



# **TOBACCO UNIFORMITY**

FEDERATION OF TAX ADMINISTRATORS

## **Tobacco Tax**

## **Information**

**By**

**State**

**Updated August 2019**

# **DISCLAIMER**

**The information in this publication was obtained throughout 2017-2019 and may have changed by the time of print.**

**DO NOT rely on this publication as the current laws of the states. The information contained herein is for general information purposes only.**

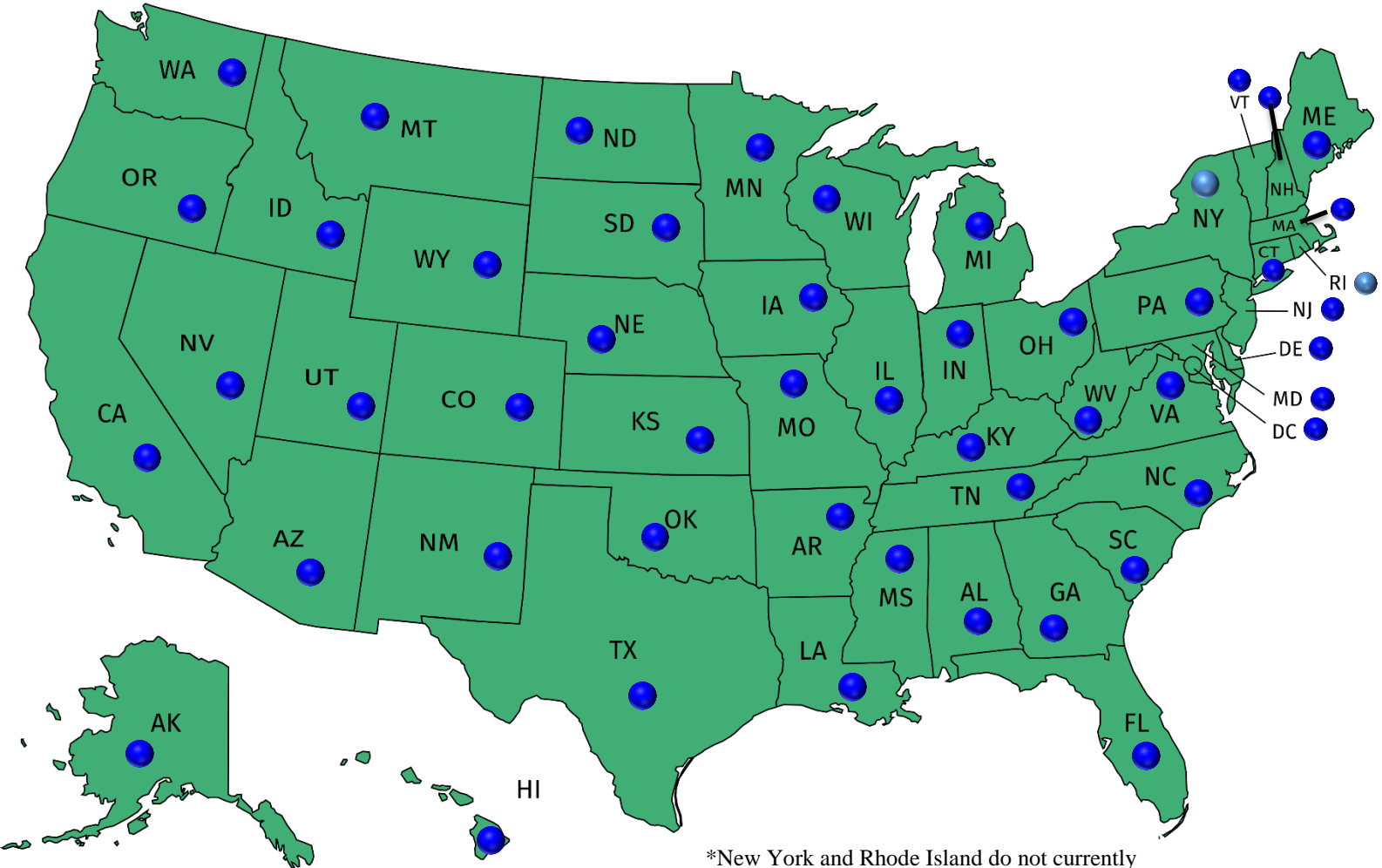
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**This document has been compiled by  
the Federation of Tax Administrators  
Tobacco Tax Section Communication  
and Legislation Subcommittee.**

**Should you have any questions, please  
contact the subcommittee chairs.**

# Tobacco Directory by State



\*New York and Rhode Island do not currently have a website for tobacco information.

Please reference the following website for rate maps:

<http://www.natocentral.org/tobacco-tax-maps>

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**STATE OF ALABAMA**  
(Last updated 05/2019)

**General Information**

**Section 1 - Contact Information**

**Agency:** Department of Revenue

**Mailing Address:** P.O. Box 327555

**City, State, Zip Code:** Montgomery, AL 36132-7555

**Phone Number:** (334) 242-9627

**Fax Number:** (334) 353-1011

**E-mail Address:** [Tobacco.account@revenue.alabama.gov](mailto:Tobacco.account@revenue.alabama.gov)

**Website:** <http://www.revenue.alabama.gov>

**Section 2 - Statutes, Regulations and Rules**

**Tobacco Tax:** Found in Title 40, Chapter 25, Code of Alabama 1975

**Laws:** <http://revenue.alabama.gov/tobaccotax/law/index.cfm>

**Rules:** <http://revenue.alabama.gov/licenses/rules.cfm>

**Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

**Per Section 40-25-1 & 40-25-2**

**(1) LITTLE CIGARS.** Upon cigars of all descriptions, including filtered cigars, made of tobacco, or any substitute therefor, and weighing not more than three pounds per 1,000, \$.04 for each ten cigars, or fractional part thereof.

**(2) FILTERED CIGARS.** Upon filtered cigars that have a cellulose acetate or similar integrated filter, made of tobacco, or any substitute therefor, and weighing more than three pounds per 1,000, \$0.015 for each filtered cigar.

**(3) CHERROOTS, STOGIES, CIGARS, ETC.** Upon all other cigars of any descriptions made of tobacco, or any substitute therefor, \$40.50 per thousand cigars, or \$0.0405 each.

**(4) CIGARETTES.** Upon all cigarettes made of tobacco, or any substitute therefor, 33.75 mills on each such cigarette.

**(5) SMOKING TOBACCO.** Upon all smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, upon each package: Weighing not more than one and one-eighth ounces, tax \$.04; over one and one-eighth ounces, not exceeding two ounces, tax \$.10; over two ounces, not exceeding three ounces, tax \$.16; over three ounces, not exceeding four ounces, tax \$.21; \$.06 additional tax for each ounce or fractional part thereof over four ounces.

**(6) CHEWING TOBACCO.** Upon all chewing tobacco prepared in such manner as to be suitable for chewing only and not suitable for smoking as described and taxed in subdivision (9) of this subsection: \$.015 per ounce or fractional part thereof.

**(7) SNUFF.** Upon each can or package of snuff weighing not more than five-eighths ounces, one cent tax; over five-eighths ounces and not exceeding one and five-eighths ounces, \$.02 tax; over one and five-eighths ounces and not exceeding two and one-half ounces, \$.04 tax; over two and one-half ounces and not exceeding five ounces (cans, packages, gullets), \$.06 tax; over three ounces and not exceeding five ounces (glasses, tumblers, bottles), seven cents tax; over five ounces and not exceeding six ounces, \$.08 tax; weighing over six ounces, an additional \$.12 for each ounce or fractional part thereof.

**(8) CIGAR WRAP.** An individual tobacco wrapper that is made wholly or in part from tobacco, including reconstituted tobacco, whether in the form of tobacco leaf, sheet, or tube, if the wrap is designed to be offered to or purchased by a consumer. There is hereby levied a tax upon all cigar wrappers manufactured using tobacco sold at wholesale in this state or imported into this state for use, consumption, or sale at retail. The tax shall be levied upon each package in the following amounts: Weighing not more than one and one-eighth ounces, four cents (\$.04); over one and one-eighth ounces, not exceeding two ounces, ten cents (\$.10); over two ounces, not exceeding three ounces, sixteen cents (\$.16); over three ounces, not exceeding four ounces, twenty-one cents (\$.21); and six cents (\$.06) additional tax for each ounce or fractional part thereof over four ounces.

#### **Section 4 - The Basis for the Tax**

Please see Section 3 for the tax basis.

#### **Section 5 - Tax Rates and Miscellaneous Fees**

Please see Section 3 for tax rates and fees.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Alabama currently does not have a tax on e-Cigarettes or vapor products.



## **Section 6 - Rate Updates**

No rate updates at this time. Any rate change would require a Legislative Act.

## **Section 7 - State Collection Allowance or Discount**

The Department of Revenue is hereby authorized and directed to have prepared and distributed stamps suitable for denoting the tax on all articles enumerated herein. Any person, firm, corporation, or association of persons, other than the Department of Revenue, who sells tobacco tax stamps not affixed to tobacco sold and delivered by them, whether the stamps be genuine or counterfeit, shall be guilty of a felony and punishable as set out in Section 40-25-6. When wholesalers or jobbers have qualified as such with the Department of Revenue, as provided in Section 40-25-16, and desire to purchase stamps as prescribed herein for use on taxable tobaccos sold and delivered by them, the Department of Revenue shall allow on such sales of tobacco tax stamps a discount of 4.75 percent on the entire amount of the sale.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

For cigarettes, when the stamp is applied.

For OTP, when the product is brought into the state.

## **Section 10 - Tax Return Due Dates**

Tax returns are due on the 20<sup>th</sup> of the month for the previous month's activity. If due date falls on a holiday or weekend the tax return is due the following business day.

## **Section 11 – Tax Return Filings**

Returns must be filed electronically through our portal My Alabama Taxes (MAT).

## **Section 12 – Tax Collection**

All payments for \$750 or more in a given month obligate the taxpayer to remit taxes by Electronic Funds Transfer (EFT), i.e., MATS. Payments must be initiated prior to 4 pm CDT to be considered timely.

## **Section 13 - Penalties for Late Filing**

Per Section 40-2A-11, failure to timely file return: if a taxpayer fails to file any return required to be filed with the department on or before the date prescribed therefor, determined with regard to any extension of time for filing, there shall be assessed as a penalty the greater of 10 percent of any additional tax required to be paid with the return or fifty dollars (\$50).

Per Section 40-2A-11, failure to timely pay: 10 percent of the unpaid amount shown as tax due on the return or the amount stated in the notice and demand.

## **Section 14 – Local Jurisdictional Tax**

Local jurisdictions also impose a tax.

## **Section 15 - Floor Stock Tax**

A floor stock tax is imposed when there is a change in tax rate.

## **Section 16 – Qualifying Exemptions**

See Section 40-25-15.

- (a) A wholesaler or jobber, as defined in Section 40-25-1 and who is duly qualified as such wholesaler or jobber under Section 40-25-16, may sell tobacco products enumerated herein without the Alabama Revenue Stamps affixed thereto; provided, that: Such products are sold and shipped or delivered in interstate commerce to a person outside of this state, and such wholesaler or jobber shall have on file, for a period of three years, subject to inspection by the department, a record of such sale, and also the original purchase order, and a copy of the invoice therefor, and a receipt from a common carrier, contract carrier or post office showing shipment for delivery in such other state, or, if delivered by such dealer to the purchaser at a point outside of the State of Alabama, a receipt showing such delivery in addition to the record, original purchase order and copy of the invoice relating to such sale.

- (b) Such duly qualified wholesaler or jobber may sell tobacco products enumerated herein without the Alabama Revenue Stamps affixed thereto; provided that:
- (1) Such products are sold to a person, who is engaged in business as a dealer in such products in another state,
  - (2) Such products are purchased exclusively for resale in such other state, and
  - (3) Such products are at the time of sale properly stamped by the Alabama wholesaler or jobber with revenue stamps authorized and issued by such other state for use upon such tobacco products, and such wholesaler or jobber shall have on file, for a period of three years, subject to inspection by the department, a record of such sale, the original purchase order and copy of invoice therefor, a receipt from such purchase showing that such purchase was made exclusively for resale in such other state, and a record showing the purchase and use of such revenue stamps of such other state.
- (c) Tobacco products enumerated herein may be sold by such duly qualified wholesalers or jobbers, without revenue stamps affixed thereto, when sold to the United States or to any instrumentality thereof for resale to or for use or consumption by members of the Armed Services of the United States; provided, that the books and records, including original purchase orders and copy of invoices showing such sales are kept on file for a period of three years, subject to inspection by the department.
- (d) Tobacco products enumerated herein may be sold by such duly qualified wholesalers or jobbers, without revenue stamps affixed thereto, when sold and delivered to ships regularly engaged in foreign commerce or coastwise shipping between points in this state and points outside of this state for resale to or for use or consumption upon such ship or in foreign commerce.

### **Section 17 - Laws or Rules for Tribal Sales**

All sales of tobacco products (cigarettes, snuff, chewing tobacco, smoking tobacco, R-Y-O, cigars, little cigars, filtered cigars and cigar wrappers) to a reservation tobacco vendor are taxable.

### **Section 18 - Information Required on a Customer Invoice**

Wholesaler invoices must show the State tobacco tax separately, per each line item, from the price of the tobacco products. Wholesaler invoices must be computer or machine generated and the seller's/supplier's name must be on the invoice. In addition, a Sale for Resale Report must be filed each month.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Department of Revenue  
Enforcement/Collection: Department of Revenue  
Product Seizure Authority: Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

See Act 2017-294 Wholesale to Retail Accountability Program

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The minimum age is 19. There are not any different county/city/local minimum ages for purchasing.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

Per Title 28, a minor can sell tobacco products provided they are an employee and there is someone at least 21 years of age present.

Section 28-11-13 (a) states that it is unlawful for any minor to purchase, use, possess, or transport tobacco, tobacco product, or alternative nicotine product within this state. It shall not be unlawful for a minor employee of a tobacco, tobacco product, or alternative nicotine product permit holder to handle, transport, or sell tobacco, tobacco product, or alternative tobacco product if the minor employee is acting within the line and scope of employment and the permit holder, or an employee of the permit holder who is 21 years of age or older, is present.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Per 28-11-13 (a), it is unlawful for any minor to purchase, use, possess, or transport tobacco, tobacco product, or alternative nicotine product within this state. Per Section 28-11-2(4), a minor is defined as any person under the age of 19 years.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

Tobacco Tax Information by State v. 07.22.19

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

For the state, no. It is undetermined if there are jurisdictional or local bans.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Section 40-25-16 requires tobacco wholesalers to become permitted with the Department of Revenue. Applications may be found at <http://revenue.alabama.gov/tobaccotax/ttforms.cfm>  
Section 40-25-19 requires persons transporting/distributing tobacco products to obtain a transporters permit. Applications may be found at <http://revenue.alabama.gov/tobaccotax/ttforms.cfm>

Per Section 40-12-72 & 40-12-73 retailers and wholesalers of tobacco products are required to obtain a business privilege license from the county probate office where the business is located. See license handbook at [http://revenue.alabama.gov/publications/business-taxes/licenses/Handbook\\_of\\_Privilege\\_&\\_Store\\_Licenses.pdf](http://revenue.alabama.gov/publications/business-taxes/licenses/Handbook_of_Privilege_&_Store_Licenses.pdf).

In addition, local taxes and/or license fees, county or municipal, may be imposed on the sale or use of cigarettes and shall be paid to the local government through the use of stamps affixed to the product.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Wholesale stamping permits are not required to be renewed. Transporters permits and Business privilege licenses are required to be renewed yearly. Please contact the local governments concerning their license renewal procedures.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Yes. The letter is required to state the manufacturer’s intent to sell tobacco products to the new applicant. The letter(s) must be directly mailed to our office from the manufacturer.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

The stamps are colored, serially numbered and either machine applied or heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

One is the roll number and the other is the stamp number on the roll.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No, Other Tobacco Products tax is paid through the return.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Alabama has a 25’s tax stamp and it is required on packs of 25’s.

### **Section 2 – Acquiring Stamps**

Stamps are purchased directly from the Department. The wholesaler may order the stamps via MAT, fax, or call in a stamp order to purchase stamps.

**How are stamps delivered to the wholesaler/distributor?**

Via FedEx and an account number must be provided.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

See Section 3 below. Payment is required at the time of purchase unless a bond is provided and then the stamps must be paid for by the 20th of the preceding month. Stamps on consignment cannot exceed the amount of the bond.

### **Section 3 - Bond Requirements**

Per Section 40-25-6, the Department of Revenue selling such stamps to such jobbers or wholesalers for cash, it may consign such stamps, if and when such wholesaler or jobber shall give to the Department of Revenue a good and sufficient bond executed by some surety company authorized to do business in this state, conditioned to secure the payment for the stamps so consigned when and as they are used on manufactured tobacco products by such wholesaler or jobber. Every wholesaler or jobber purchasing stamps on consignment as described herein, shall be required to make a full and complete accounting and remittance on or before the twentieth of each month for all stamps used on taxable tobaccos during the preceding month.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

No.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No.

### **Section 6 – Refund Limitations**

According to Section 40-2A-7(c)(2)(a), Code of Alabama 1975, the statute of limitations for filing a petition for refund is two years from the date of payment of the tax. Unused stamps can only be returned if the company is going out of business.

### **Section 7 – Credit Process for Manufacturer Returns**

Complete a wholesaler’s refund worksheet and petition for refund and mail to our office. Required documentation is listed on the refund worksheet

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

For other states stamped and unstamped cigarettes there is a credit line on the return. For Alabama Stamped cigarettes they file a refund petition with the affidavits from the manufacturer showing the returned cigarettes and how they were stamped. The manufacturer affidavits are required for the credits on the returns as well.

**Section 8 – Other Allowed Credits**

Credits are allowed on the OTP return for tax paid on product that was returned to the manufacturer.

**Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Wholesalers file a report which is verified monthly. No refund is given if product is over-stamped. If the discrepancy is the result of under-stamping it is handled via a field audit of the taxpayer's records.

**Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

**Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Little Cigars are reported on the OTP return. No stamp is required. See the rates in the rates section.



## **PACT Act Reporting**

The PACT Act amends and extends the Jenkins Act provisions governing delivery of each and every shipment of cigarettes or smokeless tobacco made during the previous calendar month in interstate commerce. According to the PACT Act, any person making shipments, advertising or offering cigarettes or smokeless tobacco for distribution into the State shall comply with the following requirements:

- First file/register with the State. (File with the Alabama Department of Revenue.)
- File monthly reports with the tobacco tax State administrator, locality or Indian country into which cigarettes and smokeless tobacco distributions are made. The report is due by the 10th of the month for the previous month's activity. For State of Alabama purposes, file the enclosed Monthly Jenkins Act Report (Form # TOB: JEN-ACT) with the Alabama Department of Revenue.
- Properly label the packaging. (See the Jenkins Act for the appropriate label.)
- Not exceed the weight restriction. (Delivery sellers shall not make a single sale or single delivery exceeding 10 pounds.)
- Use proper age verification. (For Alabama, a minor is defined as any person under the age of 19 years.)
- Maintain proper records.
- Ensure that excise taxes are paid, and that stamps are applied. (However, this requirement is currently enjoined for certain sellers.)
- Report is Emailed or mailed to our office.

**STATE OF ALASKA**  
(Last updated 02/2019)

**General Information**

**Section 1 - Contact Information**

**Tax Filing and Audit:**

**Contact Person:** Barry Grafel

**Agency:** Department of Revenue

**Mailing Address:** 550 W 7<sup>th</sup> Ave, Ste 500

**City, State, Zip Code:** Anchorage, Alaska 99501

**Phone Number:** (907) 269-3952

**Fax Number:** (907) 269-6644

**E-mail Address:** [barry.grafel@alaska.gov](mailto:barry.grafel@alaska.gov)

**Website:** <http://www.tax.alaska.gov/>

**MSA:**

**Contact Person:** Emily Walker

**Agency:** Department of Revenue

**Mailing Address:** 550 W 7<sup>th</sup> Ave, Ste 500

**City, State, Zip Code:** Anchorage, Alaska 99501

**Phone Number:** (907) 269-3979

**Fax Number:** (907) 269-5200

**E-mail Address:** [Emily.walker@alaska.gov](mailto:Emily.walker@alaska.gov)

**Website:** <http://www.tax.alaska.gov/>

**MSA:**

**Contact Person:** Cynthia Franklin

**Agency:** Alaska Department of Law

**Mailing Address:** 1031 W 4<sup>th</sup> Ave, Ste 200

**City, State, Zip Code:** Anchorage, Alaska 99501

**Phone Number:** (907) 269-3979

**Fax Number:** (907) 269-5200

## **Section 2 - Statutes, Regulations and Rules**

**Laws:** <http://tax.alaska.gov/programs/programs/index.aspx?60170>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

A cigarette is defined as a roll for smoking of any size or shape, made wholly or partly of tobacco whether the tobacco is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.

Other tobacco products include cigars, also known as cheroots or stogies, perique, snuff and snuff flour, smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed and any form of tobacco suitable for smoking in a pipe or cigarette, chewing tobacco, including Cavendish, twist, plug, scrap, and tobacco suitable for chewing, or articles or products made of tobacco or a tobacco substitute, but not including cigarettes as defined above.

## **Section 4 - The Basis for the Tax**

Wholesale price” means “(a) the established price for which a manufacturer sells a tobacco product to a distributor, after deduction of a discount or other reduction received by the distributor for quantity or cash if the manufacturer’s established price is adequately supported by bona fide arm’s length sales as determined by the department; (b) or the price, as determined by the department, for which tobacco products of comparable retail price are sold to distributors in the ordinary course of trade if the manufacturer’s established price does not meet the standards of (a) of this paragraph” (AS 43.50.390(5)).

## **Section 5 - Tax Rates and Miscellaneous Fees**

### **Cigarettes:**

Equivalent tax per standard pack of 20: \$2.00 (AS 43.50.90(a), AS 43.50.190(a) (3)).

### **Statutory rate:**

38 mills per cigarette (AS 43.50.90(a)) plus 62 mills per cigarette (AS 43.50.190(a) (3)) for a total of 100 mills per cigarette.

### **Tobacco Products:**

Seventy-five percent (75%) of the wholesale price of such products (AS 43.50.300).

### **Equity Assessment on Non-Participating Manufacturer (NPM) Cigarettes:**

Equivalent assessment per standard pack of 20: 25¢ (AS 43.50.200(a)).

### **Statutory rate:**

12.5 mills per cigarette (AS 43.50.200(a)).

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

## **Section 6 - Rate Updates**

None noted.

## **Section 7 - State Collection Allowance or Discount**

### **Cigarettes**

Licensees affixing excise tax stamps are allowed a discount, in a calendar year, of: (1) 3% for the first \$1,000,000 or less of stamps purchased; (2) 2% for purchases over \$1,000,000, but less than \$2,000,000; and (3) 0% on all purchases over \$2,000,000. The Department of Revenue may reduce or eliminate the discount given to a licensee if the licensee fails to meet the requirements of this section of the law (AS 43.50.540(c)).

### **Tobacco Products**

The licensee shall remit the tax due for the month covered by the return, after deducting four-tenths of one percent of the tax due, which the licensee shall retain to cover the expense of accounting and filing the return (AS 43.50.330(b)).

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

The tax is levied on the importation or acquisition of cigarettes in the State. The tax is levied regardless of whether or not the cigarettes are resold. Thus, cigarettes brought into the State for personal consumption are taxed (AS 43.50.090).

The tax on other tobacco products, excluding cigarettes, is levied when a person brings tobacco products into the State for resale, manufactures a tobacco product in the State for sale or ships tobacco products to a retailer in the State for sale by the retailer. Other tobacco products brought into the State for personal consumption are not subject to the tax (AS 43.50.300).

## **Section 10 - Tax Return Due Dates**

Tax returns are due on the 20<sup>th</sup> of the month for previous month's activity. It is considered timely if the postmark date is on time and it is late if the received date is late.

## **Section 11 – Tax Return Filings**

Electronic filing is required through the Tax Divisions online tax portal Revenue Online. Waivers from the on-line filing requirement are available.

## **Section 12 – Tax Collection**

If the Electronic payment is initiated before the due date the payment is timely. If the payment is made after the due date the payment is not effective until the payment is received or settled.

## **Section 13 - Penalties for Late Filing**

Returns not filed by the due date are subject to a failure to file penalty of 5% of the unpaid tax for each 30-day period or portion of a period the return is late, up to a maximum of 25%.

## **Section 14 – Local Jurisdictional Tax**

Yes.

## **Section 15 - Floor Stock Tax**

No.

## **Section 16 – Qualifying Exemptions**

### **Cigarettes:**

Cigarettes imported or acquired by a military exchange, commissary, or ship store are exempt from tax if the cigarettes are sold to and for the sole use of authorized personnel according to current military regulations (Alaska Administrative Code (15 AAC 50.100(a))).

Cigarettes imported or acquired by an Indian operating a cigarette business within an Indian reservation are exempt from tax if the cigarettes are sold to and for the sole use of Indians. Cigarettes imported or acquired by an Indian operating a cigarette business within an Indian reservation are not exempt from the tax under this chapter if sold to a non-Indian, and the tax from those nonexempt sales must be collected, reported, and remitted (15 AAC 50.100(d)).

### **Tobacco Products:**

A facility operated by one of the uniformed services of the United States is exempt from the State's tobacco product tax (AS 43.50.310(a)).

## **Section 17 - Laws or Rules for Tribal Sales**

Cigarettes and tobacco products imported or acquired by an Indian operating a cigarette business within an Indian reservation, or which he/she is a member, are exempt from tax if the cigarettes are sold to and for the sole use of members of the reservation. Cigarettes imported or acquired by an Indian operating a cigarette business within an Indian reservation are not exempt from the tax if sold to anyone who is not a member of the reservation. Alaska regulations currently define an Indian reservation as:

All land set aside by the United States for the exclusive use and occupancy of Indian tribes which are recognized as Indian reservations under federal law and, as of February 2, 1983, includes only the Annette Islands Reserve set aside by the United States for the exclusive use and occupancy of the Metlakatla Indian Community.

Pending decision by the U.S. Supreme Court, Indian sales on trust lands held by the Klawock Indian Community, set aside for the exclusive use and occupancy of an Indian tribe, are also exempt from taxation.

