

CIGARETTE TAX

An excise tax on cigarettes has been levied in Ohio since 1931. From an initial tax of two cents per pack, the rate was increased gradually over the years until it reached 15 cents per pack in 1971. This rate remained in effect until 1981, when it was reduced to 14 cents. At that time, however, cigarettes became subject to the Ohio sales tax. The rate increased to 18 cents per pack on July 15, 1987. House Bill 904 increased the rate to 24 cents per pack effective January 1, 1993.

House Bill 904 enacted an excise tax on other tobacco products effective February 1, 1993. These products include cigars, chewing tobacco, snuff, smoking tobacco, and other tobacco products. The tax is levied on the wholesale price of any other tobacco product manufactured in Ohio or imported into Ohio that is to be sold for resale at retail. The rate is 17 percent of the wholesale price. During fiscal year 1999, other tobacco tax liabilities totaled \$21.2 million.

The excise tax on cigarettes is made up of two separate levies on each cigarette: one levy of 1.15 cents and the other .05 cent for a total of 1.2 cents per cigarette, or 24 cents per standard package of 20 cigarettes. The tax is paid primarily by wholesale dealers through the purchase of stamps or meter impressions (tax indicia) that are affixed to cigarette packs. Retailers, individuals, and other consumers are responsible for paying the tax on cigarettes not taxed at the wholesale dealer level. The Ohio Tax Commissioner can authorize dealers to purchase the tax indicia on credit payable within 30 days during July through April.

The 1.15 cents levy is credited to the state general revenue fund while receipts from the .05 cent tax are earmarked for retirement of educational, recreational, and public building construction bonds. Since there are currently no outstanding bonds, all cigarette tax collections go to the general revenue fund. In fiscal year 1999, total receipts were \$267.6 million (not including other tobacco products).

In 1986, the Ohio General Assembly gave authorization to county governments to levy a permissive tax of .225 cent per cigarette (4.5 cents per package of 20) for the purpose of funding the operation or

servicing the debt of a sports facility operated by the county or a development corporation. Cuyahoga County enacted such a levy at the maximum rate effective August 1, 1990. The Department of Taxation administers and collects the tax, distributing the collections to Cuyahoga County on a monthly basis. The levy produced revenues of \$5.4 million during fiscal year 1999.

All state cigarette tax exemptions and credits apply to the county levies. The state collects the county levies through sales of tax indicia for cigarettes to be sold in Cuyahoga County. These collections are returned to Cuyahoga County in the month following their collection. The Department of Taxation retains two percent of the collections for administrative expenses.

TAX BASE (R.C. 5743.02, 5743.023, 5743.32, 5743.322, 5743.51):

The sale of cigarettes in Ohio (R.C. 5743.02, 5743.023)

The use, consumption, or storage for consumption of cigarettes in Ohio (R.C. 5743.32, 5743.322)

The receipt or import of other tobacco products for resale (R.C. 5743.51)

RATES (R.C. 5743.02, 5743.32, 5743.023, 5743.322, 5743.024, 5743.51):

Although the tax enacted applies to each cigarette, the rates on the next page are in terms of packs of 20 and 25 cigarettes.

Ohio Revised Code Section	Tax Rate Per Pack of 20	Tax Rate Per Pack of 25
5743.02 (Sale) 5743.32 (Use)	23 cents	28.75 cents
5743.023 (Sale) 5743.322 (Use)	<u>1 cent</u>	<u>1.25 cents</u>
Total Rate Per Pack	24 cents	30 cents
5743.024 (County Permissive)	max. 4.5 cents	max. 5.625 cents

The rate on other tobacco products is 17 percent of the wholesale price (R.C. 5743.51).

EXEMPTION (R.C. 5743.05):

Cigarettes sold in interstate or foreign commerce or to United States appropriated fund activities

SPECIAL PROVISIONS (R.C. 5743.024):

Counties may, with voter approval, levy a permissive cigarette tax of up to 2.25 mills (4.5 cents per pack of 20) per cigarette. The levy must be for the purpose of operating or servicing the debt of a sports facility.

TAXPAYER (R.C. 5743.01):

Cigarettes:

Wholesale Dealer: Those who purchase cigarettes directly from manufacturers, producers, importers, and other wholesalers who then sell cigarettes to others (retailers) for the purpose of resale.

Retail Dealer: Includes everyone, other than a wholesale dealer, engaged in the sale of cigarettes. Retail dealers must remit the tax on any cigarettes not previously taxed.

Persons: Individuals, companies, and other consumers who have cigarettes in their possession on which the excise tax has not been paid.

