

tobacconomics

Economic Research Informing Tobacco Control Policy

50-State Law Approaches to Reducing Cigarette Tax Avoidance and Taxing OTP's, 2005-2014

Camille K. Gourdet, J.D., M.A.* , Hillary R. DeLong, J.D., Colin Goodman, Jamie F. Chriqui, Ph.D., M.H.S., Frank J. Chaloupka, Ph.D.
Feb 26, 2015

@tobacconomics

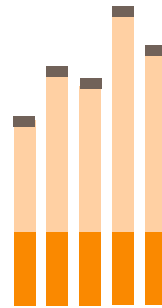
UIC INSTITUTE FOR HEALTH
UNIVERSITY OF ILLINOIS
AT CHICAGO RESEARCH AND POLICY

Presentation Overview

- Research questions
- Background to motivate the research
- Study methods
- Findings from the study
- Implications for state and community tobacco control

Research Questions

- 1) CIGARETTES: How have states minimized tax avoidance through:
 - (1) encrypted cig stamps
 - (2) distinctive tribal stamps
 - (3) border tax rates
- 2) OTPs: What tax rates and federal law changes have occurred between 2005-2014?



BACKGROUND

Research Problem

Tax Avoidance and Evasion (Cigarettes):

- 1) causes states to lose money every year
- 2) undermines public health objective of deterrence through higher taxes.¹

Taxation not keeping pace with consumption (OTPs):

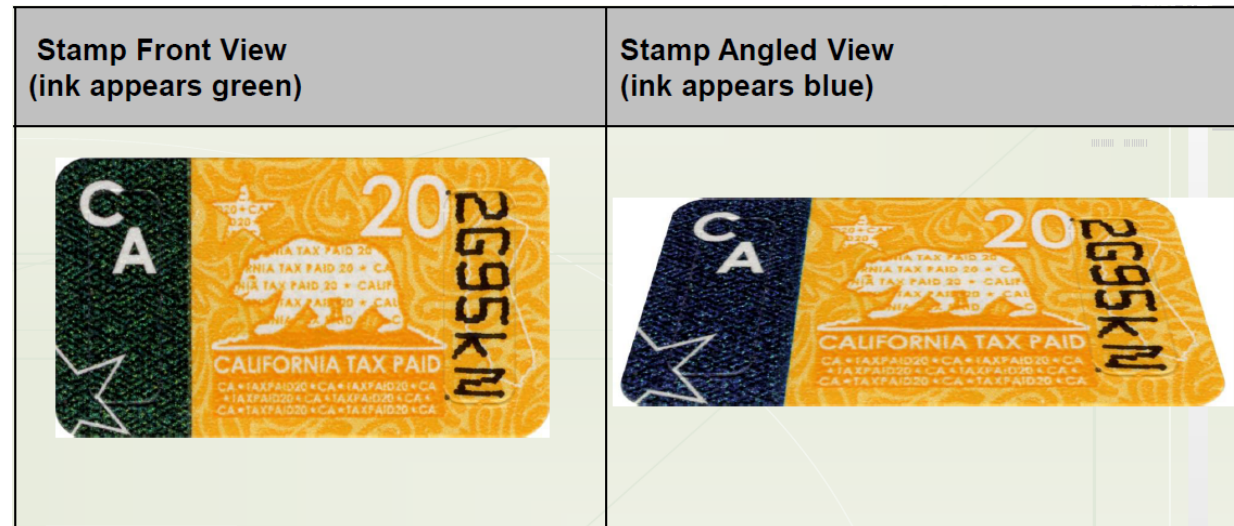
- 1) Most OTPs are taxed at far lower rates than cigarettes
- 2) OTP consumption steadily risen, while cigarette smoking rates declining.²

[1] Chaloupka, F. J., Straif, K., & Leon, M. E. (2010). Effectiveness of tax and price policies in tobacco control. *Tobacco Control*; Chaloupka, F. J., Yurekli, A., & Fong, G. T. (2012). Tobacco taxes as a tobacco control strategy. *Tobacco Control*, 21(2), 172-180.

