

# Tobacco Products and Taxation

## *For Internal Use Only*

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### **Wisconsin Tobacco Tax**

Cigarette tax = \$2.52 per 20-pack

Moist snuff (includes fine cut, long cut, pouches, bandits, snus) tax = 100% of manufacturer's list price

Cigars (Includes little cigars, cigarillos) tax = Lesser of 71% manufacturer's list price or 50 cents per piece

All other tobacco products (dry nasal snuff/blunt wraps/hookah/roll-your-own tobacco/pipe tobacco/plug/brick/twist/chew (i.e. Red Man) tax = 71% of manufacturer's list price, no cap

#### **Wisconsin Dept of Revenue definitions:**

Cigarettes - Wisconsin law defines cigarettes as any roll of tobacco which is wrapped in paper or any substance other than tobacco [sec. 139.30(1), Wis. Stats.].

Tobacco products - Wisconsin law defines tobacco products as cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarettes [sec. 139.75(12), Wis. Stats.].

Moist snuff - Any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the mouth [sec. 139.75(5d), Wis. Stats.].

#### **Special exemptions:**

The Wisconsin cigarette tax is not imposed upon the following [sec. 139.31(3), Wis. Stats.]: Cigarettes sold to the Armed Forces (e.g., Camp McCoy) or state or federally operated veterans' hospitals.

Native American tribal councils who have entered into agreements with the State of Wisconsin are eligible for two cigarette tax refunds:

- **30%** of the cigarette tax paid on cigarettes sold on reservations to enrolled members of the tribe residing on the reservation. The refund claim is sent by the department to tribes at the end of each quarter [sec. 139.325, Wis. Stats., and sec. Tax 9.08, Wis. Admin. Code].
- **70%** of the cigarette tax paid on cigarettes sold by authorized Native American retailers on reservation trust land over which a tribe has jurisdiction. The land must have been designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council. No more than two refund claims (Form CT-001) may be filed within a calendar month [sec. 139.323, Wis. Stats., and sec. Tax 9.08, Wis. Adm. Code].

Indian tribal councils who have entered into agreements with the State of Wisconsin are eligible for two tobacco products tax refunds: [effective December 1, 1999, per 1999 Wis. Act 9]:

- **50%** of the tobacco products tax paid on tobacco products sold on reservations to enrolled members of the tribe residing on the reservation. [ss. 139.803 and 139.805, Wis. Stats.].
- **50%** of the tobacco products tax paid on tobacco products sold by authorized Native American retailers on reservation trust land over which a tribe has jurisdiction. The land must have been designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council. [ss.139.803 and 139.805, Wis. Stats.].

## Federal Tobacco Tax (as of April 1, 2009)

(From TFK's CREATING FEDERAL TAX EQUITY AMONG ALL TOBACCO PRODUCTS WOULD INCREASE FEDERAL REVENUES & PROMOTE PUBLIC HEALTH)

	<u>Rate in Tobacco Tax Code</u>	<u>Amount per Unit or Standard Package</u>
Cigarettes	\$50.33 per thousand	\$1.00 <sup>66/100</sup> per pack of 20
Small Cigars (≈cigarettes)	\$50.33 per thousand	\$1.00 <sup>66/100</sup> per pack of 20
RYO Tobacco	\$24.78 per pound	\$1.00 <sup>66/100</sup> per 20 cigarettes worth
Smokeless - loose moist snuff	\$1.51 per pound	11.3¢ per 1.2 oz. can
Smokeless - snus & dissolvables	\$1.51 per pound	1.6¢ to 3.2¢ per pack of 20
Smokeless - chewing tobacco	50.3¢ per pound	9.4¢ per 3 oz. pouch
Pipe Tobacco	\$2.83 per pound	17.7¢ per 20 cigarettes worth
Regular Cigars	52.75% of manufacturer price with 40.26¢ per cigar maximum	
– 25¢ cigar (mfrs price)		13.2¢ per cigar (52.75%)
– 50¢ cigar (mfrs price)		26.4¢ per cigar (52.75%)
– \$1 cigar (mfrs price)		40.26¢ per cigar (40.26%)
– \$5 cigar (mfrs price)		40.26¢ per cigar (8.05%)
– \$10 cigar (mfrs price)		40.26¢ per cigar (4.03%)

Pack = 20 sticks or units. A pack-worth of RYO tobacco is 0.65 ounces (0.0325 oz per cigarette). Listed cigar prices are the Manufacturer Price (the price charged when manufacturers sell to wholesalers and distributors). A standard can of smokeless moist snuff (e.g., Skoal, Bandit, Copenhagen) is 1.2 ounces.

## The Problems with A Simple Weight-Based Tax

(From TFK's: *THE BEST WAY TO TAX SMOKELESS TOBACCO*)

Some states tax moist snuff tobacco products (a subset of all smokeless tobacco) on a per-weight basis. This approach has been pushed aggressively for years by UST. The advantages to UST and Altria from a state switching to a simple weight-based tax are enormous. It will sharply increase the tax on the lower-priced moist snuff smokeless sold by UST's competitors; and, over time (if not immediately), it will reduce the tax on UST's and Philip Morris's own premium smokeless products. In fact, the simple weight-based proposals and laws supported by UST and Altria suffer from several major structural flaws:

- **Unlike a percentage-of-price tax, a simple weight-based tax will not keep up with inflation or product price increases.** As a result, the weight-based tax will erode over time, bringing the state increasingly lower revenues than a percentage-of-price tax.
- **Unlike a percentage-of-price tax, a simple weight-based tax will grossly under-tax the new generation of super-light-weight moist snuff products, sharply reducing future state revenues.** The newest trend in smokeless is toward very low weight spit-less, pre-packed, single-dose units – such as UST's Skoal Dry, Philip Morris's Marlboro Snus, and RJ Reynolds Camel Snus and new Camel Dissolvable Orbs, Sticks, and Strips. Weighing as little as one-eighth as much per dose as standard moist snuff that comes in a can, these emerging new products pay almost nothing under a weight-based tax.
- **The weight-based tax proposals being pushed by UST and Altria require states to rely on whatever weight the manufacturer lists on the can or package when calculating the tax owed, leaving the door wide open door to fraud and abuse.**
- **A simple weight-based tax increases youth tobacco use and related public health harms.** UST's best-selling premium smokeless tobacco products are among the most popular with youth, with just two of its brands (Copenhagen and Skoal) accounting for roughly half of all youth consumption. By reducing the taxes and prices on these brands, either immediately or over time, the simple weight-based taxes supported by UST and Altria directly increase youth smokeless initiation and use, dooming even more kids to a lifetime of tobacco addiction and related harms.