill are taxed as cigarettes. As a result, general fund revenues may increase by \$17.4 million in fiscal 2013, which reflects the impact of increased OTP tax revenues net of decreased sales tax revenues.

The estimates are based on an examination of the additional OTP revenues generated through tax increases in 11 other states in fiscal 2006 through 2010, adjusted for Maryland. Based on other states' experiences, the estimates assume a significant reduction in the taxable consumption of OTPs following the tax increase.

The Comptroller's Office does not have information on the average wholesale price of other tobacco products sold in the State. As a result, the estimate does not include the impacts of the specified minimum and maximum tax rates for OTP as well as taxing specified cigars at the same rate as cigarettes.

**Small Business Impact:** Small businesses that sell other tobacco products will be negatively impacted due to the decrease in sales of these products resulting from the tax increases.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Federation of Tax Administrators,  
Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2012  
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