

Cigarette Taxes and Cigarette Smuggling by State

Joseph Henchman

Vice President

Scott Drenkard

Economist

Key Findings

- Large differentials in cigarette taxes across states create incentives for black market sales.
 - Smuggled cigarettes make up substantial portions of cigarette consumption in many states, and greater than 25 percent of consumption in twelve states.
 - The highest inbound cigarette smuggling rates are in New York (56.9 percent), Arizona (51.5 percent), New Mexico (48.1 percent), Washington (48 percent), and Wisconsin (34.6 percent).
 - The highest outbound smuggling rates are in New Hampshire (24.2 percent), Wyoming (22.3 percent), Idaho (21.3 percent), Virginia (21.1 percent), and Delaware (20.9 percent).
 - Cigarette tax rates increased in 30 states and the District of Columbia between 2006 and 2012.
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Public policies often have unintended consequences that outweigh their benefits. One consequence of high state cigarette tax rates has been increased smuggling as criminals procure discounted packs from low-tax states to sell in high-tax states. Growing cigarette tax differentials have made cigarette smuggling both a national problem and a lucrative criminal enterprise.

Each year, scholars at the Mackinac Center for Public Policy, a Michigan think tank, use a statistical analysis of available data to estimate smuggling rates for each state.¹ Their most recent report uses 2012 data and finds that smuggling rates generally rise in states after they adopt large cigarette tax increases. Smuggling rates have dropped in some states, however, often where neighboring states have higher cigarette tax rates. Table 1 shows the data for each state, comparing 2012 and 2006 smuggling rates and tax changes.

New York is the highest net importer of smuggled cigarettes, totaling 56.9 percent of the total cigarette market in the state. New York also has the highest state cigarette tax (\$4.35 per pack), not counting the local New York City cigarette tax (an additional \$1.50 per pack). Smuggling in New York has risen sharply since 2006 (+59 percent), as has the tax rate (+190 percent).

Other peer-reviewed studies provide support for these findings.² Recently, a study in Tobacco Control examined littered packs of cigarettes in five northeast cities, finding that 58.7 percent of packs did not have proper local stamps. The authors estimated 30.5 to 42.1 percent of packs were trafficked.³

Smuggling takes many forms: counterfeit state tax stamps, counterfeit versions of legitimate brands, hijacked trucks, or officials turning a blind eye.⁴ The study's authors, LaFaive and Nesbit, cite examples of a Maryland police officer running illicit cigarettes while on duty, a Virginia man hiring a contract killer over a cigarette smuggling dispute, and prison guards caught smuggling cigarettes into prisons. Policy responses have included banning common carrier delivery of cigarettes,⁵ greater law enforcement activity on interstate roads,⁶

1 See, e.g., MACKINAC CENTER FOR PUBLIC POLICY, Michael LaFaive, & Todd Nesbit, *Cigarette Smuggling Still Rampant in Michigan*, *Nation* (Feb. 2014), <http://www.mackinac.org/19725>; MACKINAC CENTER FOR PUBLIC POLICY, Michael LaFaive, & Todd Nesbit, *Higher Cigarette Taxes Create Lucrative, Dangerous Black Market* (Jan. 2013), <http://www.mackinac.org/18128>; MACKINAC CENTER FOR PUBLIC POLICY, Michael LaFaive, *Cigarette Taxes and Smuggling 2010: An Update of Earlier Research* (Dec. 2010), <http://www.mackinac.org/14210>; MACKINAC CENTER FOR PUBLIC POLICY, Michael LaFaive, Patrick Fleenor, & Todd Nesbit, *Cigarette Taxes and Smuggling: A Statistical Analysis and Historical Review* (Dec. 2008), <http://www.mackinac.org/10005>.

