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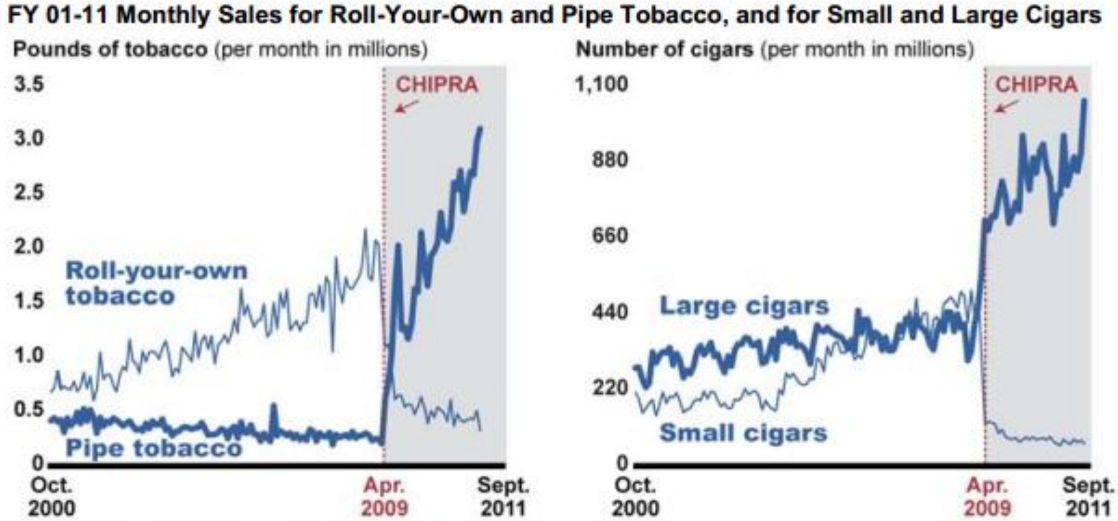
TAX ROLL-YOUR-OWN, CONSUMERS JUST SWITCH TO PIPE TOBACCO

By Scott Drenard
The Tax Foundation – Tax Policy Blog
April 20, 2012

The GAO recently released a report on tobacco taxes in which they determine that the disparities between the excise tax rates of roll-your-own tobacco and pipe tobacco has led to a substantial market shift from the former to the latter. Additionally, the differential treatment of large cigars and small cigars has led to a spike in the sale of large cigars.

Below is a graph from the report, showing the changes in the sales of roll-your-own tobacco vis a vis pipe tobacco, as well as the change in large cigars vs. small cigars as a result of the passage of CHIPRA in 2009).

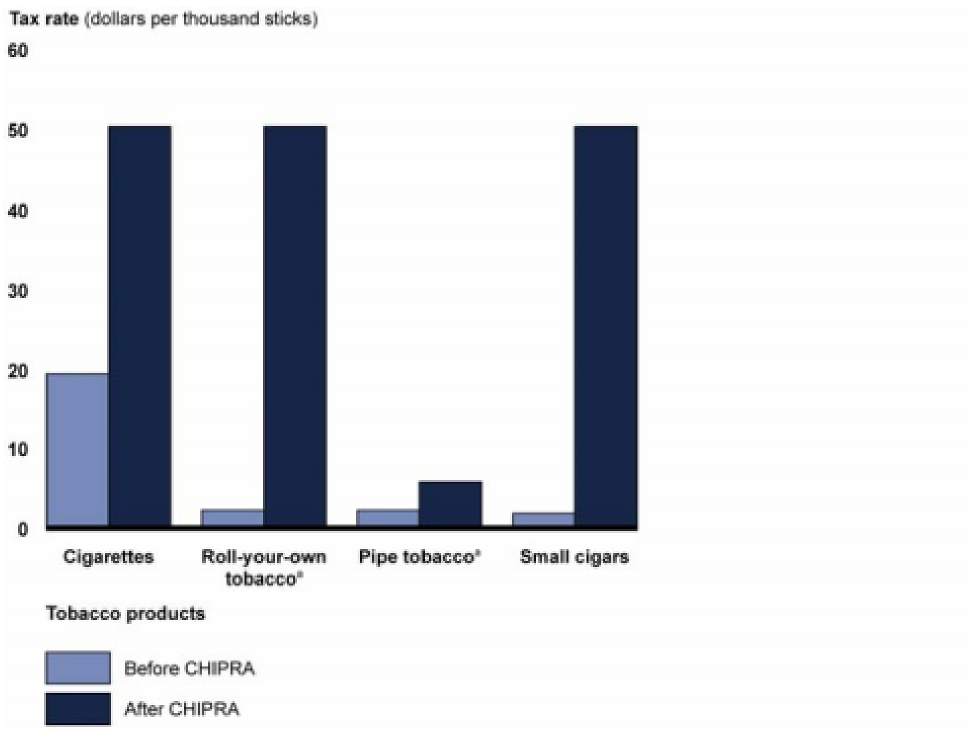
FY 01-11 Monthly Sales for Roll-Your-Own and Pipe Tobacco, and for Small and Large Cigars



Source: GAO analysis of Treasury data.