## **Section 18 - Information Required on a Customer Invoice**

An invoice for the sale of cigarettes must contain a statement in bold letters stating whether the tax under this chapter has been paid on the cigarettes sold.

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## **Section 19 – Responsibility by Agency**

MSA Reporting: Department of Revenue  
Enforcement/Collection: Department of Revenue  
Product Seizure Authority: Department of Revenue Criminal Investigations Unit

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

19. There are no different ages at the local level.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. The wholesale minimum price is  $1.02(M - D + T)$  where M is the manufacturer's list price, D is trade discounts, and T is the full face value of all cigarette taxes (state and local). The retail minimum price is the wholesale minimum price multiplied by 1.04.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes. State law prohibits smoking in enclosed public places and workplaces.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

License applications may be submitted at Revenue Online [https://online-tax.alaska.gov/ATP/WebDoc/ /](https://online-tax.alaska.gov/ATP/WebDoc/)

A person may not sell, purchase, possess, or acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license (AS 43.50.010(a)). The Department of Revenue, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall adopt reasonable regulations that it considers necessary in respect to the application for and the issuance of licenses (AS 43.50.010(b)).

The Department of Revenue may refuse to issue a license if there is reasonable cause to believe that the applicant has willfully withheld information requested to determine the applicant's eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith (AS 43.50.010(c)).

### **Cigarettes:**

The licenses are annual and are renewable on or before June 30 (AS 43.50.040).

The fees are as follows:

Type	Fees
Manufacturer (for each place of business).....	\$50.00
Wholesaler - Distributor (for each place of business).....	\$50.00
Vending machine operator.....	\$50.00
Direct-buying retailer (for each place (of business).....	\$50.00
Buyer.....	\$25.00

(AS 43.50.030)

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Wholesale stamping permits are not required to be renewed. Transporters permits and Business privilege licenses are required to be renewed yearly. Please contact the local governments concerning their license renewal procedures.



**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

These stamps must be Fusion or equivalent stamps or equal consisting of five impressions or layers, including safety tint lettering. Each stamp is to be of irregular shape and outline and shall contain not less than three distinctive colors. After primary printing, stamps will be commonly overprinted within each roll with a legible code consisting of not less than five alphanumeric characters and the individual stamp number on the second line 00001 through 15,000.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There is one row of serial numbers that indicates the roll ID and stamp ID.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Yes.

### **Section 2 – Acquiring Stamps**

Orders are placed online using the Revenue tax portable Revenue Online or by fax.

**How are stamps delivered to the wholesaler/distributor?**

A FedEx and/or UPS account and or stamps or stamps may be picked up in the Anchorage Tax Division office.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase unless a bond has been provided to the department. If a bond has been provided, the payment is due on the last day of the month following the month of the purchase. The bond must be equal to 200% of the maximum dollar amount of allowed monthly stamp purchases. The bond may be 100% of the maximum dollar amount of allowed monthly stamp purchases if the licensee has a license for a physical location in the state and has been in full compliance with the cigarette and tobacco tax laws for the preceding 60 months.

### **Section 3 - Bond Requirements**

A licensee may apply to the Department of Revenue to purchase stamps on a deferred-payment basis. Upon receipt of the application and the bond required, the department may set the maximum dollar amount of stamps that the licensee is authorized to purchase on a deferred-payment basis in a calendar month (AS 43.50.550(a)).

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

Yes, with prior approval from the department.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

80% must be attached to the pack.

### **Section 6 – Refund Limitations**

No Limits.

## **Section 7 – Credit Process for Manufacturer Returns**

A person paying tax on cigarettes which are destroyed, or which are returned unsalable to the manufacturer, before sale, may claim a credit on a return of the tax paid on the destroyed or unsalable cigarettes.

If a claim for credit is made for destroyed cigarettes, the claim for credit must be supported by a form issued by the U.S. Department of Treasury substantiating the destruction. If a claim for credit is made for cigarettes returned unsalable, the claim for credit must be supported by a credit invoice issued by the manufacturer.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

The credit is first applied to the monthly tax liability. Any additional credit is refunded by check.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

No Process.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No.

## **PACT Act Reporting**

Each month, any person who sells, transfers, ships, advertises, or offers for sale cigarettes or smokeless tobacco in interstate commerce must file with the tobacco tax administrator of the state into which the shipment is made, a report or a copy of the invoice covering each and every shipment of cigarettes or smokeless tobacco made during the previous calendar month into the state. The report or invoice information must be organized by customer's city or town, and by zip code, and include:

- The name and address of the person to whom the shipment was made;
- The brand and quantity of cigarettes or smokeless tobacco; and
- The name, address, and telephone number of the person delivering the shipment to the recipient on behalf of the delivery seller.
- The monthly filings of shipments into the State of Alaska as described above should be sent to: or emailed to [dor.tax.cigarette@alaska.gov](mailto:dor.tax.cigarette@alaska.gov)

State of Alaska, Department of Revenue, Tax Division  
550 7th Avenue, Suite 500  
Anchorage, AK 99501

# STATE OF ARIZONA

(Last updated 06/2018)

## General Questions

### Section 1 - Contact Information

**Agency:** Arizona Department of Revenue

**Mailing Address:** 1600 W. Monroe

**City, State, Zip Code:** Phoenix, AZ 85007

**Phone Number:** (602) 716-7808

**E-mail Address:** [luxurytax@azdor.gov](mailto:luxurytax@azdor.gov)

**Website:** <http://www.azdor.gov>

**Agency:** Arizona Attorney General's Office – Tobacco Enforcement Unit

**Mailing Address:** 1600 W. Monroe

**City, State, Zip Code:** Phoenix, AZ 85007

**Phone Number:** (602) 542-5025

**E-mail Address:** [luxurytax@azdor.gov](mailto:luxurytax@azdor.gov)

**Website:** <http://www.azdor.gov>

### Section 2 - Statutes, Regulations and Rules

Publication 541: [https://azdor.gov/sites/default/files/media/PUBLICATION\\_2017\\_541.pdf](https://azdor.gov/sites/default/files/media/PUBLICATION_2017_541.pdf)

Arizona Revised Statutes: <https://www.azleg.gov/arstitle/>

Arizona Administrative Code: <https://azsos.gov/rules/arizona-administrative-code>

Luxury Tax Notices: <https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-notice>

Luxury Tax Rulings, Procedures, and Decisions: [https://azdor.gov/legal-research?name\\_1=7](https://azdor.gov/legal-research?name_1=7)

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### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

The following definitions can be found at Arizona Revised Statutes (“A.R.S.”) §42-3001: <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03001.htm>

"Cigarette" means either of the following:

- (a) Any roll of tobacco wrapped in paper or any substance not containing tobacco.
- (b) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette described in subdivision (a) of this paragraph. This subdivision shall be interpreted consistently with the classification guidelines established by the federal alcohol and tobacco tax and trade bureau.

"Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco other than any roll of tobacco that is a cigarette, as defined in paragraph 5, subdivision (b) of this section.

"Other tobacco products" means tobacco products other than cigarettes and roll-your-own tobacco.

"Roll-your-own tobacco" means any tobacco that, because of its appearance, type, packaging or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes. This paragraph shall be interpreted consistently with the term as used in section 44-7101. This paragraph shall be interpreted consistently with the classification guidelines established by the federal alcohol and tobacco tax and trade bureau.

"Smoking tobacco" means any tobacco that, because of its appearance, type, packaging, labeling or promotion, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes or otherwise consumed by burning. Smoking tobacco includes pipe tobacco and roll-your-own tobacco.

"Tobacco products" means all luxuries included in section 42-3052, paragraphs 5 through 9.

### **Section 4 - The Basis for the Tax**

Generally, the luxury privilege tax (A.R.S. § 42-3052), three Tobacco Taxes for Health Care (A.R.S. §§ 42-3251, 3251.01, 3251.02) and Tobacco Tax for Early Childhood Development and Health (A.R.S. § 42-3371) are applicable to all tobacco sales occurring off of tribal lands and those made on tribal lands between retailers and purchasers that are not enrolled members of that tribe.

The current combined tax rate on cigarettes is \$0.10 per cigarette (\$2.00 per pack of 20 cigarettes and \$2.50 per pack of 25 cigarettes).

The current combined tax rates for other tobacco products (“OTP”) are as follows:

- (a) Small cigars (weighing not more than three (3) pounds per 1,000 cigars) - \$0.441 per 20 cigars.
- (b) Cigars retailing at more than \$0.05 each - \$0.218 per cigar.
- (c) Cigars retailing at not more than \$0.05 each - \$0.218 per 3.
- (d) Smoking tobacco, snuff, fine cut chewing, etc. - \$0.223 per ounce.
- (e) Cavendish, plug, or twist - \$0.055 per ounce.

The Indian Reservation Tobacco Tax (A.R.S. § 42-3302) is applicable to tobacco sales made by a retail business that is owned and operated either by a tribe on whose reservation the retail sale takes place, or a member of that tribe, to purchasers who are not enrolled members of that tribe. The current tax rate on cigarettes subject to the Indian Reservation Tobacco Tax is \$0.05 per cigarette (\$1.00 per pack of 20 cigarettes and \$1.25 per pack of 25 cigarettes).

The current tax rates for other tobacco products (“OTP”) subject to the Indian Reservation Tobacco Tax are as follows:

- (a) Small cigars (weighing not more than three (3) pounds per 1,000 cigars) - \$0.223 per 20 cigars.
- (b) Cigars retailing at more than \$0.05 each - \$0.11 per cigar.
- (c) Cigars retailing at not more than \$0.05 each - \$0.11 per 3.
- (d) Smoking tobacco, snuff, fine cut chewing, etc. - \$0.113 per ounce.
- (e) Cavendish, plug, or twist - \$0.028 per ounce

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

## **Section 5 - Tax Rates and Miscellaneous Fees**

Noted above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response from state.

## **Section 6 - Rate Updates**

There are no rates expected to change.

## **Section 7 - State Collection Allowance or Discount**

A.R.S. 42-3458(A)(3) states, in pertinent part:

After September 30, 2016, at the discount rate of 96.48 percent of the face value of all categories of stamps, except that:

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(a) For those categories of stamps with a face value of zero, 3.52 cents per stamp shall be remitted to the acquiring distributor as an administrative allowance subject to the reporting of the affixation of such stamps pursuant to section 42-3462.

(b) For those categories of stamps for which the tax is not precollected pursuant to article 7 of this chapter, 3.52 cents per stamp shall be remitted to the acquiring distributor as an administrative allowance subject to the reporting of the affixation of such stamps pursuant to section 42-3462.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03458.htm>

See also, Luxury Tax Notice 16-3:

[https://azdor.gov/sites/default/files/media/NOTICES\\_LUXURYTAX\\_ltn-16-3.pdf](https://azdor.gov/sites/default/files/media/NOTICES_LUXURYTAX_ltn-16-3.pdf)

### **Section 8 - Any Other Permissible Allowances**

A.R.S. §42-3460(C) provides:

Nothing in this section shall be construed to provide for redemption in the case of loss or theft of tax stamps.

<https://www.azleg.gov/viewdocument/?docName=https%3A%2F%2Fwww.azleg.gov%2Fars%2F42%2F03460.htm>

### **Section 9 – The Point at Which Tax is Imposed**

Licensed tobacco distributors pay tax on cigarettes through the purchase of tax stamps from ADOR. These stamps are then affixed to packs of cigarettes intended for sale in Arizona. An affixed stamp is evidence that taxes have been paid on that product (or pre-collected in the case of the Indian Reservation Tobacco Tax).

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

A.R.S. § 42-3501 states, in pertinent part:

Except for tobacco products described in § 42-3402, every distributor of tobacco products other than cigarettes shall pay the tax imposed by this chapter on all those products received within the state and shall add the amount of the tax to the sales price.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03501.htm>



## **Section 10 - Tax Return Due Dates**

Licensed tobacco distributors are required to file a return for each place of business on or before the 20th day of the month following the month reported in the return.

For tobacco products other than cigarettes, each distributor is required to submit the return, together with payment of any tax due, on or before the 20th day of the month following the month in which the tax accrues. The return and payment must be submitted within 10 calendar days of the due date to avoid penalties and interest.

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

A.R.S. § 42-1105.02 states:

- (a) Any return, statement or other document that is electronically filed pursuant to an electronic filing program established by the department shall be deemed filed and received by the department on the date of the electronic postmark. If the taxpayer and the electronic return preparer or the electronic return transmitter are in different time zones, it is the taxpayer's time zone, as determined by the taxpayer's address, that controls the timeliness of the electronically filed return, statement or other document. When a return, statement or other document has been electronically received on the host system of more than one electronic return preparer or electronic return transmitter during its ultimate transmission to the department, the return, statement or other document shall be deemed filed and received by the department on the date of the earliest electronic postmark.
- (b) Any return, statement or other document that is filed under subsection A of this section and that is not received by the department shall be deemed filed and received on the date of the electronic filing, as evidenced by the electronic postmark if the sender:
  - a. Establishes the date of the electronic filing.
  - b. Files a duplicate filing with the department within ten days after the department notifies the sender in writing of the nonreceipt of the filing.
- (c) If the due date of any return, statement or other document filed under subsection A of this section falls on a Saturday, Sunday or legal holiday, the filing shall be considered timely if it is performed on the next business day.
- (d) In this section, unless the context otherwise requires:
  - a. "Electronic filing program" means any program established by the department that authorizes the electronic filing of a return, statement or other document.
  - b. "Electronic postmark" means a record of the date and time in a particular time zone that the return, statement or other document is electronically received on the host system of the electronic return preparer or electronic return transmitter that participates in the transmission of the electronic return, statement or other document to the department.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/01105-02.htm>

## **Section 11 – Tax Return Filings**

Arizona law requires all returns to be filed electronically.

To file a tobacco tax return and remit payment of tax, navigate to Arizona Luxury Tax Online and follow these steps:

- (1) Enter your username and password on the main screen.
- (2) You will receive an authentication code by electronic mail or text. Enter the code on the main screen.
- (3) Select the account you wish to file a tax return for.
- (4) Click the “File Now” link for the period for which you want to file the return.
- (5) You can choose the method by which you would like to file your return. You may upload an Excel file, complete the return manually (enter the data directly into Arizona Luxury Tax Online) or file a return with zero activity. Select the chosen filing method from the drop-down menu on the screen.
- (6) Follow the instructions on the screen to complete your return and remit payment for any tax due.

Detailed instructions on how to upload return information and make an online payment through Arizona Luxury Tax Online are available on the Department’s website.

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

## **Section 12 – Tax Collection**

Arizona law requires all payments to be made electronically.

A.R.S. § 42-3053 states, in pertinent part:

- (a) All orders for the purchase or receipt of tax stamps required under this chapter must be submitted pursuant to an electronic filing program established by the department. Except as provided in subsection B of this section, all remittances of taxes for the purchase of Arizona tax stamps imposed by this chapter shall be made by electronic funds transfer to the department in monies that are immediately available to this state on the date of transfer. A remittance other than cash does not constitute a final discharge of liability for the tax levied by this chapter until it has been paid in cash to the department.
- (b) Any distributor remitting any taxes levied under section 42-3302 or under this chapter on any tobacco product other than cigarettes that is subject to tax under this chapter is required to pay the tax liability on or before the payment date in monies that are immediately available to this state on the date of transfer. The payment in immediately available monies must be made by electronic funds transfer and with the state treasurer's approval. The distributor must furnish evidence as prescribed by the department that the payment was remitted on or before the payment due date.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03053.htm>

### **Section 13 - Penalties for Late Filing**

For cigarette distributors, failure to file your tobacco tax return by the statutory deadline will subject you to a penalty under A.R.S. § 42-1125(K).

For distributors of tobacco products other than cigarettes, failure to file your tobacco tax return within 10 days of the statutory deadline will subject you to a penalty under A.R.S. § 42-1125(K). Failure to pay tax due on tobacco products other than cigarettes within 10 days of the statutory deadline will subject you to a penalty under A.R.S. § 42-1125(D) and interest pursuant to A.R.S. § 42-3501(D).

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

### **Section 14 – Local Jurisdictional Tax**

No local jurisdictions impose an excise tax.

### **Section 15 - Floor Stock Tax**

There is no floor stock tax.

### **Section 16 – Qualifying Exemptions**

A.R.S. §42-3404 states:

- (a) The taxes imposed by this chapter do not apply to:
- a. Tobacco products that are sold to the United States army, air force, navy, marine corps or coast guard exchanges and commissaries and navy or coast guard ships' stores.
  - b. Tobacco products that are sold to the United States department of veterans affairs.
  - c. Tobacco products that are non-tax-paid under subtitle E, chapter 52 of the internal revenue code and that are under internal revenue bond or customs control.
  - d. Tobacco products that are sold or transferred to a law enforcement agency for use in a criminal investigation if the sale or transfer is authorized by the department. A law enforcement agency authorized by the department to receive or purchase tobacco products is not required to:
    - i. Be licensed as a distributor.
    - ii. Collect or remit the tax imposed by this chapter with respect to authorized distributions.
  - e. Tobacco products that are sold by a distributor licensed under section 42-3401 to a common carrier engaged in foreign passenger service or to a retailer that sells tobacco products on the facilities of the carrier that are dedicated to foreign passenger service.

- f. Federally tax free tobacco products that are sold or given for delivery directly from the manufacturer under internal revenue bond to a veterans' home of this state or a hospital or domiciliary facility of the United States department of veterans affairs for gratuitous issue to veterans receiving hospitalization or domiciliary care. The taxes are not imposed with respect to the use or consumption of the tobacco products by the institution, veteran patients or domiciliaries.
  - g. Tobacco products that are sold by a manufacturer to a distributor licensed under section 42-3401.
  - h. Tobacco products that are manufactured outside the United States and that are sold by an importer to a distributor licensed under section 42-3401.
- (b) Subsection A, paragraphs 1 and 2 of this section do not apply after the first day of the first calendar month beginning more than sixty days after existing federal law is amended to permit state taxation of cigarettes sold by or through federal military installations.
  - (c) Sales of tobacco products by a licensed distributor to an instrumentality of the United States government must be supported by a separate sales invoice and a properly completed federal exemption certificate. Each sales invoice must be numbered, be dated and show the name of the seller, the name of the purchaser and the destination.
  - (d) This section does not affect the imposition of transaction privilege and use taxes pursuant to chapter 5 of this title to any transactions described in subsection A of this section if the transaction is otherwise subject to transaction privilege tax or use tax.
  - (e) The exemptions and exclusions provided in subsection A of this section do not affect the taxability under this chapter of tobacco products that are sold, given or transferred to a person in this state subsequent to the transactions described in subsection A of this section.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03404.htm>

## **Section 17 - Laws or Rules for Tribal Sales**

The Indian Reservation Tobacco Tax is a state-levied tax on tobacco sales made on an Indian reservation by a retail business owned by the governing tribe, or an enrolled member of the tribe, to purchasers who are not enrolled members of the tribe. The Indian Reservation Tobacco Tax is a direct tax on the consumer that is precollected by the distributor. The Indian Reservation Tobacco Tax does not apply to cigarettes and other tobacco products sold on an Indian reservation to enrolled members of the governing tribe. Moreover, the Indian Reservation Tobacco Tax does not apply if the full amount of the other five Arizona tobacco taxes has otherwise been paid: for example, on sales of tobacco products made on tribal lands between retailers and purchasers that are not enrolled members of the governing tribe.

Arizona cigarette stamps are available in four colors. The color of the stamp reflects the classification of tax paid or collected.

A blue stamp indicates that the full combined tobacco tax rate has been paid. Distributors affix blue stamps to all cigarettes except those that will be sold on an Indian reservation by an Indian retailer or by any retailer to enrolled members of the governing tribe. Blue-stamped cigarettes are the only cigarettes that may be sold or offered for sale off of reservation land.

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A red stamp indicates that the Indian Reservation Tobacco Tax has been pre-collected by the distributor. Distributors affix red stamps to cigarettes to be sold on an Indian reservation by Indian retailers to anyone who is not an enrolled member of the governing tribe. No red-stamped cigarettes may be sold or offered for sale off of reservation land.

A yellow stamp indicates that the cigarettes are to be sold on an Indian reservation and are subject to a tobacco tax levied by the governing tribe on sales made to enrolled members of that tribe. No yellow-stamped cigarettes may be sold or offered for sale off of reservation land.

A green stamp indicates that the cigarettes may be sold tax-free, according to the Department's allocation formula, on an Indian reservation to enrolled members where the governing tribe does not impose a tobacco tax or similar levy on sales to its own members. No green-stamped cigarettes may be sold or offered for sale off of reservation land.

To ensure proper administration and use of cigarette tax stamps and to avoid the impermissible taxation of exempt transactions, retailers located on tribal lands must register with the Department of Revenue and receive a retailer identification number. Licensed distributors will use the retailer identification number to report tobacco sales made to retailers located on reservation lands. Retailers may not purchase stamped cigarettes for resale from retailers located on other reservations.

Distributors may not affix tax stamps to packages of cigarettes whose packaging differs from the requirements of the Federal Cigarette Labeling and Advertising Act. Specifically, tax stamps may not be affixed to cigarettes that were intended for sale outside the United States and have been re-imported or repatriated into this country.

[https://azdor.gov/sites/default/files/media/PUBLICATION\\_2017\\_541.pdf](https://azdor.gov/sites/default/files/media/PUBLICATION_2017_541.pdf)

For additional information: [https://azdor.gov/sites/default/files/RULINGS\\_LUXURY\\_LTR17-3.pdf](https://azdor.gov/sites/default/files/RULINGS_LUXURY_LTR17-3.pdf)

## **Section 18 - Information Required on a Customer Invoice**

A.R.S. §42-3010(A) states:

When any wholesaler or distributor in this state sells or delivers to any person any of the luxuries on which a tax is imposed by this chapter, the wholesaler or distributor shall make a duplicate invoice of the transaction, showing the date of delivery, the amount and value of each sale, shipment or consignment, and the name and location of the purchaser or person to whom delivery is made. Except as otherwise provided in section 42-3405, the wholesaler or distributor shall file and retain the invoice for a period of two years, subject to inspection and use by the department.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03010.htm>

## **Section 19 – Responsibility by Agency**

MSA Reporting: Arizona Attorney General  
Enforcement/Collection: Arizona Department of Revenue  
Product Seizure Authority: Arizona Department of Revenue

## **Section 20 – New or Pending Legislation**

<https://apps.azleg.gov/BillStatus/BillOverview/70413>

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

A tobacco distributor is any person who manufactures, produces, ships, transports, imports, acquires or possesses for the purpose of making the first sale either of the following:

- (a) Cigarettes without Arizona tax stamps affixed;
- (b) Roll-your-own tobacco or other tobacco products on which Arizona tobacco taxes have not been paid.

Applications for a tobacco distributor license must be submitted through Arizona Luxury Tax Online by selecting “New Business Registration” on the main screen. The Department may not consider applications that do not comply with this requirement.

A fee of \$25 for each place of business included in the license application must be paid by electronic funds transfer through Arizona Luxury Tax Online.

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

### **Section 1 – License Renewal**

#### **Do licenses need to be renewed and if so, how frequently?**

Tobacco distributor licenses are valid for one year unless revoked by the Department. Licensed tobacco distributors must renew their license annually. Fees are assessed at the time of each renewal consistent with the fees associated with the original application. Licensed tobacco distributors must renew their license by accessing their account on Arizona Luxury Tax Online and paying all applicable fees.

#### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

#### **Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Licensed tobacco distributors pay tax on cigarettes through the purchase of tax stamps from the Department. These stamps are then affixed to packs of cigarettes intended for sale in Arizona.

An affixed stamp is evidence that the taxes have been paid on that product (or precollected in the case of the Indian Reservation Tobacco Tax). Arizona cigarette stamps are available in four colors. The color of the stamp reflects the classification of tax paid or collected.

Arizona cigarette stamps are available in four colors. The color of the stamp reflects the classification of tax paid or collected.

A blue stamp indicates that the full combined tobacco tax rate has been paid. Distributors affix blue stamps to all cigarettes except those that will be sold on an Indian reservation by an Indian retailer or by any retailer to enrolled members of the governing tribe. Blue-stamped cigarettes are the only cigarettes that may be sold or offered for sale off of reservation land.

A red stamp indicates that the Indian Reservation Tobacco Tax has been precollected by the distributor. Distributors affix red stamps to cigarettes to be sold on an Indian reservation by Indian retailers to anyone who is not an enrolled member of the governing tribe. No red-stamped cigarettes may be sold or offered for sale off of reservation land.

A yellow stamp indicates that the cigarettes are to be sold on an Indian reservation and are subject to a tobacco tax levied by the governing tribe on sales made to enrolled members of that tribe. No yellow-stamped cigarettes may be sold or offered for sale off of reservation land.

A green stamp indicates that the cigarettes may be sold tax-free, according to the Department's allocation formula, on an Indian reservation to enrolled members where the governing tribe does not impose a tobacco tax or similar levy on sales to its own members. No green-stamped cigarettes may be sold or offered for sale off of reservation land.

[https://azdor.gov/sites/default/files/media/PUBLICATION\\_2017\\_541.pdf](https://azdor.gov/sites/default/files/media/PUBLICATION_2017_541.pdf)

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

No response received from state.



## **Section 2 – Acquiring Stamps**

Arizona law requires all stamp purchases to be made electronically. Only Arizona-licensed distributors may purchase, possess or affix cigarette tax stamps. Licensed distributors must purchase tobacco tax stamps through Arizona Luxury Tax Online. Detailed instructions on how to place a stamp order through Arizona Luxury Tax Online are available on the Department's website.

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>\ <https://www.youtube.com/watch?v=BPbpJvc7RWw>

Distributors may choose to have the stamps shipped via FedEx, using their existing FedEx account, or may arrange an armored transport pickup or in-person pickup at AZDOR by an authorized representative.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

## **Section 3 - Bond Requirements**

There are no bond requirements.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

A.R.S. §42-3455 states:

Only licensed distributors may purchase, obtain or affix cigarette stamps. Distributors shall not sell or provide stamps to any other distributor or person. When affixing cigarette stamps to cigarettes, distributors shall ensure that the affixation method that is used maintains the legibility of the serial numbers on the stamps.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03455.htm>

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

A.R.S. §42-3452(B) states:

A distributor licensed pursuant to section 42-3401 may not sell, distribute or transfer tobacco products for which the distributor is licensed to another such licensed distributor without paying the tax at the time of the sale, distribution or transfer.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03452.htm>

A.R.S. §42-3456 states, in pertinent part:

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- (a) Cigarettes that are sold, distributed or transferred by a distributor licensed pursuant to section 42-3401 to sell cigarettes are required to have affixed the luxury stamps described in section 42-3455 at the time the cigarettes are sold, distributed or transferred to another licensed distributor.
- (b) Notwithstanding subsection C of this section, a licensed distributor can submit a written request in the form and manner prescribed by the department in rule or procedure to sell, distribute or transfer unstamped cigarettes to another licensed distributor. Once an accurate and complete request is submitted to the department, the department will approve or deny the request as prescribed in rule or procedure within ten days of receipt of the request.

