



Cigar Rights of America
Office of Government Affairs
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Washington, DC 20001

April 15, 2013

The Honorable Vern Buchanan
Chair
Committee on Ways and Means Small Business/Pass Throughs Working Group
2104 Rayburn House Office Building
Washington, DC 20515

The Honorable Allyson Schwartz
Vice-Chair
Committee on Ways and Means Small Business/Pass Throughs Working Group
1227 Longworth House Office Building
Washington, DC 20515

Dear Representative Buchanan and Representative Schwartz:

Thank you for your leadership on the House Ways and Means Committee Tax Reform Working Group on Small Business/Pass Throughs and your work on the important issue of tax reform. As a national advocacy organization dedicated to protecting the rights of the consumer retail tobacconist and the supply chain and manufacturers of premium cigars, Cigar Rights of America ("CRA") appreciates the opportunity to comment on tax reform proposals affecting small businesses.

CRA supports the Ways and Means Committee's Small Business Discussion Draft proposals to reduce the costs of tax compliance and simplify the complex rules applicable to small businesses. However, we are concerned that several pending proposals, including a proposal in the President's budget request to raise excise taxes on tobacco products, will significantly and unfairly penalize small businesses offering premium cigars. In particular, we note that these excise tax increases would:

- (1) harm small businesses that suffered large tobacco excise tax increases as recently as 2009;
- (2) be inconsistent with sound tax policy; and
- (3) not promote any significant public health benefit.

Current Law

In 2009, the Children’s Health Insurance Program Reauthorization Act of 2009 (“CHIPRA”) (Pub. L. 111-3) significantly raised taxes on several tobacco products, including premium cigars. Prior to CHIPRA, premium cigars were taxed at the higher of either 20.719% per each cigar or not more than 4.875 cents per cigar. After CHIPRA, taxes on premium cigars rose to the higher of either 52.75% per each cigar or not more than 40.26 cents per cigar. This was a **726%** tax increase on premium cigars. By comparison, taxes on small and large cigarettes increased by approximately 158% after CHIPRA.

Proposals to Raise Excise Taxes on Premium Cigars

There have been several proposals to increase tobacco excise taxes on premium cigars.¹ In particular, a proposal in the President’s FY 2014 budget request would substantially increase excise taxes on premium cigars by imposing a new tax in “roughly the same proportion” as proposed increased cigarette excise taxes.² This translates to a tax increase of 93%, or approximately 37.4 additional cents per cigar. Excise taxes on all tobacco products would also be increased for inflation annually.

Supporters of these proposals claim that increased tobacco excise taxes on premium cigars would decrease harmful consumption and improve health substantially. In addition, they claim that such increases would “close loopholes” that allow the tobacco industry to reclassify their products as lower-taxed tobacco alternatives and avoid paying taxes.

Raising Premium Cigar Taxes Hurts Small Businesses

Premium cigar retailers are small business owners and are not “big tobacco.” Many of these businesses are small, family-owned shops that have been hit hard by the recent economic crisis. As discretionary items, premium cigars are often the first purchases foregone when ordinary Americans are deciding how to make ends meet. For many premium cigar retailers, additional tobacco excise taxes could be the difference between surviving these hard financial times or shutting their doors.

Moreover, premium cigars are a niche market with a small adult consumer base. In fact, premium cigar taxation historically has constituted less than one percent of all national tobacco tax revenues. Despite these insignificant revenues, premium cigars are nationally among the highest, over-taxed commodities in the retail market. Repeatedly increasing taxes on premium cigars further weakens the demand for premium cigars and jeopardizes the viability of these businesses.

The Proposed Tax Increases Are Inconsistent with Sound Tax Policy

Excise taxes are regressive, meaning that lower-income households spend a greater portion of their income on goods that are subject to federal excise taxes. Moreover,

¹ S. 39, the Healthy Lifestyles and Prevention America (“HeLP”) Act, requires excise taxes for premium cigars to be raised annually by a cost of living adjustment. S. 194, the Tobacco Tax Equity Act of 2013, imposes a new higher tax of not less than 5.033 cents and not more than 100.66 cents per cigar, depending on the price of the cigar.

² The President’s budget request proposes to increase cigarette excise taxes from \$1.01 per pack to \$1.95 per pack.

although excises taxes are usually paid by a manufacturer, they are ultimately passed on to the consumer. This means that tobacco excise taxes directly increase the cost of a tobacco product purchased by a consumer.

Proponents of equalizing the taxation of tobacco products, or “tobacco tax parity,” claim that different tax rates encourage the tobacco industry to relabel or repackage their products to avoid higher taxes. While this may be true for certain segments of the tobacco industry, in the case of premium cigars, however, the concern of substituting other tobacco products for premium cigars is overstated because premium cigars are unique tobacco products.

For example, premium cigars are distinguishable in several ways from small cigars, which can be substitutes for cigarettes. Premium cigars are wrapped in 100 percent leaf tobacco, bunched with 100 percent tobacco filler, contain no filter, tip or non-tobacco mouthpiece, and weigh substantially more than other tobacco products. Because of these differences, premium cigars are currently taxed at different rates than other tobacco products. Recognizing the distinctions among tobacco products supports better criteria for tax policy and determining the appropriate rate of taxation of such products.

Moreover, the President’s budget request states that taxes on tobacco products are “also a relatively efficient way to generate revenue for important national priorities, such as providing high-quality preschool.” We question whether imposing tax increases to fund a specific policy priority on an unrelated and narrow segment of the American economy is sound tax policy. Using tobacco excise taxes on premium cigars to fund a policy initiative simply because it is “easy” to administer sacrifices the success of small premium cigar businesses for the sake of convenience.

Premium Cigars Do Not Pose The Health Risks of Cigarettes and Small Cigars

Tobacco excise taxes are also used to discourage consumption of tobacco. Supporters of these taxes assert that premium cigars pose the same health risks as cigarettes and should therefore be taxed at the same level. However, there is in fact very little evidence of adverse health effects from smoking premium cigars. Premium cigars are not inhaled, are smoked in moderation, and do not contain chemical additives, and the only relevant scientific studies either fail to support a finding of adverse health effects or else have significant methodological flaws (such as conflation of cigar and cigarette smokers). Importantly, premium cigars are also not marketed to, or smoked by, children.

In sum, cigar enthusiasts already pay their fair share of the tax burden and will be hurt by additional tobacco excise taxes. Given the unique characteristics, consumer base, and market of premium cigars, CRA strongly urges the Ways and Means Committee Tax Reform Working Group on Small Business/Pass-Throughs to oppose additional tobacco excise tax increases on premium cigars.

Very truly yours,

/s/ Glynn Loope

Glynn Loope
Executive Director