2 See, e.g., Michael F. Lovenheim, *How Far to the Border?: The Extent and Impact of Cross-Border Casual Cigarette Smuggling*, *NATIONAL TAX JOURNAL*, Vol. LXI, No. 1, (March 2008), [http://ntj.tax.org/wwtax/ntjrec.nsf/BF515771548F9D538525742E006CCBBA/\\$FILE/Article%2001-Lovenheim.pdf](http://ntj.tax.org/wwtax/ntjrec.nsf/BF515771548F9D538525742E006CCBBA/$FILE/Article%2001-Lovenheim.pdf); R. Morris Coats, *A Note on Estimating Cross Border Effects of State Cigarette Taxes*, *NATIONAL TAX JOURNAL*, Vol. 48, No. 4, (December 1995), pp. 573-84, [http://ntj.tax.org/wwtax/ntjrec.nsf/notesview/D7AF38C6EF8BF6D7852567EF0057A8C0/\\$file/v48n4573.pdf](http://ntj.tax.org/wwtax/ntjrec.nsf/notesview/D7AF38C6EF8BF6D7852567EF0057A8C0/$file/v48n4573.pdf); Mark Stehr, *Cigarette Tax Avoidance and Evasion*, *JOURNAL OF HEALTH ECONOMICS*, Vol. 24, (2005), pp. 277-97, <http://legacy.library.ucsf.edu/documentStore/h/j/o/hjo10j00/Shjo10j00.pdf>.

3 Kevin C. Davis et. al., *Cigarette Trafficking in Five Northeastern US Cities*, *TOBACCO CONTROL*, December 2013, <http://tobaccocontrol.bmj.com/content/early/2013/12/11/tobaccocontrol-2013-051244>.

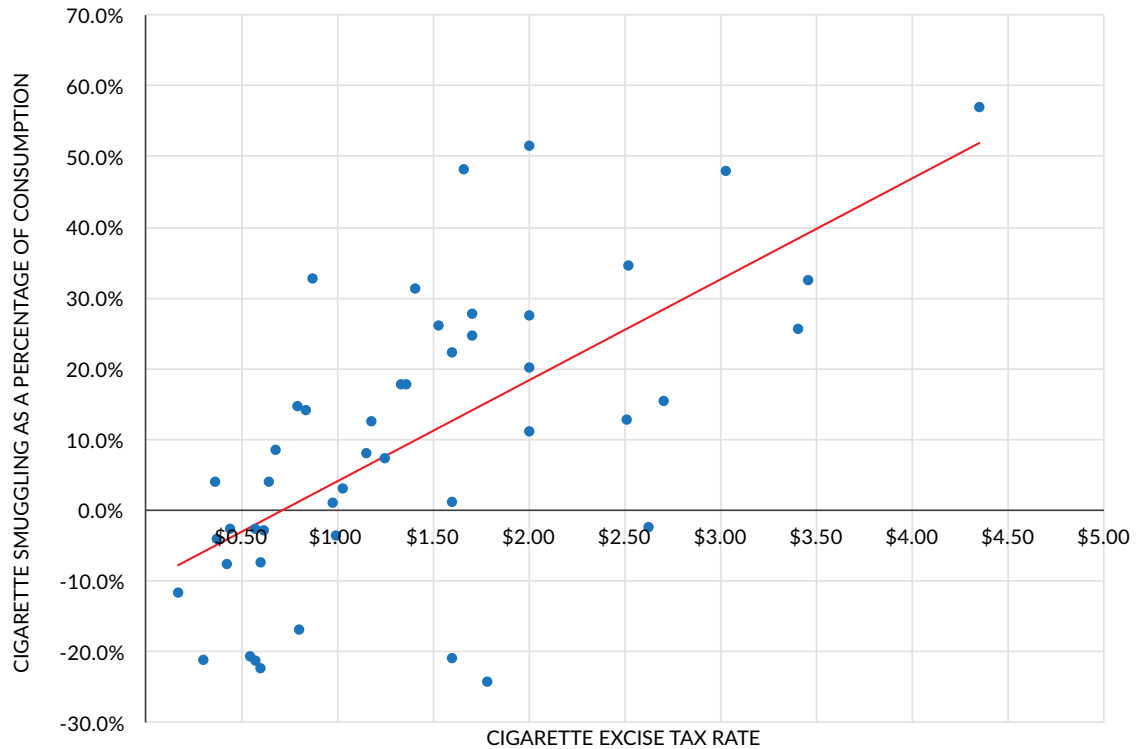
4 See, e.g., Scott Drenkard, *Cigarette Smuggling Can Make You \$4 Million Richer*, *TAX FOUNDATION TAX POLICY BLOG*, Sept. 27, 2012, <http://taxfoundation.org/blog/cigarette-smuggling-can-make-you-4-million-dollars-richer>.