<https://www.azleg.gov/viewdocument/?docName=https%3A%2F%2Fwww.azleg.gov%2Fars%2F42%2F03456.htm>

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

A.R.S. §42-3455 states, in pertinent part:

- (a) C. Only licensed distributors may purchase, obtain or affix cigarette stamps. Distributors shall not sell or provide stamps to any other distributor or person. When affixing cigarette stamps to cigarettes, distributors shall ensure that the affixation method that is used maintains the legibility of the serial numbers on the stamps.
- (b) D. If, during compliance inspections of a distributor or retailer, the department discovers cigarette packages that appear not to be stamped in accordance with subsection C of this section and if the distributor or retailer has substantially complied with the other provisions of this chapter, the following shall be considered a properly stamped cigarette package:
  - 1. A questioned individual cigarette package that does not have an affixed cigarette stamp containing a fully legible serial number but the legible digits of the serial number of the cigarette stamp on the questioned individual cigarette package match the corresponding digits of the serial numbers from other properly stamped cigarette packages that are packaged or shelved together with the questioned individual cigarette package.
  - 2. A questioned individual cigarette package that is part of an originally unopened pallet, master carton or carton that contains other properly stamped cigarettes when the pallet, master carton or carton is subsequently opened during a compliance inspection by the department.
  - 3. A questioned individual cigarette package if the distributor or retailer can demonstrate through books, records or other indicia to the satisfaction of the department that the questioned individual cigarette package was purchased as part of the same pallet, master carton or carton that contained properly stamped cigarette packages.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03455.htm>

## **Section 6 – Refund Limitations**

A.R.S. § 42-3460 states:

- (a) The department shall redeem unused or spoiled Arizona tax stamps that a distributor presents for redemption if those stamps are unaffixed and purchased within two years of the date of the request for redemption and shall pay for them from monies collected under this chapter.
- (b) Under rules adopted by the department, the department shall redeem the unused amount of tax for which any meter is registered and shall pay for it from monies collected under this chapter.
- (c) Nothing in this section shall be construed to provide for redemption in the case of loss or theft of tax stamps.
- (d) For the purposes of this section:
  - a. "Redeem" means repurchase or replace Arizona tax stamps.
  - b. "Spoiled" means mutilated or illegible.

<https://www.azleg.gov/viewdocument/?docName=https%3A%2F%2Fwww.azleg.gov%2Fars%2F42%2F03460.htm>

## **Section 7 – Credit Process for Manufacturer Returns**

Licensed distributors may request a refund for cigarette tax stamps or taxes paid on other tobacco products that were exported from the state, have become unfit for sale due to breakage or spoilage, or have been returned to the manufacturer. Distributors are required to provide proof to the Department to establish entitlement to the refund. The Department will not refund tax for cigarette tax stamps affixed to articles that are deemed contraband under A.R.S. Title 42, Chapter 3.

Requests for a refund of tobacco taxes paid on cigarettes and other tobacco products must be submitted electronically through Arizona Luxury Tax Online. The required proof must be uploaded with your online request. The Department may not consider requests that do not comply with this requirement.

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

A.R.S. § 42-3008 states:

- (a) Except as provided in subsection C of this section, the tax imposed by this chapter on any luxury shall be refunded when the amount of the tax has been paid and when one of the following applies:
  - a. Proof is made to the department that the luxuries were exported from this state or that the stamps have been affixed to luxuries on which stamps are not required.
  - b. Proof is made to the department that the luxury becomes unfit for sale due to breakage or spoilage within either six months from the date that the distributor originally receives the luxury for sale or two months from the date that the luxury was returned to the distributor by a retailer, whichever occurs later.
  - c. Within six months after a distributor returns a luxury to the manufacturer or importer, proof of the return is made to the department.

- (b) The manner of making proof shall be in accordance with rules adopted by the department.
- (c) The department shall not refund the tax for stamps that are affixed to luxuries that are deemed contraband under this chapter.
- (d) Except as otherwise provided in section 42-1123, interest is calculated sixty days after receipt by the department of a claim for refund under this section.
- (e) For the purposes of this section:
  - a. "Breakage" means damage to the outer wrapping or container of a tobacco product.
  - b. "Importer" and "manufacturer" have the same meanings prescribed in section 42-3451.
  - c. "Spoilage" means mutilation, product expiration or unfit for intended consumption.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03008.htm>

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

### **Section 8 – Other Allowed Credits**

Same as previous answer.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Arizona Administrative Code (“A.A.C.”) R15-3-316(A) states:

Except as otherwise provided in A.R.S. Title 42, Chapter 3, Articles 10 and 11, a distributor shall file the applicable monthly return with the Department in the form and manner required by the Department showing that the distributor purchased a sufficient number of cigarette tax stamps to be affixed to all cigarettes it distributes in this state during the period. If the distributor does not provide this information, the Department shall presume the distributor sold unstamped cigarettes. In that case, and in addition to any other applicable penalties, the Department shall determine the amount of unstamped cigarettes sold by the distributor and shall issue a proposed deficiency assessment for any luxury tax found due. The proposed deficiency assessment becomes final unless the distributor protests the assessment within 45 days under A.R.S. § 42-1108 and 15 A.A.C. 10, Article 1.

[http://apps.azsos.gov/public\\_services/Title\\_15/15-03.pdf](http://apps.azsos.gov/public_services/Title_15/15-03.pdf)

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

No other requirements or restrictions.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

A.R.S. § 42-3462(B) requires any person who sells, ships or transfers cigarettes or roll-your-own tobacco into Arizona to electronically file a report with the Department through Arizona Luxury Tax Online.

The Department may consider reports filed pursuant to the federal Prevent All Cigarette Trafficking Act (“PACT Act”) as satisfaction of this statutory requirement when filed electronically.

Compliance with the statute and the federal PACT Act reporting requirement can be achieved by registering for access to Arizona Luxury Tax Online and filing the required report electronically. The report must be filed by the tenth day of the month following any shipment, sale or transfer of cigarettes, roll-your-own or smokeless tobacco into Arizona. Failure to timely comply with the statute may result in the assessment of penalties.

<https://azdor.gov/businesses-arizona/tobacco-luxury-tax/tobacco-luxury-tax-faqs>

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/42/03462.htm>

**STATE OF ARKANSAS**  
(Last updated 04/2018)

**ONLY LICENSE INFORMATION RECEIVED**

**General Information**

**Section 1 - Contact Information**

**Contact:** Steve Goode

**Mailing Address:**

**City, State, Zip Code:**

**Phone Number:** (501) 682-9756

**Fax Number:**

**E-mail Address:** [steve.goode@arkansas.gov](mailto:steve.goode@arkansas.gov)

**Website:** [www.atc.arkansas.gov](http://www.atc.arkansas.gov)

**Section 2 - Statutes, Regulations and Rules**

The following list of statutes govern the purchase and sale of tobacco products in Arkansas.

- 4-75-701 through 4-75-714 Arkansas Unfair Cigarette Sales Act
- 5-27-227 Selling Tobacco Products to Minors
- 5-37-522 and 5-78-102 Tobacco - Removal of serial number on container & Confiscation of tobacco products authorized
- 20-27-2101 through 20-27-2112 Arkansas Cigarette Fire Safety Standard Act
- 26-57-201 through 26-57-262 Arkansas Tobacco Products Tax Act of 1977
- 26-57-801 through 26-57-805 and 26-57-1101 through 26-57-1108 Additional Taxes on Tobacco Products
- 26-57-1301 through 26-57-1308 Enforcement Enhancements to the Tobacco Master Settlement Agreement
- 26-57-1401 through 26-57-1409 Tobacco Products Reporting Act

Go to [Arkansas Code On-Line](#) to view the statutes.

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

List cigarette and other tobacco products (OTP) taxed and definitions of these products  
Examples – cigarettes, tobacco, ENDS (electronic nicotine delivery systems)

### **Section 4 - The Basis for the Tax**

Describe the basis for the tax. Provide definitions.  
Examples – unit/weight based, manufacturer’s list price, list price less discount

### **Section 5 - Tax Rates and Miscellaneous Fees**

Provide tax rates and any miscellaneous fees due with the tax returns

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

### **Section 6 - Rate Updates**

Rate updates

- Are any tax rates expected to change in the near future?

### **Section 7 - State Collection Allowance or Discount**

Define the collection allowance or discount

- Is there a discount given to wholesalers/distributors for collecting and remitting taxes?
  - o If so, how much is the discount for each tax type?

### **Section 8 - Any Other Permissible Allowances**

Define any other permissible allowance

- Is there an allowance for bad debt credits? Is there an allowance for theft?

### **Section 9 – The Point at Which Tax is Imposed**

Describe the point at which tax is imposed

- Examples – At the time of sale, when the stamp is applied, when the product is brought into the state, etc.

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## **Section 10 - Tax Return Due Dates**

List tax return due dates

- What happens when the due date falls on a holiday or weekend? What is considered a timely filed tax return, (i.e., the postmark date, the receive date)?

## **Section 11 – Tax Return Filings**

Describe how returns can be filed

- Is there an option for electronic filing? Briefly explain the process.

## **Section 12 – Tax Collection**

Describe how the tax is collected

- Is there an option for, or point at which a taxpayer must make an, electronic payment? If so, is there a time by which the electronic payment must be transmitted to be considered timely, (i.e., no later than 3pm the day prior to the due date)?

## **Section 13 - Penalties for Late Filing**

List the penalties for late filing

## **Section 14 – Local Jurisdictional Tax**

Does your state have any local jurisdictions that also impose an excise tax?

## **Section 15 - Floor Stock Tax**

Does your state impose a floor stock tax when there is a change in tax rate?

## **Section 16 – Qualifying Exemptions**

Define which sales, if any, qualify for an exemption from tax in your state



## **Section 17 - Laws or Rules for Tribal Sales**

Define any special laws or rules for tribal sales, (i.e., special tax stamps, paperwork required, etc.)

## **Section 18 - Information Required on a Customer Invoice**

Provide what information is required on a customer invoice (i.e., wholesaler/distributor license number, customer license number, excise tax charged, etc.)

## **Section 19 – Responsibility by Agency**

Name the agency that is responsible for MSA reporting in your state  
Name the agency that has enforcement/collection authority in your state  
Name the agency that has product seizure authority in your state

MSA Reporting: Department of Revenue  
Enforcement/Collection: Department of Revenue  
Product Seizure Authority: Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

List any new or pending legislation

## **Section 21 – Other Laws, Rules, or Regulations**

What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?

Is there a minimum age for retail clerks to sell cigarettes or tobacco products?

Is there a minimum age for possession of cigarettes or tobacco products?

Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?

Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?

Are pharmacies banned from selling cigarettes or tobacco products in your state?

Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?

## **Section 22 – Modified (Reduced) Risk Tobacco**

Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute

### **License Information**

Arkansas is basically a 3-tier system for permits/licenses: Manufacturers, Wholesalers, Retailers. Retailers can only buy OTP, vapor products, alternative nicotine products, e-liquids from, permitted(licensed) Manufacturers, permitted(licensed) Tobacco, Vapor Products, Alternative Nicotine Products, E-Liquid Wholesalers or permitted(licensed) Retailers. Retailers can only buy cigarettes from permitted Cigarette Wholesalers (they put the cigarette tax stamps on the cigarettes) or other permitted Retailers. Permitted Wholesalers can buy from anyone without a permit with respect to their permit: Cigarette Wholesalers can buy cigarettes from anyone and Tobacco, Vapor Products, Alternative Nicotine Products, E-Liquid Wholesalers can buy those products from anyone.

A Manufacturer cannot hold a Wholesale permit also.

Here is the permit breakdown:

ACA § 26-57-219. Permits and licenses -- Annual privilege tax.

The annual privilege tax or fee for each permit or license authorized by § 26-57-215 is established as follows:

- (1) Wholesale Cigarette Permit: \$500.00
- (2) Wholesale Tobacco, Vapor Product, and Alternative Nicotine Product Permit: \$500.00
- (3) General Tobacco Products, Vapor Products, and Alternative Nicotine Products Vending Permit (vendor): \$100.00
- (4) Tobacco Products, Vapor Products, and Alternative Nicotine Products Vending Machine License, per machine: \$10.00
- (5) Retail Cigarette, Tobacco, Vapor Product, and Alternative Nicotine Product Permit: \$50.00
- (6) Retail Exclusive Vapor Product and Alternative Nicotine Product Permit: \$100.00
- (7) Wholesale Salesperson's License: \$25.00
- (8) Dealer's License: \$25.00
- (9) Manufacturer's Representative Fee: \$25.00
- (10) Manufacturer Cigarette Permit: \$500.00
- (11) (A) Manufacturer Tobacco, Vapor Product, and Alternative Nicotine Product Permit: \$500.00

A criminal justice background check is required on all people applying for a permit or license. A license or permit shall not be issued to:

(i) A person who has pleaded guilty or nolo contendere to or been found guilty of a felony;  
or

(ii) A business owned or operated, in whole or in part, by a person who has pleaded guilty or nolo contendere to or been found guilty of a felony. (ACA § 26-57-216 excerpt)

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

The permits run from July 1 – June 30 (Arkansas State Fiscal Year) They must be renewed each fiscal year.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Describe the attributes of the tax stamp. Colored, numbered, digital, and how applied?

How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?

Does your state require stamping or any other identifying markings on ‘other tobacco products’?

Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?

What percentage of the stamp is required to be applied to be considered a valid stamp?

### **Section 2 – Acquiring Stamps**

Describe how stamps are acquired by the wholesaler/distributor.

- How are stamps delivered to the wholesaler/distributor? Must a wholesaler/distributor have a FedEx and/or UPS account on file with DOR?

When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.

### **Section 3 - Bond Requirements**

List any bond requirements to acquire cigarette tax stamps.

### **Section 4 – Allowable Transfers**

Does the state allow the transfer of unaffixed cigarette tax stamps?

Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

Does the state allow a tax credit?

Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?

### **Section 6 – Refund Limitations**

List any time limits by which unaffixed cigarette tax stamps must be returned for a credit/claimed on a tax return, (i.e., 2 years from the acquisition date).

### **Section 7 – Credit Process for Manufacturer Returns**

Describe the process for claiming a credit for stamped cigarettes returned to the manufacturer.

How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?

### **Section 8 – Other Allowed Credits**

List any other tax credits allowed for returned goods, (i.e. OTP, ENDS, etc.).  
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## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Describe the process, if any, your state requires for reporting discrepancies between cigarette inventory and tax stamp inventory.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

List any additional tax stamp inventory restrictions or requirements.

## **Section 11 – Stamping Little Cigars**

Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?

## **PACT Act Reporting**

Please provide the PACT Act reporting requirements and how PACT Act reports are filed, (i.e. part of the tax return, electronically, via e-mail, etc.).

**STATE OF CALIFORNIA**  
(Last updated 04/2019)

**General Information**

**Section 1 - Contact Information**

**Agency:** California Department of Tax and Fee Administration FTA Contact: James M. Dahlen

**Mailing Address:** 450 N. Street, MIC: 57

**City, State, Zip Code:** Sacramento, CA 95814

**Phone Number:** Customer Service (800) 400-7115 or James M. Dahlen (916) 552-8637

**E-mail Address:** [James.Dahlen@cdtfa.ca.gov](mailto:James.Dahlen@cdtfa.ca.gov)

**Website:** <http://www.cdtfa.ca.gov/>

**Agency:** AGO/DOJ California Attorney General's Office-Tobacco Section

**Contact:** Barry D. Alves, Deputy Attorney General, Tobacco Litigation and Enforcement Section

**Phone Number:** AGO/DOJ (916) 565-6486 or Barry D. Alves (916) 210-7838

**E-mail Address:** [tobacco@doj.ca.gov](mailto:tobacco@doj.ca.gov) or [Barry.Alves@doj.ca.gov](mailto:Barry.Alves@doj.ca.gov)

**Section 2 - Statutes, Regulations and Rules**

**Industry Guide:**

<http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

**Laws:**

<http://www.cdtfa.ca.gov/lawguides/vol3/ctptl/cigarette-and-tobacco-products-tax-law.html> . (Cigarette and Tobacco Products Tax)

<http://www.cdtfa.ca.gov/lawguides/vol3/ctplal/cigarette-and-tobacco-products-licensing-act-law.html>. (Cigarette and Tobacco Products Licensing Act)

<https://www.atf.gov/alcohol-tobacco/prevent-all-cigarette-trafficking-act-pact-2009>  
(PACT ACT)

**Regulations:**

<http://www.cdtfa.ca.gov/lawguides/vol3/ctptr/cigarette-and-tobacco-products-tax-regulations.html> (Cigarette and Tobacco Products Tax)

<http://www.cdtfa.ca.gov/lawguides/vol3/ctplar/cigarette-and-tobacco-products-licensing-act-regulations.html> (Cigarette and Tobacco Products Licensing Act)

**Master Settlement Agreement:**

<http://www.cdtfa.ca.gov/lawguides/vol3/ctptl/ctptl-30165-1.html>

**Attorney General's California Tobacco Directory:**

<https://oag.ca.gov/tobacco/directory>

**Publications:**

[Cigarette Distributor Licensing and Tax Stamp Guide, Publication 63](#)

[Sales of Cigarettes and Tobacco Products in California – License Requirements for Retailers, Publication 78](#)

[Cigarette and Tobacco Products Tax, Publication 93](#)

[Cigarette and Tobacco Products Inspections, Publication 152](#)

[Criminal Citations Include a Civil Administrative Process, Publication 161](#)

[Special Taxes and Fees Newsletters](#)

[California's Counterfeit-Resistant Cigarette Tax Stamp, Publication 403](#)

[Master Settlement Agreement, Publication 407](#)

[Flavored Cigarettes Banned in the United States, Publication 429](#)

[Things to Know Before You Buy Cigarettes and Tobacco Products, Publication 473](#)

**Special Notices:**

<http://www.cdtfa.ca.gov/formspubs/1573.pdf> (Cigarette and Tobacco Products Distributors May Not Hold a Wholesaler License)

<http://www.cdtfa.ca.gov/formspubs/1554.pdf> (Special notice regarding new OTP tax rate effective 7/1/18)

<http://www.cdtfa.ca.gov/formspubs/1506.pdf> (Special notice regarding tobacco product sales by out-of-state distributors to in-state distributors)

<https://www.cdtfa.ca.gov/formspubs/1493.pdf> (Special notice summarizing new licensing requirements for wholesalers, distributors and manufacturers of nicotine products)

<https://www.cdtfa.ca.gov/formspubs/1505.pdf> (Special notice clarifying “retail stock”)

<https://www.cdtfa.ca.gov/formspubs/1469.pdf> (Special notice clarifying “wholesale cost”)

<https://www.cdtfa.ca.gov/formspubs/1502.pdf> (Special notice regarding new OTP tax rate effective 7/1/17)

<https://www.cdtfa.ca.gov/formspubs/1488.pdf> (Special notice regarding cigarette tax increase effective 4/1/17, and the inclusion of electronic cigarettes as OTP)

<https://www.cdtfa.ca.gov/formspubs/1482.pdf> (Special notice regarding new law helps prevent cigarette tax evasion)

<https://www.cdtfa.ca.gov/formspubs/1472.pdf> (Special notice regarding licensing requirements for retailers of electronic cigarettes and other ENDS devices effective January 1, 2017)

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarette definition (Cigarette and Tobacco Products Tax Law (CTPTL) Section 30003):

"Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco and such roll weighs over three pounds per thousand.

Other Tobacco Products (OTP) definition (CTPTL Section 30121(b)):

"Tobacco products" includes, but is not limited to, a product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff, but does not include cigarettes. Tobacco products shall also include electronic cigarettes. Tobacco products shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. Tobacco products does not include any food products as that term is defined pursuant to Section 6359.



Electronic Cigarettes definition (CTPTL Section 30121(c)):

"Electronic cigarettes" means any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic cigarettes include any component, part, or accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine. Electronic cigarettes also include any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form. Electronic cigarettes do not include any device not sold in combination with any liquid or substance containing nicotine, or any battery, battery charger, carrying case, or other accessory not used in the operation of the device if sold separately. Electronic cigarettes shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. As used in this subdivision, nicotine does not include any food products as that term is defined pursuant to Section 6359.

#### **Section 4 - The Basis for the Tax**

Cigarettes are based on a per stick rate, and OTP is based on wholesale cost. The cigarette tax is paid by purchasing tax stamps, and the OTP tax is paid by filing returns.

Per CTPTL section 30017, "wholesale cost" is defined as:

"Wholesale cost" means the cost of tobacco products to the distributor prior to any discounts or trade allowances.

For more information regarding wholesale cost and how to calculate it, view CTPTL Regulation 4076, Wholesale Cost of Tobacco Products.

(<http://www.cdtfa.ca.gov/lawguides/vol3/ctptr/ctptr-reg4076.html>).

#### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes are \$2.87 per pack of 20; OTP is 62.78% of wholesale cost.

##### **Cigarette and Tobacco Products Tax**

(<http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm>)

<b>Cigarette and Tobacco Products Tax</b>		
<b>Effective Date</b>	<b>Cigarettes</b>	<b>Other Tobacco Products</b>
<b>July 1, 2018</b>	\$0.1435/cigarette (\$2.87/pack of 20s)	62.78% of wholesale cost
<b>July 1, 2017</b>	\$0.1435/cigarette (\$2.87/pack of 20s)	65.08% of wholesale cost
<b>April 1, 2017</b>	\$0.1435/cigarette (\$2.87/pack of 20s)	27.30% of wholesale cost

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

The electronic nicotine delivery systems (ENDS) that do not contain nicotine, or are not sold in a kit that contains nicotine, are considered tobacco products for retail licensing purposes, but not for tax purposes. Thus, the sale of ENDS that do not contain nicotine or are not sold with nicotine is not subject to the California excise tax on tobacco products. However, a California Cigarette and Tobacco Products Retailer’s License is required if you sell ENDS that do not contain nicotine or are not sold with nicotine to a consumer in California. A distributor or wholesaler does not need to be licensed under the California Cigarette and Tobacco Products Licensing Act of 2003 to sell ENDS that do not contain nicotine or are not sold with nicotine to a retailer. The tax rate for vapor products that contain nicotine is currently 62.78 percent of the wholesale cost.

**Section 6 - Rate Updates**

In November 2016, the voters approved Proposition 56, a tax increase to \$2.87 per pack effective April 1, 2017. As a result of this increase, the OTP rate increased to 65.08% effective July 1, 2017. The OTP rate, which is equivalent to the combined rate of taxed imposed on cigarettes, is determined every year in April and is effective during the next fiscal year (July 1 through June 30). Currently, the OTP rate is 62.78%, effective July 1, 2018.

Also as part of Proposition 56, electronic cigarettes were defined as OTP and subject to the OTP rate effective April 1, 2017.

**Section 7 - State Collection Allowance or Discount**

There is a discount given to cigarette distributors for applying a stamp to each pack of cigarettes (CTPTL Regulation 4055).

Per CTPTL Section 30166: Stamps and meter register settings shall be sold to licensed distributors at their denominated values less a discount of 0.85 percent, which shall be capped at the first one dollar (\$1.00) in denominated value. Payment for stamps or meter register settings shall be made at the time of purchase, provided that a licensed distributor, subject to the conditions and provisions of this article, may be permitted to defer payments therefor.

There is no discount for OTP, as tax stamps are not required.

### **Section 8 - Any Other Permissible Allowances**

California does not have an allowance for bad debt credits.

Regarding stolen stamps, CTPTL Regulation 4066 does not allow for a refund or a credit for stamps lost through theft or mysterious disappearance-

Refund or credit will not be given for stamps, meter settings or meter impressions which are lost through theft or mysterious disappearance of any unaffixed stamps, any meter, or any packages of cigarettes to which stamps or meter impressions have been affixed. If identifiable stamps, meter settings or meter impressions which have been lost through theft or mysterious disappearance are later recovered, credit or refund may be given under CTPTL Regulations 4061 or 4065.

### **Section 9 – The Point at Which Tax is Imposed**

CTPTL section 30008:

The cigarette and tobacco products tax is paid by a distributor upon the distribution of cigarettes and tobacco products in California. A distribution includes the sale, use or consumption of untaxed cigarettes or untaxed tobacco products in California, and the placing of untaxed cigarettes or untaxed tobacco products into a vending machine or retail stock in California.

### **Section 10 - Tax Return Due Dates**

- Distributors must file a report (CDTFA-501-CD) and/or a return (CDTFA-501-CT) by the 25th of each month.
- Cigarette Wholesalers must file a report (CDTFA-501-CW) by the 25th of each month.
- Manufacturers/Importers must file a return(s) and a report (CDTFA-501-CM and/or CDTFA-501-TIM and CDTFA-501-MIT) by the 25th of each month.
- If a return due date is on a holiday or weekend, the due date is extended to the first business day after the weekend or holiday. Paper returns must be postmarked by the due date to be considered timely, electronic returns must be received by 11:59 p.m. on the due date to be considered timely.
- Electronic payments must be received by 3:00 p.m. PST to be considered timely.

## **Section 11 – Tax Return Filings**

Some programs have electronic filing as an option. For those programs, the filer can go to [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov), click “file a return” at the top of the page, and then click “Log In.” They will select their pertinent program and follow the prompts. There is also an electronic filing guide to help with any additional questions they may have.

Online filing information: <http://www.cdtfa.ca.gov/services/>

Some programs still require a paper return.

## **Section 12 – Tax Collection**

There is an option to make an electronic payment by Electronic Funds Transfer (EFT). Per CTPTL 30190, certain taxpayers are required to make payments by EFT, if they have average tax liabilities over a required threshold per month.

