



# Cigarette and Tobacco Products



## 82.24.260(1b); 82.24.290 - Cigarettes for military personnel

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**Description** The cigarette tax does not apply to cigarettes sold to branches of the U.S. armed forces at exchanges, commissaries or ships stores or to sales by authorized purchasers at these facilities. Also exempt are sales to and by the U.S. Veterans Administration.

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**Purpose** Federal legislation, the Buck Act (4 U.S.C. § 107), implicitly prohibits states from imposing a cigarette tax upon members of the military and their dependents.

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**Taxpayer savings**

**(\$ in millions):**

	FY 2016	FY 2017	FY 2018	FY 2019
State Taxes	\$44.000	\$44.000	\$44.000	\$44.000
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

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**Repeal of exemption** Repealing this exemption would not increase revenue because federal law prohibits states from taxing tobacco products bought by members of the military and their dependents.

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**Potential revenue gains from full repeal**

**(\$ in millions):**

	FY 2016	FY 2017	FY 2018	FY 2019
State Taxes	\$0.000	\$0.000	\$0.000	\$0.000
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

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- Assumptions**
- Average annual military consumption of 14 million packs of cigarettes.
  - Eleven months of collections in Fiscal Year 2017 due to July 1, 2016 effective date.
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**Data Sources** Departments of Defense and Veterans Affairs

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**Additional Information**

Category:	Government
Year Enacted:	1940
Primary Beneficiaries:	Military personnel and their dependents
Taxpayer Count:	Unknown
Program Inconsistency:	None evident
JLARC Review:	Excluded from JLARC review

## 82.24.260(1c) - Cigarette allotment for Tribes

**Description** Certain quantities of untaxed cigarettes are allowed tax-free for consumption by tribal members on the reservations in Washington. The number of untaxed cigarettes is based on the number of enrolled tribal members living on the reservation and the national average per capita consumption rate. Note: the application of cigarette allotments has largely been replaced by contracts between the state and most Indian tribes regarding the regulation and taxation of cigarettes sold in Indian country

**Purpose** The United States Supreme Court has ruled that states do not have the authority to impose a cigarette tax upon enrolled tribal members living upon their own reservations.

Taxpayer savings	<b>(\$ in millions):</b>				
	FY 2016	FY 2017	FY 2018	FY 2019	
State Taxes	\$3.000	\$3.000	\$3.000	\$3.000	
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000	

**Repeal of exemption** Repealing this exemption would not increase revenue.

Potential revenue gains from full repeal	<b>(\$ in millions):</b>				
	FY 2016	FY 2017	FY 2018	FY 2019	
State Taxes	\$0.000	\$0.000	\$0.000	\$0.000	
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000	

**Assumptions** Average annual allotment (non-compact) of 1 million packs of cigarettes.

- Data Sources**
- Department of Revenue excise tax data
  - Economic & Revenue Forecast Council's February 2015 forecast

Additional Information	
<b>Category:</b>	Government
<b>Year Enacted:</b>	1975
<b>Primary Beneficiaries:</b>	Enrolled members of tribes living on reservations
<b>Taxpayer Count:</b>	Unknown
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Excluded from JLARC review

