



## State Tax Today

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### New Jersey Proposal to Tax E-Cigarettes Proves Controversial

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Summary by **taxanalysts**

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A \$35 million New Jersey proposal to tax electronic cigarettes like their traditional counterpart has sparked controversy in a budget debate otherwise devoid of major disagreement.

Republican Gov. Chris Christie's fiscal 2015 budget proposal asks lawmakers to begin taxing the smokeless nicotine-delivery devices known as e-cigarettes at a rate equivalent to the state's \$2.70-per-pack tax on regular cigarettes.

Kashmir Gill, president of Gill Energy, a fuel wholesaler and retailer based in Matawan, N.J., told Tax Analysts that e-cigarettes have become popular largely because of their low cost. He said taxing the devices would hurt small businesses by diverting sales of e-cigarettes to other states or Internet retailers.

"Their idea of increasing the revenue by increasing the [cigarette] tax has not worked so far," said Gill. "Every time they go increase the taxes, the customers go out of state, so the revenue stays as is."

Gill is also a board member of the New Jersey Gasoline-Convenience-Automotive Association, a coalition of 1,500 small businesses, which opposes the tax. He said owners of small gas stations can't compete with large chains on gasoline prices, so they have to sell gas at cost and rely on other products, like e-cigarettes, to make a profit.

This type of tax proposal is a rarity for Christie, a politician who has made cutting taxes -- or at least limiting tax increases -- a staple of his tenure in Trenton.

At an April 1 Senate Budget and Appropriations Committee hearing, State Treasurer Andrew Sidamon-Eristoff said the e-cigarette tax is designed to further the state's antismoking policies.

"As a matter of public policy, why should we favor one form of delivering highly addictive, tobacco-derived nicotine over another, especially in light of the unknown health risks and the obvious marketing focus on youth and young adults?" he asked.

If approved, the tax would raise \$35 million in fiscal 2015, according to Christie's projections.

E-cigarette taxes are also the subject of a bill (S 1867 ) introduced last month by Sens. Joseph Vitale (D) and Richard Codey (D) that would set the tax at 75 percent at wholesale, a rate the lawmakers say would be the rough equivalent of the per-pack tax on traditional cigarettes.

Other legislators have been openly skeptical of the tax. General Assembly Budget Committee Chair Gary Schaer (D) opposes the tax, though he said the State Legislature would need to find replacement revenue if it rejected the tax -- a tough task in a tight budget year.

At an April 14 budget hearing, Assembly member Benjie Wimberly, another Democrat on the Budget Committee, said he has a hard time accepting that public health is the main motivation for the tax.

"If our main concern is public health, and smoking is considered a public health issue, I can't understand why the governor would cut \$7.5 million from the state's anti-smoking programs," he said, referring to Christie's 2010 decision to cut funding for smoking cessation programs. That funding has never been restored.

Health Commissioner Mary O'Dowd conceded that the new revenue won't go to fund state antismoking efforts but said the imposition of the tax in and of itself furthers the public health goal.

"Increasing the cost of the product is a very effective strategy to reduce utilization," she said.

Both the Christie proposal and Vitale and Codey's bill would provide a tax exemption for devices that are approved by the U.S. Food and Drug Administration as a smoking cessation treatment.

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