For the payment to be considered timely, it must be received by 3:00 p.m. PST.

## **Section 13 - Penalties for Late Filing**

If you pay or file your return after the due date, additional amounts are due for penalty charges. The penalty is 10% of the amount of tax owing.

## **Section 14 – Local Jurisdictional Tax**

Currently, California local governments (for example, cities and counties) do not have the authority to impose local taxes on cigarettes or tobacco products.

## **Section 15 - Floor Stock Tax**

Generally, when the cigarette tax rate changes there is a floor stock tax. In the past there has also been an OTP floor stock tax, when new legislation is enacted. The application of the floor stock tax is dependent on the language in the legislation to change the rate. Most recently Proposition 56 imposed a floor stock tax on cigarettes, but did not require a floor stock tax on OTP.

## **Section 16 – Qualifying Exemptions**

Certain sales in California are generally not subject to the tax (Pub 93):

- Sales of cigarettes or tobacco products by the original importer to a licensed distributor if the cigarettes or tobacco products are manufactured outside the United States (Revenue and Taxation Code. [R&TC] § 30105);
- Sale or gift of federally tax-free cigarettes or tobacco products when the cigarettes or tobacco products are delivered directly from the manufacturer under Internal Revenue bond to a veteran's home of the State of California or a hospital or domiciliary facility of the United States Veterans' Administration for gratuitous issue to veterans receiving hospitalization or domiciliary care. The tax shall not apply to the use or consumption of such cigarettes or tobacco products by the institution or by the veteran patients or domiciliaries. (R&TC § 30105.5);
- Sales of cigarettes or tobacco products by the manufacturer to a licensed distributor. (R&TC § 30103);
- Sales by a distributor to a common carrier engaged in interstate or foreign passenger service. (R&TC § 30104);
- Sales to United States military exchanges, commissaries, ships' stores, or the U.S. Department of Veterans Affairs. (R&TC § 30102);
- Distributions of federally untaxed cigarettes or tobacco products that are under Internal Revenue bond or U.S. Customs control. (R&TC § 30102.5);
- An individual shipment of not more than 400 cigarettes (typically 20 packs or 2 cartons) personally transported into California. (R&TC § 30106);
- Sales and distributions of cigarettes and tobacco products that cannot be taxed by the state under the U.S. Constitution or federal law, or under the California Constitution or state law, such as shipments to purchasers in other states, territories, or foreign countries when the cigarette and tobacco products are not to be returned to California before use.

### **Section 17 - Laws or Rules for Tribal Sales**

California does not use tribal stamps, however, there is a specific line on the Cigarette Distributor return (CDTFA-501-CD) for tribes to report unstamped product sold on reservation to tribal members residing on reservation.

### **Section 18 - Information Required on a Customer Invoice**

<http://www.cdtfa.ca.gov/formspubs/pub78.pdf>

Each sales invoice must be legible and include the following information\*:

- The name, address, telephone number, and license number of the distributor or wholesaler.
- The name, address, and license number of the business (retailer, distributor, or wholesaler) purchasing the cigarettes or tobacco products. It is not legal to sell cigarettes or tobacco products to an unlicensed buyer or purchase them from an unlicensed seller.
- The date the cigarettes or tobacco products are sold.
- An itemized list of the cigarettes or tobacco products sold. Cigarettes must be listed by the brand and style names, flavor, filter, and/or packaging when applicable, number of

Tobacco Tax Information by State v. 07.22.19

cartons or packs sold, and the sales price. Tobacco products must be listed by brand, type (such as pipe, cigars, or roll-your-own), flavor, packaging (such as pouches, tins, or boxes), quantity sold, and sales price.

- The amount of California cigarette and tobacco products taxes due to the CDTFA by the distributor on the sale of cigarettes and tobacco products. However, a distributor that is also a retailer or manufacturer must include either one of the following on each invoice for the sale of cigarettes or tobacco products:
- A statement that reads: "All California cigarette and tobacco products taxes are included in the total amount of this invoice."
- The amount of cigarette and tobacco products taxes due to the CDTFA by the distributor on the distribution of cigarettes and tobacco products.
- A statement that identifies any cigarettes or tobacco products sold without tax under Revenue and Taxation Code section 30105 (only if you are a distributor that is an original importer of the tobacco products you are selling).

\* These requirements do not apply to tobacco products that are not subject to the tobacco products tax. For example, vape liquids that do not contain any nicotine are not subject to these requirements; however, they are subject to retail licensing.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	California Office of the Attorney General and the California Department of Tax and Fee Administration
Enforcement/Collection:	California Department of Tax and Fee Administration
Product Seizure Authority:	California Office of the Attorney General and the California Department of Tax and Fee Administration

### **Section 20 – New or Pending Legislation**

Pending legislation includes two bills regarding flavored tobacco.

AB 739 McCarty , Flavored Tobacco Products: Prohibits a tobacco retailer from selling, offering for sale, or possessing with the intent to sell or offer for sale, flavored tobacco products. Makes a violation of this prohibition an infraction punishable by a fine for each violation.

AB 1625 Rivas, Unflavored Tobacco List: Requires the Attorney General to establish and maintain on the Attorney General's internet website a list of tobacco product brand styles that lack a characterizing flavor, as defined.

The last legislation passed in California was Proposition 56 (2016) which raised the cigarette tax rate, OTP rate and redefined OTP to include e-cigarettes, and Assembly Bill 1901 (2017) which prohibits the possession of “unaffixed stamps” that are not purchased from CDTFA or an agent of CDTFA.

## **Section 21 – Other Laws, Rules or Regulations**

### **What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The B&P code, section 22950 – 22963:

- Prohibits selling or giving tobacco products to persons under 21 years old unless the person is over the age of 18 with a valid military ID.
- Sellers must check ID of anyone who looks younger than 27 years old.
- State health department, and any state agency or local law enforcement agency, may use decoys under age of 21 in onsite inspections to determine if retailers are selling to persons under 21..
- Decoys will show their legal ID with real age if asked but they do not have to state their real age.
- FDA may use decoys under age of 18 in onsite inspections to determine if retailers selling to persons under 18.
- Businesses are inspected at random, in response to public complaints, or if found violation at a previous inspection.
- Sales of tobacco products to persons under age of 21 made over the phone, mail or via the Internet are also investigated and prosecuted.

### **Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

California state law does not have a minimum age requirement for a clerk to sell tobacco products. However, local laws vary.

### **Is there a minimum age for possession of cigarettes or tobacco products?**

See above.

### **Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Currently, there are no provisions regarding minimum pricing laws.

Additionally, California local governments (for example, cities and counties) do not have the authority to impose local taxes on cigarettes or tobacco products.

### **Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

California prohibits the sales of flavored cigarettes, or flavored cigarette components such as roll-your-own tobacco and tobacco paraphernalia such as filters or papers (with an exception for tobacco or menthol flavoring).

### **Are pharmacies banned from selling cigarettes or tobacco products in your state?**

There are no statutory or regulatory requirements banning pharmacies from selling cigarettes or tobacco products.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

California has statewide smoke-free air laws that ban smoking at most workplaces and in spaces often frequented by children and youth, who are especially vulnerable to the negative health effects of secondhand smoke. Local jurisdictions have and continue to adopt smoke-free laws that may be stronger than state law. For more information, please visit the California Department of Public Health, Tobacco Control Branch at: [www.cdph.ca.gov/Tobacco](http://www.cdph.ca.gov/Tobacco)

**Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

California does not have statutes regarding new heat-not-burn tobacco products known as MRRT that companies claim may be much less harmful than traditional cigarettes and be an effective alternative for current smokers who haven't had success quitting with electronic cigarettes and other alternatives.

**License Information**

All businesses engaged in the sale of tangible personal property need to have a seller's permit to collect sales and use taxes. In addition California has the following types of licenses:

If you...	Permit, License, and Account Requirements		
	Sales & Use Taxes	Cigarette Tax/Tobacco Products Tax	
Sell cigarettes and/or tobacco products at retail	Seller's Permit	Cigarette and Tobacco Products Retailer's License	
Sell electronic cigarettes, vape pens, vaporizers, nicotine liquid, etc. at retail	Seller's Permit	Cigarette and Tobacco Products Retailer's License*	
Sell cigarettes at wholesale	Seller's Permit	Cigarette and Tobacco Products Wholesaler's License**	Cigarette Wholesaler's Account**
Import cigarettes from outside of the United States	Seller's Permit	Cigarette Manufacturer/Importer's License	Cigarette Distributor's Account



Manufacture cigarettes	Seller's Permit	Cigarette Manufacturer/Importer's License	Cigarette Manufacturer's Account
Stamp and distribute cigarettes to wholesalers and/or retailers	Seller's Permit	Cigarette and Tobacco Products Distributor's License	Cigarette Distributor's Account
Sell tobacco products at wholesale	Seller's Permit	Cigarette and Tobacco Products Wholesaler's License**	Tobacco Wholesaler's Account**
Import and/or manufacture tobacco products	Seller's Permit	Tobacco Products Manufacturer/ Importer's License	Tobacco Manufacturer/Importer's Account
Distribute tobacco products	Seller's Permit	Cigarette and Tobacco Products Distributor's License	Tobacco Products Distributor's Account

\*Does not apply to cannabis products

\*\*Not needed for Licensed Distributors

### Retailer

<http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

A retailer is a person who sells cigarettes or tobacco products directly to the public from a California retail location. Retailers cannot purchase or be in possession of unstamped (untaxed) cigarettes or untaxed tobacco products unless they also have a distributor's license. You must hold a California Cigarette and Tobacco Products Distributor's License if you purchase out-of-state tobacco products (untaxed) from an unlicensed seller that did not charge you the tax.

### Minimum Age of Sale

Effective June 9, 2016, the minimum age to purchase cigarettes and tobacco products in California was raised from 18 to 21, except for active duty military personnel in the U.S. Armed Forces. See the California Department of Public Health's Tobacco 21 website for more information.

(<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/Tobacco21.aspx>)

### Retail Location

A retail location means both of the following:

1. Any building from which cigarettes or tobacco products are sold at retail.
2. A vending machine.

## **Wholesalers**

<http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

### **Cigarette Wholesaler:**

A cigarette wholesaler is a person, other than a licensed distributor, who sells taxed (stamped) cigarettes, obtained from a licensed distributor or another licensed wholesaler, for resale. Cigarette wholesalers cannot purchase or be in possession of unstamped (untaxed) cigarettes.

### **Tobacco Products Wholesaler:**

A tobacco products wholesaler is a person, other than a licensed distributor, who sells tax-paid tobacco products for resale. Tobacco products wholesalers cannot purchase or be in possession of untaxed tobacco products.

### **Distributors:**

<http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

### **Cigarette Distributor:**

A cigarette distributor is a person or company that purchases untaxed (unstamped) cigarettes and makes the first distribution of cigarettes in this state. In general, distributors purchase cigarettes before any California cigarette tax is due, and then sell stamped cigarettes to wholesalers, other distributors and retailers. Distributors pay the taxes by purchasing cigarette tax stamps from the California Department of Tax and Fee Administration (CDTFA). A cigarette distributor is required to affix the California cigarette tax stamp to each package of cigarettes prior to distribution to indicate that taxes have been paid. Distributors receive a purchase discount of 0.85% of the total tax value per purchase order, which is capped at the first one dollar (\$1.00) in denominated value beginning April 1, 2017, to help offset the cost of affixing cigarette tax stamps. Once the cigarette packs are stamped, distributors can sell the stamped cigarettes to wholesalers, retailers, and other distributors. Anyone who distributes cigarettes in California must register with the CDTFA as a cigarette distributor and sell only to distributors, wholesalers or retailers with a valid CDTFA cigarette and tobacco products license.

### **Tobacco Products Distributor:**

A tobacco products distributor is a person or company that makes the first distribution of tobacco products in this state. In general, distributors purchase tobacco products before any California tobacco products tax is due and then pay the tax when the tobacco products are sold or distributed. A tobacco products distributor is required to calculate the tobacco products tax due based on the [wholesale cost](#) of the tobacco products distributed and remit the amounts owed each month on tax return forms provided by the CDTFA. Anyone who distributes tobacco products in California must register with the CDTFA as a tobacco products distributor and sell only to distributors, wholesalers or retailers with a valid CDTFA cigarette and tobacco products license.

## **Cigarette Manufacturer/Importer License**

<http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

In order to be eligible for a license under this Act, every manufacturer or importer shall do all of the following:

1. Register for a license using [online registration](#).
2. Submit to the CDTFA a completed Application and Certification for Manufacturer/Importer License ([form CDTFA-400-LMI](#)), and a list of all brand families that it manufactures or imports.
3. Update the list of brand families that it manufactures or imports whenever it manufactures or imports a new brand or additional brand, or stops manufacturing or importing a listed brand.
4. Consent to the jurisdiction of the California courts for the purpose of enforcing the Act, appoint a registered agent for service of process in this state, and identify that agent to the CDTFA.
5. Certify when the license is granted and each year upon license renewal that all packages of cigarettes the licensee manufactures or imports and distributes in this state fully comply with subdivision (b) of Section 30163 of the Revenue and Taxation Code, and that the cigarettes contained in those packages are the subject of filed reports that fully comply with all requirements of the federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec. 13355a et seq.) for the reporting of ingredients added to cigarettes.
6. A manufacturer or importer that is a "tobacco product manufacturer" as defined in Health and Safety Code section 104556, subdivision (i) must certify to the CDTFA that it is a "participating manufacturer" as defined in subsection II(jj) of the "Master Settlement Agreement" (MSA), or is in full compliance with paragraph (2) of subdivision (a) of Section 104557 of the Health and Safety Code.

### **Section 1 – License Renewal**

#### **Do licenses need to be renewed and if so, how frequently?**

Yes, the licenses are renewed annually for Manufacturers, Importers, Distributors, Retailers and Wholesalers. Retailers pay an annual renewal fee of \$265, and distributors/wholesalers pay \$1,200. See fee structure below for all licensing fees available at:

<http://www.cdtfa.ca.gov/taxes-and-fees/>

<b>License Types</b>	<b>Fees Effective January 1, 2017</b>
Retailer (Application Fee)	\$265 per location (one-time fee)
Retailer (Renewal Fee)	\$265 per location (annually)
Retailer License Reinstatement Fee	N/A
Wholesaler/Distributor	\$1,200 per location (annually)
Manufacturer/Importer of cigarettes (administration fee)	Market share based on Business & Professions Code §22979.2(c) (one-time fee)
Manufacturer/Importer of chewing tobacco or snuff	\$10,000 (one-time fee)
Manufacturer/Importer of all other tobacco products excluding chewing tobacco & snuff	\$2,000 (one-time fee)

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Section 30142 of the Revenue and Taxation code requires a security deposit in the amount of \$1,000 for any distributor that is required to be licensed.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

California has a yearly license renewal requirement for manufacturers in which they have to log into the CDTFA website, answer a set of questions, and if eligible, reprint a new license.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Colored, visible color-shifting effect, unique 6-digit serial number, tamper-evident surface cuts, image of a bear, 20 or 25 denomination, star icon with micro text, and overt and covert counterfeit-resistant features.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

The California tax stamp has both overt and covert features. For more information, refer to publication 403: <https://www.cdtfa.ca.gov/formspubs/pub403.pdf>

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

California only requires an indicia on cigarettes, other tobacco products do not have any identifying markings.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

California has both a 20 and 25 denomination tax stamp that signifies the number of sticks in each pack of cigarettes.

## **Section 2 – Acquiring Stamps**

Cigarette Distributor Licensing and Tax Stamp Guide

In order to purchase stamps, you must be licensed as a cigarette distributor and have a stamping machine. You must also register to become an authorized cigarette tax stamp purchaser. Stamps are purchased directly from the CDTFA's website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) or by fax at 1-916-341-6923. Either way, you must have an email address, a User ID and password prior to making purchases.

**How are stamps delivered to the wholesaler/cigarette distributor?**

Stamps are sent directly from the stamp manufacturer. Standard shipping is included in the price of the stamps. Expedited shipping is available for an additional cost and is dependent on the destination shipped to. (Publication 63)

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment for stamps is due at the time of purchase.

## **Section 3 - Bond Requirements**

Deferred payment purchases of stamps will require security. Acceptable forms of security include: Cash deposits, surety bonds, letters of credit, deposit accounts in banks, and state and federal credit union shares. (Publication 63).

The following deferred payment options are available:

- **Monthly Payments**—If you elect this option, the CDTFA requires security equal to no less than 70 percent of the amount that may be deferred. Your payments are due on the 25th day of the month following the month in which you purchase stamps.
- **Twice-Monthly Payments**—If you elect this option, the CDTFA requires security equal to no less than 50 percent of the amount that may be deferred. Your payments are due on the 5th and 25th days of the month following the month in which you purchase stamps.
- **Weekly Payments**—If you elect this option, the CDTFA requires security equal to no less than 25 percent of the amount that may be deferred. Your payments are due on Wednesday of the following week in which you purchase stamps.

Other requirements may apply. For more information, please refer to Publication 63: [Cigarette Distributor Licensing and Tax Stamp Guide, Publication 63](#) .

## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

Without written approval of the CDTFA, stamps cannot be transferred (Regulation 4047).  
<http://www.cdtfa.ca.gov/lawguides/vol3/ctptr/ctptr-reg4047.html>

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Distributors may not sell unstamped cigarettes to other distributors or wholesalers. Wholesalers and retailers may not purchase, be in possession of, sell, or transfer unstamped cigarettes.

Retailer to Retailer transfers

( <http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

Under the Retailer & Wholesaler tab, scroll to “Product Transfers-Retailers with Multiple Locations”)

Generally, the transfer of cigarettes and tobacco products is not permitted. However, if a retailer owns more than one store and the retail licenses are held by the same legal entity, those retailers may be allowed to transfer cigarettes and tobacco products between stores belonging to the same legal entity. Sales transactions between retailers are prohibited.

Prepare transfer logs at the time of transfer. Transfer logs created or provided after an inspection are not acceptable. Legible transfer logs and copies of purchase invoices must be kept at each location involved in the transfer. The logs must include:

- The transferring retail address and license number where the original purchase was made.
- The receiving retail address and license number where the product was transferred.
- The supplier's name, license number, purchase invoice number, and date of original purchase.
- A detailed description and quantity of product transferred (for example, quantity, brand, type of package, flavor, style, etc.).

These requirements do not apply to tobacco products that are not subject to the tobacco products tax. For example, vape liquids that do not contain any nicotine are not subject to these requirements; however, they are subject to retail licensing

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

Distributors that wish to return unused/unaffixed tax stamps for a refund are advised to file a claim for refund and make arrangements to return the stamps to the CDTFA. Distributors must request a refund of the tax stamps in writing to: Appeals and Data Analysis Branch, P.O. Box 942879, Sacramento, CA 94279-0033, fax your request to: 1-916-323-9497, or email their claim for refund to [adab@cdtfa.ca.gov](mailto:adab@cdtfa.ca.gov). Upon approval of the claim, the CDTFA will refund or credit the distributor the denominated values, less the discount given on their purchase of any unused stamps (CTPTL section 30176). (Publication 63)

### **Defective/noncompliant Stamps:**

In the event that you have defective or noncompliant stamps, you should promptly notify the stamp manufacturer at 1-630-682-6271 and make arrangements to have a technician from the manufacturer validate the problem with the defective stamps. You should also notify the Stamp Desk at 1-916-341-6923.

If the manufacturer's technician determines that the stamps cannot be used, you should complete a CDTFA-413-ACTS, Cigarette Distributor's Report of Returned Stamps, for each roll of defective or noncompliant stamps and have a technician sign and date each form.

Fax the completed CDTFA-413-ACTS, Cigarette Distributor's Report of Returned Stamps, to the Stamp Desk at 1-916-327-6235.

Retain a copy for your records. Enclose the original with the defective stamps that are being returned to the stamp manufacturer. The stamp manufacturer will coordinate with you on how the defective stamps will be replaced.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

We currently do not have any laws or regulations regarding what percentage of the stamp must be present.

## **Section 6 – Refund Limitations**

Our statute of limitations for returning unaffixed stamps is 3 years from the purchase date. (CTPTL section 30178)

## **Section 7 – Credit Process for Manufacturer Returns**

<http://www.cdtfa.ca.gov/formspubs/pub63.pdf>

You must file a claim for refund for the California tax stamps affixed to cigarette packs which have become unfit for use or unsalable and need to be returned to the manufacturer. You must submit your claim in writing to the Appeals and Data Analysis Branch (ADAB), California Department of Tax and Fee Administration, P.O. Box 942879, Sacramento, CA, 94279-0033. You may also submit your claim for refund by fax to 1-916-323-9497, or by email to [adab@cdtfa.ca.gov](mailto:adab@cdtfa.ca.gov).

The claim for refund request must state the number and denomination of California tax stamps affixed to the packages of cigarettes, and the reason for refund. The claim for refund must list the number of packs by brand family in the request.

Upon receiving your claim for refund request, you will be contacted by CDTFA staff to arrange for an onsite verification of the cigarette tax stamps affixed to unfit or unsalable packages of cigarettes. Prior to the onsite verification, you must physically sort the pack-ages of cigarettes in open cartons by brand family. In addition, you must also have staff available during the onsite verification to void the tax stamps using an indelible marker. After CDTFA staff performs the verification, you will return the verified stamped packages of cigarettes to the manufacturer. You must then provide a copy of the manufacturer's credit memorandum or affidavit to the CDTFA before your claim for refund can be processed.

If the stamped packages of cigarettes are not returned to the manufacturer for destruction, the product must be destroyed in the presence of a CDTFA employee or your claim for refund will be denied. Destruction of product may include, but is not limited to, shredding, cutting, burning, or depositing directly into a landfill.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Upon approval of the claim, the CDTFA issues the distributor a check.

## **Section 8 – Other Allowed Credits**

We do not allow credits for returned cigarettes or cigarette tax stamps beyond what is mentioned above.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

We currently do not have a particular process for reporting discrepancies between cigarette inventory and tax stamp inventory.



However, distributors are required to report on a monthly basis, beginning and ending inventory of both cigarettes and stamps purchased, cigarettes stamped, and remaining inventories of both cigarettes and stamps.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

CTPTL Regulations 4021, 4022 and 4023 address opening inventory, maintaining inventory records and inventory reporting requirements.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp’s value adjusted? How is the adjustment accounted for?**

Proposition 56, “*The California Healthcare, Research and Prevention Tobacco Tax Act of 2016*” was approved by voters on November 8, 2016. The provisions of Proposition 56 became effective April 1, 2017. Under Proposition 56, The definition of “tobacco products” for taxation purposes was amended under [section 30121.1 \(b\)](#) of the Revenue and Taxation Code. Effective April 1, 2017, “tobacco products” include products containing any amount of tobacco or nicotine for human consumption. Some examples of products include cigars, *little cigars*, smoking tobacco, chewing tobacco, cigar wraps containing any amount of tobacco, electronic cigarettes sold in combination with nicotine, and liquid nicotine used in vaping . California does not stamp little cigars because they are no longer considered a cigarette for tax purposes.

## **PACT Act Reporting**

**California’s PACT Act requirements** <http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm>

(Under the Distributor tab scroll to “[Prevent All Cigarettes Trafficking \(PACT\) Act Requirements](#)”)

- If you operate a business for profit that sells, transfers, ships, advertises, or offers for sale cigarettes or smokeless tobacco through interstate commerce into California or commerce transferred into or through Indian country of an Indian tribe, located within the external borders of California, you must register with the CDTFa and file monthly reports.
- To register, download the Federal PACT Act form, ATF Form 5070.1, Prevent All Cigarettes Trafficking (PACT) Act Registration Form at: <https://www.atf.gov/alcohol-tobacco/prevent-all-cigarette-trafficking-act-pact-2009>. Mail the completed forms to the California Department of Tax and Fee Administration, Special Taxes and Fees, MIC: 88, P.O. Box 942879, Sacramento, CA 94279-0088.

**Monthly Report Filings Requirements:**

- You must also file monthly PACT Act reports with the CDTFA and the California Attorney General. The monthly PACT Act reports should contain detailed information on each shipment of cigarettes or smokeless tobacco products made during the previous calendar month, into California or Indian country. The reports are due by the 10th day of each calendar month. To download a copy of the required report forms, please visit the Federation of Tax Administrators website: [https://www.taxadmin.org/assets/docs/Tobacco/uniform\\_forms\\_032913.pdf](https://www.taxadmin.org/assets/docs/Tobacco/uniform_forms_032913.pdf). It is recommended that you submit the required reports electronically to [PACT.Act@cdtfa.ca.gov](mailto:PACT.Act@cdtfa.ca.gov). If you are unable to submit the reports electronically, please mail to California Department of Tax and Fee Administration, Business Tax and Fee Division, MIC: 88, P.O. Box 942879, Sacramento, California 94279-0088.
- Separate monthly reports are required to be filed for cigarettes and smokeless tobacco products. To report cigarettes, use form PA-1 State Cigarette P.A.C.T Act Report. To report smokeless tobacco products use form PA-2 State Tobacco P.A.C.T Act Report.

**Other Requirements for Delivery Sellers (direct sales to consumers):**

- A "delivery sale" is defined, in part, to include sales of cigarettes or smokeless tobacco sold by an out-of-state vendor to an in-state consumer. If you are a delivery seller, and plan to make delivery sales of cigarettes or smokeless tobacco products in California, you must apply for a California Cigarette and Tobacco Products Retailer and Distributor license. A delivery seller must comply with all California laws regarding the sale of cigarettes and smokeless tobacco products into the State as if that seller was in California.
- Failure to comply with these requirements may result in the assessment of penalties or civil action brought by the Office of the California Attorney General.

