



## Module 5: Tobacco Use

### Part 4: Using Policy to Impact Tobacco Usage

Okay. We'd now like to focus on another Healthy People 2020 objective within the tobacco control area. Objective 17 is to increase federal and state laws on tobacco taxes. The learning objective for this segment is to expand the knowledge and applications for the development of increasing federal, state, and local taxes on tobacco products with a goal, of course, to reduce tobacco consumption.

So a brief history here. It's got an interesting one, because we're going to start from 1794, at the first federal tobacco tax, which was on snuff. It wasn't on cigarettes. It was proposed by Secretary of Treasury, Alexander Hamilton. The opposition of that was James Madison, a future president, feeling individual liberty and stuff on that. It was approved in 1794, but it was short-lived and repealed by Congress at that time.

Then another history [inaudible:00:01:02] is right around and after the Civil War. Excise taxes on many items in 1862 occurred, including tobacco. The use of that was not for any health reasons, but the use of that to enhance the treasury for the war. There were a series of increases in tobacco taxes in 1862 and through 1875, labeled as sort of sin taxes, but a lot of that had to do with the treasury, both during the Civil War and post Civil War.

In 1880, tobacco taxes, increasing around the nation, and tobacco taxes accounted for 31% of all federal receipts from taxes. Fifty percent for smoking and chewing tobacco, and 40% of that 31% of those federal receipts were from cigar taxes.

In the early 20th century, there was also a significant increase in federal tobacco taxes. It was fairly stable in the 1930s, leading up to World War II, increased during the war effort, again, that goal of revenue from tobacco products, and then stable through the 1950s and 1960s.

By 1971, the federal tobacco taxes totaled \$2.1 billion in 1971 dollars. So the bottom line here with taxes, from a government perspective, was certainly that taxes on tobacco products were profitable for the government and fairly easy to collect. The last federal initiative to raise the federal tobacco excised tax was in 2009. The Child Health Insurance Program, or CHIP, reauthorization act that raised the federal excise tax from \$0.39 a pack to \$1.01 a pack, of 20 cigarettes.

What was also interesting here, and we'll go back to this theme, is the purposeful federal tax to expand health insurance coverage and increase eligibility for children under 18 for that program. So the linkage for health purposes to a raising of tobacco, just not going into the, in this case, federal revenue, but for using for health was an important concept used in 2009 and prior to that to get tobacco taxes raised. That's called that earmarking for health and tobacco purposes.



At the state level, the first official state that taxed tobacco was the state of Iowa in 1921. By 1930, there were 12 states that had some level of state tobacco taxes. By 1950, 40 states and Washington, D.C. It ranged from \$0.01 to \$0.05 a pack, pretty much. I thought it was ironic that Louisiana, which has the lowest current taxes on tobacco, actually had the highest at that time, at \$0.08 of tax per pack of cigarettes. In 1966, North Carolina became the last state to tax tobacco products at \$0.02 a pack.

During the 1960s and 1970s, local communities and counties and large cities, particularly an example of New York and Chicago, began to tax tobacco products themselves. You had local tax. You had state taxes and, of course, the federal tax. Currently the city of New York has the highest combined state and local tax, with the total being \$5.85 per pack, including of course the federal. Chicago's combined tax is just under that, at \$5.66.

The CDC State Tobacco Activities Tracking and Evaluation system (STATE) system database is an excellent electronic data warehouse with epidemiological and economic data on state tobacco-related legislation. There are also other national organizations that campaign for tobacco-free kids. The Americans For Non-Smokers Rights are just two of those that do an excellent job. The National Conference of State Legislators also, in tracking state and local and federal activity tobacco tax activities, laws, and policies.

So here's a map from May of 2013 that shows the various state taxes. You can see that there are currently, I believe, 13 states that have a state tax of at least \$2, and another 10 that have a tax of \$1.50 to \$2. Then you can go down and see the various states.

I want to highlight Missouri, that has a very low tax of \$0.17 a pack. They had several attempts at raising the tax and just recently had a significant statewide initiative through a large coalition for health and tobacco prevention to raise the tax to \$0.90 a pack. That was in the 2012 ballot in November and just missed passing that, very close, less than a percent difference, as far as the defeat of that. So the coalition, I'm sure, in Missouri will continue to, going forward, to raise their tax down the road in the future.

