



OHIO WHOLESALE MARKETERS ASSOCIATION

88 East Broad Street, Suite 1240

Columbus, Ohio 43215

Phone: 614.224.3435

owma@ohiowholesalers.org

Testimony on the State Budget (HB96)

House Ways and Means Committee

Beth Wymer, Executive Director

Ohio Wholesale Marketers Association

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Chairman Roemer, Vice-Chair Thomas, Ranking Member Troy and members of the Ways and Means Committee, thank you for the opportunity to provide my membership's perspectives on the tobacco category tax increases proposed in House Bill 96, the state budget bill for fiscal years 2026 and 2027.

The Ohio Wholesale Marketers Association's core membership is wholesalers who supply products to convenience stores (c-stores), mom-n-pop corner stores and similar retailers. With few exceptions, the Association's distributor members are Ohio-based family-owned businesses that have served their communities for one or more generations. Wholesalers to c-stores are high volume low profit margin businesses, with the typical wholesaler having a pretax profit margin of about one percent.

These wholesalers sell much more than just tobacco, but manufacturer pricing plus federal and state taxes on the tobacco category pushes it to 70 to 90 percent of a typical wholesalers overall sales volume, even though unit sales continue to decline.

Cigarette and tobacco product taxes are not collected in stores at the register. These taxes are collected and remitted at the wholesale level so consequently, tax increases have an immediate and direct impact on these wholesale businesses.

Wholesale Cash Flow

Knowing a little about wholesaler cash flow is important to understand how these businesses are uniquely impacted by tobacco tax increases. The manufacturer-wholesaler relationship is outside of the scope of your responsibility as policy makers. However, it's important to know that the products you are taxing at the wholesale level are also subject to manufacturer mandates that impact the wholesaler's cash flow and overall business.

Major manufacturers require that wholesalers pay for cigarettes before they're delivered to the wholesaler's facility, with payment terms ranging from three days in advance of delivery to payment on delivery. Popular brands of cigarettes at today's manufacturer list price to the wholesaler cost \$4616/case (60 cartons). Then, the wholesaler has to buy tax stamps from the state and affix them to each pack before selling them to retailers who often have payment terms. The wholesaler does not recoup the state excise tax that they fronted to the state until the retailer pays the wholesaler.

Tax Related Cost Impacts for Wholesalers

Wholesaler Costs for Tax Stamps: OWMA's wholesalers are the state's tax agents and front end payers of the cigarette tax. The tax is an immediate tax on wholesalers who must buy cigarette excise tax stamps from the state and apply the stamps to each pack of cigarettes before selling the product to retailers. The stamp is proof that the tax has been paid.

At today's tax rate of \$1.60/pack, one roll of tax stamps costs the wholesaler \$48,000 (minus the wholesaler stamping compensation). The proposed tax increase to \$3.10/pack will take one roll of stamps to \$93,000. A midsize wholesaler needing 40 rolls of tax stamps per month will see their monthly cost for tax stamps jump from \$1.88 million to more than \$2.67 million. OWMA's largest wholesaler reports needing more than 300 rolls of tax stamps per month, which will be at a cost of more than \$27.6 million.

Cigarette Tax Stamp Costs: Current vs. HB 96			
	Monthly # Tax Stamp Rolls Needed	Monthly Tax Stamp Costs*	
		Current Cost 1.60/stamp	HB 96 Cost 3.10/stap
Small Wholesaler	12	\$565,632	\$1,105,200
Mid-Size Wholesaler	40	\$1,885,440	\$3,684,000

*current monthly tax stamp cost includes current 1.8% stamping compensation / **HB96 cost reflects HB96 proposed change from 1.8% stamping compensation to 3-cents/stamp

Stamping Compensation

Last fiscal year wholesalers remitted \$636.5 million in cigarette taxes to the state. These are not the wholesalers' taxes --- these are the state's taxes and the wholesalers are doing a service for the state at significant cost to their businesses.