# STATE OF COLORADO

(Last updated 04/2019)

## General Information

### Section 1 - Contact Information

**Contact Name:** Anthony Muller Fuel, Excise Tax Manager

**Agency:** Colorado Department of Revenue

**Mailing Address:** P.O. Box 17087

**City, State, Zip Code:** Denver, CO 80218-0087

**Phone Number:** (303) 205-8216

**E-mail Address:** [anthony.muller@state.co.us](mailto:anthony.muller@state.co.us)

**Website:** colorado.gov/tax

**Contact Name:** Brian Laughlin

**Agency:** Colorado Department of Law, Tobacco Settlement Enforcement

**Mailing Address:** 1300 Broadway, 7th Floor

**City, State, Zip Code:** Denver, Colorado 80203 (720)

**Phone Number:** (303) 508-6228

**Fax Number:** (720) 508-6040

**E-mail Address:** [Brian.Laughlin@coag.gov](mailto:Brian.Laughlin@coag.gov)

### Section 2 - Statutes, Regulations and Rules

Statutes: colorado.gov/tax/colorado-revised-statutes

Regulations: colorado.gov/tax/tax-regulations

Cigarette Publications (FYIs): colorado.gov/tax/cigarette-tax-legal-research

Tobacco Tax Information by State v. 07.22.19

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

39-28-202 (4) (a) defines "Cigarette" as any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (I) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
  - (II) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
  - (III) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (I) of this paragraph (a).
- (b) The term "cigarette" includes roll-your-own, i.e., any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.
- (c) For purposes of this definition of "cigarettes", 0.09 ounces of roll-your-own tobacco shall constitute one individual "cigarette".

39-28.5-101 (5) defines "Tobacco products" as cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking, but does not include cigarettes which are taxed separately pursuant to article 28 of this title.

### **Section 4 - The Basis for the Tax**

The cigarette tax in Colorado is 4.2 cents per cigarette. The statute references for the tax are:

- a. 39-28-103. Tax levied  
There is levied and shall be collected and paid to the department a tax upon the sale of cigarettes by wholesalers of ten mills on each cigarette.
- b. 39-28-103.5. Tax levied - state constitution  
Pursuant to [section 21 of article X of the state constitution](#), there is levied, in addition to the tax levied pursuant to [section 39-28-103](#), a tax on the sale of cigarettes by wholesalers, at a rate of three and two-tenths cents per cigarette. The tax shall be paid to and collected by the department.

The tobacco products tax in Colorado are 40% of the manufacturer list price. The statute references for the tax are as follows:

- a. 39-28.5-102. Tax levied
  - 1. There is levied and shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of twenty percent of the manufacturer's list price of such tobacco products. Such tax shall be imposed at the

time the distributor:

- (a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;
- (b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or
- (c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

b. 39-28.5-102.5. Tax levied - state constitution

Pursuant to [section 21 of article X of the state constitution](#), there is levied, in addition to the tax levied pursuant to [section 39-28.5-102](#), a tax on the sale, use, consumption, handling, or distribution of tobacco products by distributors, at a rate of twenty percent of the manufacturer's list price. The tax shall be paid to and collected by the department. The tax shall be imposed in the same manner as the tax described in [section 39-28.5-102](#).

### **Section 5 - Tax Rates and Miscellaneous Fees**

The cigarette tax rate is 4.2 cent per cigarette.

The tobacco products tax rate is 40%.

There are currently no surcharges or additional fees due with the cigarette or tobacco products tax returns.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

The discount for timely cigarette tax returns/payments is 0.9524%.

The discount for timely tobacco products tax returns/payments is 1.665%.

### **Section 8 - Any Other Permissible Allowances**

Cigarette distributors are allowed to claim a refund for bad debt. There is no allowance for theft.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarette tax is a tax upon the sale of cigarettes by wholesalers

Tobacco products tax is imposed at the time the distributor:

- (a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;
- (b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or
- (c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

## **Section 10 - Tax Return Due Dates**

Cigarette tax returns are due monthly on the 10th of the month follow reporting month.

If the 10th falls on a weekend or holiday the due date is the following business day.

The postmark date is used in determining timely filing for paper return .

The submitted (received) date is used for electronically filed return.

Tobacco products tax returns are due quarterly on the 20th of the month follow reporting period.

If the 20th falls on a weekend or holiday the due date is the following business day.

The postmark date is used in determining timely filing for paper return.

The submitted (received) date is used for electronically filed return.

## **Section 11 – Tax Return Filings**

Returns can be filed with the paper return or electronically through the Department’s online filing system, Revenue Online.

## **Section 12 – Tax Collection**

By statute 39-28-104 (c) (for cigarette tax) and 39-28.5-106 (3) (for tobacco products tax) taxpayers are required to pay cigarette and tobacco products tax electronically.

The primary way to remit cigarette and tobacco products tax is by making EFT payments, which is due by 4:00pm on the due date.

Taxpayers also have the option of making credit card or e-check payments.

If cigarette or tobacco products tax is not paid electronically (paper check or cash) a 10% penalty of the balance applies.

### **Section 13 - Penalties for Late Filing**

Cigarette tax: Penalty for late returns \$100.

Tobacco products tax: Penalty for late returns is the greater of \$25 or 10% of the tax balance, if the return is more than one month late 0.5% penalty is added up to a maximum of 18%.

### **Section 14 – Local Jurisdictional Tax**

There are no local jurisdictional taxes cigarettes or tobacco products.

### **Section 15 - Floor Stock Tax**

Colorado imposes a floor stock tax when there is a rate change in taxes.

### **Section 16 – Qualifying Exemptions**

#### **Cigarette Tax:**

39-28-111. Exempt sales

The sales of cigarettes to the United States government or any of its agencies, sales in interstate commerce, or transactions the taxation of which is prohibited by the constitution of the United States are exempted from the provisions of this article. Such exempt sales shall be reported to the department with such information as the department shall require.

#### **Tobacco products tax:**

39-28.5-103. Exempt sales

The tax imposed by section 39-28.5-102 shall not apply with respect to any tobacco products which, under the constitution and laws of the United States, may not be made the subject of taxation by this state. Such exempt sales shall be reported to the department with such information as the department shall require.

### **Section 17 - Laws or Rules for Tribal Sales**

None noted.

### **Section 18 - Information Required on a Customer Invoice**

No response received from state.

Tobacco Tax Information by State v. 07.22.19

## **Section 19 – Responsibility by Agency**

MSA Reporting: The Colorado Department of Revenue receives MSA reporting from cigarette wholesales and tobacco product distributors and reports information to the Colorado Department of Law.

Enforcement/Collection: The Colorado Department of Revenue and the Colorado Department of Law

Product Seizure Authority: The Colorado Department of Revenue

## **Section 20 – New or Pending Legislation**

SB17-273, Manufacturer’s List Price for Tobacco Products Tax

<http://leg.colorado.gov/bills/sb17-273>

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes.



## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

### **Types of licenses:**

- Cigarette Distributor
- Cigarette Wholesale Subcontractor
- Tobacco products distributor
- Tobacco products distributing subcontractor

The license fee is \$10 per license per year.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Cigarette and tobacco products licenses are annual licenses which expire June 30th of each year.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, the bond amount must be for the distributor's anticipated monthly purchase of cigarette stamps. Cigarette distributors are required to have/obtain a bond if they 1) have had their license for less than five years or 2) have been delinquent in the payment of cigarette tax within the last five years. Each year a distributor has not be delinquent in the payment of cigarette tax, the distributor is allowed to reduce their bond amount by 20%, until the bond requirement goes away after five years with no delinquent payments.

### **Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

Yes, a cigarette license is required to import cigarettes into the state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Tan color with black numbers and is heat applied.

Tobacco Tax Information by State v. 07.22.19

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There are two rows for the 122, 123, and 126s. The top row is the roll number, and the bottom row is the stamp number. The 121s have one row, and it’s the stamp type.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes.

## **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Orders are called in by distributors and are either picked up, or sent FedEx or UPS to the taxpayer at the taxpayer’s expense.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

If the distributor is within their bond amount or if no bond is required, the distributor purchases stamps and pays for them with the return, by the 10<sup>th</sup> of the following month. If a distributor has exceeded the bond amount, they are required to pay prior to the stamps being issued.

## **Section 3 - Bond Requirements**

Cigarette distributors are required to obtain a bond for their anticipated monthly order purchase amount. For each year the distributor goes without a cigarette tax delinquency, they are allowed to reduce their bond amount by 20% and a distributor who hasn’t had a cigarette tax delinquency in five years is exempt from the bond requirement.

## **Section 4 – Allowable Transfer**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

None noted.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

Yes, if the distributor submits an original manufacturer's statement or affidavit of returned merchandise, they are allowed a credit for returned stamps.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

## **Section 6 – Refund Limitations**

Claim must be submitted within 1 year of issue of the stamp.

## **Section 7 – Credit Process for Manufacturer Returns**

Credit for stamped product returned to the manufacturer may be claimed on line 11 of the cigarette tax return (form DR 0221) or may be claimed as a refund on form DR 0137 if not claimed with a return.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

If filed on the return, as credit against their tax liability. If submitted separately, paper check.

## **Section 8 – Other Allowed Credits**

There is a credit on the tobacco products return for product returned to the manufacturer.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

N/A, cigarette distributors are not required to report their inventory on the cigarette tax return.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

When distributors order stamps which exceed their bond amount, they are required to remit payment for the additional tax (difference between the order amount and the bond amount) prior to the order being fulfilled.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No.

## **PACT Act Reporting**

PACT reporting can be filed with the tax returns, electronically, via e-mail, or through paper documents.

By the 10<sup>th</sup> day of each month a memorandum or a copy of the invoice covering every shipment of cigarettes, roll your own (RYO), or smokeless tobacco made into Colorado during the previous month.

All invoice or memorandum information relating to specific customers must be organized by city or town and by zip code.

And must include the following:

- Customer name and address
- Customer city, state and zip code
- Invoice number and date
- Brand of product
- Amount of product
- Stick number for cigarettes
- Ounces for RYO and smokeless tobacco
- Carrier information
- Name, address and phone number
- Shipper name and address

# STATE OF CONNECTICUT

(Last updated 06/2019)

## General Information

### Section 1 - Contact Information

**Contact Name:** Michael Romeo

**Agency:** Department of Revenue

**Mailing Address:** 450 Columbus Blvd. Suite 1

**City, State, Zip Code:** Hartford, CT 06103

**Phone Number:** (860) 541-4567

**Fax Number:** (860) 541-7698

**E-mail Address:** [michael.romero@po.state.ct.us](mailto:michael.romero@po.state.ct.us)

**Website:** <http://www.ct.gov/drs/site/default.asp>

**Contact Name:** Heather Wilson or Amor Rosario

**Agency:** Assistant Attorney General

**Mailing Address:** 55 Elm St.

**City, State, Zip Code:** Hartford, CT 06106

**Phone Number:** (860) 808-5241 or (860) 808-5497

**Fax Number:** (860) 808-5385 or (860) 772-1709

**E-mail Address:** [Heatherj.wilson@ct.gov](mailto:Heatherj.wilson@ct.gov) or [amor.rosario@ct.gov](mailto:amor.rosario@ct.gov)

**Website:** <http://www.ct.gov/ag/site/default.asp>

## **Section 2 - Statutes, Regulations and Rules**

Cigarette statutes link is [https://www.cga.ct.gov/current/pub/chap\\_214.htm](https://www.cga.ct.gov/current/pub/chap_214.htm)

OTP link is [https://www.cga.ct.gov/current/pub/chap\\_214a.htm](https://www.cga.ct.gov/current/pub/chap_214a.htm)

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Definitions can be found in links above for both cigarettes and OTP while CT does not currently tax ENDS.

## **Section 4 - The Basis for the Tax**

OTP is based on the wholesale sales price except for snuff tobacco products which are taxed by the ounce and cigars on which the tax on a cigar cannot exceed .50¢ per cigar.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes are currently taxed at \$4.35 per pack while OTP is taxed at 50% of the wholesale sales price except for snuff tobacco products which are taxed at \$3.00 per ounce and cigars which is 50% of the wholesale sales price however the tax on a cigar cannot exceed .50¢ per cigar.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Connecticut will begin taxing ENDS and other vapor products after September 30, 2019.\* \*See Section 20 below.

## **Section 6 - Rate Updates**

Unknown at this time.

## **Section 7 - State Collection Allowance or Discount**

CT stamping distributors are allowed a 1% discount on their purchase of stamps; no discount for OTP distributors.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

For cigarettes it is at the time the stamp is purchased and for OTP at the distributor level however if a retailer purchases untaxed OTP they may be found liable for the OTP tax on such purchases.

## **Section 10 - Tax Return Due Dates**

For both cigarettes and OTP it is the 25th day of the following month. If it falls on a holiday it is due on the next business day. It is considered a timely return by the postmark date.

## **Section 11 – Tax Return Filings**

Paper returns are required for both cigarette and OTP taxes.

## **Section 12 – Tax Collection**

Cigarette stamp purchases must be made within 30 days of purchase while OTP distributors must pay via EFT if they remit in excess of \$3,000/yearly.

Time by which the electronic payment must be transmitted to be considered timely is no later than midnight of the due date.

## **Section 13 - Penalties for Late Filing**

EFT Penalties: 1 – 5 days late is 2%; 6 – 15 days late is 5%; 16 days and more is 10%; Late payment via check is a flat 10%.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

There is a floor stock tax for cigarettes but not typically for OTP.

## **Section 16 – Qualifying Exemptions**

Qualifying exemptions exist for cigarette sales to the federal government and state institutions other than correctional institutions and for OTP sales to the federal government.

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.

## **Section 18 - Information Required on a Customer Invoice**

Sec. 12-313-11a. Records: (a) The complete and accurate records required under section 12-309 of the general statutes to be kept by a licensed distributor shall include a sales journal which shows daily sales both of stamped packages of cigarettes and of unstamped packages of cigarettes by such distributor, a purchases journal which shows daily purchases both of stamped packages of cigarettes and of unstamped packages of cigarettes by such distributor, a copy of each sales invoice which shall show the date, the name and address of the purchaser, the quantity of cigarettes sold, the sales price, and whether or not the cigarettes were delivered to the purchaser, and a copy of each purchase invoice which shall show the date, the name and address of the seller, the quantity of cigarettes purchased, the list price of the manufacturer, and whether or not the face value of stamps required by chapter 214 is included in such list price.

(b) The complete and accurate records required under section 12-309 of the general statutes to be kept by a licensed dealer shall include a sales journal which shows daily sales by such dealer, a purchases journal which shows daily purchases both of stamped packages of cigarettes and of unstamped packages of cigarettes by such dealer, and a copy of each purchase invoice which shall show the date, the name and address of the distributor, the quantity of stamped cigarettes purchased, the quantity of unstamped cigarettes purchased, the cost to such dealer, and whether or not a trade discount other than a cash discount is allowed to such dealer.

(c) This section is prescribed pursuant to section 12-313 of the general statutes.

(Effective January 24, 1986; Amended December 1, 2000; Amended December 5, 2003)

## **Section 19 – Responsibility by Agency**

MSA Reporting: DRS is responsible for compiling the data and maintaining the CT Tobacco Directory while the Office of Attorney General is responsible for the collection of NPMs quarterly escrows

Enforcement/Collection: DRS

Product Seizure Authority: DRS

Tobacco Tax Information by State v. 07.22.19



## **Section 20 – New or Pending Legislation**

**PA 19-13 AN ACT PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE AND MODIFIED THE DEFINITION OF TOBACCO PRODUCTS** EFFECTIVE DATE: October 1, 2019

### **§ 21 — DEFINITION OF TOBACCO PRODUCTS**

“Tobacco products” means any product, regardless of for, that is made from or otherwise contains tobacco, but shall not include any cigarettes, as defined in section 12-285, any electronic nicotine delivery system, as defined in in section 21a-415, as amended by this act, or any vapor product, as defined in section 21a-415, as amended by this act.

### **§§ 3 & 5 — CIGARETTE DEALER LICENSE FEE**

The bill increases, from \$50 to \$200, the annual license fee for cigarette dealers. It also increases, from \$5 to \$50, the penalty for each day a cigarette dealer or distributor operates without a license.

### **§§ 4 & 7 — VENDING MACHINE SALES**

Current law allows the DRS commissioner, after a hearing, to impose penalties on owners of establishments with cigarette vending machines and restricted cigarette vending machines (see BACKGROUND) for sales to individuals under the legal age as follows:

1. for a 1st violation, if the owner fails to successfully complete an online tobacco education program, \$500 and
2. for a 2nd or 3rd violation, \$750.

The bill increases, from \$750 to \$1,000, the penalty for a third violation. As under current law, the commissioner may impose fines for 2nd and 3rd violations that occur within 24 months after the date of the first violation.

Existing law, unchanged by the bill, requires an establishment owner who commits a third violation, to immediately remove the vending machine from the establishment and prohibits any vending machine at the establishment for one year after such removal. By law, the DRS commissioner may also assess the following civil penalties against a person, dealer, or distributor who violates the vending machine laws: (1) \$250 for a first violation and (2) \$500 for a second or third violation within 18 months. After the third violation, the vending machine must be immediately removed from the area, facility, or business where it is placed and such machines are prohibited from the location for one year after the removal.

### **§§ 7, 14, & 16 — PENALTIES FOR PURCHASES**

Under current law, a person under the legal age who (1) buys cigarettes, other tobacco products, or e-cigarettes; (2) misrepresents his or her age to do so; or (3) possesses one in public, faces a fine of up to \$50 for a first offense and between \$50 and \$100 for each subsequent offense. The bill eliminates the fine for possessing these products in public. By law, violators may pay the above listed fines by mail, without making a court appearance (CGS § 51-164n).

Additionally, the bill eliminates the DRS commissioner’s authority to, after a hearing, also impose civil penalties on individuals under the legal age who purchase cigarettes or other tobacco products.

Tobacco Tax Information by State v. 07.22.19

**§§ 7, 12, & 14-16 — PENALTIES FOR SALES**

***Maximum Fines***

The bill increases the maximum fines that may be imposed on someone who sells, gives, or delivers cigarettes, other tobacco products, or e-cigarettes to someone under the legal age as follows:

1. for a first offense, from \$200 to \$300;
2. for a second offense, from \$350 to \$750; and
3. for each subsequent offense, from \$500 to \$1,000.

As under current law, the fines for second and subsequent offenses apply to those that occur within 24 months of the first offense.

Under existing law and the bill, these penalties do not apply if the person under the legal age is delivering or accepting delivery of the product (1) in his or her capacity as an employee or (2) as part of a scientific study for medical research that meets specified criteria. Current law allows the DRS commissioner, after a hearing, to impose civil penalties on cigarette dealers, distributors, or their employees for sales to individuals under the legal age. The bill increases the penalties on dealers or distributors for 3rd or 4th violations. It also allows the DRS commissioner, after a hearing, to impose civil penalties on e-cigarette dealers or their employees for sales to individuals under the legal age in generally the same manner as current law and the bill allows him to do for cigarette dealers, distributors, or their employees.

Table 1 compares the penalties under current law with those under the bill. As under current law, the penalties do not apply if the person under the legal age is delivering or accepting delivery of the product in his or her capacity as an employee.

**Table 1: Penalties for Sales to Individuals under the Legal Age** *Under the Bill*

***Current Law***

***Penalties on Cigarette Dealers and Distributors***

<b>1st violation</b>	\$300, if they fail to complete an online tobacco prevention education program within 30 days	\$300, if they fail to complete an online tobacco prevention education program within 30 days
<b>2nd violation</b>	\$750	\$750
<b>3rd violation</b>	\$750, plus 30-day license or certificate suspension	\$1000, plus 30-day license suspension
<b>4th violation</b>	N/A	\$1000, plus license revocation

***Penalties on Employees of Dealers and Distributors***

<b>1st violation</b>	\$200, if they fail to complete an online tobacco education program within 30 days	\$200, if they fail to complete an online tobacco education program within 30 days
<b>2nd violation</b>	\$250, if it occurred within 24 months of the first violation	\$250, if it occurred within 24 months of the first violation

As under current law, the above fines for second and subsequent violations may be imposed for violations that occur within 24 months after the first violation.

Under the bill, the DRS commissioner may only impose the above fines on e-cigarette dealers (or their employees) referred to him by the DMHAS commissioner after completing unannounced compliance checks (see below). For third and fourth violations, the DRS commissioner must direct the DCP commissioner to suspend or revoke the e-cigarette dealer's registration. Before taking such action, the bill requires the DRS commissioner to notify the e-cigarette dealer in writing of the hearing time and location and require the dealer to show cause why the registration should not be suspended or revoked. The notice must be delivered personally, or by registered or certified mail at least ten days before the hearing date. The DCP commissioner is not required to hold a hearing before suspending or revoking the e-cigarette dealer's registration.

Existing law similarly requires the DRS commissioner to do this for cigarette dealers and distributors and allows him, after a hearing, to suspend or revoke the license of a dealer or distributor for cigarette or tobacco product sales to individuals under the legal age.

#### ***Public Notice of License Suspension or Revocation***

If the DCP or DRS commissioners suspend or revoke the license or certificate of an e-cigarette dealer or a cigarette dealer or distributor, respectively, the bill requires the DRS commissioner to order them to conspicuously post a notice in a public place in the establishment stating that such products cannot be sold during the suspension or revocation period as well as the reasons for the suspension or revocation. Under the bill, a dealer or distributor who sells these products during the suspension or revocation period commits an additional violation.

#### ***Reinstating an E-Cigarette Dealer Registration***

If the DCP commissioner revokes an e-cigarette dealer's registration, the bill prohibits her from issuing the dealer a new registration unless she is satisfied that the dealer will comply with the state's e-cigarette laws and regulations.

#### ***Proof of Age***

The bill requires cigarette, tobacco product, and e-cigarette sellers and their agents or employees to ask a prospective buyer who appears to be under age 30 for proper proof of age, in the form of a driver's license, valid passport, or identity card. Current law requires sellers to do this when a prospective buyer's age is in question.

Under existing law and the bill, sellers are prohibited from selling cigarettes, tobacco products, or e-cigarette to someone who does not provide this proof.

#### ***Consumer Notice for E-Cigarette Sales***

The bill requires e-cigarette dealers to place and maintain at each point of sale a notice to consumers that states:

1. the sale, giving, or delivery of e-cigarettes to anyone under age 21 is prohibited by law;
2. a person under age 21 is prohibited from using false identification to purchase e-cigarettes; and
3. the penalties and fines for violating the e-cigarette purchasing laws.

Similar requirements already apply to cigarette dealers and distributors under existing law.

### ***Compliance Checks***

The bill requires the DMHAS commissioner to conduct unannounced compliance checks on e-cigarette dealers by having adults ages 16 to 20 enter the dealers' place of business and attempt to purchase e-cigarettes.

The commissioner must also conduct an unannounced follow-up compliance check of all non-compliant dealers and refer them to the DRS commissioner, who may then impose a penalty (see above). (The bill does not specify a timeframe for the initial and follow-up compliance checks.)

### **§§ 8 & 13 — PROMOTIONAL SAMPLES**

The bill allows e-cigarette dealers to give or deliver free e-cigarette samples in connection with the promotion or advertisement of a product in a similar manner as current law allows for dealers and distributors of cigarettes and tobacco products. Specifically, an e-cigarette dealer may do so if:

1. the product is given or delivered at the location identified on the dealer's registration application or at an event or establishment in an area that can only be accessed by adults of legal age to purchase and

2. the sample contains at least two e-cigarettes, for which taxes have previously been paid.

Under the bill, the e-cigarette dealer is liable for any e-cigarette sample given or delivered to a person under age 21 on the dealer's premises by someone conducting a promotion or advertisement of the product.

The bill does not apply to e-cigarette samples given or delivered in connection with the sale of a similar product.

Additionally, the bill requires e-cigarette, cigarette, and tobacco product samples to be delivered or given in accordance with federal laws and regulations.

### **§§ 9 & 10 — E-CIGARETTE DEALER AND MANUFACTURER REGISTRATIONS AND ENFORCEMENT ACCOUNT**

#### ***Dealer Registration Requirements and Increased Fees***

The bill specifies that a person cannot sell, offer for sale, or possess with the intent to sell, e-cigarettes unless he or she is an employee, agent, or direct affiliate of a business with an active e-cigarette dealer registration from DCP. It also specifically requires a separate dealer registration for each place of business that sells these products.

Additionally, the bill increases, from \$400 to \$800, the annual e-cigarette dealer registration fee. But it retains the \$400 registration fee for e-cigarette dealers with multiple dealer registrations.

The bill also makes related minor, technical, and conforming changes.

#### ***Manufacturer Registration Requirements***

Under current law, e-cigarette manufacturers must register with DCP and annually pay a \$400 registration fee. The bill reduces the registration fee to \$200 for e-cigarette manufacturers who hold multiple manufacturer registrations.

#### ***Expired Registrations***

Under current law, an e-cigarette manufacturer or dealer who knowingly (1) manufacturers or (2) sells, offers for sale, or possesses with the intent to sell an e-cigarette with a registration that has expired for 90 days or less commits an infraction and is subject to a \$90 fine. The bill specifies that the fine applies to each day the dealer or manufacturer is in violation of the law.

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Existing law requires the commissioner, before imposing such fines, to notify the manufacturer or dealer in writing and allow him or her 60 days to correct the violation. The bill eliminates the requirement that the written notice be sent by (1) certified mail, or similar United States Postal Service delivery method, or (2) electronic mail.

Current law allows DCP to renew a manufacturer's expired registration if the applicant pays any required fines. The bill allows the commissioner to do this only for registrations that have expired for six months or less.

#### **§ 11 — EMPLOYEE AND OWNER ASSISTED E-CIGARETTE SALES**

The bill specifies that e-cigarette dealers generally may only sell e-cigarettes at the place of business identified on their dealer application through employee- or owner-assisted sales where customers cannot access the e-cigarettes without the employee's or owner's assistance. It continues to prohibit e-cigarette sales using self-service displays.

As under current law, e-cigarette dealers are exempt from the requirements if they prohibit anyone under age 21 from entering the place of business and post notice of the prohibition clearly at all of the business's entrances.

#### **§§ 17 & 18 — SMOKING AND E-CIGARETTE BAN AT CHILD CARE CENTERS AND SCHOOLS**

Current law generally prohibits smoking and e-cigarette use in various locations, such as restaurants, health care institutions, and state or municipal buildings.

The bill adds to the law's prohibited locations by including all school property, inside or outside, instead of only within a school building while school is in session or during student activities. It specifies that the ban applies to public and private schools.

It also (1) expands current law's prohibition on e-cigarette use to include the grounds of a child care facility, instead of only inside the facility and (2) extends the prohibition to include cigarette and other tobacco product use. Under the bill, as under current law for e-cigarette use, the prohibition applies to family child care homes (i.e., private homes caring for up to six children) only when a child enrolled in the home is present.

#### **§ 19 — ONLINE SALE AND DELIVERY OF E-CIGARETTES**

The bill requires e-cigarette dealers who sell e-cigarettes and ship them directly to in-state consumers (e.g., through online sales) to obtain the signature of a person aged 21 or older at the shipping address prior to delivery, and require the signer to provide a driver's license or identification card as proof of age.