What about smokeless and non-cigarette tobacco taxes? There are those. Federal taxes have been raised significantly on non-cigarette tobacco taxes raised two to fourfold from also the 2009 Child Health Insurance Program Reauthorization Act.

Currently there are 49 states with one exception, the state of Pennsylvania, that tax non-tobacco products. The tax is quite different in each state. They vary of what types of products they're including and not including. Wisconsin has the highest currently, with 100% of the wholesale retail wholesale price, as compared to something like a state like South Carolina that's at 5% of the lowest of the wholesale price of non-cigarette tobacco taxes.

What we do know is that raising non-cigarette taxes can prevent initiation and switching from cigarettes to lower-priced alternative products. That's really important, particularly for young people, both under 18 and young adults, who often are choosing to use those products sometimes for the cost. So it's really important to not only tax cigarette products, but also to tax non-cigarette tobacco products as well.



What are some of the arguments, the pros and cons for raising the taxes? I want to just highlight those. I'll go from the pro to increase the tax and the con to not increase the tax. As far as the pro arguments of generally the public health and health communities, a big one is the actual consumption of tobacco based on the price, what's called the price elasticity. The evidence is very clear that, on average, when you raise the tobacco tax, increased by 10% from whatever that baseline is, there is a reduction of purchase of tobacco products, somewhere between 2.5% and 5%, averaging about 4%. There is a greater impact, as far as consumption, reducing consumption, in poor populations, lower income populations.

What's also important is the price elasticity for young people, for youth, and the consumption of tobacco products even gets reduced greater, and estimated about 7%. So the bottom line is, as far as the actual sales, 10% increase in the price can reduce an average of 5% in the actual sales or consumption of the products.

As mentioned, youth and low-income populations reduce their tobacco use significantly. So it's a really important prevention strategy to raise one's tobacco taxes in their localities or their states, as well as at the federal level.

The other strategy that's been used similarly to secondhand smoke laws is to earmark the revenue for public health and tobacco control. It allows the campaign and the education to focus on health and the purposes, as used the 2009 federal example. Many people can support, including tobacco users, have often voted for and approved the referendum to support paying more if it's going to positive causes like prevention, preventing of young people from starting to smoke.

On the con side of that, these are arguments that, of course, are used by the tobacco industry and distributing system against raising taxes is, one, being regressive, that lower-income populations can less afford to purchase tobacco, more of their expendable income. There are certainly lost states reluctant to raise state taxes with federal taxes, and of course cross-border travel from different states that have different taxes, those moving across a state border to purchase tobacco products at a lower cost.

The bigger thing there that's not listed, of course, is the connection to jobs and saying, "This will destroy and hurt jobs because there will be less tobacco consumed, and hence less industry support, distributors, and retailers, etc., of selling tobacco products."

What we also know, and the evidence of that as far as the effect, is the larger the increase, the more impact it has on consumption. So if a proposal to increase the state tax, for example, by \$2 a pack or the local tax, the impact on consumption is significant because instead of being gradual as far as the tax is concerned, it really impacts on people to say, "You know, I've been thinking about quitting. I've tried before. Now, it's just too costly. This is going to motivate me to make that attempt to quit," which is very good. So a larger increase is harder to get approved, but a larger increase certainly has the biggest public health impact as far as reducing consumption.



I want to highlight some of the practices of the tobacco industry, because they know that very well as well. So when a tax increase at the federal level and particularly at the state and local level, they do a number of strategies that, in their industry, to reduce the sort of bite or hit of a higher tax by trying to do a number of things like discounting their tobacco products to distributors and retailers, to keep those prices lower after such a large tax, creating of course generic brands and lower priced brands that become readily available, providing coupons and direct communication to tobacco consumers, collecting information, their email addresses, addresses, and sending their information and coupons about it, which they also use, frankly, as an advocacy tool to have a group of people that they can send mailings to of those organizations that are often called front groups of the tobacco industry to mail to them when there is an effort to raise taxes down the road in the future.

But the bottom line from the consumer isn't the tax. They don't pay the tax. They are paying it indirectly through the retail cost. But what is the retail prices? So what the industry tries to do, if there is a \$2-a-pack increase as an example, they will certainly do a number of practices to reduce that initial hit. So that increase is dissipated over a number of years and reduces the likelihood that people are going to try to quit and use that as a motivation to try and quit.