This change was driven by the fact that CHIPRA substantially raised rates on cigarettes, roll-your-own tobacco, and small tobacco, but did not raise taxes on pipe tobacco to equivalent rates. Below are the tax rate changes from CHIPRA (large cigars are not taxed per stick, but are taxed by price, so are not included in this graph):

Figure 3: Changes in Federal Excise Tax Rates as a Result of CHIPRA—for Cigarettes, Roll-Your-Own Tobacco, Pipe Tobacco, and Small Cigars



Source: GAO analysis of the IRC.

[a]The roll-your-own tobacco and pipe tobacco cigarette stick equivalent is based on the weight of 0.0325 ounces of tobacco per cigarette stick using the Master Settlement Agreement conversion rate.

The biggest reason for these consumption shifts is that the definitions of roll-your-own tobacco and pipe tobacco are virtually indistinguishable; they mostly concern how the product is packaged and how it is "likely to be smoked." In many cases, roll-your-own makers took exactly the same tobacco product and just changed the label to read "pipe tobacco."

The main take away from this report is that taxes substantially affect consumer and industry behavior. People naturally respond to price changes to avoid taxes. If you tax cigarettes heavily, consumers move to roll-your-own tobacco. When you tax roll-your-own tobacco, consumers move to pipe tobacco. Further, if you tax any product at a prohibitive rate, people will turn to the black market.

More on tobacco taxes here.

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GAO SUGGESTS EQUALIZING TOBACCO TAX RATES

Convenience Store Decisions Magazine
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A new report finds shift in using pipe versus roll-your-own tobacco and large cigars versus small cigars to avoid hefty taxes.

This week, the federal Government Accounting Office (GAO) issued a report titled "Large Disparities in Rates for Smoking Products Trigger Significant Market Shifts to Avoid Higher Taxes."

The document shows the impact of the different federal tax rates on various tobacco products as a result of the federal cigarette and tobacco tax increases which went into effect on April 1, 2009, the National Association of Tobacco Outlets (NATO) reported.

The report further found that market shifts are causing revenue losses for the federal government and recommended that Congress should consider equalizing tax rates on roll-your-own and pipe tobacco.

Market Shifts

Below is a chart that shows the federal excise tax rates on tobacco products before and after the April 1, 2009 tax increase:

Product	**Federal Tax Rates Through March 31, 2009**	**Federal Tax Rates on April 1, 2009**
Cigarettes	39¢ per pack	$1.0066 per pack (Rounded to $1.01/pack)
Large Cigars	20.719% of manufacturer's price; cap of 4.875¢/cigar	52.75% of manufacturer's price; cap of 40.26 cents per cigar
Little Cigars	4¢ per pack	$1.0066 per pack (Rounded to $1.01/pack)
Pipe Tobacco	$1.0969 per pound	$2.8311 per pound
Chewing Tobacco	19.5¢ per pound	50.33¢ per pound
Snuff	58.5¢ per pound	$1.51 per pound
Roll Your Own; Cigar Wrappers	$1.0969 per pound	$24.78 per pound
Cigarette Paper	1.22¢ per 50 papers	3.15¢ per 50 papers
Cigarette Tubes	2.44¢ per 50 tubes	6.30¢ per 50 tubes

The GAO noted monthly sales of pipe tobacco increased from about 240,000 pounds in January 2009 to more than three million pounds in September 2011. Monthly sales of roll-your-own tobacco, meanwhile, decreased from approximately two million pounds to 315,000 pounds in the same time frame.

Similarly, large cigar sales rose from 411 million cigars to more than one billion cigars, while small cigar sales declined from about 430 million cigars to 60 million cigars.

The report showed that given these market shifts in pipe versus roll-your-own tobacco and large cigars versus small cigars, the federal government experienced revenue losses of between $615 million and $1.1 billion in tobacco taxes.

The GAO report recommended that Congress "should consider equalizing tax rates on roll-your-own and pipe tobacco and, in consultation with Treasury [the U.S. Treasury Department], consider options for reducing tax avoidance due to tax differentials between small and large cigars."

