

# Fee on off-brand cigarettes suggested

## Big-tobacco spokesman also calls for larger tax on 'little cigars'

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AUSTIN — A state facing a severe budget shortfall might be missing an easy opportunity to increase revenue and finance public health costs at the same time, said a spokesman for big tobacco.

Texas is only one of two states that do not impose a fee on off-brand [cigarettes](#) sold by companies that didn't participate in the historic tobacco settlement a decade ago.

Also, Texas levies only a 2-cent tax on a pack of "little cigars" that look like cigarettes. The state tax on cigarettes is \$1.41 a pack. Both carry 20 units.

"It's a pretty big difference and there's really no public policy benefit in providing little cigars with a tax advantage like that given the similarities between the products," said Bill Phelps, spokesman for Altria, whose companies include Philip Morris, the country's largest cigarette manufacturer.

"By equalizing the taxes on those products, the state can realize more revenue, and we think that's important, especially given the budget challenges."

Texas faces a budget shortfall exceeding \$20 billion, according to recent estimates.

The federal government last year raised the federal [excise tax](#) on little cigars to \$1.01 — the same rate applied to cigarettes. The federal excise tax on little cigars had been 3.7 cents per pack.

But small [tobacco company](#) officials react strongly to suggestions they should be paying more, and they question big tobacco's interest in solving the state's budget problems.

"The big tobacco companies are trying to shift the market share to their favor by placing a tax on smaller companies that were not involved in the (late 1990s) settlement," said Justin Phillips, a spokesman for Global Trading, a small tobacco wholesaler based in Enid, Okla.

### 'Take a serious look'

No lawmaker has yet to file a tobacco-tax related bill. State leaders say they will tackle the budget shortfall with budget cuts, and the starting budget bill will "not anticipate any new revenue," said House Appropriations Chairman Jim Pitts, R-Waxahachie.

But some lawmakers say all tobacco companies - big and small - profit from people's smoking habits that create huge [health care](#) costs for state and local governments.

"Considering both the public health concerns and our current revenue situation, I think Texas should take a serious look at tax parity when it comes to tobacco," Rep. Joaquin Castro, D-San Antonio, said. "Texas should consider following the lead of many other states and the federal government in how we treat this issue."

Sen. Rodney Ellis, D-Houston, said the state's enormous budget shortfall saddles legislators with a "fiscal and moral obligation to keep all options on the table."

"There are fiscally responsible options to reduce the severity of cuts to critical programs and harm to Texas families," he said. "We owe it those families, and the future of Texas as a whole, to give those options serious consideration."

### \$38 million a year

Texas could gain an extra \$38 million per year by applying the same excise tax on filtered or little cigars as it does on cigarettes, Phelps said.

Big tobacco companies have "no interest in solving budget shortfall problems. They have an interest in gaining market share," said Bob Rowland, a spokesman for Tantus Tobacco, a small company based in Russell Springs, Ky.

Cigars historically have not been taxed at the same rate as cigarettes because they are not inhaled and are considered a "reduced harm product," Rowland said.

Texas reached a \$17.3 billion settlement in 1998 with major tobacco companies, including R.J. Reynolds, [Brown & Williamson](#), Philip Morris, [Lorillard](#) and the [Liggett Group](#). The companies are required to pay out the \$17.3 billion over 25 years followed by annual payments forever - based on tobacco sales.

The settlement payments reflected "bad conduct as corporations and as executives and decades worth of fraud," said Jay Maguire, a consultant who has represented small tobacco companies. Smaller tobacco companies that did not participate in the settlement can sell cheaper cigarettes, he said, because they don't have to pay a penalty for fraud and racketeering. Cigarette manufacturers that are not party to the tobacco agreement and do not make any payments to the state are called non-participant manufactures. Their number has grown significantly, said Altria's Phelps.

**No requirement here**

Only Texas and Florida do not require those smaller cigarette companies to pay a per-pack-fee or to bank money into an escrow account.

Phelps said states can use such escrow account payments to cover future health care claims. But representatives of the smaller tobacco companies said the escrow money can be used only if they defraud the public.

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