Cigarette Tax and Other Tobacco Products Tax

An excise tax on cigarettes has been levied in Ohio since 1931. In 1981, cigarettes also became subject to the Ohio Sales tax. The excise tax rate increased to 18 cents per pack on July 15, 1987 and to 24 cents per pack effective January 1, 1993. Amended Substitute Senate Bill 261 increased the rate to 55 cents per pack effective July 1, 2002.

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 Cigarette tax is credited to the state General Revenue Fund. In Fiscal Year 2002, total receipts were $257.3 million (not including other tobacco products).

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 other tobacco products manufactured in Ohio or imported into Ohio that are to be sold for resale at retail. The rate is 17 percent of the wholesale price.

The Other Tobacco Products tax is credited to the state General Revenue Fund. In Fiscal Year 2002, total receipts were $24.7 million.

In 1986, the Ohio General Assembly gave authorization to county governments to levy a permissive tax of .225 cents 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 $4.8 million during Fiscal Year 2002.

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):

The following rates are in terms of packs of 20 and 25 cigarettes prior to July 1, 2002.

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)	1 cent	1.25 cents
Total Rate Per Pack	24 cents	30 cents
5743.024 (County Permissive)	4.5 cents	5.625 cents

The following rates are effective July 1, 2002.

Ohio Revised Code Section	Tax Rate Per Pack of 20	Tax Rate Per Pack of 25
5743.02 (Sale) 5743.32 (Use)	55 cents	68.75 cents
5743.024 (County)	4.5 cents	5.625 cents

The rate on other tobacco products is 17 percent of the wholesale price (R.C. 5743.51, 5743.63).

EXEMPTION (R.C. 5743.05):

Cigarettes sold in interstate or foreign commerce or to the U.S. government or its agencies.

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 servicing the debt of a sports facility.

TAXPAYER (R.C. 5743.01):

Cigarettes:

Wholesale Dealers —
Those who purchase cigarettes directly from manufacturers, producers, importers, or other wholesalers, who then sell cigarettes to retailers for the purpose of resale.

Retail Dealers —
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.

METHOD OF TAX PAYMENT:

All Cigarette taxpayers are required to pay for stamps at the time of purchase from the Treasurer of State. 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 Department of Taxation.

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. Any payment due on cigarettes not previously taxed is included. Others who have untaxed cigarettes file a monthly Use tax return along with payment of the tax.

DISCOUNT (R.C. 5743.05):

As a consideration for affixing and canceling cigarette stamps, retail and wholesale dealers receive a discount of the face value of stamps. The discount decreased from 3.6 percent to 1.8 percent effective December 13, 2001.

Other tobacco product taxpayers receive a 2.5 percent discount for timely payment of the tax.

Method of Payment	Revised Code Section	Description of Payment
Cash payment	5743.03	Dealers are required to pay for stamps and meter impressions at the time of purchase unless they have been authorized to make credit purchases.
Credit payments	5743.05	The Tax Commissioner may authorize wholesale dealers to purchase stamps 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 fiscal year.
Direct payments	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 By the last day of each month for the preceding month	5743.33 5743.52	Persons with untaxed cigarettes Distributors or importers of tobacco products
Quarterly	By April 30, July 31, October 31 and January 31 for the previous quarter's liability	5743.52	Distributors or importers of tobacco products

DISPOSITION OF REVENUE:

Tax Rate	Code Section	Disposition of Revenue
1.2 cents per cigarette through June 30, 2002	5743.02	State General Revenue Fund
2.75 cents per cigarette effective July 1, 2002	5743.021	State General Revenue Fund
17 percent of wholesale price of other tobacco products	5743.51	State General Revenue Fund
County Levy: Up to .225 cents per cigarette	5743.024	2 percent to the Local Excise Tax Administration Fund and the remainder to the county

OHIO REVISED CODE CITATIONS:

Chapter 5743.

RECENT LEGISLATION:

Amended Substitute Senate Bill 261; Effective July 1, 2002.
R.C. 5743.02, 5743.32 and Section 3 –
Increases the Cigarette tax from 12 mills to 27.5 mills per cigarette resulting in the tax on a package of 20 cigarettes increasing from 24 cents to 55 cents per package. The increase also applies to the inventory of stamped packages and unaffixed stamps held in inventory by cigarette wholesalers and retailers on July 1, 2002. Dealers are required to file returns and pay the additional tax (31 cents per package of 20 cigarettes or the equivalent stamp) in three equal installments. For the period from July 1, 2002, through April 30, 2003, wholesalers may purchase stamps by paying cash for old face value of 24 cents with the remaining 31 cents due within 30 days. They may also delay payment of the 24 cents by 30 days by posting a bond.

