



March 7, 2017

VIA ELECTRONIC MAIL

Hon. Phil Barnhart
Representative, Eleventh House District
Chairman, House Committee on Revenue
State of Oregon

Re: In opposition to HB 2037 and efforts to impose a wholesale tax on vapor products

Honorable Chairman:

Logic Technology Development, LLC, headquartered in Princeton, New Jersey, is the third largest supplier of vapor products (also known as “electronic cigarettes”) in the USA.

On behalf of our employees, customers, and consumers, I am writing to urge you to reconsider your proposal, HB 2037, which seeks to levy taxation on vapor products, conventionally known as electronic cigarettes or “e-cigarettes”.

We believe that imposing taxation at this juncture on vapor products and/or the e-liquids they utilize would be premature and damaging to an industry that remains in its early stages of development. Alongside the costly and burdensome regulatory requirements set out by the US Food and Drug Administration in May 2016, the impact of a nearly 82 percent wholesale tax will be crippling to the industry in your state and the jobs and economic activity it supports.

Furthermore, data show over and over again that the imposition of high levels of taxation punishes traditional, brick-and-mortar small businesses, whilst creating an incentive for increased unregulated sales, via the black market or internet, to meet the demand that already exists for vapor products and electronic cigarettes.

In light of these realities, we recognize the State’s interest and right to derive revenue via taxation and, if this is a path that must be followed in relation to vapor products, we would advocate for a moderate level of taxation that would also help to limit incentives for tax evasion and avoidance, which undermine tax revenues and broader legislative policy objectives.

Although we remain opposed to the imposition of taxation on our products, we would propose that Oregon pursue a course that will ensure a fairer and more effective and efficient tax policy. To achieve this, we believe it to be essential to define an optimal tax base, excise tax structure and rate.

For these three areas, we would propose the following:

- **Tax base:** a milliliter of nicotine-containing liquid should be defined as the tax base, as the criteria for taxation should rely on consumption.
- **Tax structure:** a purely specific excise tax structure, set as a fixed amount per milliliter of nicotine-containing liquid to ensure efficient tax administration.

Tax level: should be modest and determined in such a way to ensure the optimization of tax revenues on a long-term basis. Since vapor products are vastly different from conventional

tobacco products (as they are not combusted), they should not be associated with conventional tobacco products for taxation purposes.

Whereas taxing the consumable material provides a fixed, predictable level of tax that is easily administered and tracked, irrespective of the device type or delivery mechanism, tying the level of tax to the price of the products (as in HB 2037) incentivizes a “race to the bottom” by advantaging cheaper, lower quality products and the potential for increased risk to consumer safety and lessened product quality. Wholesale taxes are additionally complicated to administer by the wide variety of devices, batteries and systems in the marketplace.

As the science emerges and begins to be understood around electronic cigarettes, it is essential that any tax policy appropriately reflects that vapor products are fundamentally different to conventional cigarettes and existing tobacco products, and be taxed distinctly and according to those differences.

In conclusion, Logic is proud to be a regulatory and compliance-led organization. As a responsible company, we fully support science and evidence-based regulation. We operate self-imposed marketing restrictions, voluntarily place health warnings on our products and marketing materials and operate a stringent age-verification system for any online sales through our website. To reinforce our position against youth access to electronic cigarettes, Logic sponsors the *We Card* Program and serves on its Manufacturers Advisory Council. Logic supports and promotes *We Card*'s ongoing efforts to raise awareness of responsible retailing and age verification requirements and to educate and train retail employees to identify and prevent underage attempts to purchase age-restricted products.

As the regulatory burden continues to grow on responsible suppliers such as Logic, less scrupulous operators that are not concerned by regulatory obligations, youth access, product quality or consumer protection, continue to exploit an unregulated cyber environment, avoiding all regulation and taxation compliance requirements. Anything other than a moderate excise approach would exacerbate this growing concern by pushing consumers toward internet purchases.

We look forward to continued participation in this debate and would ask that the points we raise be taken into full consideration. We remain at your disposal to meet with you or your staff, or to provide further information at any stage.

Yours respectfully,

Anthony Hemsley

Vice President Corporate Affairs & Communication

cc: Members of the House Committee on Revenue