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Memorandum

Date: February 21, 2026

To: Members of the New York Standing Committee on Ways and Means

From: Adam Hoffer, PhD, Director of Excise Taxation, Tax Foundation

Subject: Excise Taxes in the FY 2027 State Budget

The governor's proposed budget includes multiple excise tax increases. New York would expand its definition of other tobacco products (OTP) to include modern oral pouches. This would apply the OTP tax rate of 75 percent of the wholesale price to all nicotine pouches.

The state would also add a \$0.55/unit tax on vapor atop the current 20 percent retail tax, combining the complexities of both an *ad valorem* and an *ad quantum* tax for those products.

Higher tax rates on alternative tobacco products (ATP) also go against recommendations from both Tax Foundation and the US Food and Drug Administration. Products that allow users to consume nicotine via methods other than combustible cigarettes are substantially less harmful to consumers. Taxes should reflect relative harm to avoid perverse incentives.

To encourage users to switch to less harmful products, Tax Foundation recommends a preferential tax rate for these products, reducing rates between 50 and 100 percent based on how much less harmful these products are and whether cigarette smokers are willing to switch.

Alternative Tobacco Product Tax Rates to Optimize Harm Reduction

<u>Product</u>	<u>Tax Rate Relative to Combustible Cigarettes</u>
Very Low Nicotine Cigarettes	50% of Cigarette Tax Rate
<u>Loose Tobacco</u>	<u>(a 50% Reduction Compared to Cigarettes)</u>
Heated Tobacco Products	25% of Cigarette Tax Rate
<u>Moist Tobacco</u>	<u>(a 75% Reduction Compared to Cigarettes)</u>
E-Cigarettes and Vaping Products	10% of Cigarette Tax Rate
<u>Modern Oral Tobacco</u>	<u>(a 90% Reduction Compared to Cigarettes)</u>
Nicotine Replacement Therapies	0% of Cigarette Tax Rate
<u>(Gums, Patches, Lozenges)</u>	<u>(a 100% Reduction Compared to Cigarettes)</u>

Legislatures are charged with the difficult task of striking the right balance between reducing the harm caused by smoking, raising enough revenue to fund smoking cessation and other public health programs, and maintaining a legal, well-regulated marketplace where participants can safely transact. As you consider these matters, we are happy to be a resource and would be delighted to provide you with more research on this topic.