

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 1153 (Delegate Luedtke, *et al.*)
 Ways and Means and Health and
 Government Operations

Tobacco Tax - Healthy Maryland Initiative

This bill increases the tobacco tax rate from \$2.00 to \$3.00 per pack and the other tobacco product (OTP) tax rate from 15% to 95% of the wholesale price. In addition, the bill mandates specified minimum and maximum tax rates for certain other tobacco products. OTP tax revenue is redistributed from the general fund to a special fund to ensure that tobacco cessation programs receive at least \$21.0 million in annual funding beginning in fiscal 2014. Any additional money in the special fund is to be used to support specified health care programs.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Net general fund revenues increase by \$51.1 million in FY 2013 due to the increase in the cigarette tax, minus the loss of sales tax and OTP revenues. Special fund OTP tax revenues increase by \$35.0 million in FY 2013; OTP special fund expenditures increase by a corresponding amount for specified health care programs. Future year estimates reflect estimated OTP and cigarette tax revenues and OTP special fund expenditures specified by the bill.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	\$51.1	\$49.4	\$47.6	\$45.8	\$44.0
SF Revenue	\$35.0	\$36.4	\$37.9	\$39.4	\$41.0
SF Expenditure	\$35.0	\$36.4	\$37.9	\$39.4	\$41.0
Net Effect	\$51.1	\$49.4	\$47.6	\$45.8	\$44.0

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 tobacco tax rate from \$2.00 to \$3.00 per pack and the OTP tax rate from 15% to 95% 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:

- 95% of the wholesale price for cigars, not to exceed \$3.00 per cigar; and
- the greater of 95% 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.

The bill requires the Comptroller's Office to distribute OTP tax revenues to an OTP tax fund created by the bill. The fund may be used to provide additional funding for the State Tobacco Use Prevention and Cessation Program and to ensure that the program receives at least \$21.0 million in annual funding beginning in fiscal 2014. Any additional revenue remaining in the fund must be used to fund the State Health Improvement Process and other community-based health initiatives, including those that address childhood obesity, long-term care for seniors, and improved access to health care services for Marylanders.

Any money expended from the fund to support the State Tobacco Use Prevention and Cessation Program and health care programs described above is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for those purposes.

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 increased the cigarette tax from 36 cents to 66 cents. In addition, Chapter 121 imposed a 15% tax on the wholesale price of OTP such as cigars and smokeless tobacco. Chapter 288 of 2002 increased the cigarette tax from 66 cents to \$1.00 per pack. Chapter 6 of the 2007 special session increased the cigarette tax to \$2.00 per pack. 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%).

The Tobacco Use Prevention and Cessation Program aims to reduce the use of tobacco products and to reduce the burden of tobacco-related morbidity and mortality in the State. Over the past several years, the State’s fiscal difficulties have prompted reductions to the mandated funding levels for various programs funded by the Cigarette Restitution Fund (CRF). The Budget Reconciliation and Financing Act of 2010 (Chapter 484) reduced annual appropriations for tobacco use prevention and cessation activities to \$6.0 million in each of fiscal 2011 and 2012 and \$10.0 million annually beginning in fiscal 2013. Prior to these reductions, \$21.0 million was mandated for the activities annually.

The proposed fiscal 2013 State budget includes \$10.0 million in funding for the program. However, the Budget Reconciliation and Financing Act of 2012 proposes to reduce the fiscal 2013 appropriation to \$6.0 million.

Exhibit 1 shows the cigarette and 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.

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

<u>State</u>	<u>Cigarette Tax Rate</u>	<u>OTP Tax Rate</u>	<u>Moist Snuff Tobacco (per Ounce)</u>
Delaware	\$1.60	15%	\$0.54
District of Columbia	2.50	12%*	0.75
Maryland	2.00	15%	
Pennsylvania	1.60	None	
Virginia	0.30	10%**	0.18
West Virginia	0.55	7%	

*Applied to retail price.

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

Source: Federation of Tax Administrators

State Fiscal Effect: The bill increases the cigarette and OTP tax rates and redirects OTP tax revenues to support tobacco cessation programs and specified health care programs. As a result, net general fund revenues increase by \$51.1 million in fiscal 2013 as shown in **Exhibit 2**. OTP special fund revenues increase by \$35.0 million in fiscal 2013.

Exhibit 2
Fiscal Impact of Legislation
Fiscal 2013-2017
(\$ in Thousands)

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2016</u>	<u>FY 2016</u>	<u>FY 2017</u>
Revenues					
<i>General Fund</i>					
OTP Revenues	(\$14,230)	(\$14,942)	(\$15,689)	(\$16,473)	(\$17,297)
Cigarette Tax	72,978	72,138	71,306	70,482	69,667
Sales Tax	(7,624)	(7,793)	(7,972)	(8,163)	(8,365)
Net General Fund	\$51,124	\$49,404	\$47,645	\$45,847	\$44,005
<i>Special Fund</i>					
OTP Revenue	35,006	36,406	37,862	39,377	40,952
Total Revenues	\$86,130	\$85,810	\$85,508	\$85,223	\$84,957
Expenditures					
Tobacco Cessation	0	11,000	11,000	11,000	11,000
Health Care Programs	35,006	25,406	26,862	28,377	29,952
Total Expenditures	\$35,006	\$36,406	\$37,862	\$39,377	\$40,952
Net Impact	\$51,124	\$49,404	\$47,645	\$45,847	\$44,005

OTP special fund expenditures increase by \$35.0 million in fiscal 2013. The bill mandates that revenues from this fund ensure a total of \$21.0 million in annual tobacco cessation program funding beginning in fiscal 2014. It is assumed that money that accrues to the fund in fiscal 2013 will support health care spending as specified by the bill. Beginning in fiscal 2014, \$11.0 million of OTP special fund revenues will be used to supplement tobacco cessation programs.

The revenue estimates are based on past cigarette tax increases in Maryland and 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 these experiences, the estimates assume a significant reduction in the taxable consumption of cigarettes and OTPs following the tax increases.

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

Additional Information

Prior Introductions: Similar legislation was introduced in the 2011 session. SB 654 received an unfavorable report from the Senate Budget and Taxation Committee. Its cross file, HB 853, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: SB 526 (Senator Forehand, *et al.*) - Budget and Taxation.

Information Source(s): Department of Budget and Management, Department of Health and Mental Hygiene, Comptroller's Office, Department of Legislative Services

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mc/jrb

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