## 82.24.295(1) - Cigarettes covered by tribal contracts

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<b>Description</b>	The cigarette tax does not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by Indian retailers if their tribes have entered into a cigarette tax contract with the state of Washington pursuant to RCW 43.06.455.															
<b>Purpose</b>	To provide consistency in the regulation and taxation of cigarettes in Indian country.															
<b>Taxpayer savings</b>	<b>(\$ in millions):</b> <table><thead><tr><th></th><th>FY 2016</th><th>FY 2017</th><th>FY 2018</th><th>FY 2019</th></tr></thead><tbody><tr><td>State Taxes</td><td>\$96.800</td><td>\$96.800</td><td>\$96.800</td><td>\$96.800</td></tr><tr><td>Local Taxes</td><td>\$0.000</td><td>\$0.000</td><td>\$0.000</td><td>\$0.000</td></tr></tbody></table>		FY 2016	FY 2017	FY 2018	FY 2019	State Taxes	\$96.800	\$96.800	\$96.800	\$96.800	Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000
	FY 2016	FY 2017	FY 2018	FY 2019												
State Taxes	\$96.800	\$96.800	\$96.800	\$96.800												
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000												
<b>Repeal of exemption</b>	Repealing this exemption would not increase revenue.															
<b>Potential revenue gains from full repeal</b>	<b>(\$ in millions):</b> <table><thead><tr><th></th><th>FY 2016</th><th>FY 2017</th><th>FY 2018</th><th>FY 2019</th></tr></thead><tbody><tr><td>State Taxes</td><td>\$0.000</td><td>\$0.000</td><td>\$0.000</td><td>\$0.000</td></tr><tr><td>Local Taxes</td><td>\$0.000</td><td>\$0.000</td><td>\$0.000</td><td>\$0.000</td></tr></tbody></table>		FY 2016	FY 2017	FY 2018	FY 2019	State Taxes	\$0.000	\$0.000	\$0.000	\$0.000	Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000
	FY 2016	FY 2017	FY 2018	FY 2019												
State Taxes	\$0.000	\$0.000	\$0.000	\$0.000												
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000												
<b>Assumptions</b>	<ul style="list-style-type: none"><li>- Cigarette tax is \$3.025 per pack.</li><li>- About 32 million packs of cigarettes are sold annually by tribal sellers with contracts.</li></ul>															
<b>Data Sources</b>	Department of Revenue tribal cigarette sales data															
<b>Additional Information</b>	<table><thead><tr><th colspan="2">Additional Information</th></tr></thead><tbody><tr><td><b>Category:</b></td><td>Government</td></tr><tr><td><b>Year Enacted:</b></td><td>2001</td></tr><tr><td><b>Primary Beneficiaries:</b></td><td>State, local and tribal governments</td></tr><tr><td><b>Taxpayer Count:</b></td><td>Unknown</td></tr><tr><td><b>Program Inconsistency:</b></td><td>None evident</td></tr><tr><td><b>JLARC Review:</b></td><td>JLARC has scheduled to review in 2017</td></tr></tbody></table>	Additional Information		<b>Category:</b>	Government	<b>Year Enacted:</b>	2001	<b>Primary Beneficiaries:</b>	State, local and tribal governments	<b>Taxpayer Count:</b>	Unknown	<b>Program Inconsistency:</b>	None evident	<b>JLARC Review:</b>	JLARC has scheduled to review in 2017	
Additional Information																
<b>Category:</b>	Government															
<b>Year Enacted:</b>	2001															
<b>Primary Beneficiaries:</b>	State, local and tribal governments															
<b>Taxpayer Count:</b>	Unknown															
<b>Program Inconsistency:</b>	None evident															
<b>JLARC Review:</b>	JLARC has scheduled to review in 2017															

## 82.26.040 - Constitutional or Federal prohibition on tobacco products

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**Description** The tobacco products tax does not apply to any tobacco products (cigars, pipe tobacco, etc.) which under the Constitution and laws of the United States the state may not tax. This has been interpreted under the Buck Act (4 U.S.C. § 107) to prohibit taxing tobacco products sold to branches of the U.S. armed forces at exchanges, commissaries or ships stores or to sales by authorized purchasers at these facilities. Also exempt are sales to and by the U.S. Veterans Administration.

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**Purpose** Federal legislation prohibits states from imposing a tax on tobacco products purchased by members of the military and their dependents.

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Taxpayer savings	<i>(\$ in millions):</i>				
	FY 2016	FY 2017	FY 2018	FY 2019	
State Taxes	\$2.400	\$2.400	\$2.400	\$2.400	
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000	

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**Repeal of exemption** Repealing this exemption would not increase revenue because federal law prohibits states from taxing tobacco products bought by members of the military and their dependents.

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Potential revenue gains from full repeal	<i>(\$ in millions):</i>				
	FY 2016	FY 2017	FY 2018	FY 2019	
State Taxes	\$0.000	\$0.000	\$0.000	\$0.000	
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000	

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- Assumptions**
- Military personnel and their dependents make up 5.4 percent of the state population.
  - Other tobacco products tax revenue averages \$45 million annually.
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- Data Sources**
- Department of Revenue excise tax data
  - Departments of Defense and Veterans Affairs
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Additional Information	
<b>Category:</b>	Government
<b>Year Enacted:</b>	1940
<b>Primary Beneficiaries:</b>	Military personnel and their dependents
<b>Taxpayer Count:</b>	Unknown
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Excluded from JLARC review

## 82.26.110 - Tobacco products sold out of state or to Indian Tribes

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**Description** In-state wholesalers of tobacco products can obtain a tax credit for sales to tribal and federal entities.

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**Purpose** Historically, the Department has not required wholesalers to collect and remit other tobacco products tax on sales to tribal and federal entities, but the treatment of these sales was not clear. This exemption codified existing practice in response to statutory changes and recently settled lawsuits.

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**Taxpayer savings**

**(\$ in millions):**

	FY 2016	FY 2017	FY 2018	FY 2019
State Taxes	\$60.000	\$60.000	\$60.000	\$60.000
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

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**Repeal of exemption** Repealing this exemption would not increase revenue. Federal and tribal entities are exempt from the tax and they could acquire their own storage facilities and easily buy from out-of-state wholesalers.

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**Potential revenue gains from full repeal**

**(\$ in millions):**

	FY 2016	FY 2017	FY 2018	FY 2019
State Taxes	\$0.000	\$0.000	\$0.000	\$0.000
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

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**Assumptions** Average credit will be \$60 million a year.

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**Data Sources** Department of Revenue excise tax data

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**Additional Information**

Category:	Government
Year Enacted:	1959
Primary Beneficiaries:	Wholesalers of tobacco products
Taxpayer Count:	65
Program Inconsistency:	None evident
JLARC Review:	JLARC has scheduled to review in 2018