

**NLWJC - Kagan**

**DPC - Box 053 - Folder-004**

**Tobacco-Settlement: Smokeless**

### Smokeless - Summary Analysis May 12, 1998

The following table shows the effect of the alternative treatment of smokeless tobacco products on the relative price increases to cigarettes, snuff, and chew, and on the share of the payments that are borne by cigarettes. We consider seven cases - and in each case we incorporate in our pricing estimates the impact of state ad valorem taxes on smokeless products:

- The current McCain language, with both a downweighting of smokeless products and a de minimis adjustment.
- A 1:1:1 treatment (by units) of these products, with no de minimis adjustment (the treatment in the Conrad bill)
- A 1:1:1 treatment of these products, with the McCain de minimis adjustment
- Four alternative de minimis adjustments, designed to provide a more equal treatment of these products while still excluding small manufacturers:
  - \* 50% if less than 100 million units; 75% if 100-200 million; 100% if greater than 200 million
  - \*\* 75% if less than 100 million units; 100% if greater than 100 million units
  - \*\*\* 50% if less than 150 million units; 75% if 150-300 million units; 100% if greater than 300 million
  - \*\*\*\* 75% if less than 150 million units; 100% if greater than 150 million units
- With reference to these cases, it is worth noting that UST has slightly under 500 million units of snuff, and about 75 million units of chew. No one else has even 100 million units of snuff. The largest firms in the chew market are Pinkerton and Conwood, with 140 and 120 million units respectively. So a de minimis adjustment that stops at 150 million units protects all firms but UST.

no d.m. for cigarettes

50% if less than 150  
100% if greater

Table: Effect of Alternative Treatments of Smokeless

Policy	Cigarettes	Snuff	Chew	Share on Cigs
Current McCain Language	\$1.10	\$0.18	\$0.08	99.5%
1:1:1, no de minimis	\$1.10	\$1.34	\$1.34	96%
1:1:1, keep de minimis	\$1.10	\$1.15	\$0.34	97%
1:1:1, de minimis 100a *	\$1.10	\$1.21	\$0.72	97%
1:1:1, de minimis 100b **	\$1.10	\$1.28	\$1.06	96%
1:1:1, de minimis 150a ***	\$1.10	\$1.21	\$0.67	97%
1:1:1, de minimis 150b ****	\$1.10	\$1.28	\$1.01	96%



Cynthia A. Rice

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Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: Cynthia Dailard/OPD/EOP, Elena Kagan/OPD/EOP

Subject: Smokeless

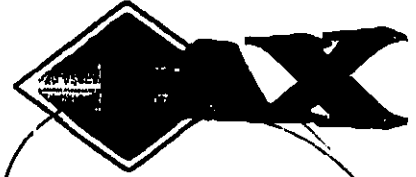
Gruber gave me the info on smokeless -- and when I saw Raidt I passed it onto him.

Basically, the criticism is right -- the bill raises the price of smokeless by far less than cigarettes. The change was made as part of a Ford amendment proported to only address small producers. The amendment said snuff equals .4 cigarette packs and chew equals .24 cigarette packs. As a result, it raises the price of snuff by \$.44 and the price of chew by \$.26. To be equivalent to cigarettes, snuff should equal 1.6 packs and chew 4.0 packs, raising the price by \$1.76 and \$4.40 respectively.

Raidt has Garigiola holding off until he can try to fix it. He may go back to Ford and argue that the amendment was broader than Ford let on, etc. Raidt needs to check in with McCain first.

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TO: Mr. Bruce Lindsey FAX: 202/456-2983 DATE: 5-27-98  
FROM: Todd Walker PAGES: 3

*If you do not receive all pages indicated, please call the UST Public Affairs office (202) 661-4610.*

As per our conversation, attached is an explanation of the McClain Manager Amendment on the smokeless industry.

EK/ER -  
Not much we can do about this, is there?  
-BR

Bruce / Elena,

Do we care about the mix (U.S.T vs. others) or simply the overall amount?

Bruce Lindsey

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## **THE MCCAIN BILL/ MANAGER'S AMENDMENT**

**The McCain Bill /Manager's Amendment provides a mechanism that would (1) assess moist snuff at a rate more than twice that of chewing tobacco, and (2) provide for lower assessment rates based upon volume (i.e. number of units sold).**

**Given the current snuff/chewing tobacco product mixes and volume levels in the smokeless industry, the effect of these two provisions would be to fully assess only one company -- U. S. Tobacco. Specifically:**

- **The smokeless industry is a one billion unit industry. This bill provides a lower assessment rate on brands that, in total, represent 45% of smokeless tobacco units.**
- **The bill would impose upon the Number One brand of chewing tobacco (RedMan) a tax increase only one-third that of the Number One moist snuff brand (Copenhagen).**
- **The bill would impose upon Kodiak, the Number Three moist snuff brand in the country, a tax increase less than one-half that of the Number One moist snuff brand (Copenhagen).**
- **The bill would impose a higher assessment rate/tax on one smokeless tobacco company's products -- U.S. Tobacco Company -- than on all others.**
- **The bill would force U.S. Tobacco Company, with only 55% of the smokeless market, to pay 100% of the smokeless lump sum up-front payment.**

**SMOKELESS FEDERAL EXCISE TAX INCREASES PER UNIT**  
**McCAIN BILL/MANAGER'S AMENDMENT (YEAR 5):**  
**(ANNUAL PAYMENTS AND UP-FRONT PAYMENT INCLUDED;**  
**LOOK-BACK SURCHARGES EXCLUDED)**

