



TESTIMONY

**TO: The Honorable Caryn Tyson, Chair
And Members of the Senate Committee on Assessment & Taxation**

**FROM: Whitney Damron
On behalf of Swisher International, Inc.
www.swisher.com**

**RE: SB 376 - An Act concerning tobacco; relating to rates of taxation;
cigarettes and other tobacco products.**

DATE: March 22, 2018

Good morning Madam Chair and Members of the Committee

I am Whitney Damron and I appear before you today on behalf of Swisher International, Inc., in opposition to this bill, which would increase the tax on Other Tobacco Products (OTP) from the current level of 10% of the wholesale price to 65% of the wholesale price – a staggering 550% increase.

By way of information, Swisher is a leading tobacco manufacturer whose cigars, filtered cigars and smokeless tobacco brands include the largest-selling cigar brand in the world – Swisher Sweets, among more than a dozen other tobacco products including premium cigars, chewing tobacco and moist snuff. These products are taxed in Kansas as Other Tobacco Products.

Kansas currently taxes OTP at ten percent of the wholesale price, which is the same as the State of Missouri.

OTP is taxed differently than cigarettes, which are taxed on a per pack basis. Since OTP is taxed as a percentage of the wholesale price, the State essentially gets a tax increase every year as the manufacturers raise prices due to input cost increases and inflation, which necessarily increases the wholesale price and the applicable tax at the wholesale level.

Included with my testimony are two charts from the Kansas Department of Revenue's 2017 Annual Report. In one graph, you will see OTP tax revenues have increased every year from 2012-2017, as reflected in the report. If you looked at the chart for cigarettes, you would see declining revenues every year, except for the bump after the .50 cent a pack increase passed in 2015. We would suggest the Legislature recognize this unique feature of the OTP tax system that increases state revenues every year and leave the tax alone.

Increasing these taxes only serve to drive consumers to alternative delivery methods, including purchasing tobacco products in low tax states, over the Internet, where enforcement of state tax laws is almost nonexistent and sources of contraband.

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Kansas should not send a message to its citizens that they are better off purchasing consumer items in neighboring states or through alternative sources that avoid or evade Kansas taxes.

The ten percent OTP tax rate is the same as the State of Missouri. At least there is one product sold in convenience, grocery and cigar stores we are competitive with, unlike cigarettes, liquor, gasoline and food. Accordingly, Swisher International would ask this Committee to reject an increase in the OTP tax as proposed in SB 376 and focus its attention on tax policy that is fair for everyone.

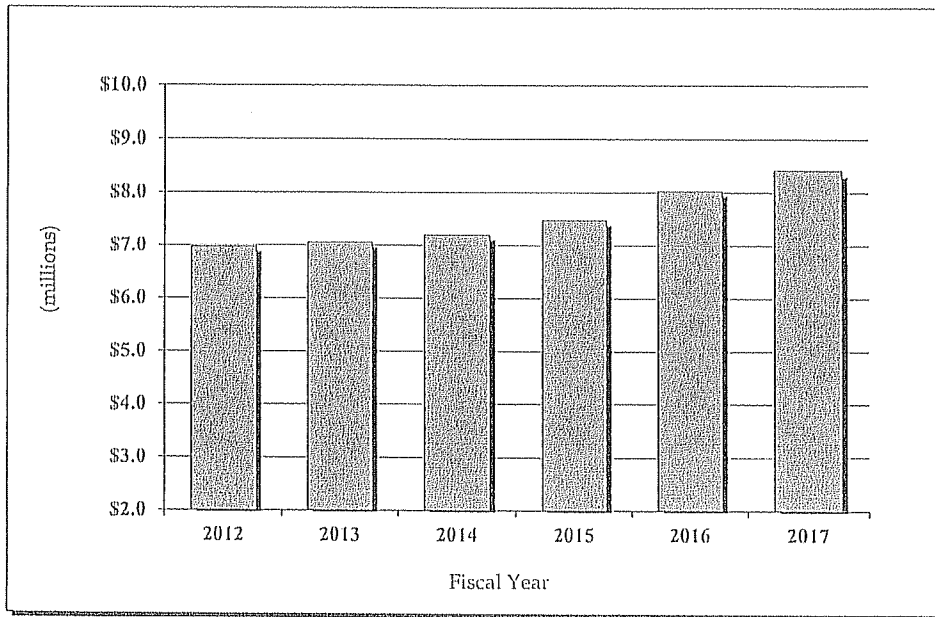
On behalf of Swisher International, I thank you for consideration of our comments regarding proposals to increase taxes on Other Tobacco Products.

