



*September 5, 2025*

## **Federal Court Rules Against FDA's Graphic Health Warnings Rule**

A federal judge struck down the U.S. Food and Drug Administration's (FDA's) rule requiring graphic health warnings on cigarette packs and advertisements in a case siding with Philip Morris USA and the Georgia Association of Convenience Stores. In the ruling, the court found that the FDA failed to disclose all raw data used in developing the rule. As a result, the rule was vacated, citing a violation of the Administrative Procedures Act ("APA").

This is the second court ruling this year against the FDA on the graphic health warnings rule. In January, the United States District Court for the Eastern District of Texas issued an order granting interim relief in the case of R.J. Reynolds Tobacco Co. v. U.S. Food & Drug Administration regarding the graphic health warnings rule on cigarettes. In this case, the Court preliminarily decided that there existed a substantial likelihood of success for certain of the plaintiffs' claims. As a result, the court granted interim relief on the APA claims and postponed the effective date of the rule for "plaintiffs and all others whom it governs" until the court enters its final judgment. Note that this order does not reflect a decision on the merits by the court, and so a future final judgment may ultimately leave the final rule in place.

We anticipate that this decision will be appealed by the FDA. NATO will continue to monitor developments from the court and FDA on this subject and provide updates accordingly.

### **State Legislative Sessions**

All 50 states are holding state legislative sessions in 2025. The following 9 states are currently in session:

- CA, MA, MI, MO (special session), NJ, NC, OH, PA, WI

41 states have adjourned their 2025 legislative session:

- AL, AK, AR, AZ, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MN, MT, NE, NH, NY, ND, MS, MO, NV, NM, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV & WY

## **Tobacco and Nicotine Excise Tax Changes**

Below are the tobacco and nicotine product excise tax changes that were previously enacted and scheduled to take effect:

**Rhode Island:** October 1, 2025 - expands the definition of “other tobacco products,” to includes nicotine pouches and taxes those products at the current OTP rate of 80% of the wholesale cost.

**Hawaii:** January 1, 2026 - Cigarette and little cigar tax from \$3.20 to \$3.60 per pack.

**Nebraska:** January 1, 2026 - Implements a tax on alternative nicotine products (nicotine pouches) at 20% of the retail price.

**Oregon:** January 1, 2026 - Implements a nicotine pouch tax - for packages with 20 consumable units or less, an excise tax of 65-cents per can and for packages with more than 20 consumable units, a new tax of 3.25-cents per consumable unit would be imposed.

**Washington:** January 1, 2026 - imposes the current 95% tax on tobacco products to products that contain nicotine, whether derived from tobacco or synthetically (nicotine pouches).

**Maine:** January 5, 2026 - Cigarette tax from \$2.00 to \$3.50 per pack, the smokeless tobacco (moist snuff and chewing tobacco) tax from \$2.02/oz. to \$3.54/oz. and vapor products/nicotine pouches tax from 43% to 75% of the wholesale price. The bill reduces the cigarette stamp discount rate from 1.11% to .66%.