Originally published here: http://www.csdecisions.com/2012/04/20/gao-suggests-equalizing-tobacco-tax-rates/

HIGHER TAXES DRIVING PEOPLE TO SMOKE PIPES, CIGARS?

By Shauna Wright
WJBC 1230-AM (Bloomington, IL)
April 21, 2012

Three years ago, a federal act meant to help reduce the number of people who smoke greatly increased the tax rates for cigarettes, roll-your-own tobacco, and small cigars, counting on the fact that making smoking more expensive would prompt people to quit.

And while it may have caused some to do so, the move had an unintended effect: sales of pipe tobacco and large cigars, which aren't taxed quite as harshly, have boomed.

The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 resulted in a more than 2,000 percent bump in the federal tax on roll-your-own tobacco and small cigars, while the tax on large cigars and pipe tobacco only went up about 150 percent.

As a result, the Government Accountability Office report states, "Monthly sales of pipe tobacco increased from approximately 240,000 pounds in January 2009 to over three million pounds in September 2011 [and] large cigar sales increased from 411 million to over one billion cigars."

The GAO noted some manufacturers of roll-your-own tobacco products have simply re-branded their products as pipe tobacco while making few changes in the products themselves. And the makers of small cigars now just make them bigger to avoid the extra taxes.

The bottom line? The GAO estimates that the new tax structure has resulted in somewhere between $615 million and $1.1 billion less in taxes, writing in its report, "Congress … should consider equalizing tax rates on roll-your-own and pipe tobacco."

Originally published here: http://wjbc.com/cigarette-taxes-pipes-cigars-dollars-and-sense/

MAMMOTH BILL MAKES IRS PLAY BORDER CONTROL

By Kelly Phillips Erb
Forbes.com
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And here I thought, in an election year, that nothing would get done. In the blink of an eye, the Senate has managed to pass a bill that does practically everything. The bill, which has the descriptive title, "Moving Ahead for Progress in the 21st Century Act" or "MAP-21" is called, in shorthand, the "Highway Bill." It's about 1,865 pages long. The official summary alone is 2,650 words: by the time it was engrossed in the Senate, the bill was 317,182 words long – or about four times longer than the first Harry Potter book.

Of course, it's not all about highways. We know how Congress loves to gunk up bills… So, welcome MAP-21. It's a two year, $100 billion bill, chock full of provisions which touch on highways and mandatory black boxes for everyone, Gulf Coast Restoration, Buy America provisions, a National Driver Register (!), Sport Fish Restoration and Recreational Boating Safety, Aircraft noise abatement, Internal Revenue Service levies and Thrift Savings Plan Accounts – take a breath, there's more – Roll-your-own cigarette machines, Clarification of tax basis of life insurance contracts, Amtrak on time performance and the Paperless Hazard Communications Pilot Program.

There's more but that should give you the flavor of the bill. And by flavor of the bill, I mean that it's so large and bloated that I'm pretty sure that nobody in Congress actually read it. And yet, it still passed the Senate with a 74-22 vote.

The bill was introduced by Sen. Barbara Boxer (D-CA). There were three co-sponsors: Sen. Max Baucus (D-MT); Sen. James Inhofe (R-OK) and Sen. David Vitter (R-LA). Sen. Orrin Hatch (R-UT) reportedly tried to kill it but was, sadly, not successful.

There's so much wrong about the bill that it's hard to pick out just one thing that deserves recognition. But not impossible. Because the one thing is horribly, horribly offensive. It's buried near the end, at Section 40304, and is meant to amend the Tax Code to add (yes, add) the following:

SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.

> (a) In General- If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of $50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled 'An Act to

regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the 'Passport Act of 1926'.

(b) Seriously Delinquent Tax Debt- For purposes of this section, the term 'seriously delinquent tax debt' means an outstanding debt under this title for which a notice of lien has been filed in public records pursuant to section 6323 or a notice of levy has been filed pursuant to section 6331, except that such term does not include–

'(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, and

'(2) a debt with respect to which collection is suspended because a collection due process hearing under section 6330, or relief under subsection (b), (c), or (f) of section 6015, is requested or pending.

There are a few more paragraphs but you get the idea. It's the authority to deny U.S. citizens a passport if there's a tax debt.

