

At a Glance

H.R. 4742, Protecting American Lungs Act of 2019

As ordered reported by the House Committee on Ways and Means on October 23, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	438	4,935	9,882
Increase or Decrease (-) in the Deficit	-438	-4,935	-9,882
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Over Threshold

The bill would

- Impose a new excise tax on nicotine used in vaping and for other purposes, which has been extracted, concentrated, or synthesized, at a rate of \$50.33 per 1,810 milligrams of nicotine
- Make applicable to newly taxable nicotine the same provisions that apply to tobacco products, including packaging requirements; provisions relating to purchase, receipt, possession, or sale; and provisions relating to civil and criminal penalties
- Subject manufacturers of newly taxable nicotine to the same occupational tax and other requirements that currently apply to manufacturers of tobacco products

Estimated budgetary effects would primarily stem from

- The imposition of the new excise tax on nicotine

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) will be the official estimates for all tax legislation considered by Congress. As such, CBO incorporates those estimates into its cost estimates of the effects of legislation. All of the estimates for the provisions of H.R. 4742 were provided by JCT.

Detailed estimate begins on the next page.

Bill Summary

H.R. 4742 would impose a new excise tax on nicotine used in vaping and for other purposes, which has been extracted, concentrated, or synthesized at a rate of the greater of the dollar amount specified for small cigarettes in 26 U.S.C. 5701(b)(1) or \$50.33 per 1,810 milligrams of nicotine. The new tax would not apply in cases where the manufacturer or importer demonstrates that such nicotine will be used in a product approved by the Food and Drug Administration for sale as a nicotine replacement therapy. The new tax would generally not apply to products already subject to the existing excise tax on tobacco.

H.R. 4742 would also extend existing provisions that apply to tobacco products to taxable nicotine. Those provisions include rules relating to the packaging, purchase, receipt, possession, or sale of tobacco, and provisions relating to civil and criminal penalties. The bill would also subject manufacturers of taxable nicotine to the same occupational tax and other requirements that currently apply to manufacturers of tobacco products.

Estimated Federal Cost

The estimated budgetary effect of H.R. 4742 is shown in Table 1.

Table 1. Estimated Budgetary Effects of H.R. 4742												
	By Fiscal Year, Millions of Dollars										2020- 2024	2020- 2029
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029		
	Increases in Revenues											
Estimated Revenues	438	1,189	1,150	1,101	1,058	1,041	1,006	981	967	953	4,935	9,882
	Net Decrease (-) in the Deficit From Changes in Revenues											
Effect on the Deficit	-438	-1,189	-1,150	-1,101	-1,058	-1,041	-1,006	-981	-967	-953	-4,935	-9,882

Sources: Staff of the Joint Committee on Taxation.
Components may not sum to totals because of rounding.

Basis of Estimate

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) are the official estimates for all tax legislation considered by the Congress. CBO therefore incorporates those estimates into its cost estimates of the effects of legislation. All of the estimates for the provisions of H.R. 4742 were provided by JCT.¹

1. For JCT’s estimates of the provisions, which include detail beyond the summary presented below, see Joint Committee on Taxation, Description of H.R. 4742, To amend the Internal Revenue Code of 1986 to impose a tax on nicotine used in vaping, etc., JCX-44-19 (October 21, 2019) <https://go.usa.gov/xpxm5>

Revenues

JCT estimates that enacting H.R. 4742 would increase revenues by \$9.9 billion over the 2020-2029 period.

Uncertainty

These budgetary estimates are uncertain because they rely on underlying projections and other estimates that are uncertain. Specifically, they are based in part on CBO's economic projections for the next decade under current law, and on estimates of changes in taxpayers' behavior in response to changes in tax rules.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown above in Table 1.

Increase in Long-Term Deficits: None.

Mandates

JCT has determined that H.R. 4742 would impose no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

JCT has determined that H.R. 4742 would impose private-sector mandates as defined in UMRA by imposing an excise tax on the manufacture or importation of certain nicotine products and by subjecting the manufacturer or importer of such taxable products to the special occupational tax applicable to the manufacturers of tobacco products. JCT estimates that the aggregate direct cost of the mandates would exceed the annual private-sector threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

Previous CBO Estimate

This estimate supersedes the cost estimate for H.R. 4742 that CBO transmitted on October 31, 2019. This estimate includes a private-sector mandate statement that was missing from the previous estimate, but is otherwise unchanged.



Estimate Prepared By

Revenues: Staff of the Joint Committee on Taxation and Bayard Meiser

Mandates: Staff of the Joint Committee on Taxation

Estimate Reviewed By

Joshua Shakin

Chief, Revenue Estimating Unit

Joseph Rosenberg

Deputy Assistant Director for Tax Analysis

John McClelland

Assistant Director for Tax Analysis