5 See, e.g., Curtis Dubay, *UPS Decision Unlikely to Stop Cigarette Smuggling*, *TAX FOUNDATION TAX POLICY BLOG*, Oct. 25, 2005, <http://taxfoundation.org/blog/ups-decision-unlikely-stop-cigarette-smuggling>.

6 See, e.g., Gary Fields, *States Go to War on Cigarette Smuggling*, *WALL STREET JOURNAL*, Jul. 20, 2009, <http://professional.wsj.com/article/SB124804682785163691.html?mg=reno64-wsj>.

differential tax rates near low-tax jurisdictions,⁷ and cracking down on tribal reservations that sell tax-free cigarettes.⁸ However, the underlying problem remains: high cigarette taxes that amount to a “price prohibition” of the product in many U.S. states.⁹

Chart 1. Cigarette Smuggling per State vs. Cigarette Excise Tax Rates, 2012



Note: Positive smuggling percentages are inflow to a state; negative percentages are outflow.

Source: Mackinac Center for Public Policy; Tax Foundation.

SPECIAL REPORT (ISSN 1068-0306) is published at least 6 times yearly by the Tax Foundation, an independent 501(c)(3) organization chartered in the District of Columbia.

The Tax Foundation is a 501(c)(3) non-partisan, non-profit research institution founded in 1937 to educate the public on tax policy. Based in Washington, D.C., our economic and policy analysis is guided by the principles of sound tax policy: simplicity, neutrality, transparency, and stability.

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Editor, Donnie Johnson

Tax Foundation
National Press Building
529 14th Street, NW,
Suite 420
Washington, DC
20045-1000

202.464.6200

taxfoundation.org

7 See, e.g., Mark Robyn, *Border Zone Cigarette Taxation: Arkansas's Novel Solution to the Border Shopping Problem*, TAX FOUNDATION FISCAL FACT No. 168 (Apr. 9, 2009), <http://taxfoundation.org/article/border-zone-cigarette-taxation-arkansas-novel-solution-border-shopping-problem>.

8 See, e.g., Joseph Henchman, *New York Governor Signs Law to Tax Cigarettes Sold on Tribal Lands*, TAX FOUNDATION TAX POLICY BLOG, Dec. 16, 2008, <http://taxfoundation.org/blog/new-york-governor-signs-law-tax-cigarettes-sold-tribal-lands>.

9 See Patrick Fleenor, *Tax Differentials on the Interstate Smuggling and Cross-Border Sales of Cigarettes in the United States*, TAX FOUNDATION BACKGROUND PAPER No. 16 (Oct. 1, 1996), <http://taxfoundation.org/article/tax-differentials-interstate-smuggling-and-cross-border-sales-cigarettes-united-states>.