[2] (King, Brian A., Shanta R. Dube, and Michael A. Tynan. "Flavored cigar smoking among US adults: findings from the 2009–2010 National Adult Tobacco Survey." *Nicotine & Tobacco Research* 15.2 (2013): 608-614., page 5)

Curtailing Tax Evasion through Encrypted Cigarette Stamps

- Stamps are main enforcement mechanism in 48/51 states
- How encrypted stamps help stop tax avoidance
 - Multiple layers of authentication (i.e. not counterfeit) and verification (i.e. where came from)
 - Allow state enforcement to immediately identify counterfeit stamps



New Federal Laws: Lower taxes on Pipe + Large Cigars

2009
Tobacco
Control Act

2010
PACT Act

2014 FDA
“Deeming
Rule”

FEDERAL TAX RATES:

- Little/small Cigars **taxed the same** as cigarettes
- Chewing Tobacco < Snuff
- Pipe < RYOT

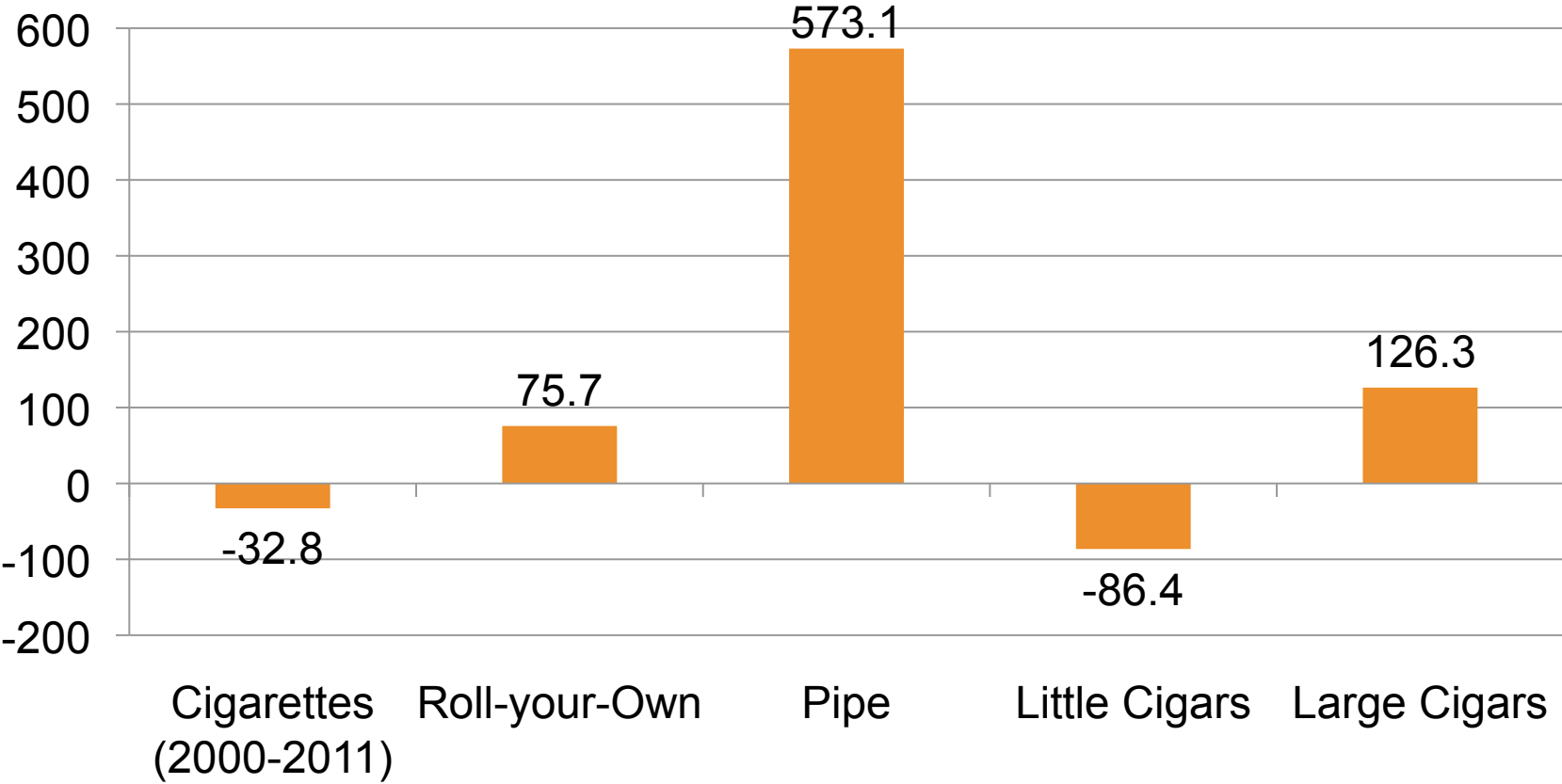
Closed tax loophole on online, mail-order sales:

