

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: TOBACCO, Tax on other tobacco products

BILL NUMBER: SB 2422, SD-1

INTRODUCED BY: Senate Committee on Health

BRIEF SUMMARY: Amends HRS section 245-3 to provide that the tax on tobacco products other than large cigars shall be the greater of 70% of its wholesale price or \$3.20 effective September 30, 2012.

EFFECTIVE DATE: January 1, 2050

STAFF COMMENTS: The proposed measure provides that the tax on tobacco products other than large cigars shall be the greater of 70% of its wholesale price or \$3.20. It should be noted that when Act 58, SLH 2009, was approved by the legislature, it changed the way other tobacco products are taxed and increased the rate of the ad valorem tax on other tobacco products other than cigars to 70% of the wholesale value and imposed an ad valorem tax equal to 50% of the wholesale value on cigars that had a “ring gauge” of more than 30 (approximately a half inch circumference). In the latter case, those cigars of less than that ring gauge, known as “little cigars,” were thrown into the same rate schedule as cigarettes.

However, this proposal highlights one of the distortions that occurs when product price increases and consumption either decreases, or in the case where the tax is based on the cost or value of the product, tax collections will be adversely affected. Until 1993 all tobacco products were taxed at a rate of 40% of the wholesale value of the product plus the 0.5% general excise tax rate and, of course, the 4% general excise tax at retail. When the tax on cigarettes was converted to a per unit basis in 1993, it put all cigarettes, regardless of value, on parity. So inexpensive product was taxed at the same rate as more expensive product even though the difference in cost may have been attributed only to the cost of marketing and advertising the more costly product. As lawmakers increased the tax per pack over the years and the cost of making the product also increased the retail price, smokers had three choices, either pay more for their preferred brand, quit smoking, or trade down to a less costly product. While quitting smoking will definitely spell a loss in tax revenues for the state, trading down to a less costly brand will not.

This is an important point to note with respect to all other tobacco products, lawmakers should consider restructuring the way other tobacco products are taxed to insure stability in the collections from the sales of these products. Instead of continuing to set the tax as a percent of the wholesale value, consideration should be given to moving to a per unit approach like the taxing of cigarettes. If the tax was based on the weight of the product, the larger the package of tobacco products, be it chewing tobacco or pipe tobacco, the more the tax would be. Thus, three ounces of pipe tobacco, no matter what the value of the product, would be taxed like another container of three ounces of pipe tobacco. Similarly, cigars that are fatter and, therefore, weigh more than say, cigarillos, which are thinner, would be taxed according to the overall weight of the product. As a result, when the cost of the product rises, and the behavioral reaction

to trade down to a less costly product sets in, the amount of tax the state receives will be the same, thus stabilizing the collections from this source. Under this proposal, a lesser value product may be taxed at the same absolute dollar amount as a more expensive valued product because of the flat dollar floor of \$3.20 per product. The example would be a tobacco product that has a wholesale value of \$2.00 and would be taxed at \$3.20 as \$3.20 is greater than the 70% of wholesale value of \$1.40, while a tobacco product that has a wholesale value of \$4.57 would also be taxed at \$3.20 (70% of \$4.57). While the overall price of the two products would still favor the cheaper product, the amount of tax imposed is inequitable. Therefore, using a unit measurement as opposed to value would insure that two products with the same amount of tobacco quantity by weight, would be imposed with the same amount of tax per product.

In making the conversion to so many cents per ounce, lawmakers may want to utilize the current tax collected on the most expensive product and divide that amount by the number of ounces. While this will result in an initial bump in collections as the tax on less costly product will see an increase, it will bring parity to these types of products and stabilize collections as users migrate to less costly brands or products as the cost rises.

Digested 2/22/12

## Testimony for SB 2422, SD1 “Relating To Tobacco”

The American Heart Association supports the intent of SB 2422, SD1, but recommends an amendment to the bill.

A portion of new funds realized from any tobacco tax increase should be directed toward further tobacco prevention and education. Hawaii current investment remains well below the Centers for Disease Control’s recommended spending in tobacco and prevention. The CDC recommends that Hawaii invest \$15.4 million per year on tobacco prevention, education and cessation programs to fully achieve success in reducing tobacco dependence. This year, due to recent cuts to those State-funded programs, Hawaii will fall well below that recommendation.

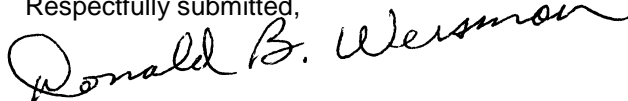
The goal of any tobacco tax increase should be primarily to achieve a reduction in use of tobacco products, especially by price-sensitive young people. The costs to the state for medical care alone related to tobacco use far outweigh the benefits in taxes collected on tobacco sales.