When wholesalers buy the tax stamps from the state, their cost per roll is the full value of the roll minus 1.8%. This 1.8% is compensation to the wholesalers for their costs associated with being the state's cigarette taxpayer. Their costs include FedEx/UPS shipping charges to get the stamps from the state; insurance on stamps while they are in transit from the state to the warehouse, and while they are in the warehouse; cigarette stamping machine costs including maintenance and insurance on the machines, supplies needed for the machine and electric to run the machine; personnel; and monthly cigarette tax return filings with the state to report stamps bought and stamps used.

The tax increase in HB96 combined with the Tax Department suggestion to change the compensation from 1.8% of the value of the tax to 3-cents/stamp is a significant cut in the wholesaler stamping compensation. The Tax Department assumes that wholesaler costs do not increase when the tax increases. This is not correct. Utility costs to operate the machines increase, costs for machine operating supplies and maintenance contracts increase, insurance costs to cover the stamping equipment and stamps increase, employee costs increase. *Wholesalers are not making money on the stamping compensation, but it does rightfully help cover their costs and it should remain at 1.8% of the full amount of the tax, ie full value of the stamp.*

Other Tobacco Products / Vapor / Non-Tobacco Nicotine

Other tobacco products (OTP) are everything containing tobacco except cigarettes and the tax is calculated on the manufacturer price to the wholesaler. The wholesaler remits the tax each month based on shipments they received from manufacturers the prior month. As with cigarettes, wholesalers are the frontend tax payer and tax agents for the other tobacco products tax and if the retailer doesn't pay for the tobacco products the wholesaler is still obligated to remit the tax to the state.

One of the biggest challenges and frustrations when it comes to OTP is the reality of untaxed OTP getting into Ohio from lower taxed states. OTP traffickers sell to retailers who know they are buying untaxed product. They also buy some of the same product from a taxpaying wholesaler, just so they'll have an invoice available if enforcement agents stop by, and they mix the untaxed product in with the taxed product. It's very easy, very profitable and very hard to detect.

House Bill 96 more than doubles the OTP tax rate --- taking it to 42% -- which increases wholesaler risk of loss from unpaid accounts/account receivables and increases insurance costs on inventory. This proposed increase also does nothing more than give the already illegal operators more incentive to come into Ohio, and it will put Ohio's taxpaying wholesalers at more of a disadvantage all while costing the state tax revenue that should otherwise be collected.

Doubling the vapor product tax creates the same cross border issues, with the added issue of encouraging more online sales that only mean Ohio's business lose their customers and the state does not get the expected tax revenue. Pulling non-tobacco nicotine into the vapor category makes no sense and is not workable for the category and the wholesalers who would pay the tax.

Broader Consequences to Consider

Cross Border and Online: Cross border and online sales do happen and that means lost tax revenue for the state.

There are no less than 1,369 retailers in Ohio's neighboring states that are 10 miles of Ohio's border. These stores will welcome the opportunity to sell cheaper cigarettes and other tobacco products to Ohio consumers. This is a loss of state excise tax for Ohio, a loss of state sales tax for Ohio and a loss of much needed local sales taxes for local governments in Ohio.

	Cigarette Tax	AdValorem Tax Other Tobacco Products Tax*
OHIO (current)	\$1.60	17%
OHIO (proposed)	\$3.50	42%
Indiana	99.5cent	24%*
Kentucky	\$1.10	15%*
West Virginia	\$1.20	12%
Pennsylvania	\$2.60	No Tax on Cigars
Michigan	\$2.00	32%

* Indiana and Kentucky tax moist segment taxed on weight;

* Pennsylvania ryo, chewing, snuff, pipe, etc taxed on weight, eff 2016.

Based on what we saw when Ohio's tax increased by 70-cents/pack in 2005 (*table 1*), we expect more consumers to take advantage of opportunities to avoid paying the additional \$15.00/carton proposed in HB96. Other tobacco product and vapor consumer will also be more inclined to cross borders.

