

Cigarette 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. Am. Sub. S.B. 261, 124th General Assembly, 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 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 FY 2003, total receipts from the sale of stamps were \$538.9 million (not including other tobacco products). An additional \$35.3 million was collected from the inventory floor tax.

An excise tax on other tobacco products was enacted 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 FY 2003, total receipts were \$25.7 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 \$4.4 million during FY 2003.

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 2 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):

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	05.625 cents

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

EXEMPTIONS (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 from the Treasurer of State 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 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.

DISCOUNTS (R.C. 5743.05 and 5743.52):

As a consideration for affixing and canceling cigarette stamps, retail and wholesale dealers receive a discount off 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 payments	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 30 days. 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 15 th 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
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
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:

Am. Sub. H.B. 95, 125th General Assembly (effective September 26, 2003).

R.C. 5743.05, 5743.051 –

Allows wholesale cigarette dealers that have been in good standing for five years to purchase stamps and meter impressions on credit without a bond. Payment by Electronic Funds Transfer (EFT) is required.

R.C. 5743.21 (effective July 1, 2003) –

Provides for the confiscation and destruction of cigarettes and roll-your-own tobacco that is not approved for sale in Ohio by the Attorney General (per the tobacco Master Settlement Agreement).

R.C. 1346.04 – 1346.10 (effective July 1, 2003) –

Provides for the office of the Attorney General to list on their web site the cigarette brands that may be sold in Ohio that the manufacturers have

certified to be in compliance with the tobacco Master Settlement Agreement. Cigarette wholesalers and other tobacco products distributors must provide the Department of Taxation with an e-mail address so they can be notified of additions and deletions to the list.

Am. Sub. S.B. 261, 124th General Assembly (effective July 1, 2002).

R.C. 5743.02, 5743.32 and Section 3 –

Increased 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 applied to the inventory of stamped packages and unaffixed stamps held in inventory by cigarette wholesalers and retailers on July 1, 2002. Dealers were 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 could purchase stamps by paying cash for old face value of 24 cents with the remaining 31 cents due within 30 days. They could also delay payment of the 24 cents by 30 days by posting a bond.

Am. Sub. S.B. 242, 124th General Assembly (various effective dates).

R.C. 183.02, 1333.11, 2927.02 and 5743.03 (effective July 1, 2002) –

Provided 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 costs of administering divisions (F) and (G) of R.C. 5743.03 for costs pertaining to the tobacco Master Settlement Agreement (R.C. 1333.11). The wholesale cigarette minimum markup was increased from 2.5 percent to 3.5 percent and the retail cigarette minimum markup was increased from 6 percent to 8 percent (R.C. 2927.02). This law 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 (R.C. 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).

Am. Sub. H.B. 405, 124th General Assembly (effective December 13, 2001).

R.C. 1333.11 and 5743.05 –

The wholesale cigarette minimum markup was increased from 2 percent to 2.5 percent. The cigarette stamping allowance was reduced from 3.6 percent to 1.8 percent of the value of the stamps.

RECENT INFORMATION RELEASES:

XT 2003-05 – “Notice About Master Cigarette Settlement Agreement (MSA),” June 12, 2003.

XT 2003-03 – “Notice About Master Cigarette Settlement Agreement (MSA),” March 3, 2003.

XT 2003-02 – “Notice About Cigarette Pricing Change,” January 27, 2003.

XT 2003-01 – “Notice About Master Cigarette Settlement Agreement (MSA),” January 6, 2003.

XT 2002-07 – “Notice About Master Cigarette Settlement Agreement (MSA) Reporting,” October 18, 2002.

XT 2002-06 – “New Product Subject to the Other Tobacco Products Tax and Restrictions on Cigarette Sales and Packaging,” September 3, 2002.

**Table 1
Cuyahoga County Cigarette Stamp Sales,
Fiscal Years 1999 - 2003**

Fiscal Year	Gross Stamp Tax	Discount	Net Sales
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
2003	4,455,341	80,196*	4,375,145

Source: Treasurer of State

*Discount reduced from 3.6% to 1.8% on December 13, 2001.



Cigarette Tax

Table 2
Cigarette Tax Receipts,
Fiscal Years 1999 - 2003

Fiscal Year	Gross Tax	Discount	Net Tax Collected
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
2003	548,764,842**	9,877,767*	538,887,075**

Source: Treasurer of State

* Discount reduced from 3.6% to 1.8% on December 13, 2001.

** Does not include \$35,300,703 from inventory floor tax.

Table 3
Other Tobacco Products Tax Liabilities
Fiscal Years 1999 - 2003

Fiscal Year	Gross Liability	Discount	Net Liability
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
2003	26,382,986	643,520	25,739,466

Source: Department of Taxation