### What do nicotine and tobacco smoke do to the body?

Nicotine causes a short-term increase in blood pressure, heart rate and the flow of blood from the heart. It also causes the arteries to narrow. Users of smokeless tobacco are exposed to levels of nicotine that are comparable to cigarette smokers. In addition, smoke from other tobacco products like “little cigars” or roll-your-own tobacco include carbon monoxide, which reduces the amount of oxygen the blood can carry. This, combined with the nicotine effects, creates an imbalance between the demand for oxygen by the cells and the amount of oxygen the blood can supply. Tobacco smoke also increases the risk of developing hardening of the arteries and heart attacks in several ways. First, carbon monoxide damages the inner walls of the arteries, encouraging fatty buildups in them. Over time, this causes the vessels to narrow and harden. Nicotine may also contribute to this process. Smoking also causes several changes in the blood that make clots—and heart attack—more likely. Cigar and pipe smoking increases the risk of abdominal aortic aneurysm by as much as six times compared to never-smokers. Smoking cigars or pipes doubles the risk of fatal stroke compared to never-smokers. Smoking cigars or pipes and cigarettes increases the risk for fatal stroke by six times compared to never-smokers. Pipe smoking has been found to increase coronary heart disease risk by almost as much as cigarette smoking.

It is important to both maintain a balance between the taxes on cigarettes and the tax on “other tobacco” products in order to continue to drive down Hawaii’s youth smoking rates. It is just as important to maintain the level of investment in tobacco prevention, education and cessation programs at or near the CDC’s minimum recommended amounts. The AHA strongly recommends that a portion of any new tobacco tax revenue be earmarked to support those life-saving programs.

Respectfully submitted,



Donald B. Weisman  
Hawaii Government Relations/Mission:Lifeline Director

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**“Building healthier lives,  
free of cardiovascular  
diseases and stroke.”**



To: The Honorable David Ige, Chair, Committee on Ways and Means  
The Honorable Michelle Kidani, Vice Chair, Committee on Ways and Means  
Members, Senate Committee on Ways and Means  
From: Deborah Zysman, MPH, Executive Director  
DM: WAM Cmte; February 24, 2012 at 9:00 am; Rm 211  
Re: **Strong Support for SB 2422, SD1 Relating to Tobacco Products**

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The Coalition for a Tobacco-Free Hawaii is in strong support of SB 2422, SD1 which provides for parity between taxes on cigarettes and most other tobacco products by setting a minimum tax on other tobacco products that comparable to cigarettes, and an earmark for tobacco prevention efforts. Please also note our recommendations to add clarity in the proposed tax structure.

**Health is Promoted By Increasing the Tax on Tobacco Products Other Than Cigarettes**

By increasing the cost of each tobacco product sold and making it comparable to cigarettes, tobacco use by adults and young people will decrease. This will result in a decline in the serious health conditions that arise from use of smokeless tobacco including cancer of the esophagus pharynx, larynx, stomach, and pancreas, gum disease, and the risk of cardiovascular disease, and a decrease in the diseases caused by smoking roll-your-own tobacco.

Adolescents and young adults are two to three times more sensitive to tobacco price changes than adults—when price increases, less youth will begin to start using smokeless tobacco and other tobacco products and more will reduce their consumption. Hawaii has seen youth use of smokeless tobacco fluctuate despite our decreasing smoking rates.

**Parity in Taxes on Cigarettes & Other Tobacco Products Through a Flat Tax Is Imperative**

The Coalition supports efforts to set a minimum tax on other tobacco products that is comparable to the tax on cigarettes. By creating parity, consumers will be more inclined to reduce tobacco use. We urge this Committee to ensure other tobacco products are not more “price-friendly” than cigarettes. This will encourage more tobacco users to quit and keep youth from starting.

By setting a minimum tax per article, the amount consumers have to pay for other tobacco products is comparable to cigarettes, regardless of the cost of the item or weight itself; such discourages new tobacco users from purchasing. Setting a minimum tax per article works more effectively than weight-based taxes, which the tobacco industry can work around by adjusting the weight of its products. There are a number of emerging other tobacco products that would



best be covered by a minimum tax comparable to cigarettes. These products are very light and range in manufacture and design—from spitless pouches, to sticks or pellets of tobacco. We urge you to maintain a minimum tax per article that is comparable to cigarettes.

**The Coalition does suggest that the language in the bill be changed from “\$3.20” (the current tax on 20 cigarettes) to “the tax for twenty cigarettes” to ensure that when the cigarette tax rises the other tobacco tax will also rise and maintain parity.**

**A Portion of the Revenues Must Be Earmarked for Tobacco Prevention and Treatment**

Hawaii residents overwhelmingly agree (89 percent in our last poll) that it’s important for the state to earmark some of the revenue to fund tobacco prevention and quit smoking programs. When the price of tobacco increases, more seek help to quit. It’s necessary we have community resources including the Quitline, the American Lung Association, and services at community health centers to help tobacco users address their nicotine addiction. We ask that you earmark a portion of these new funds to tobacco prevention and tobacco dependence treatment services.

The Coalition requests your consideration of the recommended changes and your support of creating parity between other tobacco products and cigarettes. Thank you for the opportunity to provide comments in support of this measure.