Other Tobacco Products:

Wholesalers: Distributors who receive other tobacco products for sale to retailers or wholesalers for resale within the state.

Manufacturers: Those manufacturers who sell other tobacco products to retailers for resale within the state.

Retailers: Those retailers who import into Ohio untaxed other tobacco products from wholesalers or distributors.

METHOD OF TAX PAYMENT:

All cigarette taxpayers are required to pay for stamps or meter impressions at the time of purchase. When it is more practical to collect the tax without the use of stamps or meter impressions (for example, manufacturers' gift samples), the tax is paid with returns or by direct payment to the Ohio Treasurer of State.

Method of Payment	Revised Code Section	Description of Payment
Cash payment	5743.03	Dealers are required to pay stamps and meter impressions at the time of purchase unless they have been authorized to make credit purchases.
Credit payment	5743.05	The Tax Commissioner may authorize wholesale dealers to purchase stamps and meter impressions on credit payable within thirty days. For out-of-state dealers, this applies only if that state allows Ohio dealers the same credit. Credit sales are allowed during July through April of each year.
Direct payment	5743.33	Direct payments are made primarily by manufacturers on gift samples of cigarettes, but also include assessments and deficiency payments, and voluntary payments by consumers.

Type of Return	Filing Date	Revised Code Section	Taxpayer
Semi-annual	By July 31 for the preceding January-June period: by January 31 for the preceding July-December period	5743.03	Wholesale dealers
Monthly	By the 15th of each month for the preceding month	5743.33	Persons with untaxed cigarettes
	By the last day of each month for the preceding month	5743.52	Distributors or importers of tobacco products

DISPOSITION OF REVENUE:

Tax Rate	Code Section	Disposition of Revenue
1.15 cents per cigarette	5743.02	State General Revenue Fund
0.05 cent per cigarette	5743.023	State General Revenue Fund
17 percent of wholesale price of other tobacco products	5743.51	State General Revenue Fund
<u>County Levy:</u> Up to .225 cent per cigarette	5743.024	Two percent to the Local Excise Tax Administration Fund and remaining to the county

FILING AND PAYMENT DATES:

Wholesale dealers are required to file a semi-annual return even though they may have paid all their tax through the purchase of stamps and meter impressions. Any payment due on cigarettes not previously taxed is included. Others who have untaxed cigarettes file a monthly use tax return along with their tax.

DISCOUNT (R.C. 5743.05):

As a consideration for affixing and cancelling cigarette stamps and meter impressions, retail and wholesale dealers receive a discount of 3.6 percent of the face value of stamps and meter impressions. Other tobacco product taxpayers receive a 2.5 percent discount for timely payment of taxes.

OHIO REVISED CODE CITATIONS:

Chapter 5743

RECENT LEGISLATION:

Senate Bill 98; effective June 9, 1999.

RC 5743.21 - Prohibits the affixing of tax stamps to certain packages of cigarettes (gray market *cigarettes*).

House Bill 362; effective June 30, 1999.

RC 1346.01 and 1346.02 - Requires tobacco manufacturers selling cigarettes in Ohio and not part of the Attorney General's tobacco settlement to place funds annually in escrow accounts for payment of future lawsuits.

House Bill 283; effective June 30, 1999 (Biennial Budget Bill).

Various section in RC Chapter 5743 - Pertains to the confiscation of tobacco products and other penalties.

Table 13
Cuyahoga County Cigarette Stamp Sales
Fiscal Years 1996-1999

Fiscal Year	Gross Stamp Tax	Discount	Net Sales
1996	\$5,955,900	\$214,413	\$5,741,487
1997	5,890,110	212,019	5,678,091
1998	5,777,853	207,962	5,569,891
1999	5,598,388	201,542	5,396,846

SOURCE: Department of Taxation

Table 14
Cigarette Tax Receipts, Fiscal Years 1995 -1999

Fiscal Year	Gross Tax	Discount Allowed	Net Tax Collected
1995	\$298,211,398	\$10,703,674	\$287,507,724
1996	287,334,941	10,344,058	276,990,883
1997	287,249,098	10,309,367	276,939,731
1998	285,282,926	10,235,402	275,047,524
1999	277,474,569	9,915,856	267,558,713

SOURCE: Treasurer of State.

Table 15
Other Tobacco Product Tax Liabilities, Fiscal Years 1994 - 1999

Fiscal Year	Gross Liability	Discount	Net Liability
1995	\$17,022,970	\$425,574	\$16,597,396
1996	17,970,482	449,262	17,521,220
1997	20,295,048	499,651	19,795,397
1998	21,563,068	532,476	21,030,592
1999	21,768,013	533,005	21,235,008

SOURCE: Department of Taxation.