Let me clarify a few things for you. Liens are filed when the IRS believes that a debt might not be collectible. It doesn't, however, mean that the debt is confirmed or accurate. A lien can exist when a collections matter is pending, when a matter is challenged in Tax Court or – as is the case with at least one of my clients – the debt was admittedly not correct but the IRS does not believe that it has a responsibility to remove the lien (enter the attorneys). And while a lien is generally reserved for matters that are more than $25,000 (the new, kindler, gentler IRS has, in theory, extended this amount to $50,000), the IRS may – and has and does – impose a lien for smaller amounts.

Similarly, a Notice of Levy can be filed when a matter is still being contested. And a Notice of Levy can be issued for very small amounts. We've seen them issued for double digits.

Please don't think that a lien or a levy is always an indication of a taxpayer shirking their responsibility to pay. Just Congress thinks that.

And yes, there's supposed to be an out for those matters with extenuating circumstances (see subparagraph 2 above) but – how do I say this nicely? – I don't trust the IRS to do this and to timely communicate with the Department of State.

Oh, I didn't get to that part yet. The IRS notifies the Department of State as to those taxpayers which qualify under these rules. And the Department of State then gets to use their discretion to "limit a previously issued passport or passport card only for return travel to the United States" – there are other mandatory directions regarding new passport denials and the like.

Since there's no actual authority to share taxpayer information (remember how worried Congress was about doing that?), the bill would authorize the IRS to share taxpayer identity information with the Department of State "to the extent necessary." Yeah. Cause there are no privacy concerns there, right?

Let me summarize the terms of the bill for you: if the IRS liens or levies you, the Department of State can choose to restrict your right to travel without a judicial hearing. To be clear, these aren't cases of U.S. citizens who have been found to have committed a crime or have even been proven to owe taxes. You don’t get your day in court. You don’t get to argue your case. You don’t get to prove that there has been a mistake. In other words, it gives the IRS the authority to determine your future travel plans. No due process for you.

Ah, that pesky issue of due process. Generally, the taking or denial of a passport is a judicial matter tied to issues where there is a risk of a person trying to flee the country. Not so here.

But why worry about the Constitution and fairness when there are votes to be won? Because, let’s be honest… That’s what this is about. It’s not about the fear that taxpayers are picking up and leaving the country under the cover of night to escape a tax debt even if that’s what our officials in Congress (yes, that means you, Sen. Boxer) think. Contrary to what this bill implies, we aren’t seeing long lines at the border of folks wanting to get out.

Here’s your reality check: most people who are leaving the country aren’t fleeing a tax debt with backpacks filled with diamonds – they’re leaving on business. To work. To make more money. And maybe – just maybe – that means that they will settle their tax debts. Taking away their right to work surely won’t do that.

The bottom line is that MAP-21 is a stupid, stupid bill. It’s pigheaded and wrong. And it shows a complete disregard about the reasons for the tax gap. It’s not the result of rich expats or expat-wannabes. It’s much more complicated than that. But Congress doesn’t want to hear it. They want a quick fix that makes for a soundbite during election season.

(*read with a deep voice*): Senator Boxer worked hard to keep our tax dollars from being stolen and diverted overseas.

Yeah.

That’s not what’s happening. And pretending that it is shows a complete lack of understanding of the problem. There’s so much wrong with our tax system – from the flawed Tax Code to collections to administration. But you know what isn’t going to make it better? Yet another layer of bureaucracy. Nobody loves bureaucracy more than Congress. And so far, that’s been working out for us… how?

Fortunately, the House hasn’t approved this version of the bill yet. It passed a separate bill related to the highway provisions. Let’s hope they show more sense than their comrades compatriots in the Senate.

Originally published here: http://www.forbes.com/sites/kellyphillipserb/2012/04/23/mammoth-bill-makes-irs-play-border-control/

THE WEEK AHEAD: ON THE HIGHWAY TO A CONFERENCE

By Keith Laing
The Hill
April 23, 2012

The next step in House and Senate negotiations over a new multi-year federal highway bill - naming members of a conference committee - could happen as early as this week.

Lawmakers in both chambers have said that the House's passage of a temporary extension of the current funding for transportation last week is enough to get the chambers into a conference - even though the House has not passed its own proposal for a multi-year bill.

The first step is appointing members to a conference committee, which aides in both chambers have said could come as early as this week.

It remains to be seen however if lawmakers actually start talking now, however. The current funding for transportation does not expire until June 30, and the extension that was passed by the House passed last week week goes through Sept. 30.

The idea is to provide a lot of time for what is expected to be contentious negotiations. The extension approved by the House includes approval of the controversial Keystone XL pipeline, which will likely not survive the conference, as well provisions dealing with Environmental Protection Agency regulations of coal power plants.