- **All taxes** must be paid
- Reporting, delivery requirements on sellers of cigs, (RYOT), smokeless (snus, snuff)

E-cigarettes

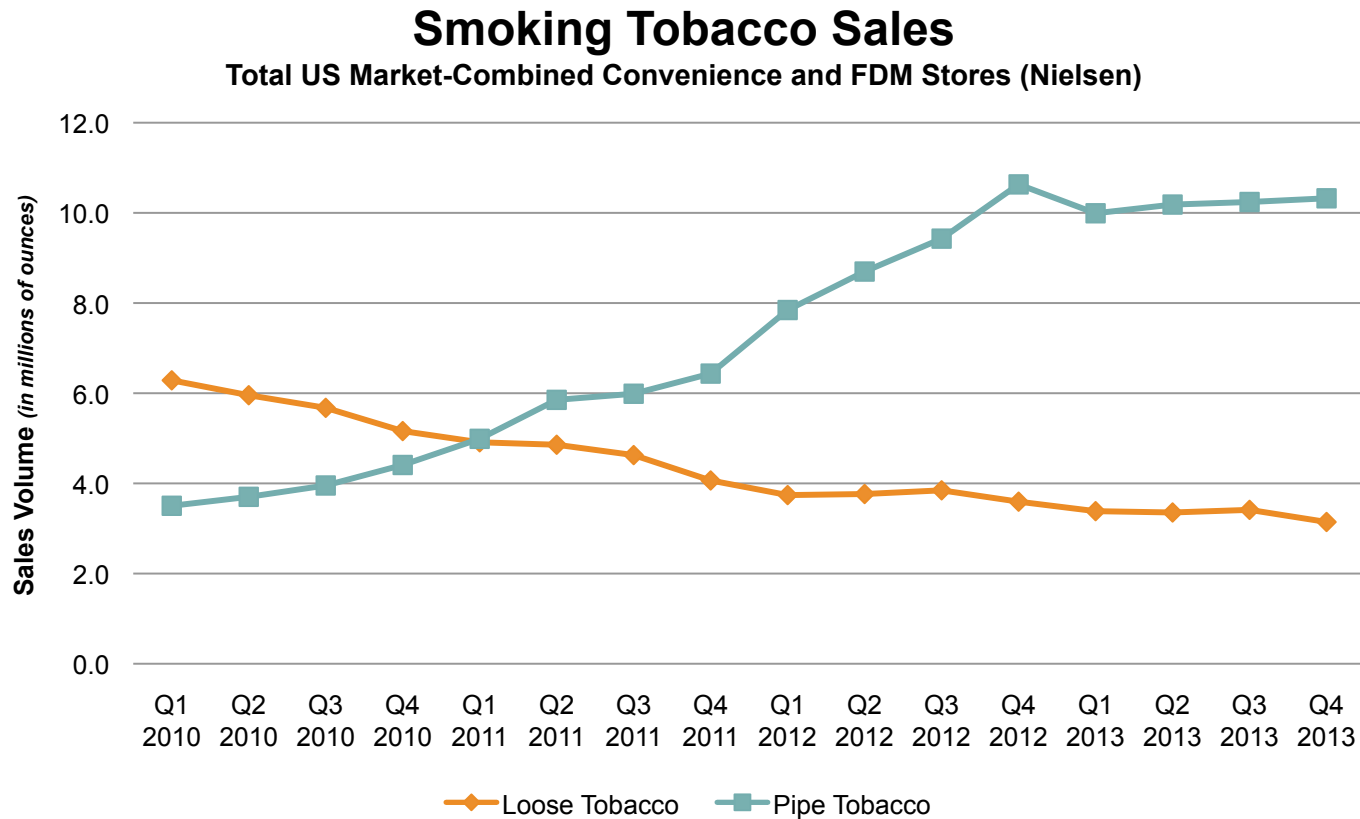
- Could regulate ingredients, age restrictions, etc. same as cigs