WBD

Attachment: OTP Tax Charts from Kansas Department of Revenue 2017 Annual Report

Tobacco Products Tax to State General Fund after Refunds

The tobacco products tax was reenacted in 1972. The tax rate is 10% on the wholesale price of tobacco products.

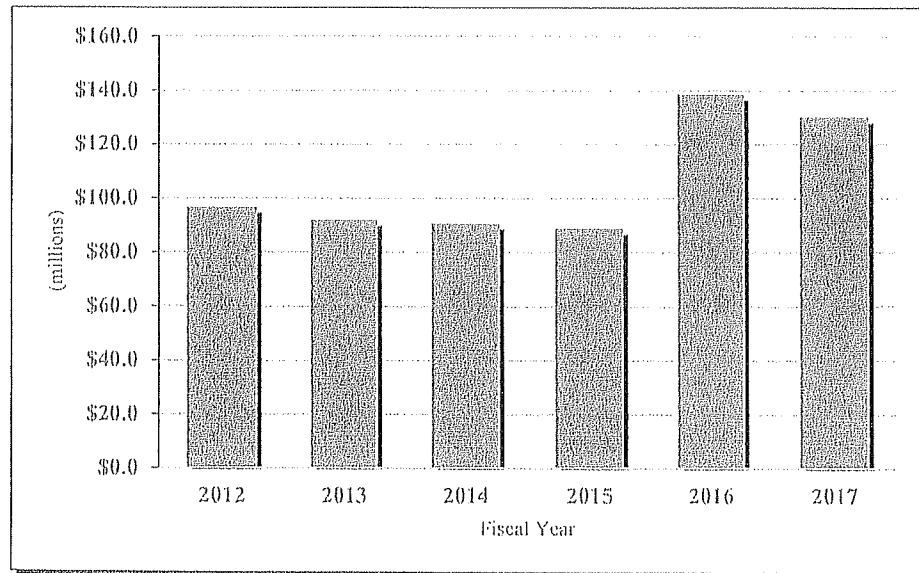


<u>Fiscal Year</u>	<u>Amount Collected</u>	<u>Percent Change</u>
2012	\$6,978,181	6.2%
2013	\$7,056,779	1.1%
2014	\$7,201,144	2.0%
2015	\$7,481,708	3.9%
2016	\$8,040,450	7.5%
2017	\$8,424,853	4.8%

Cigarette Tax Collections to State General Fund after Refunds

The cigarette tax was enacted in 1927 and is paid upon the purchase of tax stamps. The tax has had multiple rate changes since enactment. The most recent increase was effective in Fiscal Year 2016. The tax rate increased from 79¢ to \$1.29 per pack of 20; and from 99¢ to \$1.61 per pack of 25.

In 2015, the Legislature imposed a tax of \$0.20 per milliliter of consumable material for electronic cigarettes effective July 1, 2016. The 2016 Legislature delayed the effective date to January 1, 2017. During the 2017 legislative session, the Legislature changed the effective date of the tax to July 1, 2017 and reduced the tax rate to \$0.05. During Fiscal Year 2017, \$194,093 was collected in electronic cigarette tax.



<u>Fiscal Year</u>	<u>Cigarette Amount Collected</u>	<u>Percent Change</u>
2012	\$96,661,472	0.8%
2013	\$91,928,001	-4.9%
2014	\$90,611,583	-1.4%
2015	\$88,820,830	-2.0%
2016	\$138,511,828	55.9%
2017	\$130,078,744	-6.1%