A handwritten signature in black ink, appearing to read "Deborah M. Zysman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Deborah Zysman, MPH  
Executive Director

*The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. The Coalition provides leadership for the tobacco control community, develops networks, helps coordinate tobacco control programs and builds community awareness.*



## CLOSING WEIGHT-BASED TAX LOOPHOLES FOR THE NEW GENERATION OF LOW WEIGHT MOIST SNUFF SMOKELESS TOBACCO PRODUCTS

Below are some of the new super-low-weight moist snuff smokeless tobacco products that are grossly under-taxed by simple weight-based tax systems, such as those promoted by UST (the United States Smokeless Tobacco Company) and its parent company, Altria (which also owns Philip Morris, maker of Marlboro Snus). For example, on a per-dose basis, a weight-based tax on Marlboro Snus is less than one-fourth the tax on conventional moist snuff brands, such as Skoal and Copenhagen – and the tax on Camel Orbs would be less than one-eighth as much.

By under-taxing these low-weight moist snuff products, a simple weight-based tax contradicts basic principles of tax fairness and equity and steals revenues from the state. In addition, a simple weight-based tax fails to keep up with product price increases and inflation, thereby reducing state revenues further. Under the weight-based tax systems promoted by UST, a state will lose even more revenues every time a regular moist snuff user, or any state smoker, switches to using one of these new under-taxed lower-weight moist snuff products, instead.



**Typical Moist Snuff Smokeless**  
1 tin  $\approx$  1.2 to 1.5 oz.



**Camel Snus**  
1 tin (15 pouches)  $\approx$  0.32 oz.



**Marlboro Snus**  
1 "foil pack" (6 pouches)  $\approx$  0.1 oz.



**UST Skoal Pouches**  
1 tin (20 pouches)  $\approx$  0.82 oz



**Stonewall Hard Snuff**  
1 box of 20 "Pieces" = 0.335 oz.



**Ariva Hard Snuff**  
1 box of 20 "Pieces" = 0.335 oz.

\* Alpert, HR, et al., "Free Nicotine Content and Strategic Marketing of Moist Snuff Tobacco Products in the U.S.: 2000-2006," *Tobacco Control* 17:332-38, October 2008. [1.2 oz. of conventional moist snuff = 16-18 pinches or doses].



**R.J. Reynolds “Dissolvable” Orbs, Sticks and Strips**

**1 package (12 pieces) = weights unknown**

The following table shows how a simple weight-based tax of \$1.00 per ounce would put a much lower per-pack or per-dose tax on each of the emerging new lower-weight moist snuff products shown above, compared to its tax on a standard 1.2 ounce can of conventional moist snuff.

Moist Snuff Products	Weight-Based Tax Per Package (\$1.00 per Ounce)	Weight-Based Tax Per Dose (\$1.00 per Ounce)
<i>Skoal Long Cut (1.2 ounce can)</i>	\$1.20	6.7¢ to 7.5¢
<i>Camel Snus (15 pack)</i>	32¢	2.1¢
<i>Marlboro Snus (6 pack)</i>	10¢	1.7¢
<i>Skoal Pouches (20 pack)</i>	82¢	4.1¢
<i>Stonewall Hard Snuff (20 pack)</i>	34¢	1.7¢
<i>Ariva Hard Snuff (20 pack)</i>	34¢	1.7¢
<i>Camel Orbs (15 pack)</i>	12¢	0.8¢

**A Better Way to Tax Moist Snuff Smokeless Tobacco**

There are several easy options to avoid all the problems with a simple weight-based tax on all moist snuff tobacco products:

- To maximize both public health benefits and state revenues, set the tax rate on smokeless tobacco products to directly parallel the state’s cigarette tax. For example, the tax on a standard 1.2-ounce can of loose moist snuff would equal the state tax on a pack of 20 cigarettes, and the tax per each single-dose unit of snus, hard snuff tablets, or Camel Orbs would equal the state tax on a single cigarette. Ideally, these parallel state tax rates on moist snuff (and other tobacco products) would be set up so that they rise automatically whenever the state increases its cigarette tax rate; and the tax on each product would be the higher of the new cigarette-parallel rates or the state’s existing percentage-of-price rate.
- For a quick fix of existing weight-based taxes on moist snuff, make sure they apply only to conventional loose moist snuff – and subject all other moist snuff and smokeless tobacco to the state’s percentage of price tax – or set the tax on all smokeless tobacco to be the higher of the existing state percentage-of-price tax or the existing state weight-based tax.

*Campaign for Tobacco-Free Kids, June 7, 2011*

For more on increasing smokeless tobacco tax rates, see [http://www.tobaccofreekids.org/facts issues/fact sheets/policies/tax/other products/](http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/other_products/).

**From:** [Hardy Spoehr](#)  
**To:** [WAM Testimony](#)  
**Subject:** COMMENTS: SB 2422, SD1  
**Date:** Thursday, February 23, 2012 6:51:40 AM

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SB 2422, SD1  
Decision Making  
Friday, Feb 24, 2012  
9:00am  
Conference Room 211  
State Capitol

Comments: Papa Ola Lokahi strongly supports this measure. Thank you for the opportunity to support this measure.

Hardy Spoehr, Executive Director  
Papa Ola Lokahi (Native Hawaiian Health Board)