The bill also requires the seller to ensure that the shipping label on such packages conspicuously states the following:

“CONTAINS AN ELECTRONIC NICOTINE DELIVERY SYSTEM OR VAPOR PRODUCT – SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.”

#### **BACKGROUND**

##### ***Cigarette Vending Machines***

Existing law distinguishes between two types of machines that it authorizes to dispense cigarettes. One is the traditional coin-operated vending machine. The other is the “restricted cigarette vending machine,” which (1) automatically deactivates and cannot be operated after

each sale and (2) requires a face-to-face interaction or display of identification between the purchaser and employee of the business where the machine is located.

[PA 19-13](#)

#### Section 29 of HB 7373 PENALTIES FOR PAYMENTS BY ELECTRONIC FUNDS

TRANSFER The bill replaces the graduated penalties that apply to late tax payments paid by electronic funds transfer with the existing penalties that apply to late payments for the respective tax being paid. Under current law, the penalty is 2% if it is less than six days late, 5% if it is six to 15 days late, and 10% if it is more than 15 days late. For periods ending on or after December 31, 2019, the bill instead requires any late tax payments paid by electronic funds transfer to be subject to interest and penalty provisions that apply by law to the specific tax being paid.

**HB 7424 § 351 — E-CIGARETTE TAX EFFECTIVE DATE:** October 1, 2019, and applicable to sales occurring on or after that date.

*Imposes a tax on e-cigarette products at a rate of (1) 40 cents per milliliter for pre-filled e-cigarette products and (2) 10% of the wholesale price for all other e-cigarette products.*

#### ***Imposition of Tax***

The bill imposes a tax on sales of electronic cigarette (e-cigarette) products by e-cigarette wholesalers. “E-cigarette products” are electronic nicotine delivery systems; liquid nicotine containers; vapor products; and liquids that, when used in an electronic nicotine delivery system, produce a vapor that includes nicotine and is inhaled by the system’s user (i.e., e-cigarette liquids).

The tax is imposed each calendar month, beginning October 1, 2019, at a rate of:

1. 40 cents per milliliter of e-cigarette liquid, for any e-cigarette product that is pre-filled, manufacturer-sealed, and not intended to be refillable and
2. 10% of the wholesale price for all other e-cigarette products whether or not sold at wholesale, or if not sold, at the same rate upon use by the wholesaler.

“Wholesale sales price” means the price of e-cigarette products or, if no price has been set, their wholesale value. Under the bill, only the first sale or use of the same product by the wholesaler is used to compute the tax.

Under the bill, an e-cigarette wholesaler is (1) a person engaged in the business of selling e-cigarette products at wholesale in the state, (2) a person in the state who purchases e-cigarette products at wholesale from a manufacturer, or (3) a dealer, retailer, or other person that otherwise imports, or causes another to import, untaxed e-cigarette products into the state.

#### ***Administration***

The bill requires e-cigarette wholesalers, by the last day of each month, to (1) file electronically with DRS a return for the calendar month immediately preceding in the form and manner the DRS commissioner prescribes and (2) submit with the return the tax payment, paid by electronic funds transfer. The bill specifies that no tax credits are allowable against the tax.

At the close of each fiscal year, beginning with FY 20, the bill allows the state comptroller to record as revenue for the fiscal year the amount DRS received from e-cigarette tax revenue within five business days from the last day of July immediately following the end of the fiscal year.

The bill also allows DRS to adopt regulations to implement the tax.

### ***Enforcement and Penalties***

The bill imposes on anyone who fails to pay the tax a penalty of 10% of the tax due or \$50, whichever is greater. The penalty gathers interest at the rate of 1% per month from the due date of the tax until it is paid. The commissioner may waive all or part of any penalty, subject to existing law's provisions on the Penalty Review Committee, when the taxpayer proves to the commissioner's satisfaction that the failure to pay was due to reasonable cause and not intentional or due to neglect.

The bill additionally applies certain tax collection and enforcement provisions that apply to the admissions and dues tax under existing law. Among other things, these provisions cover (1) refunds for tax overpayments, (2) hearing and appeals processes, (3) penalties for certain willful violations or fraud, and (4) the issuance of tax warrants.

The bill also imposes a penalty on each person, other than an e-cigarette wholesaler, who is required, on behalf of a wholesaler, to collect, truthfully account for, and pay the e-cigarette tax but fails to do so or willfully attempts to evade or defeat the tax or its payment. The penalty (1) equals the total amount of tax evaded, not collected, or not accounted for and paid, including any penalty or interest attributable to the above violations, and (2) applies in addition to other penalties the law provides. The penalty may only be imposed against such a person in the event that the tax, penalty, or interest cannot otherwise be collected from the e-cigarette wholesaler. The penalty amount imposed on such a person may be collected under the same provisions that apply to the admissions and dues tax under current law, including through the issuance of tax warrants.

Under the bill, the dissolution of an e-cigarette wholesaler does not discharge the liability of any person liable for a (1) willful failure to collect or truthfully account for and pay e-cigarette taxes or (2) willful attempt to evade or defeat the tax prior to the dissolution.

[2019HB-07424-R01-BA.PDF](#) § 351 — E-CIGARETTE TAX

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18 is the minimum age to purchase tobacco products in Connecticut. Several municipalities have set the minimum age to purchase tobacco products within their town limits to 21.\*

\*See Section 20 above for sales made after September 30, 2019.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No

**Is there a minimum age for possession of cigarettes or tobacco products?**

Yes, Persons under the age of 18 are prohibited from possessing tobacco in any form in a public place. See CGS § 53-344(c).

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes, there are state minimum pricing laws for sales of cigarettes. See CGS §§ 12-326a to 12-326h, inclusive for definitions and application of the Connecticut minimum pricing laws.\*

[https://www.cga.ct.gov/current/pub/chap\\_214.htm](https://www.cga.ct.gov/current/pub/chap_214.htm)

\*See section 20

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

There are no state flavor bans.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No, but smoking is banned from bath houses, and eating establishments etc. that are located in state parks and or beaches. Several Connecticut municipalities ban smoking in public parks and or beaches.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

Yes, see below.

**Sec. 12-296. Imposition of tax.** A tax is imposed on all cigarettes held in this state by any person for sale, such tax to be at the rate of two hundred seventeen and one-half mills for each cigarette and the payment thereof shall be for the account of the purchaser or consumer of such cigarettes and shall be evidenced by the affixing of stamps to the packages containing the cigarettes as provided in this chapter. Any tax imposed under this chapter shall be reduced by fifty per cent for any product the Secretary of the United States Department of Health and Human Services determines to be a modified risk tobacco product pursuant to 21 USC 387k, as amended from time to time.

[12--00--0296---K.DOC](#)

**Sec. 12-330c. Tax on tobacco products and snuff tobacco products. ... (d)** Any tax imposed under this chapter shall be reduced by fifty per cent for any product the Secretary of the United States Department of Health and Human Services determines to be a modified risk tobacco product pursuant to 21 USC 387k, as amended from time to time.

[12--00--0330--CK.DOC](#)



If you are in possession of or are selling a product that has been approved by the FDA as a modified risk tobacco product, as described above, please contact DRS at 860-541-3224.

## **License Information**

Cigarette manufacturers license with a \$5,250 fee; Cigarette stamping distributor license with a \$1,250 fee; Cigarette distributor (sub jobber) license with a \$1,250 fee; Chain store distributor license with 25 or more locations with a \$1,250 fee, with 15 to 24 locations with a \$625 fee and 15 or fewer locations with a \$315 fee; Cigarette dealers license with a \$200 fee and an OTP distributor with a \$200 fee.

### **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

All are annual.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

A surety bond is required of nonresident stampers. See C.G.S. §12-301.

[12--00--0301---K.DOC](#)

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Three affidavits from three recognized manufacturers of cigarettes are required to be filed as part of an initial application for a distributor’s license. (Chain stores are exempt from the this additional requirement.) See C.G.S. §12-286(a)(1).

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Currently violet, numbered and heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

One row that signifies the roll number.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, Connecticut has a 25-stick pack stamp.

## **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Stamps are delivered through the contracted stamp supplier, currently SICPA, upon approval by DRS.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase. A stamping distributor wishing to purchase stamps on thirty days credit must have a bond in place with DRS and the amount of stamps charged cannot exceed the amount of the bond on file. See C.G.S. 12-298.

[12--00--0298---K.DOC](#)

## **Section 3 - Bond Requirements**

A stamping distributor wishing to purchase his stamps on credit must have a bond in place with DRS, and the amount of stamps charged cannot exceed the amount of the bond on file.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

None noted.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes, as long as it is between licensed stamping distributors.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes, upon proof of such misapplication, i.e. carton flaps, etc.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

We use at least 50% as our requirement in order to receive a refund/credit.

### **Section 6 – Refund Limitations**

None noted.

### **Section 7 – Credit Process for Manufacturer Returns**

The stamping distributor must complete Form CT-30 which attests to the quantity of cigarettes being returned and includes attestation by the cigarette manufacturer of receipt of such returned cigarettes along with the additional paperwork reflecting the quantity of returned product (See Conn. Gen. Regs. § 12-300-1).

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refunds are issued by check.

### **Section 8 – Other Allowed Credits**

Credits received by distributors of OTP must be supported by a credit memo/invoice from the OTP manufacturer or supplier in order to be claimed on their tax return.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Proper accounting of both stamp purchases and cigarette purchases, including opening and closing inventories of both is required and a shortfall between stamp purchases against cigarette purchases will be assessed.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

A licensed cigarette stamping distributor must maintain their stamp inventory in a secure location at their place of business.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Yes, Connecticut taxes “little cigars” as cigarettes per Conn Gen. Stat. § 12-285(b)(1) which reads in pertinent part, ...if any roll for smoking has a wrapper made of homogenized tobacco or natural leaf tobacco, and the roll is a cigarette size so that it weighs three pounds or less per thousand, such roll is a cigarette and subject to the tax imposed by part I and part II of this chapter. ... Connecticut does not allow stamping in configurations of other than 20 or 25 sticks/pack.

## **PACT Act Reporting**

We request e-mail submittals; however, we do accept paper reports.

# STATE OF DELAWARE

## NO INFORMATION RECEIVED

### General Information

#### Section 1 - Contact Information

Please provide the following contact information:

- DOR – Include name, complete address, phone and fax numbers, email address(es) and link to agency website
- AGO/DOJ – same contact information as DOR (above)

**Agency:**

**Mailing Address:**

**City, State, Zip Code:**

**Phone Number:**

**Fax Number:**

**E-mail Address:**

**Website:**

#### Section 2 - Statutes, Regulations and Rules

Provide links to statutes, regulations, and rules, or other guiding policies and procedures (i.e. tax bulletins)

#### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

List cigarette and other tobacco products (OTP) taxed and definitions of these products

- Examples- cigarettes, tobacco, ENDS (electronic nicotine delivery systems)

#### Section 4 - The Basis for the Tax

Describe the basis for the tax. Provide definitions.

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Examples – unit/weight based, manufacturer’s list price, list price less discount

### **Section 5 - Tax Rates and Miscellaneous Fees**

Provide tax rates and any miscellaneous fees due with the tax returns

Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.

### **Section 6 - Rate Updates**

Rate updates

- Are any tax rates expected to change in the near future?

### **Section 7 - State Collection Allowance or Discount**

Define the collection allowance or discount

- Is there a discount given to wholesalers/distributors for collecting and remitting taxes?
  - o If so, how much is the discount for each tax type?

### **Section 8 - Any Other Permissible Allowances**

Define any other permissible allowance

- Is there an allowance for bad debt credits? Is there an allowance for theft?

### **Section 9 – The Point at Which Tax is Imposed**

Describe the point at which tax is imposed

- Examples – At the time of sale, when the stamp is applied, when the product is brought into the state, etc.

### **Section 10 - Tax Return Due Dates**

List tax return due dates

- What happens when the due date falls on a holiday or weekend? What is considered a timely filed tax return, (i.e., the postmark date, the receive date)?

## **Section 11 – Tax Return Filings**

Describe how returns can be filed

- Is there an option for electronic filing? Briefly explain the process.

## **Section 12 – Tax Collection**

Describe how the tax is collected

- Is there an option for, or point at which a taxpayer must make an, electronic payment? If so, is there a time by which the electronic payment must be transmitted to be considered timely, (i.e., no later than 3pm the day prior to the due date)?

## **Section 13 - Penalties for Late Filing**

List the penalties for late filing

## **Section 14 – Local Jurisdictional Tax**

Does your state have any local jurisdictions that also impose an excise tax?

## **Section 15 - Floor Stock Tax**

Does your state impose a floor stock tax when there is a change in tax rate?

## **Section 16 – Qualifying Exemptions**

Define which sales, if any, qualify for an exemption from tax in your state

## **Section 17 - Laws or Rules for Tribal Sales**

Define any special laws or rules for tribal sales, (i.e., special tax stamps, paperwork required, etc.)

## **Section 18 - Information Required on a Customer Invoice**

Provide what information is required on a customer invoice (i.e., wholesaler/distributor license number, customer license number, excise tax charged, etc.

## **Section 19 – Responsibility by Agency**

Name the agency that is responsible for MSA reporting in your state  
Name the agency that has enforcement/collection authority in your state  
Name the agency that has product seizure authority in your state

MSA Reporting: Department of Revenue  
Enforcement/Collection: Department of Revenue  
Product Seizure Authority: Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

List any new or pending legislation

## **Section 21 – Other Laws, Rules, or Regulations**

What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?

Is there a minimum age for retail clerks to sell cigarettes or tobacco products?

Is there a minimum age for possession of cigarettes or tobacco products?

Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?

Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?

Are pharmacies banned from selling cigarettes or tobacco products in your state?

Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?

## **Section 22 – Modified (Reduced) Risk Tobacco**

Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute



## **License Information**

Please provide licensing information for cigarettes, other tobacco products, and/or electronic nicotine delivery systems – include license requirements and fees at all levels (wholesaler, distributor, retailer, sub jobber, etc.) along with applicable website links, contact information and communication/correspondence requirements if different than what has already been provided.

### **Section 1 – License Renewal**

Do licenses need to be renewed and if so, how frequently?

Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.

Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Describe the attributes of the tax stamp. Colored, numbered, digital, and how applied?

How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?

Does your state require stamping or any other identifying markings on 'other tobacco products'?

Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?

What percentage of the stamp is required to be applied to be considered a valid stamp?

### **Section 2 – Acquiring Stamps**

Describe how stamps are acquired by the wholesaler/distributor.

- How are stamps delivered to the wholesaler/distributor? Must a wholesaler/distributor have a FedEx and/or UPS account on file with DOR?

When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.

### **Section 3 - Bond Requirements**

List any bond requirements to acquire cigarette tax stamps.

### **Section 4 – Allowable Transfers**

Does the state allow the transfer of unaffixed cigarette tax stamps?

Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

Does the state allow a tax credit?

Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?

### **Section 6 – Refund Limitations**

List any time limits by which unaffixed cigarette tax stamps must be returned for a credit/claimed on a tax return, (i.e., 2 years from the acquisition date).

### **Section 7 – Credit Process for Manufacturer Returns**

Describe the process for claiming a credit for stamped cigarettes returned to the manufacturer.

How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?

### **Section 8 – Other Allowed Credits**

List any other tax credits allowed for returned goods, (i.e. OTP, ENDS, etc.).

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Describe the process, if any, your state requires for reporting discrepancies between cigarette inventory and tax stamp inventory.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

List any additional tax stamp inventory restrictions or requirements.

## **Section 11 – Stamping Little Cigars**

Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?

## **PACT Act Reporting**

Please provide the PACT Act reporting requirements and how PACT Act reports are filed, (i.e. part of the tax return, electronically, via e-mail, etc.).

**DISTRICT OF COLUMBIA**  
(Last updated 06/2019)

**General Information**

**Section 1 - Contact Information**

**Contact:** Florence Sam

**Agency:** DC Govt. Office of Tax and Revenue

**Mailing Address:** 1101 4<sup>th</sup> Street SW Ste. 600

**City, State, Zip Code:** Washington, DC 20024

**Phone Number:** (202) 442-6316

**E-mail Address:** [florence.sam@dc.gov](mailto:florence.sam@dc.gov)

**Contact:** Brian R. Caldwell

**Agency:** Attorney General's Office

**Mailing Address:** 441 Fourth Street N.W. Ste. 600-S

**City, State, Zip Code:** Washington, DC 20001

**Phone Number:** (202) 727-6211

**Fax Number:** (202) 741-8779

**E-mail Address:** [Brian.caldwell@dc.gov](mailto:Brian.caldwell@dc.gov)

**Section 2 - Statutes, Regulations and Rules**

DC Code Title 47 Chapter 24

<https://code.dccouncil.us/dc/council/code/titles/47/chapters/24/>

DC Municipal Regulation Title 9 Chapter 10

<https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=9-10&ChapterId=125>

Tobacco Tax Information by State v. 07.22.19

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Some of the cigarette and Other Tobacco products taxed and their definitions pursuant to the provisions of §47-2401 of the DC Code are as follows:

The term “cigar” means any roll for smoking, other than a cigarette, where both the roll and wrapper or cover of the roll are composed entirely of tobacco.

The term “cigarette” means:

- (A) Any roll for smoking containing tobacco wrapped in paper or in any substance other than tobacco leaf;
- (B) Any roll for smoking containing tobacco, wrapped in any substance, weighing 4 pounds per thousand or less, except those wrapped entirely in whole tobacco leaf that do not have a filter; or
- (C) Any roll for smoking containing tobacco wrapped in any substance, however labeled or named, flavored or not, which because of its appearance, size, the type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, purchased by, or consumed by consumers as a cigarette as described in this paragraph.

The term “other tobacco product” means any product containing, made from, or derived from tobacco, other than a cigarette or premium cigar, that is intended or expected to be consumed.

The term “other tobacco product” includes vapor products, as defined in paragraph (9A) of this section, but does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and that is being marketed and sold solely for such an approved purpose.

The term “premium cigar” means any cigar with a retail cost of \$ 2.00 or more, or packaged units of cigars averaging \$ 2.00 or more per packaged cigar at retail.

The term “vapor product” means:

- (A) Any non-lighting, noncombustible product that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce aerosol from nicotine in a solution; or
- (B) Any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

## **Section 4 - The Basis for the Tax**

(a)(1) Except as otherwise provided in § 47-2403, a tax is levied and imposed on the sale or possession on all cigarettes in the District of Columbia at the rate of \$0.125 for each cigarette.

(2) Subject to paragraph (3) of this subsection and in lieu of the tax otherwise imposed by § 47-2002, a surtax is levied and imposed on the sale or possession of all cigarettes in the District at the rate of \$0.36 per package of 20 or fewer cigarettes. If there are more than 20 cigarettes in the package, the surtax per pack will be incrementally increased by \$.018 per each cigarette above 20.

## **Section 5 - Tax Rates and Miscellaneous Fees**

None noted.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Yes, e- cigarettes are taxed in the District at 96%. Effective October 1<sup>st</sup>, 2019 it will be reduced to 91%

## **Section 6 - Rate Updates**

Cigarette tax rate increased by 2 cents, and a 2% discount is offered for stamp purchase.

## **Section 7 - State Collection Allowance or Discount**

There is no allowance or discount given to wholesalers/distributors for collecting and remitting taxes.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

Tax is imposed at the time of sale.

## **Section 10 - Tax Return Due Dates**

Under the provisions of §47-2402.01(b)(1) dealing with Other Tobacco Products, on or before the 21st day of each calendar quarter, every person upon whom the weight-based excise tax is imposed under the provisions of this chapter, during the preceding calendar quarter, shall file a return with the Mayor.

If the due date for a return falls on a holiday or weekend, then, the return shall be due on the next business day.

## **Section 11 – Tax Return Filings**

Tax returns are filed manually is due on the 20th of the month for monthly FR-467, quarterly FR-467E and quarterly for FR-1000Q on the 21st of the month. Effective October 2018, taxpayers will file electronically.

## **Section 12 – Tax Collection**

Taxpayer's payment is processed by The Returns Processing Administration, deposited to the DC treasury account. Revenue Accounting Dept. prepares the payment voucher and a copy of the check and return is sent to the Tobacco unit for record purposes.

## **Section 13 - Penalties for Late Filing**

According to DC Code § 47-2408. Records; reports; returns

f) Any person required to file any report, statement, or return or to keep, maintain, and preserve any records, books, or other documents, who fails to file a complete and accurate report, statement, or return on or before the date that such report, statement, or return is due (determined with regard to any extension of time for filing granted by the Mayor) or who fails to keep, maintain, and preserve complete and accurate records, books, or other documents, unless it is shown by such person that such failure is due to reasonable cause and not to neglect, shall pay a penalty of \$10 for each day during which such failure continues. The provisions of §§ 47-412 [repealed] and 47-413 [repealed] shall be applicable to the tax imposed by this chapter, but the period of limitations upon assessment and collections shall be determined by § 47-4301.

## **Section 14 – Local Jurisdictional Tax**

There are no local jurisdictional taxes.

## **Section 15 - Floor Stock Tax**

District of Columbia imposes a floor stock tax. The last floor stock tax was imposed October 21<sup>st</sup>, 2018

## **Section 16 – Qualifying Exemptions**

Under the provisions of §47-2403 of the DC Code, the following sales are exempt from tax:

(1) Sales of cigarettes or other tobacco products to or by the United States or the District government, or any instrumentalities thereof; possession of cigarettes or other tobacco products lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes or other tobacco products; and transfers, without consideration, of cigarettes or other tobacco products lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes or other tobacco products to other persons legally entitled to purchase or receive such cigarettes or other tobacco products from such governmental entities;

(2) Possession of cigarettes by licensed wholesalers for sale outside of the limits of the District or for sale to other licensed wholesalers as provided for in § [47-2402\(f\)](#); sales of cigarettes by licensed wholesalers to other licensed wholesalers as provided for in § [47-2402\(f\)](#); and possession by authorized licensed retailers and vending machine operators of cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction for sale in such other state or jurisdiction; provided, that such authorized licensed retailers and vending machine operators are licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein;

(3) Possession by a consumer of 200 or fewer cigarettes, which do not bear proper evidence of the payment of the tax levied and imposed by § [47-2402](#), transported into the District by a consumer or manufactured in the District by a consumer; transfers, without consideration, of such cigarettes from 1 consumer to another consumer;

(4) Possession of cigarettes or other tobacco products while being transported under such conditions that they are not deemed contraband under the provisions of § [47-2405](#); and

(5) Possession of other tobacco product by licensed wholesalers for sale outside of the limits of the District or for sale to other licensed wholesalers as provided for in § [47-2402\(f\)](#), sales of other tobacco products by licensed wholesalers to other licensed wholesalers as provided for in § [47-2402\(f\)](#), and possession by authorized licensed retailers and vending machine operators of other tobacco products on which the tax rate for any other state or jurisdiction has been paid, for sale in such other state or jurisdiction; provided, that such authorized licensed retailers and vending machine operators are licensed under the laws of such other state or jurisdiction to engage in the business of selling other tobacco products therein.



## **Section 17 - Laws or Rules for Tribal Sales**

There are no laws or rules for Tribal sales.

## **Section 18 - Information Required on a Customer Invoice**

The information required on a customer invoice includes: Wholesaler Identification number, Reporting period, Business name and full address, Tobacco product, Quantity, Tax rate and Tax due, Signature, Title, Date, Contact person and telephone number.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Office of Tax and Revenue/Compliance Administration/Audit Division
Enforcement/Collection:	Office of Tax and Revenue (OTR)/Compliance Administration/Audit Division/Collections
Product Seizure Authority:	Office of Tax and Revenue (OTR)/Compliance Administration/Audit Division/Collections

## **Section 20 – New or Pending Legislation**

Effective October 1<sup>st</sup>, 2019 cigarette tax rate will be increased to \$4.98 cents, a surtax increase of \$0.04. Tax on Other Tobacco Products will decrease from 96% to 91%.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

DC is still having a discussion on raising the age from 18 to 21.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

Yes, 18.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Yes, 18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes, we have the minimum pricing law. The wholesaler has 2% minimum mark up, while the retailer has 8% mark-up.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

None noted.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

None noted.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes, 500 feet from the entrance of an office or public place.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

None noted.

## **License Information**

The Department of Consumer and Regulatory Affairs (DCRA) is responsible for all licensing information.

### **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Licenses need to be renewed every two years.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

DCRA response required.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

DCRA response required.

# **Cigarette and Tax Stamp Information**

## **Section 1 – Tax Stamp Attributes**

Cigarette stamps are yellow, numbered and heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Roll ID every 1000.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

None noted.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

25s tax stamp has not been accounted for in the last 10 years.

## **Section 2 – Acquiring Stamps**

The Office of Finance and Treasury (OFT) is responsible for this function.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Office of Finance and Treasury handles payments.

## **Section 3 - Bond Requirements**

The Office of Finance and Treasury (OFT) is responsible for this function.

## **Section 4 – Allowable Transfers**

§ 47-2405. Transportation of cigarettes and other tobacco products:

- (a) Any person, other than a consumer, who transports cigarettes not bearing District cigarette tax stamps or other tobacco products over the public highways, roads, streets, waterways, or other public space of the District, shall have in his actual possession invoices or delivery tickets for such cigarettes or other tobacco products, which show the true name and address

of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes or other tobacco products so transported.