Percentages of Change in Cigarette, OTP Consumption, 2008-2011



SOURCE: Centers for Disease Control and Prevention (CDC). "Consumption of cigarettes and combustible tobacco--United States, 2000-2011." *MMWR. Morbidity and mortality weekly report* 61.30 (2012): 565.

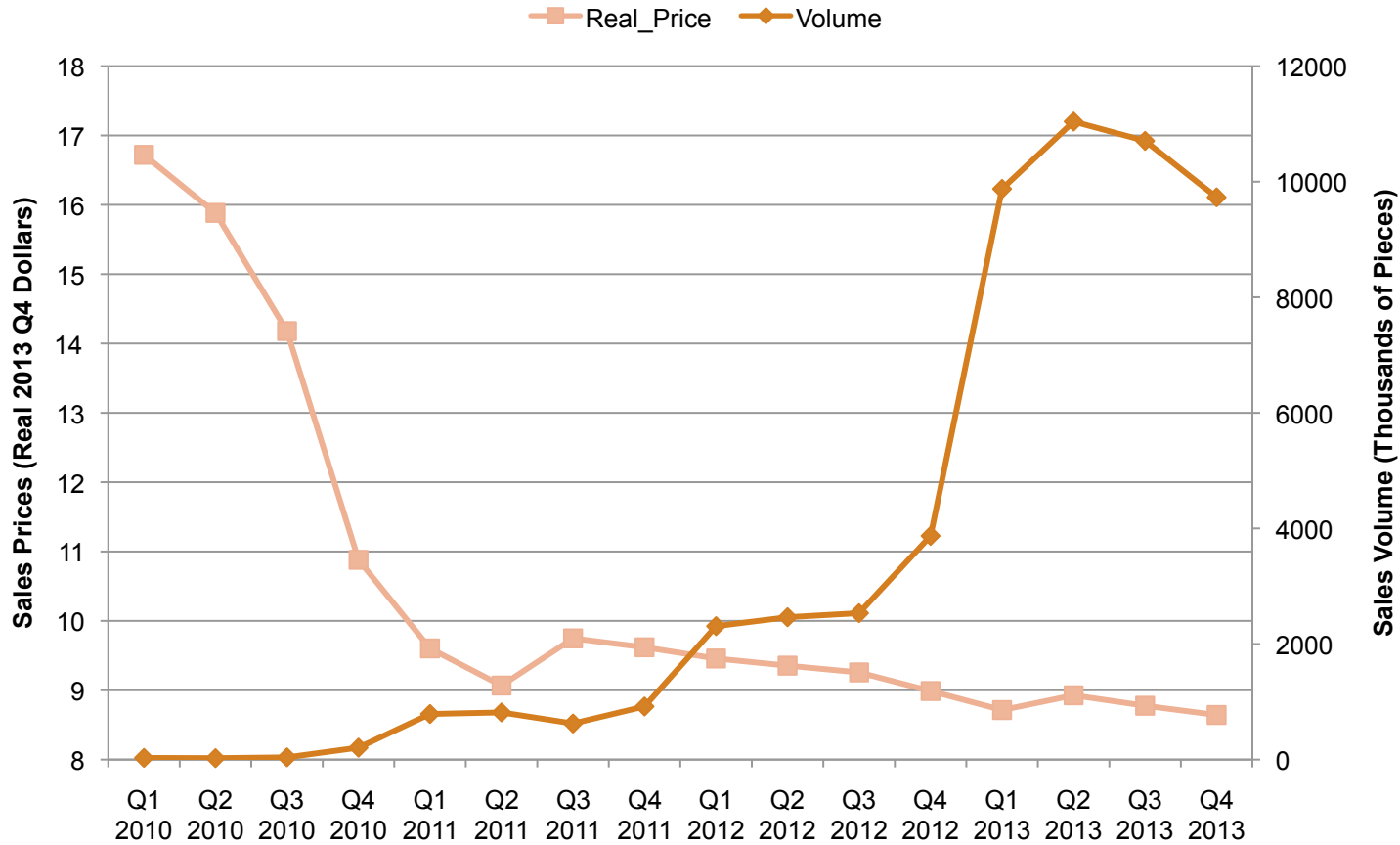
Loose Tobacco vs. Pipe Tobacco, 2010-2013