As far as the public health, we limit, speaking of retailing, the issue of marketing efforts in the tobacco industry. What's the role of the Food and Drug Administration and other government bodies on that? That's an important thing that is being studied, and researched. The Food and Drug Administration with their expanded role of regulating the tobacco industry will have a big impact on that. We're certainly seeing that as far as current studies on menthol cigarettes and others in limiting certain products and the marketing and promotion of tobacco products going forward.

So I want to use an example from the state of Massachusetts. Massachusetts, in 1990, created a tobacco tax initiative. It was a lot of learning from just two years prior to that. It says 1998. That was a 1988 California Proposition 99. In 1992 then, they spent two years in the development creating what was called on the ballot - that's the Massachusetts, as California doesn't allow for a ballot proposition -- that was called Question 1. The goal was to increase that proposition to increase by also \$0.25 a pack, similar to California, estimated to bring in at that time, given consumption in 1992, \$100 million. That money, similar to California experienced in 1988, would be earmarked for tobacco education and control programs.

The American Cancer Society, as one of the largest nonprofit health organizations in the United States and the world, played a major role and took the lead, along with other partners in the development of the coalition. They did extensive polling throughout the state. They formed the coalition called the Massachusetts Coalition for a Healthy Future. Notice the positive title of that and focusing on health and the future of children and adults in Massachusetts.

The coalition was very broad. It included businesses, human service organizations, both health and other community organizations. In the case of Massachusetts, nearly 150,000 signatures . . . They collected well above the minimum level to get on the ballot. The tobacco industry formed a group, another example of a



front group, called the “Massachusetts Citizens for Limited Taxation”.

What was important in that was that they stayed neutral, that that particular group concerned about taxation in general stayed neutral on that. The tobacco industry direct group was called the “Committee Against Unfair Taxes” and filed lawsuits of constitutionality, particularly of earmarking the proposed tax to specific purposes.

Some of the other examples of that, they do extensive marketing. The American Cancer Society as a league was very important there because they had an incredible 70% favorable rating. When they did polling about their attitudes toward the tobacco industry itself, that favorable rating was only 4%. That was a key factor of course. Eventually, unfortunately, Question 1 passed with a 54% voting, so that the Massachusetts Tobacco Control program was formed as a result of that tax increase.

The first several years from 1993 to 1996, the formation of that, similar to California's proposition 99 in 1988, a number of trials and tribulations working with the governor and the state legislature for that. The initial allocation was \$96 million from Question 1. You can see it went to a range of health education, substance abuse, the Women, Infants, and Children program, community health centers, etc., AIDS research, went to a wide range of health purposes in the state of Massachusetts.

The battleground then moved from getting it on the ballot and getting the voters to approve, to the state legislature and unfortunately pitted health programs and funding for health programs against each other. The concern about supplanting, which did also occur in California from Proposition 99, where the governor or the state legislature would say, "Fine. We now have additional resources for tobacco control and health purposes. Therefore, in the next budget we're going to appropriate less money for those purposes," which of course was not the purpose. The allocation was reduced to \$67 million annually within the next four years, but still sufficient to really support a robust Massachusetts tobacco control program.

What's the result for Massachusetts from this? Well, it created a strong smoke-free norm in Massachusetts. Consumption was reduced by over 17%, over three times higher than the expectations. The legislature passed themselves another \$0.25 per pack increase in 1966 to help fund, again, a specific purpose, healthcare access to the poor and elderly. The Massachusetts adult smoking rate, as of 2001, it's dropped since then, is considered 18% with a significant drop in youth tobacco use in the state of Massachusetts.

So as far as what would be action steps to create a state and local, as well as federal, support federal tobacco tax laws and policies in the future. One is to assess your current tobacco use rates and where that is on a national level. How does it compare to other states and communities? Calculate the cost. The estimate at a national level is federally \$96 billion annually for excessive healthcare costs due to tobacco-related diseases and \$193 billion in productivity.

What's the impact locally, at the state and local level? That information is really important to get a tobacco tax increase supported in your state. Use existing resources. Look at the history and status from other sources, both from the federal government as well as nonprofit organization sources.



