

Md. cigarette taxes have unintended consequences

By Dee Hodges and Jeff Ferguson

Raising Maryland's tobacco tax “would undoubtedly increase black-market activity and require more policing.

In recent years, Maryland has substantially raised tobacco taxes. Its current rates of \$2 for a pack of cigarettes and 15 percent to 70 percent for other tobacco products like cigars are among the highest in the country. The state enjoys a huge revenue gain from the taxes, but there are ironies and unintended consequences associated with the taxes on tobacco products that may not have been adequately considered.

The state itself sends out mixed messages regarding tobacco and cigarettes. On the one hand, it acknowledges the health concerns associated with tobacco products and agrees with health advocates who say taxing cigarettes higher is the right thing to do. So-called sin taxes increase costs with the idea of encouraging smokers to quit and discouraging teenagers from starting the habit. On the other hand, state Comptroller Peter Franchot has declared: "The state is losing a substantial amount of much-needed revenues as a result of cigarette smuggling and the associated tax loss." So, which is it, a tax to promote health or a tax to enhance revenue?

Lobbyist Vincent DeMarco is advocating raising the cigarette tax to \$3 per pack. He rightly claims that cigarette smoking is down. In fiscal 2000, 396 million packs of cigarettes were sold in Maryland. Taxed at 50 cents per pack, the sales generated state tax revenue of \$198 million. State taxes increased to \$1 per pack by 2006, reducing sales to 268 million packs but generating \$268 million for the state's treasury. The tax was doubled to \$2 per pack after a fall 2007 special session of the General Assembly. By fiscal 2014, cigarette pack sales had declined to 175 million packs. State cigarette tax revenue peaked in 2010 at \$395 million but has suffered a modest decline since to \$350 million from continued falling sales. Even as taxes quadrupled, state coffers benefited while retailers suffered significant sales and income losses due to changing consumer purchasing and lifestyle habits.

Ironically though, the Tax Foundation estimates that about 20 percent, or 35 million packs of cigarettes smoked by Maryland residents, are smuggled, thus explaining a good portion of the tax revenue declines in the last four years. To be sure, the tax increases have deterred many people from smoking, but by less than claimed due to a growing black market.

Research indicates that an increase in taxes correlates with increased smuggling, causing a bigger crime problem. New York is No. 1 with taxes at \$4.35, but the Tax Foundation estimates a smuggling rate there at 56.9 percent. Forbes writer Kelly Erb states that cigarette smuggling is so profitable that it is used to fund other criminal activities, including terrorism training. She asserts that some of the 9/11 hijackers supported themselves by cigarette smuggling.

Further adding to the black market problem is the fact that Maryland is not tax competitive with surrounding states. Virginia, West Virginia and Delaware are "go to" states for consumers as well as underground merchants to buy tobacco products. For example, Virginia cigarettes taxes are only 30 cents per pack. Obviously, many will cross state lines to buy.

A final double-edged irony: Tobacco is legal, but the big tobacco farmers in Maryland were paid not to grow it with taxpayers' money courtesy of former Gov. Parris Glendening. Ironically, Maryland's profitable leaf was considered to be among the finest. Now comes the Ebola crisis and the experimental serum, ZMapp, known to have cured America's first two cases is synthesized from tobacco leaves grown in Kentucky, not Maryland.

Tobacco farming is frowned upon, but marijuana may soon be grown here for medical purposes. Pot is not yet legal for casual use, but that may be on the legislature's discussion docket in coming years. Legalization advocates say marijuana is relatively harmless, even though it may be worse than tobacco. Police who deal with many drug issues speak of it as a gateway drug to even more dangerous addictive drugs. So if tobacco proves to be a medical miracle in ZMapp, why discourage its legal farming while encouraging the same for a gateway drug?

We conclude that an additional \$1 tax increase on tobacco would undoubtedly increase black-market activity and require more policing. The higher taxes could also have a continued deleterious effect on overall revenues since no taxes will be collected on packs not sold in stores. Yes, the health argument is compelling, but the potential consequences need to be thoroughly studied by the new governor and legislature before raising even more taxes on tobacco products. Like many issues, there is no optimal solution.

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