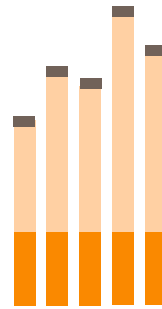
SOURCE: Jidong Huang, Frank Chaloupka. "Prices and Sales of Tobacco Products from Commercial Scanner Data: 2010-2013"

Disposable E-cigarette Sales, 2010-2013

Disposable Electronic Cigarettes Volume and Price (US Market) Nielsen



SOURCE: Jidong Huang, Frank Chaloupka. "Prices and Sales of Tobacco Products from Commercial Scanner Data: 2010-2013"

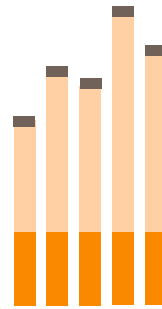


METHODS

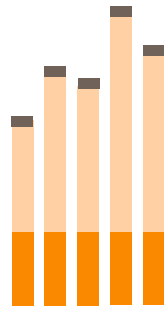
Methods

- Original legal research (Lexis + Westlaw Next)
- Boolean searches of the statutes, regulations, relevant agency opinions and (where appropriate) case law
- All 50 states and Washington, D.C.
- Laws in effect: Jan. 1, 2005 – Jan. 1, 2014
- All laws double-coded one year to refine coding protocol
- Inclusion criteria (cigs): explicitly states ‘encrypted,’ ‘digital’ stamps
- Inclusion criteria (OTPs): definitions
- Exclusion criteria: state Constitutions, sales tax laws, enabling laws, online delivery sales laws, MSA laws
- Secondary source verifications: CDC STATE System, NCI SCLD System, CTFK, NCSL, published articles, state department of revenue/taxation websites, etc.

-
- ## •Cigars **Methods: Types of OTPs**
- Cigarillos
 - Little cigars
 - Pipe
 - RYOT
 - Dry snuff
 - Moist snuff
 - Snus
 - Smokeless
 - Dissolvables
 - E-cigarettes