- (b) If the cigarettes or other tobacco products are consigned to or purchased by any person in the District, such purchaser or consignee must be a person authorized by this chapter to possess unstamped cigarettes or untaxed other tobacco products in the District. If the invoice or delivery ticket specifies that the cigarettes or other tobacco products are to be delivered to any person in any state or jurisdiction other than the District, such person must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes or other tobacco products within that state or jurisdiction. Any cigarettes or other tobacco products transported in violation of any of the provisions of this section shall be deemed contraband cigarettes and other tobacco products and such cigarettes or other tobacco products, the conveyance in which such cigarettes or other tobacco products are being transported, and any equipment or devices used in connection with, or to facilitate, the transportation of such cigarettes or other tobacco products shall be subject to seizure and forfeiture as provided for in § 47-2409.
- (c) Any person who transports cigarettes in violation of this section shall, upon conviction thereof, be fined not more than \$25 for each 200 contraband cigarettes or fraction thereof so transported by him, or by imprisonment for not more than 3 years, or both, and in addition, shall be liable for the tax imposed by § 47-2402 and the interest and penalties imposed by §§ 47-4201.01 [§ 47-4201] and subchapter II of Chapter 42 of this title.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

The Mayor may, upon receipt of satisfactory evidence of the facts, redeem any stamps, issued under this chapter, which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use. Such redemption may be made either by allowing the owner of such stamps a credit on the purchase of new stamps equal to the amount paid for the spoiled, destroyed, or useless stamps or by refunding such amount; provided, that no refund shall be made in those cases where the owner can be made whole by allowing a credit on the purchase of new stamps. No refund or allowance shall be made under this section unless the owner of such stamps has filed a written claim, under oath, for such refund or allowance with the Mayor within 6 months after the stamps were spoiled, destroyed, or rendered useless or unfit for the purposes intended, or, in the case of the stamps for which the owner has no use, within 6 months after the purchase of such stamps.

## **Section 6 – Refund Limitations**

No refund or allowance shall be made until:

- (1) The stamps so spoiled, destroyed, or rendered useless or unfit, or for which the owner has no use have been returned to the Mayor, or satisfactory proof has been made to the Mayor showing which such stamps cannot be returned; and
- (2) If required by the Mayor, the person making the claim for such refund or allowance has satisfactorily traced the history of the stamps from their issuance to the filing of his claim.

In order to gain credit for unaffixed stamps, it must be reported within 6 months of destruction.

## **Section 7 – Credit Process for Manufacturer Returns**

Wholesaler completes an Application for the Redemption of Stamps. Attach Affidavits from manufacturer and/or spoiled stamps. Mailed to the Tobacco unit to be processed by the Tax Auditor if application meets all requirements and submitted to the supervisor for approval or denial of credit/ refund.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Redemption of tax stamps is filed online, processed by auditor and approved by the supervisor. Office of Finance and Treasury issue the credit. Revenue Accounting issues the refund by check.

## **Section 8 – Other Allowed Credits**

No other allowed credits at this time.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

No requirements as of yet.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Visit the below website for additional tax stamp inventory restrictions or requirements.

<https://code.dccouncil.us/dc/council/code/titles/47/chapters/24/>

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No, little cigars are not stamped.

## **PACT Act Reporting**

S. 1147 Pact Act: 111th Congress 2009-2010

3/31/2010-Public Law. (This measure has not been amended since it was provided to the Senate on November 19, 2009. The summary is repeated here.) Prevent All Cigarette Trafficking Act of 2009 or PACT Act- Amends the Jenkins Act to revise provisions governing the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco.

Reporting requirements of PACT Act is monthly via e-mails, mails and CDs.

# STATE OF FLORIDA

## NO INFORMATION RECEIVED

### General Information

#### Section 1 - Contact Information

Please provide the following contact information:

- DOR – Include name, complete address, phone and fax numbers, email address(es) and link to agency website
- AGO/DOJ – same contact information as DOR (above)

Agency:

Mailing Address:

City, State, Zip Code:

Phone Number:

Fax Number:

E-mail Address:

Website:

#### Section 2 - Statutes, Regulations and Rules

Provide links to statutes, regulations, and rules, or other guiding policies and procedures (i.e. tax bulletins)

#### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

List cigarette and other tobacco products (OTP) taxed and definitions of these products

- Examples- cigarettes, tobacco, ENDS (electronic nicotine delivery systems)

#### Section 4 - The Basis for the Tax

Describe the basis for the tax. Provide definitions.

Tobacco Tax Information by State v. 07.22.19

Examples – unit/weight based, manufacturer’s list price, list price less discount

### **Section 5 - Tax Rates and Miscellaneous Fees**

Provide tax rates and any miscellaneous fees due with the tax returns

Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.

### **Section 6 - Rate Updates**

Rate updates

- Are any tax rates expected to change in the near future?

### **Section 7 - State Collection Allowance or Discount**

Define the collection allowance or discount

- Is there a discount given to wholesalers/distributors for collecting and remitting taxes?
  - o If so, how much is the discount for each tax type?

### **Section 8 - Any Other Permissible Allowances**

Define any other permissible allowance

- Is there an allowance for bad debt credits? Is there an allowance for theft?

### **Section 9 – The Point at Which Tax is Imposed**

Describe the point at which tax is imposed

- Examples – At the time of sale, when the stamp is applied, when the product is brought into the state, etc.

### **Section 10 - Tax Return Due Dates**

List tax return due dates

- What happens when the due date falls on a holiday or weekend? What is considered a timely filed tax return, (i.e., the postmark date, the receive date)?



## **Section 11 – Tax Return Filings**

Describe how returns can be filed

- Is there an option for electronic filing? Briefly explain the process.

## **Section 12 – Tax Collection**

Describe how the tax is collected

- Is there an option for, or point at which a taxpayer must make an, electronic payment? If so, is there a time by which the electronic payment must be transmitted to be considered timely, (i.e., no later than 3pm the day prior to the due date)?

## **Section 13 - Penalties for Late Filing**

List the penalties for late filing

## **Section 14 – Local Jurisdictional Tax**

Does your state have any local jurisdictions that also impose an excise tax?

## **Section 15 - Floor Stock Tax**

Does your state impose a floor stock tax when there is a change in tax rate?

## **Section 16 – Qualifying Exemptions**

Define which sales, if any, qualify for an exemption from tax in your state

## **Section 17 - Laws or Rules for Tribal Sales**

Define any special laws or rules for tribal sales, (i.e., special tax stamps, paperwork required, etc.)

## **Section 18 - Information Required on a Customer Invoice**

Provide what information is required on a customer invoice (i.e., wholesaler/distributor license number, customer license number, excise tax charged, etc.)

## **Section 19 – Responsibility by Agency**

Name the agency that is responsible for MSA reporting in your state  
Name the agency that has enforcement/collection authority in your state  
Name the agency that has product seizure authority in your state

MSA Reporting: Department of Revenue  
Enforcement/Collection: Department of Revenue  
Product Seizure Authority: Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

List any new or pending legislation

## **Section 21 – Other Laws, Rules, or Regulations**

What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?

Is there a minimum age for retail clerks to sell cigarettes or tobacco products?

Is there a minimum age for possession of cigarettes or tobacco products?

Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?

Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?

Are pharmacies banned from selling cigarettes or tobacco products in your state?

Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?

## **Section 22 – Modified (Reduced) Risk Tobacco**

Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute

## **License Information**

Please provide licensing information for cigarettes, other tobacco products, and/or electronic nicotine delivery systems – include license requirements and fees at all levels (wholesaler, distributor, retailer, sub jobber, etc.) along with applicable website links, contact information and communication/correspondence requirements if different than what has already been provided.

### **Section 1 – License Renewal**

Do licenses need to be renewed and if so, how frequently?

Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.

Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Describe the attributes of the tax stamp. Colored, numbered, digital, and how applied?

How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?

Does your state require stamping or any other identifying markings on 'other tobacco products'?

Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?

What percentage of the stamp is required to be applied to be considered a valid stamp?

### **Section 2 – Acquiring Stamps**

Describe how stamps are acquired by the wholesaler/distributor.

- How are stamps delivered to the wholesaler/distributor? Must a wholesaler/distributor have a FedEx and/or UPS account on file with DOR?

When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.

### **Section 3 - Bond Requirements**

List any bond requirements to acquire cigarette tax stamps.

### **Section 4 – Allowable Transfers**

Does the state allow the transfer of unaffixed cigarette tax stamps?

Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

Does the state allow a tax credit?

Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?

### **Section 6 – Refund Limitations**

List any time limits by which unaffixed cigarette tax stamps must be returned for a credit/claimed on a tax return, (i.e., 2 years from the acquisition date).

### **Section 7 – Credit Process for Manufacturer Returns**

Describe the process for claiming a credit for stamped cigarettes returned to the manufacturer.

How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?

### **Section 8 – Other Allowed Credits**

List any other tax credits allowed for returned goods, (i.e. OTP, ENDS, etc.).

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Describe the process, if any, your state requires for reporting discrepancies between cigarette inventory and tax stamp inventory.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

List any additional tax stamp inventory restrictions or requirements.

## **Section 11 – Stamping Little Cigars**

Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?

## **PACT Act Reporting**

Please provide the PACT Act reporting requirements and how PACT Act reports are filed, (i.e. part of the tax return, electronically, via e-mail, etc.).

**STATE OF GEORGIA**  
(Last updated 09/2018)

**General Information**

**Section 1 - Contact Information**

**Agency:** Georgia Department of Revenue Alcohol & Tobacco Division

**Mailing Address:** 1800 Century Boulevard NE

**City, State, Zip Code:** Atlanta, GA 30345

**Phone Number:** (877) 423-6711

**Fax Number:** (404) 417-4900

**E-mail Address:** [atdiv@dor.ga.gov](mailto:atdiv@dor.ga.gov)

**Website:** <http://dor.georgia.gov>

**Agency:** Georgia Office of the Attorney General

**Mailing Address:** 40 Capitol Square SW

**City, State, Zip Code:** Atlanta, GA 30334

**Phone Number:**

**Fax Number:**

**E-mail Address:** [atdiv@dor.ga.gov](mailto:atdiv@dor.ga.gov)

**Website:** <http://law.georgia.gov>

**Section 2 - Statutes, Regulations and Rules**

Official Code of Georgia Annotated: <http://www.legis.ga.gov/en-US/default.aspx>

Rules and Regulations: <http://rules.sos.ga.gov/gac/560-8-1>

Tobacco Tax Information by State v. 07.22.19

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

O.C.G.A. § 48-11-1. Definitions

- (1) "Cigar" means any roll for smoking made wholly or in part of tobacco when the cover of the roll is also tobacco. Such term shall include a little cigar.
- (6) "Cigarette" means any roll for smoking made wholly or in part of tobacco when the cover of the roll is paper or any substance other than tobacco.
- (11) "Counterfeit cigarette" means cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the trademark owner of a cigarette brand or the owner's designated agent.
- (15) "Little cigar" means any cigar weighing not more than three pounds per thousand.
- (16) "Loose or smokeless tobacco" means granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but does not include cigarettes or cigars or tobacco purchased for the manufacture of cigarettes or cigars by cigarette manufacturers or cigar manufacturers.

### **Section 4 - The Basis for the Tax**

O.C.G.A. §48-11-2. Excise tax; rate on tobacco products; retail selling price before addition of tax; exemptions; collection and payment on first transaction; dealers or distributors; tax separately identified; collection

- (a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of cigars, cigarettes, and loose or smokeless tobacco in this state at the following rates:
  - (1) Little cigars: two and one-half mills each;
  - (2) All cigars other than little cigars: 23 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances;
  - (3) Cigarettes: 37 cent(s) per pack of 20 cigarettes and a like rate, pro rata, for other size packages; and
  - (4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances.

### **Section 5 - Tax Rates and Miscellaneous Fees**

- Cigarettes - \$0.37 per pack of 20, \$0.45 per pack of 25
- Large Cigars – 23% of the wholesale cost price
- Little cigars – \$0.0025 each
- Loose/Smokeless Tobacco – 10% of the wholesale cost

- Late Penalty- \$250.00 (refer to O.C.G.A. § 48-11-14)
- Non-Filing Penalty - \$25.00 each day after the tax return filing due date until the report is filed (refer to O.C.G.A. § 48-11-10)
- Fraud Penalty – 50% of the amount of deficiency shall be added to the amount due (refer to O.C.G.A. § 48-11-12)

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

### **Section 6 - Rate Updates**

Tax rates are not expected to change in the near future.

### **Section 7 - State Collection Allowance or Discount**

There is no allowance or discount given to wholesalers/distributors for collecting and remitting tax.

### **Section 8 - Any Other Permissible Allowances**

There are no permissible allowances for bad debt credits nor theft.

### **Section 9 – The Point at Which Tax is Imposed**

The excise tax is imposed at the "first transaction" which means the first sale, receipt, purchase, possession, consumption, handling, distribution, or use of cigars, cigarettes, or loose or smokeless tobacco within this state. O.C.G.A. § 48-11-1(14)

### **Section 10 - Tax Return Due Dates**

The tobacco tax return is due on the tenth of the following month after the purchase/sales. If the tenth falls on a holiday or weekend, then the tax return is due on the next business day.

### **Section 11 – Tax Return Filings**

All tax returns are filed electronically through our Georgia Tax Center website.

<https://gtc.dor.ga.gov>



## **Section 12 – Tax Collection**

Tobacco excise taxes are remitted via payment through our Georgia Tax Center website.

## **Section 13 - Penalties for Late Filing**

- Late Penalty- \$250.00 (refer to O.C.G.A. § 48-11-14)
- Non-Filing Penalty - \$25.00 each day after the tax return filing due date until the report is filed (refer to O.C.G.A. § 48-11-10)

## **Section 14 – Local Jurisdictional Tax**

There are no local jurisdictional taxes.

## **Section 15 - Floor Stock Tax**

Georgia does not have a floor stock tax when there is a change in tax rate.

## **Section 16 – Qualifying Exemptions**

- Tobacco sales exclusively for the use of patients of the Georgia War Veterans Home and the Georgia War Veterans Nursing Home are exempt from excise tax on tobacco.
- Sales on cigars, cigarettes, or loose or smokeless tobacco the purchase or use of which the state is prohibited from taxing under the Constitution or statutes of the United States.

## **Section 17 - Laws or Rules for Tribal Sales**

There are no laws nor rules for tribal sales.

## **Section 18 - Information Required on a Customer Invoice**

- Name, address, and tobacco license number of the purchaser and seller
- Date of delivery or shipment and invoice number
- Brand, type, and quantity of tobacco product received
- The place from which the tobacco product was shipped
- If excise tax has been paid, be boldly marked “GEORGIA EXCISE TAX PAID” or similar language

- If excise tax has not been paid, be boldly marked “PURCHASER RESPONSIBLE FOR EXCISE TAX”, “NO GEORGIA EXCISE TAX PAID – PURCHASER RESPONSIBLE”, or similar language

### **Section 19 – Responsibility by Agency**

MSA Reporting: The Office of the Attorney General  
 Enforcement/Collection: The Georgia Department of Revenue  
 Product Seizure Authority: The Georgia Department of Revenue

### **Section 20 – New or Pending Legislation**

There is no new or pending or new legislation.

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

### **License Information**

O.C.G.A. § 48-11-14 Section (c)

(1) The annual renewal fee for a manufacturer's, importer's, distributor's, or dealer's license shall be \$10.00. There shall also be a first-year registration fee of \$250.00 for a person commencing business as a manufacturer, importer, or distributor. All renewal applications shall be filed at least 30 days in advance of the expiration date shown on the license.

(2) Each license, except a dealer's license, shall begin on July 1 and end on June 30 of the next succeeding year. The prescribed fee shall accompany every application for a license and shall apply for any portion of the annual period.

(3) Each dealer's license shall be valid for 12 months beginning on the date of issue for the initial license, and the first day of the month of issue for subsequent licenses, and shall expire on the last day of the month preceding the month in which the initial license was issued. Any dealer licensed under the provisions of this Code section who is also licensed under Chapter 2 of Title 3 to sell alcoholic beverages may, upon written request to the commissioner, arrange to have both licenses renewed on the same date each year. Any dealer who follows the proper procedure for a renewal of his or her license, including filing the application for renewal at least 30 days in advance of the expiration date of his or her existing license, shall be allowed to continue operating as a dealer under the existing license until the commissioner has issued the new license or denied the application for renewal.

(4) Each manufacturer's, importer's, distributor's, or dealer's license shall be subject to suspension or revocation for violation of any of the provisions of this chapter or of the rules and regulations made pursuant to this chapter or Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to those chapters. A separate license shall be required for each place of business. No person shall hold a distributor's license and a dealer's license at the same time.

Ga. Comp. R. & Regs. r. 560-8-3-.01 Regulation Application for License – Distributor

(1) To be licensed as a distributor of loose tobacco, smokeless tobacco, cigars, little cigars or cigarettes each person shall apply to the commissioner.

(a) Such application shall be submitted before July 1 on forms provided for that purpose by the commissioner. Using the Georgia Tax Center, accessible through the Department's website at [extax.dor.ga.gov](http://extax.dor.ga.gov), an individual must apply for a tobacco license for the fiscal year and annually renew the license.

(b) An application for an initial license shall include

i. An application fee of \$250.00

ii. Payment of the licensing fee and a bond, on a form provided by the commissioner, in an amount equal to \$5,000.00.

(c) The license for a distributor shall be for the date of issuance until following June 30.

- (d) A renewal application shall include:
  - i. A renewal fee of \$10.00.
  - ii. Payment of the licensing fee and a bond, on a form provided by the commissioner, in an amount equal to one percent (1%) of gross sales of loose tobacco, smokeless tobacco, cigars, little cigars, or cigarettes during the preceding license year. In no circumstance, shall the licensing fee be more than \$1,000.
- (2) A distributor shall obtain a separate license in accordance with the provision of this regulation for all places of business it maintains.
- (3) A distributor's license shall not be issued to:
  - (a) A person who does not maintain a warehouse, warehouse personnel, and salespersons who regularly contact and call on dealers.
  - (b) A vending machine operator or a vending machine owner of loose tobacco, smokeless tobacco, cigar, little cigar, or cigarette vending machines.
  - (c) A person who is licensed as a dealer.

Apply via the Georgia Tax Center website: <https://gtc.dor.ga.g>.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

The Georgia stamp is a blue (PM) or orange (NPM) square with a stamp sequence number. It has Georgia printed on the bottom of the stamp. Stamps are heat applied. 100% of the stamp must be applied to be considered a valid stamp.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

## **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Stamps can either be mailed via FedEx/UPS or picked up at the Georgia Department of Revenue headquarters located at 1800 Century Blvd. NE, Atlanta, GA 30345. Wholesaler/distributor will need to have FedEx/UPS account submitted to the DOR.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

## **Section 3 - Bond Requirements**

Bonds are optional. Wholesalers can choose to pay for the stamps in full on or before the 20th day of the next month or they can purchase a bond secured by cash for acquiring stamps on account.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No, distributors can return unaffixed cigarette tax stamps for credit. They are not allowed to transfer stamps to other wholesalers/distributors.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes, tax credits are allowed for misapplied stamps.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

There are no laws, rules, or policies. General rule of thumb is that agents can discern the existence of a stamp.

### **Section 6 – Refund Limitations**

There are is no set time limit for the return of unaffixed stamps, but stamps must have been purchased after August 2012 as that is when our electronic tax processing software went live.

### **Section 7 – Credit Process for Manufacturer Returns**

To receive credit, wholesalers/distributors must receive a return affidavit from the manufacturer noting the quantity of stamped packs. We will then verify stamp purchases and process the credit.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

### **Section 8 – Other Allowed Credits**

Any other tax credits (i.e. OTP, ENDS, etc.) also require an affidavit from the manufacturer.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

There are no reporting requirements for inventory discrepancies.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

There are no other restrictions or requirements for stamp inventory.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

Tobacco Tax Information by State v. 07.22.19

## **PACT Act Reporting**

Please refer to the Office of the Attorney General for PACT Act information.

**STATE OF HAWAII**  
(Last updated 04/2018)

**General Information**

**Section 1 - Contact Information**

**Agency:** Hawaii Department of Taxation

**Contact:** Lynne Kuroda, Income Tax Specialist

**Mailing Address:** 830 Punchbowl St.

**City, State, Zip Code:** Honolulu, HI 96813

**Phone Number:** (808) 587-1577

**Fax Number:** (808) 587-1584

**E-mail Address:** [tax.technical.section@hawaii.gov](mailto:tax.technical.section@hawaii.gov)

**Website:** [www.tax.hawaii.gov](http://www.tax.hawaii.gov)

**Agency:** Tobacco Enforcement Unit, Criminal Justice Unit

**Contact:** Earl R. Hoke, Jr., Deputy Attorney General

**Mailing Address:** 425 Queen St.

**City, State, Zip Code:** Honolulu, HI 96813

**Phone Number:** (808) 586-1203

**Fax Number:** (808) 586-0932

**E-mail Address:** [earl.r.hoke@hawaii.gov](mailto:earl.r.hoke@hawaii.gov)

**Website:** [www.ag.hawaii.gov/cjd/tobacco-enforcement-unit](http://www.ag.hawaii.gov/cjd/tobacco-enforcement-unit)



## **Section 2 - Statutes, Regulations and Rules**

Cigarette Tax and Tobacco Tax Law, Chapter 245, Hawaii Revised Statutes (HRS)  
[http://files.hawaii.gov/tax/legal/hrs/hrs\\_245.pdf](http://files.hawaii.gov/tax/legal/hrs/hrs_245.pdf)

Cigarette Tax Stamping, Chapter 18-245, Hawaii Administrative Rules (HAR)  
[http://files.hawaii.gov/tax/legal/har/har\\_245.pdf](http://files.hawaii.gov/tax/legal/har/har_245.pdf)

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Section 245-1, HRS, provides the following definitions:

“Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

“Large cigar” means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco and weighs more than four pounds per thousand.

“Little cigar” means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco, and weighs not more than four pounds per thousand rolls.

“Tobacco products” means tobacco in any form other than cigarettes or little cigars, that is prepared or intended for consumption or for personal use by humans, including large cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco.

## **Section 4 - The Basis for the Tax**

Section 245-3, HRS, imposes the cigarette tax at the rate of \$.16 per cigarette for sales, use, or possession of cigarettes on and after July 1, 2011.

Section 245-3, HRS, imposes the tobacco tax as follows:

- For sales, use, or possession of tobacco products (other than cigarettes, large cigars, and little cigars) on and after September 30, 2009, the tax is imposed at the rate of 70% of the wholesale price of the tobacco products.
- For sales, use, or possession of large cigars of any length on and after September 30, 2009, the tax is imposed at the rate of 50% of the wholesale price of the large cigars.
- For sales, use, or possession of little cigars on and after July 1, 2011, the tax is imposed at the rate of \$.16 per little cigar.

Pursuant to section 245-1, HRS, "wholesale price," in addition to any other meaning of the term, means in the case of a tax upon the use of tobacco products, or upon a sale not made at wholesale:

- (1) If made by a person who during the month preceding the accrual of the tax made substantial sales to retailers of like tobacco products, the average price of the sales, and
- (2) If made by any other person, the average price of sales to retailers of like tobacco products made by other taxpayers in the same county during the month preceding the accrual of the tax.

### **Section 5 - Tax Rates and Miscellaneous Fees**

See above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

### **Section 6 - Rate Updates**

Tax rates are not expected to change in the near future.

### **Section 7 - State Collection Allowance or Discount**

Section 245-26(a), HRS, provides for a stamp fee of 1.7% of the denominated value of each stamp sold to pay for the State's cost of providing and enforcing the tax stamp. Section 245-22(e), HRS, provides that cigarette tax stamps may be sold at a reduction of .4% of each denominated value of stamp if the licensee is in compliance with Hawaii's tax laws.

### **Section 8 - Any Other Permissible Allowances**

There are no allowances, including for theft or bad credits.

### **Section 9 – The Point at Which Tax is Imposed**

The tax is imposed at the time of sale, use, or possession. (Section 245-3, HRS)

## **Section 10 - Tax Return Due Dates**

Form M-19, Cigarette and Tobacco Products Monthly Tax Return, must be filed on or before the twentieth day of each month, showing the cigarettes and tobacco products sold, possessed, or used by the wholesaler or dealer during the preceding calendar month. (Section 245-5, HRS)

Form M-110, Cigarette and Tobacco Products Tax Return, must be filed on or before the twentieth day of each month by unlicensed individuals who import cigarettes and/or tobacco products for personal use from an unlicensed seller located outside of Hawaii during the preceding calendar month. (Section 245-5, HRS)

If the due date falls on a Saturday, Sunday, or legal holiday, file by the next regular workday. (Section 231-21, HRS)

The official U.S. Post Office cancellation mark will be considered primary evidence of the date of filing of tax documents and payments. Hawaii has adopted the Internal Revenue Code provision to allow documents and payments delivered by a designated private delivery service to qualify for the “timely mailing treated as timely filing/paying rule.” The Department of Taxation will conform to the Internal Revenue Service listing of designated private delivery services and type of delivery services qualifying for the “timely mailing treated as timely filing/paying rule.” Timely filing of mail which does not bear a U.S. Post Office cancellation mark will be determined by reference to other competent evidence. (Section 231-8, HRS)

## **Section 11 – Tax Return Filings**

Returns can be filed by mail or in person. Returns cannot be filed electronically at the present time.

## **Section 12 – Tax Collection**

The cigarette tax is paid through the use of cigarette tax stamps that are required to be placed on packs of cigarettes prior to distribution. (Sections 245-21 and 245-22, HRS) The cigarette tax is paid by check with the filing of Form M-110.

The tobacco tax is paid by check with the filing of Form M-19 or Form M-110.

Every taxpayer whose cigarette and tobacco tax liability exceeds \$100,000.00 in the taxable year is required to pay the tax by electronic funds transfer (payment through the Hawaii Department of Taxation electronic services website, ACH Debit, or ACH Credit). (Section 231-9.9, HRS)

### **Section 13 - Penalties for Late Filing**

Late Filing of Return. The penalty for failure to file a return on time is assessed on the tax due at a rate of 5% per month, or part of a month, up to a maximum of 25%. (Section 231-39, HRS)

Failure to Pay Tax After Filing Timely Return. The penalty for failure to pay the tax after filing a timely return is 20% of the tax unpaid within 60 days of the prescribed due date. The 60-day period is calculated beginning with the prescribed due date even if the prescribed due date falls on a Saturday, Sunday, or legal holiday. (Section 231-39, HRS)

Interest. Interest at the rate of  $\frac{2}{3}$  of 1% per month or part of a month shall be assessed on unpaid taxes and penalties beginning with the first calendar day after the date prescribed for payment, whether or not that first calendar day falls on a Saturday, Sunday, or legal holiday. (Section 231-39, HRS)

Late electronic funds transfer payment. A taxpayer who is required to pay by electronic funds transfer, but who fails to do so on or before the due date will be assessed a penalty of 2% of the amount of the tax due. (Section 231-9.9, HRS)

### **Section 14 – Local Jurisdictional Tax**

There are no local jurisdictions that impose an excise tax.

### **Section 15 - Floor Stock Tax**

Form M-107 is used to report and pay the cigarette tax stamp price difference on all affixed and/or unused stamps in the ending inventory when there is an increase in the cigarette tax rate.