Amended Substitute Senate Bill 242; Various effective dates.
R.C. 183.02, 1333.11, 2927.02 and 5743.03; Effective July 1, 2002 –
Provides for the transfer of funds in each year from 2003 to 2025 from payments pursuant to the Tobacco Master Settlement Agreement to the Tax Commissioner to pay the cost to administer divisions (F) and (G) of R.C. 5743.03 for costs pertaining to the Tobacco Master Settlement Agreement (1333.11). The wholesale cigarette minimum markup is increased from 2.5 percent to 3.5 percent and the retail cigarette minimum markup is increased from 6 percent to 8 percent (2927.02). Prohibits the manufacture, sale or distribution of packages of cigarettes containing fewer than 20 cigarettes or packages of roll-your-own tobacco containing less than six-tenths of one ounce. Cigarettes may not be sold in a smaller quantity than that placed in by the manufacturer, effective September 19, 2002 (5743.03). Persons filing Cigarette or Other Tobacco Products tax returns are required to report the quantity of all cigarettes and roll-your-own cigarette tobacco sold in Ohio for each brand not covered by the Tobacco Master Settlement Agreement. A penalty of up to $250 per month may be imposed for not filing the report (replaces requirements in Rule 5703-15-19).

Amended Substitute House Bill 405; Effective December 13, 2001.
R.C. 1333.11 and 5743.05 –
The wholesale cigarette minimum markup is increased from 2 percent to 2.5 percent. The cigarette stamping allowance is reduced from 3.6 percent to 1.8 percent of the value of the stamps.

House Bill 362; Effective June 30, 1999.
R.C. 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 Sections in R.C. Chapter 5743 –
Pertains to the confiscation of tobacco products and other penalties.

Senate Bill 98; Effective June 9, 1999.
R.C. 5743.21 –
Prohibits the affixing of tax stamps to certain packages of cigarettes (gray market cigarettes).

RECENT INFORMATION RELEASES:

- **XT 2001–07 –** "Minimum Prices and Stamping Allowance Increase for All Cigarette Wholesalers," December 13, 2001.
- **XT 2002–01 –** "License Requirements for Other Tobacco Products," April 9, 2002.
- **XT 2002–02 –** "Cigarette Tax Increase for All Ohio Cigarette Retailers," June 7, 2002.
- **XT 2002–03 –** "Cigarette Tax Increase for All Ohio Stamping Cigarette Wholesalers," June 11, 2002.
- **XT 2002–04 –** "Cigarette Tax Increase for All Ohio Non-Stamping Cigarette Wholesalers," June 11, 2002.
- **XT 2002–06 –** "New Product Subject to the Other Tobacco Products Tax and Restrictions on Cigarette Sales and Packaging," September 3, 2002.
- **XT 2002–07 –**"Notice About Master Cigarette Settlement Agreement (MSA) Reporting," October 18, 2002.
- **XT 2003–01 –** "Notice About Master Cigarette Settlement Agreement (MSA)," January 6, 2003.
- **XT 2003-02 –** "Notice About Cigarette Pricing Change," January 27, 2003.

Table 1
Cuyahoga County Cigarette Stamp Sales
Fiscal Years 1998 - 2002

Fiscal Year	Gross Stamp Tax	Discount	Net Sales
1998	$5,777,853	$207,962	$5,569,891
1999	5,598,388	201,542	5,396,846
2000	5,235,090	188,463	5,046,627
2001	5,333,080	191,991	5,141,089
2002	4,894,766	129,619	4,765,147

Source: Department of Taxation

Table 2
Cigarette Tax Receipts,
Fiscal Years 1998 - 2002

Fiscal Year	Gross Tax	Discount	Net Tax Collected
1998	$285,282,926	$10,235,402	$275,047,524
1999	277,474,569	9,915,856	267,558,713
2000	271,259,739	9,765,351	261,494,388
2001	272,598,343	9,813,540	262,784,803
2002	264,300,240	7,008,887	257,291,353

Source: Treasurer of State

Table 3
Other Tobacco Products Tax Liabilities,
Fiscal Years 1998 - 2002

Fiscal Year	Gross Liability	Discount	Net Liability
1998	$21,563,068	$532,476	$21,030,592
1999	21,768,013	533,005	21,235,008
2000	22,793,655	552,442	22,241,213
2001	23,963,624	578,178	23,385,446
2002	25,353,802	620,798	24,733,004

Source: Department of Taxation