Ohio actually benefitted from a reverse cross border impact following the 2016 Pennsylvania \$1/pack cigarette tax increase. Wholesale to retail shipment data from just three Ohio stores near Pennsylvania show that shipments increased for each store following Pennsylvania's August 1, 2016 tax increase, and took total 2016 shipments above 2015 levels.

Reverse Cross Border into Ohio Following Pennsylvania Cigarette Tax Increase (eff. 8/1/16)

Examples of Wholesale to Retail product shipments

Store Location	2015 Cigarette Cartons	2016 Cigarette Cartons	Total 2016 Cartons <u>Before</u> PA Tax Increase (Jan-July)	Total 2016 Cartons <u>After</u> PA Tax Increase (Aug - Dec)	2016 Jan – Feb Cartons	2017 Jan – Feb Cartons
Conneaut, OH	8811	9389	4681	4708	1089	1367
Lowellville, OH	7674	9939	3760	6179	1009	2054
Masury, OH	7548	8445	3953	4492	1074	1799
Totals	24,033	27,773	12,394	15,379	3,172	5,220

Keep in mind that “cross border” is not limited to state borders. The internet has broken the border barrier and tax free cigarettes are available from a range overseas websites. Even with shipping costs, major brands through these sites can cost 40 to 50 percent less than buying them in an Ohio store. Tax free cigars and all other segments of the other tobacco product category plus the entire e-cigarette vapor category are also available online and those tax-free resources become more attractive to consumers when taxes are increased.

OWMA supports and appreciates the Tax Department's tobacco tax enforcement activity which focuses on wholesale and retail inspections to make sure that the taxes have been paid on cigarettes and other tobacco sold in Ohio. The agents also get engaged when local law enforcement finds undocumented quantities of tobacco on a pullover or in other situations that may indicate untaxed sales activity. These types of activities, and inspections for wholesale and retail compliance with the tobacco master settlement agreement, are what we see reported in the tobacco tax enforcement reports. Absent having Ohio tax agents stationed at stores in lower taxed states, enforcement does not stop consumer cross border sales. And despite state and federal laws that are intended to stop internet purchases and direct shipments to consumers, online sales of untaxed cigarettes and other tobacco are thriving.

Mr. Chairman and members of the committee, I know I have covered a lot and I thank you for your patience and attention. There is much more that could be said but at this point I will thank you for your time, and I will do my best to answer any questions.

table 1

Examples of Pack Sale Changes Following 2005 Ohio Tax Increase Ohio Counties v. Corresponding Border State Counties³

County	State		Increase/Decrease in Pack Sales
Darke	Ohio	↓	-26.76%
Mercer	Ohio	↓	-19.04%
Adams	Indiana	↑	10.05%
Wayne	Indiana	↑	15.03%
Randolph	Indiana	↑	8.82%
Jay	Indiana	↑	9.41%
Hamilton	Ohio	↓	-17.97%
Clermont	Ohio	↓	-16.81%
Brown	Ohio	↓	-19.89%
Campbell	Kentucky	↑	118.74%
Kenton	Kentucky	↑	10.07%
Mason	Kentucky	↑	15.90%
Dearborn	Indiana	↑	29.20%
Lawrence	Ohio	↓	-35.16%
Gallia	Ohio	↓	-30.70%
Boyd	Kentucky	↑	24.64%
Greenup	Kentucky	↑	20.99%
Casell	West Virginia	↑	18.80%
Wayne	West Virginia	↑	14.59%
Mason	West Virginia	↑	56.05%

When Ohio's cigarette tax increased by 70-cents/pack in 2005, border counties in Ohio saw a **decrease** in pack sales ranging from 17.9% along the Indiana border to just short of 37% along the West Virginia border. At the same time, sales in Indiana counties that border Ohio **increased** by 14% and in West Virginia by 24%. Ohio sales along the Kentucky border dropped by 18.5%, but sales just over the border in Kentucky increased by 26%.

Source: wholesale to retail shipment data reported by wholesalers; wholesaler contracts with mfgs require this data be reported to a third party non-mfg data collection firm. Data based on quarter prior to 2005 cigarette tax increase compared to same quarter following the tax increase.

