

E-Cigarette Tax Parity Act

As children head back to school this fall, parents face a new and growing challenge—easy access to e-cigarettes. Recent government surveys show that 10 percent of eighth graders have used an e-cigarette within the past year, rising to nearly 40 percent among high school seniors. Between 2017 and 2018 the number of high school students currently using e-cigarettes increased by 78 percent.

The latest International Trade Commission data indicates that e-cigarette imports have doubled each year from 2016 through 2018. Nearly 99 percent of imports now come from China—raising significant concerns about the safety of these products due to a history of lax Chinese safety regulations.

In 2016 the Food and Drug Administration took action to classify e-cigarettes (and other alternative nicotine products) as tobacco products subject to Tobacco Control Act regulations, including age limitations, warning label requirements, and certain requirements for manufacturers and importers. However, without legislative action, e-cigarettes remain exempt from federal tax.

The *E-cigarette Tax Parity Act* would expand the definition of taxable tobacco products under the Tax Code to include e-cigarettes and other alternative nicotine products. The legislation would establish an excise tax on alternative nicotine products at a rate equal to the federal cigarette tax (equivalent to \$1.01 per pack of 20 cigarettes). The tax would be calculated on a per-milligram of nicotine basis because the nicotine content and delivery method of alternative nicotine products may vary significantly.

The bill grants the Treasury Secretary authority to adjust the rate for any particular alternative nicotine product via regulation if he determines that a different rate would be a more appropriate measure of equivalence to the rate on traditional combustible cigarettes.

Products that have been approved by the Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes would remain exempt from the tax.

Currently, at least 15 states have enacted taxes on e-cigarette products. Congressional Budget Office (CBO) research indicates that tobacco taxes have been a successful tool to reduce the number of smokers and are particularly effective in reducing smoking among adolescents. CBO previously estimated that for every 1 percent increase in the price of cigarettes the number of smokers declines by 0.3 percent, and found that teenagers respond most strongly to higher cigarette prices.