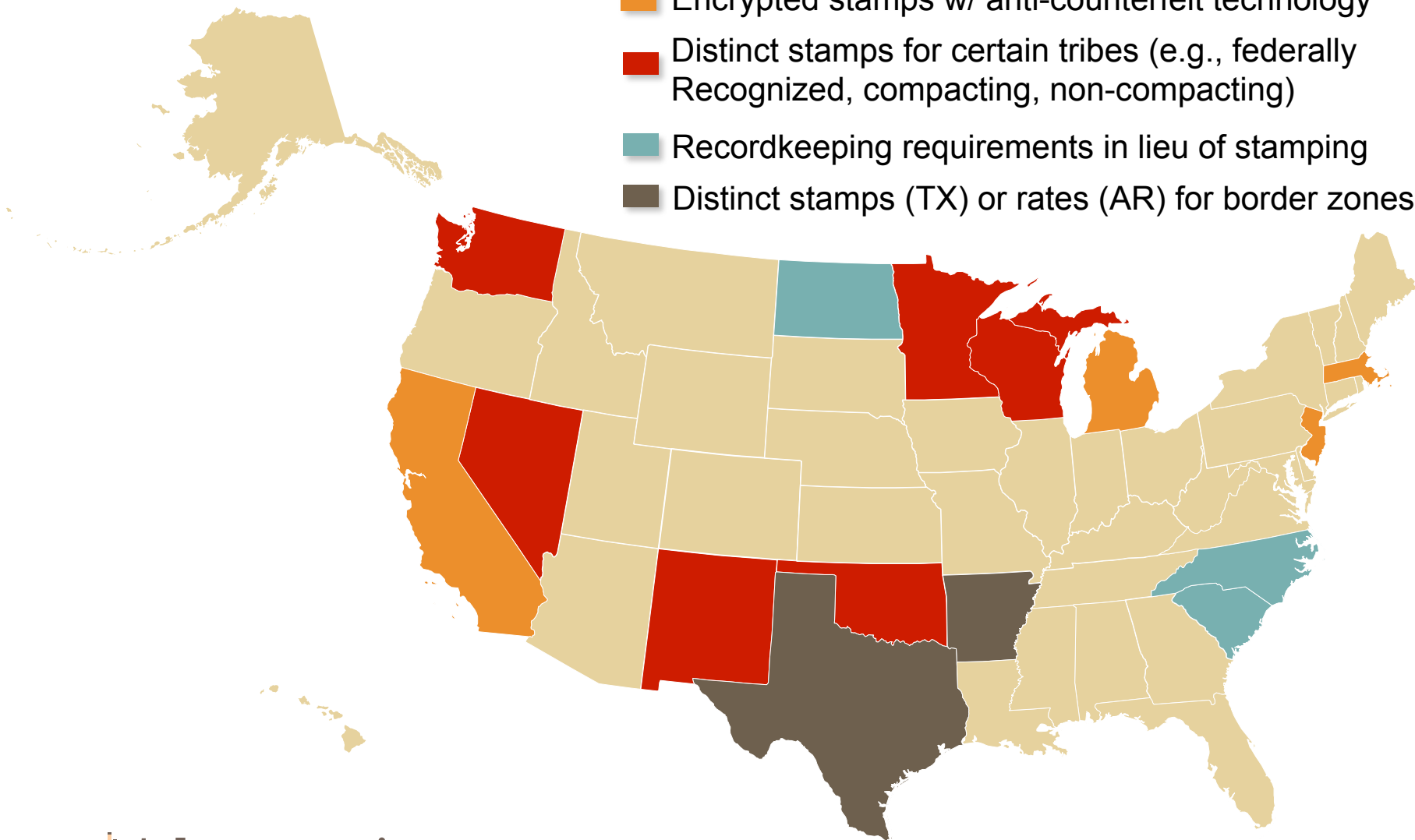
RESULTS



Cigarette Stamping/ Recordkeeping Results

Cigarette Stamping/Recordkeeping Laws (as of 1/1/14)

- Encrypted stamps w/ anti-counterfeit technology
- Distinct stamps for certain tribes (e.g., federally Recognized, compacting, non-compacting)
- Recordkeeping requirements in lieu of stamping
- Distinct stamps (TX) or rates (AR) for border zones



Encrypted Stamp Laws

•California

- GOAL—stop estimated \$280 billion annual losses)
- Law 1st eff. Jan. 1, 2005 (30162)

•Massachusetts

- GOAL—stop/slow counterfeit stamps, easier authentication process, only MSA-approved cigs stamped
- Law 1st eff. July 1, 2011 (64C, 30)

•Michigan

- GOAL—fight tax evasion
- Law 1st eff. June 20, 2012 (205.425a)

•**New Jersey

- Law 1st eff. Oct. 31, 2008 (54:40A-11)
- NOT implemented