Despite the possibility of a highway conference, Transportation Secretary Ray LaHood is not optimistic his former colleagues in Congress can reach a deal this year.

“There will not be a bill before the election,” LaHood, who was a member of the House before being appointed by President, said at a transportation event this week.

“I wish I could say we’ll get a transportation bill [in the next six months], but I know we won’t,” LaHood said.

Additionally this week, the House Transportation and Infrastructure Committee's Subcommittee on Aviation will hold a hearing Wednesday on aviation safety.

The panel's subcommittee on the Coast Guard and Maritime Transportation will hold a hearing Thursday on the regulation of the maritime industry.

Also in the House, the Science, Space, and Technology Committee's Subcommittee on Space and Aeronautics will review NASA's 2013 budget request Thursday, and the Homeland Security Committee's subcommittee on Emergency Preparedness, Response, and Communications will hold a hearing about the transparency of homeland security grants.

Originally published here: http://thehill.com/blogs/transportation-report/highways-bridges-and-roads/222973-the-week-ahead-on-the-highway-to-a-conference

HOUSE GOP WOMEN STEP FORWARD ON SMALL BUSINESS TAX BILL

By Russell Berman and Bernie Becker
The Hill
April 22, 2012

As House Republicans made the case for their small business tax cut this week, a group of female lawmakers took center stage to sell the plan.

Facing a long-standing gender gap both on and off Capitol Hill, the male-dominated House GOP has made a concerted effort to include its female members - particularly those in the freshman class - in public events and press conferences.

Yet with the role of women now a key topic in the presidential campaign, female lawmakers like Reps. Cathy McMorris-Rodgers (R-Wash.) and Renee Ellmers (R-N.C.) were deployed not simply to echo the leadership's talking points but to highlight the benefits of the tax cut for women and the many businesses they own.

The timing is not a coincidence, Ellmers said. With Democrats accusing Republicans of a "war on women," she said it was "very important" for the party to speak directly to the impact its policies would have on women.

"I'm a woman. I'm a conservative Republican. We need to connect with the women of America," she said in an interview.

"When we see this brought up as an issue, we know we need to come to the forefront and outline these issues," Ellmers said. "We're ready to fight for everyone in America, but when we see women under attack, then it's up to us to come forward and start speaking out with an even stronger, louder voice."

While the presidential campaigns have sparred over stay-at-home mothers, Ellmers, McMorris-Rodgers, Rep. Diane Black (Tenn.) and other Republican women have repeatedly pointed out that women own one-third of all small businesses.

"It's really exciting for me to see that women are starting businesses at a record pace, and I'm not sure that a lot of people in America are aware of that," McMorris-Rodgers said. "I think it's important to let them know that women are being entrepreneurs."

Black denied that politics were at play in the GOP push to highlight the proposal's benefits to women.

But Black, who has also owned a small business herself, also said that it was natural for her to reach out to women who either already are in business for themselves or thinking about taking that leap.

"For me, I am a female, and I do want to be sure that I'm saying to females, hey, you can do this," Black told The Hill. "But this bill to me is not just a female or male bill. It's a gender-neutral bill."

While House Democrats elected the first female Speaker in Nancy Pelosi (Calif.) and have more than twice as many women in their caucus, the House GOP has been slower to incorporate women into positions of power. The highest-ranking woman in the House GOP is the conference vice chairman, McMorris-Rodgers, and just one committee leader is a woman, Rep. Ileana Ros-Lehtinen (Fla.) on Foreign Affairs.

In an ABC News/Washington Post poll released last week, registered female voters favored President Obama over the presumptive GOP nominee, Mitt Romney, 57 to 38 percent, which was the president's largest margin among women to date.

McMorris-Rodgers had a different take on the so-called gender gap.

“In 2010, the Republicans won the women’s vote. It was the first time since Reagan that we won the women’s vote,” she said. “You could actually argue that women, American women, unelected the first woman speaker of the House, because they didn’t like the policies. And these distractions right now by the Democrats are – they’re just trying to distract from the real issues.”

In a brief interview, Pelosi dismissed the argument that the GOP’s 20 percent tax cut for small businesses would be a policy friendly to women.

“Well over 50 percent of the tax cut goes to the wealthiest people in our country and for them to throw a few crumbs to women, and say they’re benefitting women when it’s only an excuse to give tax cuts to the high end, is typical,” the House minority leader said.

“It’s a bill that’s going no place. Even their friends have said it’s a gimmick,” Pelosi said.

Originally published here: http://thehill.com/blogs/on-the-money/domestic-taxes/222951-house-gop-women-step-forward-on-small-business-bill