Determine the purposes. What is your purpose? Do you earmark it to a health goal? Some tobacco taxes have been specified for particular purposes. Others were not. That is part of the discussion and negotiation with policy makers in creating a tobacco tax, whether it should be earmarked or not. That'll be at the local level. Certainly form a very broad coalition with many partners and develop a clear financial and communications plan and development going forward to create that.

Some other action steps: building a grassroots support, obtaining legal assistance. That's important in all legislation, whether it's taxes or clean indoor air, is to obtain legal assistance and crafting and looking at the legal issues. Drafting a proposition. If your state allows a state proposition format, many do not, then going through the legislature is appropriate in creating a particular bill for that, obtaining those political supporters, educating and communicating using a variety of media channels, texting, social media, all sorts of things today to make a difference in impacting of people's attitudes towards supporting such a tax, obviously evaluating both your processes and your results, and then maintaining and monitoring the work with your legislature in sustaining that allocation over time. It is a long-term process, as we know.

Some of the challenges, and there's many, of course. What are the specific provisions for that, both policy-wise and legality of that? Is there a clear health argument and purpose for such a state and local or federal proposed legislation? The economic argument clearly. Highlight the direct and indirect cost of tobacco use in your state and local area.

Earmarking? Do you choose to earmark it for health initiatives? If you do, that certainly is a positive thing, because then people know they're, including smokers, would be willing to pay that tax for something that's really important for them.

State preemption for local laws, that's an important issue. So if you're trying to pass a local tax, if you're allowed on your state constitution, what are the preemption laws of that? That may be restrictive to you. Recognizing the anti-tax movement, and that's something we all face in our society, the aspect of the government receiving additional revenue and the aspect of the legislative pledges that have occurred around the country, in many communities and states, both at the federal legislators and certainly state and local legislators about taxes. That certainly would need to be overcome.

By far, strong industry lobbying, this affects their bottom line significantly, that direct relationship to tobacco consumption. So they're going to do everything they can to not have a tobacco tax increase in your state and community. And the aspect of supplanting, so even if you can get something passed, the political importance to when the next budget year comes, that the existing state funding for tobacco control doesn't get supplanted with the increased revenue from the tax and may not be as much of a net gain as a result.

So a discussion question for you in looking at this topic of state and local and federal taxes, in light of the Massachusetts experience, in your community, in your state, what are the current tax rates for various tobacco products, both cigarette smoking and other smoking and non-smoking materials? How do those rates and how



does the retail price of the tobacco products in your state and locality compare with national averages and neighboring states? Because that's certainly a factor. If neighboring states have a higher price for tobacco, higher taxes and higher retail prices, it certainly would be a lot easier. If not, if the neighboring states are much lower in your community, your state, then that's an issue you're going to need to address certainly.

What are the realistic tax changes that you could consider to make the biggest difference in reducing adult and youth tobacco consumption? And what models and examples can you use to frame your tax proposal and working with colleagues and your partners that are most likely to have a broad impact, as broad as possible, and also get as much support as you possibly can?

Finally, what evidence and resources are needed, using both federal sources, state sources, and nonprofit sources available to you? How would you assess the views of your community and your state on the tax initiative? That's important, that polling information. Of course, planning and obtaining the financial support needed to create legislation to amend your current tax rate in your state or locality.

So in summary, what this section has talked about is that tobacco has a long history, as we've noted, of government taxation at the federal level and recently of course at the state and local level. Large increases in federal, state, and local taxes in the past 20 years, more recently, have occurred more recently with non-cigarette products. The momentum is certainly on the side to continue to do that for addressing economic reasons, political reasons, and public health reasons.

There is strong evidence that raising taxes and the subsequent retail prices of tobacco products greatly reduces tobacco consumption by both adults and prevention of young people even starting. That price elasticity is significant for that, and that's an important reason to do it.

There are various arguments, pro and con, to tax increases. We highlighted some of that. Certainly the tobacco industry is going to play a major role in those arguments to say that it is not the right thing to do.

The study of state and local initiatives, such as the one in Massachusetts, provide wonderful models of future tax considerations. There are a lot of evidence, publications, and resources at the state level, at the federal level, nationally, to provide support and examples that can help you at the state and local level. Planning, implementing, and sustaining the tobacco tax increase certainly requires longterm, community-based, grassroots commitment and organization and appropriate resources to make that happen. So in conclusion, that ends our tobacco control module.