

Fiscal Fact

Cigarette Taxes and Cigarette Smuggling by State

By

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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 bootlegging both a national problem and a lucrative criminal enterprise.

Every two years, 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 2011 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 2011 and 2006 smuggling rates and tax changes.

New York is the highest net importer of smuggled cigarettes, totaling 60.9 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 (+70 percent), as has the tax rate (+190 percent).

Smuggling takes many forms: counterfeit state tax stamps, counterfeit versions of legitimate brands, hijacked trucks, or officials turning a blind eye.² 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,³ greater law enforcement activity on interstate

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

² 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>.

³ 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>.

roads,⁴ differential tax rates near low-tax jurisdictions,⁵ and cracking down on tribal reservations that sell tax-free cigarettes.⁶ However, the underlying problem remains: high cigarette taxes that amount to a “price prohibition” of the product in many U.S. states.⁷

Table I: 2011 Cigarette Tax Rates, Smuggling Percentages, and Changes Since 2006

State	2011 Cigarette Tax Rate (per pack)	2011 Consumption Smuggled (positive is inflow, negative is outflow)	2006 Consumption Smuggled (positive is inflow, negative is outflow)	2011 Smuggling Rank (1 is most smuggling, 50 is least)	Smuggling Rank Change Since 2006 (e.g., NY changed from #5 to #1, so rank changed +4)	Cigarette Tax Rate Change, 2006- 2011
New York	\$4.35	60.9%	35.8%	1	+4	+190%
Arizona	\$2.00	54.4%	32.1%	2	+5	+69%
New Mexico	\$1.66	53.0%	39.9%	3	-1	+82%
Washington	\$3.025	48.5%	38.2%	4	+0	+49%
Rhode Island	\$3.46	39.8%	43.2%	5	-4	+41%
Wisconsin	\$2.52	36.4%	13.1%	6	+12	+227%
California	\$0.87	36.1%	34.6%	7	-1	No Change
Texas	\$1.41	33.8%	14.8%	8	+8	+244%
Utah	\$1.70	32.0%	12.9%	9	+11	+145%
Michigan	\$2.00	29.3%	31.0%	10	-1	No Change
Montana	\$1.70	28.7%	31.2%	11	-3	No Change
South Dakota	\$1.53	28.6%	5.3%	12	+16	+189%
Maryland	\$2.00	25.8%	10.4%	13	+11	+100%
Connecticut	\$3.00	22.2%	12.3%	14	+8	+99%
Iowa	\$1.36	21.3%	2.4%	15	+18	+278%
Minnesota	\$1.586	19.5%	23.6%	16	-6	No Change
Florida	\$1.339	19.1%	6.9%	17	+9	+294%
Kansas	\$0.79	18.4%	18.4%	18	-6	No Change
Massachusetts	\$2.51	18.1%	17.5%	19	-6	+66%
New Jersey	\$2.70	18.1%	38.4%	20	-17	+13%
Colorado	\$0.84	16.2%	16.6%	21	-7	No Change
Oregon	\$1.18	15.7%	21.1%	22	-11	No Change
Maine	\$2.00	13.7%	16.6%	23	-8	No Change
Mississippi	\$0.68	10.1%	-1.7%	24	+13	+36%
Arkansas	\$1.15	9.6%	3.9%	25	+6	+95%
Ohio	\$1.25	9.0%	13.1%	26	-7	No Change
Nebraska	\$0.64	5.4%	12.0%	27	-4	No Change

⁴ 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>.

⁵ 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>.

⁶ 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>.

⁷ See also 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>.

Louisiana	\$0.36	5.1%	6.4%	28	-1	No Change
Oklahoma	\$1.03	4.6%	9.6%	29	-4	No Change
Pennsylvania	\$1.60	3.3%	12.9%	30	-9	+19%
Illinois	\$0.98	2.3%	13.7%	31	-14	No Change
North Dakota	\$0.44	-1.6%	3.0%	32	+0	No Change
Tennessee	\$0.62	-2.4%	-4.5%	33	+5	+210%
South Carolina	\$0.57	-2.5%	-8.1%	34	+7	+14%
Indiana	\$0.995	-3.1%	-10.8%	35	+8	+79%
Georgia	\$0.37	-4.1%	-0.3%	36	-1	No Change
Kentucky	\$0.60	-7.2%	-6.4%	37	+3	+100%
Alabama	\$0.425	-7.7%	0.5%	38	-4	No Change
Missouri	\$0.17	-12.3%	-11.3%	39	+5	No Change
Vermont	\$2.24	-16.9%	4.5%	40	-10	+25%
Idaho	\$0.57	-19.9%	-6.0%	41	-2	No Change
Nevada	\$0.80	-20.0%	4.8%	42	-13	No Change
Wyoming	\$0.60	-20.4%	-0.6%	43	-7	No Change
West Virginia	\$0.55	-20.8%	-8.4%	44	-2	No Change
Delaware	\$1.60	-23.0%	-61.5%	45	+2	+191%
Virginia	\$0.30	-24.7%	-23.5%	46	-1	No Change
New Hampshire	\$1.68	-26.8%	-29.7%	47	-1	+110%
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 2011.

Source: Mackinac Center for Public Policy; Tax Foundation.

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