Table 1: 2012 Cigarette Tax Rates, Smuggling Percentages, and Changes Since 2006

State	2012 Tax Rate (per pack)	2012 Consumption Smuggled (positive is inflow, negative is outflow)	2006 Consumption Smuggled (positive is inflow, negative is outflow)	2012 Smuggling Rank (1 is most smuggling, 50 least)	Smuggling Rank Change Since 2006 (e.g., NY changed from #5 to #1, so rank changed +4)	Cigarette Tax Rate Change, 2006-2012
New York	\$4.35	56.9%	35.8%	1	+4	+190%
Arizona	\$2.00	51.5%	32.1%	2	+5	+69%
New Mexico	\$1.66	48.1%	39.9%	3	-1	+82%
Washington	\$3.025	48.0%	38.2%	4	+0	+49%
Wisconsin	\$2.52	34.6%	13.1%	5	+13	+227%
California	\$0.87	32.7%	34.6%	6	+0	No Change
Rhode Island	\$3.46	32.4%	43.2%	7	-6	+41%
Texas	\$1.41	31.4%	14.8%	8	+8	+244%
Utah	\$1.70	27.7%	12.9%	9	+11	+145%
Michigan	\$2.00	27.6%	31.0%	10	-1	No Change
South Dakota	\$1.53	26.0%	5.3%	11	+17	+189%
Connecticut	\$3.40	25.7%	12.3%	12	+10	+125%
Montana	\$1.70	24.8%	31.2%	13	-5	No Change
Minnesota	\$1.600	22.4%	23.6%	14	-4	+1%
Maryland	\$2.00	20.2%	10.4%	15	+9	+100%
Florida	\$1.339	17.9%	6.9%	16	+10	+294%
Iowa	\$1.36	17.9%	2.4%	17	+16	+278%
New Jersey	\$2.70	15.5%	38.4%	18	-15	+13%
Kansas	\$0.79	14.7%	18.4%	19	-7	No Change
Colorado	\$0.84	14.1%	16.6%	20	-6	No Change
Massachusetts	\$2.51	12.7%	17.5%	21	-8	+66%
Oregon	\$1.18	12.7%	21.1%	22	-11	No Change
Maine	\$2.00	11.2%	16.6%	23	-8	No Change
Mississippi	\$0.68	8.5%	-1.7%	24	+13	+36%
Arkansas	\$1.15	8.0%	3.9%	25	+6	+95%
Ohio	\$1.25	7.4%	13.1%	26	-7	No Change
Louisiana	\$0.36	4.1%	6.4%	27	+0	No Change
Nebraska	\$0.64	4.1%	12.0%	28	-5	No Change
Oklahoma	\$1.03	3.1%	9.6%	29	-4	No Change
Illinois	\$0.98	1.1%	13.7%	30	-13	No Change
Pennsylvania	\$1.60	1.1%	12.9%	31	-10	+19%
Vermont	\$2.62	-2.3%	4.5%	32	-2	+46%
North Dakota	\$0.44	-2.5%	3.0%	33	-1	No Change
South Carolina	\$0.57	-2.6%	-8.1%	34	+7	+14%
Tennessee	\$0.62	-2.9%	-4.5%	35	+3	+210%
Indiana	\$0.995	-3.6%	-10.8%	36	+7	+79%
Georgia	\$0.37	-4.1%	-0.3%	37	-2	No Change
Kentucky	\$0.60	-7.4%	-6.4%	38	+2	+100%
Alabama	\$0.425	-7.7%	0.5%	39	-5	No Change
Missouri	\$0.17	-11.7%	-11.3%	40	+4	No Change
Nevada	\$0.80	-16.8%	4.8%	41	-12	No Change
West Virginia	\$0.55	-20.6%	-8.4%	42	+0	No Change
Delaware	\$1.60	-20.9%	-61.5%	43	+4	+191%
Virginia	\$0.30	-21.1%	-23.5%	44	+1	No Change
Idaho	\$0.57	-21.3%	-6.0%	45	-6	+0%
Wyoming	\$0.60	-22.3%	-0.6%	46	-10	No Change
New Hampshire	\$1.78	-24.2%	-29.7%	47	-1	+123%
Alaska	\$2.00	N/A	N/A	N/A	N/A	+25%
Hawaii	\$3.20	N/A	N/A	N/A	N/A	+129%
North Carolina	\$0.45	N/A	N/A	N/A	N/A	+50%
District of Columbia	\$2.86	N/A	N/A	N/A	N/A	+186%

Note: Alaska, Hawaii, North Carolina, and the District of Columbia are not included in the study. Cigarette tax rates have changed for some states since 2012.

Source: Mackinac Center for Public Policy; Tax Foundation.