### **Section 16 – Qualifying Exemptions**

A cigarette and tobacco tax refund or credit is provided to a licensee who has paid a cigarette or tobacco tax on the distribution of cigarettes or tobacco products that are shipped to a point outside Hawaii for subsequent sale or use outside Hawaii. (Section 245-32, HRS, and Section 18-245-6, HAR)

There is an exemption from the cigarette and tobacco tax for sales of cigarettes and tobacco products to the United States, including any agency or instrumentality thereof. (Section 245-3(b)(2), HRS)

A cigarette and tobacco tax refund or credit is provided when the tax has been paid on cigarettes, little cigars, or tobacco products that thereafter become the subject of a casualty loss. (Section 245-3(a), HRS, and Section 18-245-7, HAR)

## **Section 17 - Laws or Rules for Tribal Sales**

There are no laws or rules for tribal sales.

## **Section 18 - Information Required on a Customer Invoice**

There are no specific requirements.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Department of the Attorney General  
Enforcement/Collection: Department of the Attorney General  
Product Seizure Authority: Department of the Attorney General

## **Section 20 – New or Pending Legislation**

None.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

### **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Wholesalers and dealers must obtain a cigarette tax and tobacco tax license by filing Form BB-1 and paying a \$2.50 fee. The license must be renewed annually on July 1 for the 12 months ending the succeeding June 30. (Section 245-2, HRS)

Retailers engaged in the retail sale of cigarettes and other tobacco products must obtain a retail tobacco permit by filing Form BB-1 and paying a \$20.00 fee. Permits are valid for one year, from December 1 to November 30, and must be renewed annually. A separate retail tobacco permit must be obtained for each place of business owned, controlled, or operated by a retailer. (Section 245-2.5, HRS)

All wholesalers, dealers, and retailers must also obtain a general excise tax license by filing Form BB-1 and paying a one-time \$20.00 fee. (Section 237-9, HRS)

Form BB-1 is available online at [tax.hawaii.gov](http://tax.hawaii.gov) or at any district tax office, and may be submitted by mail or in person at any district tax office. Form BB-1 may also be filed online through the Department of Taxation website at [hitax.hawaii.gov](http://hitax.hawaii.gov) or through the Hawaii Business Express website at [www.hbe.ehawaii.gov](http://www.hbe.ehawaii.gov).

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Stamps are colored (currently light gray). Each stamp has a serial number printed on it. The stamps must be securely affixed to the bottom of each cigarette package in such a manner that the stamps are clearly visible, legible and complete. (Section 18-245-3, HAR)

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Tax stamps are ordered using Form M-102A (for purchases made at First Hawaiian Bank), Form M-102B (for purchases made at the Hawaii Department of Taxation), or Form M-102M (for out-of-state purchases). The stamps are usually picked up at First Hawaiian Bank or the Hawaii Department of Taxation. There is no requirement to have a FedEx and/or UPS account on file with the Department.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

Every licensee requesting payment for stamps on a deferred-payment basis shall execute a bond with a surety company licensed in Hawaii in an amount to be determined by the Department of Taxation. The Department may increase or reduce the amount of bond at any time, but in no

event, shall the amount of the bond be greater than 100% of the maximum amount of deferred-payment purchases allowed. (Section 18-245-11, HAR)

#### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

Transfers of unaffixed cigarette tax stamps are allowed, but must first be approved by the Department of Taxation. Form M-103 is used to request approval for the transfer of the cigarette tax stamps. (Section 245-34, HRS, and Section 18-245-13, HAR)

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No.

#### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

A refund of cigarette tax may be claimed for situations where cigarette tax stamps were damaged while being affixed to the packages. If new stamps had to be affixed to the cigarette packages, a refund may be claimed for the damaged cigarette tax stamps. Evidence that the cigarette tax stamps have been damaged must be offered for inspection and examination at any time upon request of the Department of Taxation or the Department of the Attorney General.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No.

#### **Section 6 – Refund Limitations**

Form M-106 is used to request a refund for unused cigarette tax stamps. The unaffixed cigarette tax stamps must be returned to the Hawaii Department of Taxation within five years from the date paid for the stamps. (Sections 231-23 and 245-33, HRS, and Section 18-245-5, HAR)

#### **Section 7 – Credit Process for Manufacturer Returns**

A refund of cigarette tax may be claimed on Form M-19 for cigarette tax stamps that were affixed to cigarette packages that were returned to the manufacturer because they became stale. A copy of the certification from the manufacturer for the return of the stale cigarettes must be attached to Form M-19 in order to claim the refund.



**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

### **Section 8 – Other Allowed Credits**

None.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

### **PACT Act Reporting**

Every person including cigarette manufacturers, wholesalers, distributors, and delivery sellers who sell, transfer, ship, advertise, or offer for sale cigarettes, roll your own tobacco, and smokeless tobacco in interstate commerce must file a monthly report on or before the tenth day of each calendar month. The monthly report is filed electronically.

For more information on the PACT Act registration and reporting requirements, see <http://ag.hawaii.gov/cjd/files/2012/12/Pact-Act.pdf>

**STATE OF IDAHO**  
(Last updated 03/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Person:** Don Anderson, Excise Tax Specialist

**Agency:** Idaho State Tax Commission

**Mailing Address:** PO Box 36

**City, State, Zip Code:** Boise, ID 83722-0410

**Phone Number:** (208) 334 - 7614

**Fax Number:** (208) 334 - 7655

**E-mail Address:** [don.anderson@tax.idaho.gov](mailto:don.anderson@tax.idaho.gov)

**Website:** tax.idaho.gov

**Contact Person:** Beth Kittelmann – Paralegal, Consumer Protection Division

**Agency:** Office of the Attorney General, State of Idaho

**Mailing Address:** P.O. Box 83720

**City, State, Zip Code:** Boise, Idaho 83720-0010

**Phone Number:** (208) 334-3097

**Fax Number:** (208) 334-4151

**E-mail Address:** [beth.kittelmann@ag.idaho.gov](mailto:beth.kittelmann@ag.idaho.gov)

**Website:** <http://www.ag.idaho.gov/index.html>

## **Section 2 - Statutes, Regulations and Rules**

### **Idaho Statutes**

TITLE 63 REVENUE AND TAXATION

CHAPTER 25 CIGARETTE AND TOBACCO PRODUCTS TAXES

<https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH25/>

Idaho Cigarette and Tobacco Products Tax Administrative Rules

<https://adminrules.idaho.gov/rules/current/35/350110.pdf>

**It should be noted, for the sake of brevity, some code sections cited in the following answers may only be in part. Please refer to the aforementioned links for full (unofficial) copies of all codes and rules.**

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes have been taxed since 1945.

Other tobacco products have been taxed since 1972.

The intent of the law is to levy a tax on all cigarettes and other tobacco products sold, used, consumed, handled or distributed in the state and to collect the tax from the first person who first sells, uses, consumes, handles or distributes them. (ID Code 63-2501).

“Cigarettes” means “any roll for smoking, made wholly or in part of tobacco, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco. (ID Code 63-2502(d)).

“Package of cigarettes” means “the individual package, box or other container in or from which retail sales of cigarettes are normally made or intended to be made”. (ID Code 63-2502(e)).

“Wholesale sale” means “a sale of cigarettes by a wholesaler to a retailer”. (ID Code 63-2502(c)).

“Tobacco products” means “any cigars, cheroots, stogies, smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including Cavendish, twist plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include any other articles or products made of tobacco except cigarettes”. (ID Code 63-2551(1)).

### **Section 4 - The Basis for the Tax**

#### **Cigarettes:**

Equivalent tax per standard pack of 20: 57¢. (ID Code 63-2506(1)).

Statutory Rate:

57 cents for each pack. (ID Code 63-2506(1)).

Cigarette wholesalers are allowed a discount of 3.3% of the face value of stamps affixed. (ID Code 63-2509).

**Other tobacco products:**

Forty percent (40%) of the wholesale sales price. (ID Code 63-2552(1), ID Code 63-2552A (1)).

Statutory Rates:

Thirty-five percent (35%) of the wholesale sales price. (ID Code 63-2552(1)); plus

Five percent (5%) of the wholesale sales price. (ID Code 63-2552A (1)).

“Wholesale sales price” means “the established price for which a manufacturer or any person sells a tobacco product to a distributor that is not a related person as defined in section 267 of the Internal Revenue Code, exclusive of any discount or other reduction”. (ID Code 63-2551(7)).

Separately stated nontaxable charges for shipping, handling, transportation, delivery, and packaging, may not be used to avoid tax on the wholesale sales price of tobacco products. If the allocation of the wholesale sales price is unreasonable, the Idaho State Tax Commission may adjust it. (Idaho Administrative Rules 35.01.10.019.03.a)

## **Section 5 - Tax Rates and Miscellaneous Fees**

### **Cigarettes**

Equivalent tax per standard pack of 20: 57¢. (ID Code 63-2506(1)).

Statutory Rate:

57¢ for each pack. (ID Code 63-2506(1)).

### **Other tobacco products**

Forty percent (40%) of the wholesale sales price. (ID Code 63-2552(1), ID Code 63-2552A (1)).

Statutory Rates:

Thirty-five percent (35%) of the wholesale sales price. (ID Code 63-2552(1)); plus

Five percent (5%) of the wholesale sales price. (ID Code 63-2552A (1)).

### **Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

E-cigs, ENDS, and/or other vapor products are currently only taxed as a cigarette or OTP if they contain actual tobacco. Derivatives of tobacco, such as nicotine liquids, are not taxed as a cigarette or OTP. Sales of the aforementioned products within the boundaries of Idaho are subject to Idaho’s sales/use tax at its current rate.

## **Section 6 - Rate Updates**

No anticipated changes.

## **Section 7 - State Collection Allowance or Discount**

Yes, there is a discount given to cigarette wholesalers for affixing cigarette tax stamps.

Cigarettes:

Wholesalers are allowed a discount of 3.3% of the face value of stamps affixed (ID Code 63-2509).

Other tobacco products:

No discount provided for OTP.

## **Section 8 - Any Other Permissible Allowances**

### **Cigarettes**

A wholesaler may claim a credit against taxes due on the tax return for taxes previously paid on cigarettes, which after stamps are affixed, become unmarketable and are returned to the manufacturer. When such return is verified in such manner as the State Tax Commission may, by rule provide, the credit applies to the tax return for the month in which the verification occurs; except that, any amount of credit exceeding the tax due on the tax return may be carried forward to the succeeding tax return, in chronological order until exhausted. (ID Code 63-2510(7)).

Where there has been an overpayment of any cigarette tax, the amount of the overpayment will be credited against any taxes due to the State Tax Commission and any excess balance will be refunded to the taxpayer. (ID Code 63-2521(1)).

No credit or refund of taxes, penalties or interest paid will be allowed or made after three (3) years from the time the return was filed. (ID Code 63-2521(2)).

### **Other tobacco products**

Where tobacco products upon which the tax imposed by this chapter has been reported and paid, are shipped or transported by the distributor to distributors or retailers outside the state, to be sold by those distributors or retailers, or are returned to the manufacturer by the distributor or destroyed by the distributor, credit of such tax may be made to the distributor in accordance with rules prescribed by the commission. (ID Code 63-2559(1)).

Taxes paid on tobacco products sold on or after January 1, 2000, on accounts later found to be worthless and actually charged-off may be credited upon a subsequent payment of the tax on tobacco products or, if no such tax is due, refunded. If all or part of such an account is thereafter

collected, the tax shall be paid based upon the proportion of the amount collected. (ID Code 63-2559(2)).

A combined refund fund with a reimbursement by tax type is maintained sufficient to pay current refund claims. (ID Code 63-2564).

## **Section 9 – The Point at Which Tax is Imposed**

### **Cigarettes**

On and after July 1, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of fifty-seven cents (57¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler and collected by the state tax commission. On and after July 1, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of fifty-seven cents (57¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler and collected by the state tax commission. (ID Code 63-2506).

The tax is collected from the wholesaler and/or delivery seller. (ID Code 63-2506(1)).

The tax is collected by return. Stamps are no longer pre-purchased however, tax stamps must be affixed by the person first receiving the cigarettes in the State. (ID Code 63-2510(1)).

The return shall be filed on or before the twentieth day of the month following the end of the taxable period to which the return relates. (ID Code 63-2510(2)).

Each wholesaler of cigarettes shall keep and preserve for a period of four years, records showing the purchase and sale of cigarettes, as well as separate invoices and records of stamps purchased. All records and stocks of cigarettes on hand shall be open to inspection by the state tax commission or authorized employees at all reasonable times. Additionally, the state tax commission may require reports to be submitted to it from time to time concerning the purchase and sale of cigarettes and stamps. All retailers shall permit the state tax commission or authorized employees to inspect all cigarettes on hand. (ID Code 63-2511)

### **Other Tobacco Products**

The tax is imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufacturers, or fabricates tobacco products in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers. (ID Code 63-2552(1)).

“Distributor” means

(a) “any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale,”

(b) “Any person who makes, manufacturers, or fabricates tobacco products in this state for sale in this state,” and,

(c) “any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers”  
(ID Code 63-2551(3)).

In addition, any person who does not hold a tobacco products tax permit who possesses, purchases or consumes tobacco products upon which tax imposed has not been paid, including Tobacco Tax Information by State v. 07.22.19

tobacco products sold by internet, catalog, telephone and facsimile sellers, is liable for the taxes imposed. (ID Code 63-2552B).

The tax is collected by return. The taxes imposed are due and payable monthly and remittance is to be made on or before the 20th day of the month next succeeding the end of the monthly period in which tax accrued. The taxpayer, on or before the 20th day of the month, will make out a return, upon such forms and setting forth such information as the State Tax Commission may require, showing the amount of the tax for which he is liable for the preceding monthly period, and shall sign and transmit the same to the commission, together with a remittance for such amount in the form required. (ID Code 63-2560(1)).

## **Section 10 - Tax Return Due Dates**

The Idaho Cigarette and Tobacco Tax Returns are due on the 20th of the month following the tax period (e.g., October's return is due November 20). Personalized copies of Forms CG1550 (Idaho Cigarette Tax Return) and TB1350 (Idaho Tobacco Tax Return) are pre-printed with taxpayer-specific information and mailed to account owners in time to file their returns timely. Returns aren't available on the commission's website. Instructions for completing the returns and all substantiating schedules can be downloaded from the respective cigarette and tobacco pages of the commission's website. If a taxpayer has misplaced their paper returns, they can request reprints by contacting Taxpayer Services at (208) 334-7660 in the Boise area or toll free at (800) 972-7660.

The federal PACT Act requires monthly reports to be filed with Idaho. Those reports are due by the 10th day of each month, while Idaho cigarette and tobacco tax returns are due by the 20th of each month. The Tax Commission encourages you to combine reports and file only once. You can file your Idaho cigarette tax return and Idaho tobacco tax return by the 10th day of each month to comply with the PACT Act. However, you must also include an addendum or internal report that lists the brand of cigarettes or smokeless tobacco you're selling. If you're a delivery seller, please include the name, address, and phone number of your delivery service.

You still have the option of paying any tax you owe on or before the 20th. If you need a payment voucher, call Taxpayer Services at (208) 334-7660 in the Boise area or toll free at (800) 972-7660.

If the twentieth day falls on a Saturday, Sunday, or legal holiday, the return shall be due on the next following day which is not a Saturday, Sunday, or legal holiday.

The tax commission may by rule provide returns for periods of time other than monthly periods. Returns for such reporting periods, together with payment of the required taxes, shall be due on or before the twentieth day of the month following the end of the period to which the return relates (ID Code 63-2560(2)).

## **Section 11 – Tax Return Filings**

Cigarette and tobacco tax returns are filed in paper form.

Taxpayers can submit electronic files of PACT Act reports via email to [substituteforms@tax.idaho.gov](mailto:substituteforms@tax.idaho.gov). The commission will also accept PACT Act reports on disk.

## **Section 12 – Tax Collection**

If you're making a payment of \$100,000 or more, Idaho law requires you to use ACH Debit or ACH Credit for all taxes except individual income taxes. If you don't pay by ACH Debit or ACH Credit when it's required, we may charge you interest and a \$500 penalty.)

## **Section 13 - Penalties for Late Filing**

Penalties and additions to the tax in case of deficiency.

- (a) If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.
- (b) If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected and paid.
- (c)
  - (1) In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed.
  - (2) In the event the return required by this chapter is filed but the tax shown thereon to be due is not paid, there may be collected a penalty of one-half percent (0.5%) of the tax due on such return for each month elapsing after the later of the due date of such return or the date the return was filed until the tax is paid.
- (d)
  - (1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.
  - (2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:
    - (I) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or
    - (II) (ii) Five thousand dollars (\$5,000).



- (3) In the case of a corporation, paragraph (d) (2) (ii) of this section shall be applied by substituting ten thousand dollars (\$10,000) for five thousand dollars (\$5,000).
  - (4) For purposes of paragraph (d) (2) of this section, the term "understatement" means the excess of:
    - (I) the amount of tax required to be shown on the return for the taxable year, over
    - (II) (ii) The amount of the tax imposed which is shown on the return.
  - (5) The amount of the understatement under paragraph (4) shall be reduced by that portion of the understatement which is attributable to:
    - (I) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or
    - (II) (ii) Any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.
  - (6) In the case of any item attributable to a tax shelter as defined in section 6661 of the Internal Revenue Code:
    - (I) Paragraph (5) (ii) shall not apply, and
    - (II) (ii) Paragraph (5) (I) shall not apply unless (in addition to meeting the requirements of such paragraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.
  - (7) The state tax commission may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.
- (e)
- (1) Any person who fails to file a statement of payment to another person required by this chapter, including the duplicate statement of tax withheld on wages, on the date prescribed therefor (including any extension of time for filing) shall, be subject to a penalty of two dollars (\$2.00) for each month or part of a month each statement is not so filed, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed two thousand dollars (\$2,000).
  - (2) Any employer required to register under the provisions of section 63-3035, Idaho Code, who fails to register after receiving written notice from the state tax commission of the requirement to register shall be subject to a penalty of one hundred dollars (\$100) for each month or part of a month after the date of the notice during which the failure occurs.
  - (3) The penalties provided in this subsection shall not apply if the person shows that the failure to register is due to reasonable cause and not to willful neglect.
- (f) If the penalty to be added to the tax by subsection (a), (b), (c)(1), (d) or (e) of this section or by section 63-3033, Idaho Code, is less than ten dollars (\$10.00), the penalty to be added to the tax shall be a minimum of ten dollars (\$10.00).

- (g) Total penalties imposed under subsections (a), (c) and (d) of this section and under section 63-3033, Idaho Code, shall not exceed twenty-five percent (25%) of the tax due on the return.
- (h) A processing charge to be determined and established annually by the state tax commission shall be collected from any person who draws or delivers a check, draft or order for the payment of money in complete or partial satisfaction of the tax imposed by this chapter if that person does not have sufficient funds in or credit with the bank or depository upon which the check, draft or order is drawn. Money collected under this subsection shall be paid to the state tax commission to defer costs of handling such checks, drafts or orders.

Cigarette tax:

Filing and Paying Timely. Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Commission to a wholesaler until clear and convincing evidence is received by the Commission that the return has been filed or that the tax has been paid.

### **Section 14 – Local Jurisdictional Tax**

None noted.

### **Section 15 - Floor Stock Tax**

Yes. The last rate increase for cigarettes was established effective July 1, 2003 and a floor stock tax was imposed on all cigarettes held in the wholesalers inventory.

### **Section 16 – Qualifying Exemptions**

Cigarette:

Shipments in Interstate Commerce (Rule 013).

Sales of cigarettes in the course of interstate commerce for purposes of Section 63-2505, Idaho Code, include only those sales where title is transferred outside the state of Idaho, or on U.S. military reservations, or on Indian reservations. (5-3-03)

01. Types of Conveyances. Shipments of cigarettes to U.S. military reservations or Indian reservations must be made by conveyance used in the normal operation of the wholesaler's business, or by common carrier hired by the wholesaler. (7-1-93)

- a. In the case of shipment by common carrier, a copy of the bill of lading must be kept on file at the wholesaler's place of business for three (3) years. (7-1-93)
- b. In the case of shipments by the wholesaler's conveyance, an itemized receipt must be obtained by the wholesaler bearing the signature of the receiver's representative and the

wholesaler's employee making such delivery. Receipts must be serially numbered. (7-1-93)

Records of Unstamped Deliveries. In addition, all deliveries made outside the state and all deliveries made to U.S. military reservations or Indian reservations, and which are delivered without state tax stamps of another state must be listed in a chronological log by delivery date and customer. The log must contain the following information: delivery date, number of cigarettes delivered, and an itemized receipt number, as described in Subsection 013.01.b. of this rule.

Shipments without Idaho Stamps. Cigarette wholesalers may deliver cigarettes which do not have Idaho stamps affixed to Idaho Indian reservations when: (4-2-08)

- a. The purchaser is an enrolled member of an Idaho Indian tribe. (7-1-93)
- b. The purchaser is a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe. (7-1-93)
- c. The purchaser is a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

02. Reservation Means Lands Which Are: (7-1-93)

- a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; or established by formal decision of the Executive Branch of the United States. (7-1-93)
- b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 014.02.a. above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

03. Sales of Cigarettes to Non-Indians within Reservation Boundaries. Sales of cigarettes by wholesalers to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation must have Idaho cigarette stamps affixed. (4-2-08)

04. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell cigarettes upon which Idaho cigarette stamps has not been affixed.

Tobacco:

Tobacco distributors may claim a credit for taxes paid on tobacco products other than cigarettes that are:

- (a) Sold and delivered to retailers at locations outside the state of Idaho;
- (b) Sold and delivered to the United States Government on U.S. Military reservations located within Idaho;
- (c) Sold and delivered to a purchaser within the boundaries of an Idaho Indian reservation when the purchaser is an enrolled member of an Idaho Indian tribe; a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe; or a business enterprise wholly owned and operated by an Idaho Indian tribe.(Idaho Administrative Rules 35.01.10.022.01)

Tobacco Tax Information by State v. 07.22.19

Distributors must maintain adequate records to show the validity of credits claimed under this subsection, including delivery records and invoices. If the distributor is selling to an enrolled member of an Indian tribe he should keep a copy of the purchaser's tribal identification card in his files. If he is selling to a tribally owned entity, he should keep a certificate of tribal ownership or some other form of clear and convincing evidence that the purchaser is a business wholly owned and operated by an Idaho Indian tribe. (Idaho Administrative Rules 35.01.10.022.02)

## **Section 17 - Laws or Rules for Tribal Sales**

Please see section 16 above.

## **Section 18 - Information Required on a Customer Invoice**

Wholesalers are required, at the time of shipping or delivering cigarettes, to make a duplicate invoice that shows complete details of the sale. The duplicate invoice must be retained subject to the inspection by the State Tax Commission or its agent. (ID Code 63-2505(2)).

Every person who shall transport cigarettes not stamped upon public highways, waterways, airways, roads or streets of this State shall have in his actual possession invoices or delivery tickets for cigarettes which shall show:

- (a) The true name and the complete and exact address of the consignor or seller;
- (b) The true name and the complete and exact address of the consignee or purchaser;
- (c) The quantity and brands of the cigarettes transported; and
- (d) Either:

- (I) the true name and complete and exact address of the wholesaler licensed under this chapter who has or shall assume payment of taxes; or

- (ii) The true name and complete and exact address of the person authorized to receive unstamped cigarettes by the law of the State or foreign country to which the cigarettes are destined (ID Code 63-2505(3)).

Any common or contract carrier who transports cigarettes under a proper bill of lading or freight bill which states the quantity, source and destination of such cigarettes and who is without notice to itself or to any of its agents or employees that said cigarettes are not stamped is permitted. (ID Code 63-2505(4)).

## **Section 19 – Responsibility by Agency**

MSA Reporting: Idaho's Office of the Attorney General

Enforcement/Collection:

63-2516. Collection and enforcement — Actions against state of Idaho. In addition to the enforcement and penalty provisions in this act otherwise provided, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided

by the Idaho income tax act, sections [63-3030A](#), [63-3038](#), [63-3039](#), [63-3040](#), [63-3042](#), [63-3043](#), [63-3044](#), [63-3045](#), [63-3045A](#), [63-3046](#), [63-3047](#), [63-3048](#) through [63-3065](#), [63-3068](#), [63-3071](#), [63-3073](#), [63-3075](#) and [63-3078](#), Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due, and said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection under this act, be described as cigarette tax liens and proceedings. Any reference to taxable year in the income tax act shall be, for the purposes of this act, considered a taxable period.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid as provided for payment of cigarette tax refunds.

#### Product Seizure Authority:

63-2514. Search and seizure. When the state tax commission has reason to believe that any cigarettes are being kept, sold, offered for sale or given away in violation of this act, an employee, delegate or deputy of the state tax commission, or any peace officer, may make affidavit of such fact, describing the place or thing to be searched, before a magistrate, or such official shall issue a search warrant directed to the sheriff, constable, police officer, or employee[,] delegate or deputy of the state tax commission commanding him to search any place or vehicle that may be designated in the affidavit and search warrant, and to seize any cigarettes so possessed as well as any article, machine or vehicle wherein the same are found, kept or stored as contraband and to arrest the person in control or possession thereof for violation of the provisions of section [63-2512](#), Idaho Code.

39-8406. Penalties and other remedies. (1) Each stamp affixed, each sale or offer to sell, and each cigarette possessed in violation of section [39-8403](#)(3), Idaho Code, shall constitute a separate violation. For each violation hereof, the district court may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes or five thousand dollars (\$5,000) upon a determination of violation of section [39-8403](#)(3), Idaho Code, or any rule adopted pursuant thereto.

(2) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated section [39-8403](#)(3), Idaho Code, or any rule adopted pursuant thereto, the commission may revoke or suspend the license of any stamping agent in the manner provided by law.

(3) Any cigarettes that have had stamps affixed, been sold, offered for sale or possessed for sale in this state in violation of section [39-8403](#)(3) shall be deemed contraband under section [63-2513](#), Idaho Code, and such cigarettes shall be subject to seizure and forfeiture by the commission as provided in such section, and all such cigarettes so seized and forfeited shall be destroyed and not resold.

(4) The attorney general may seek an injunction to prevent or restrain a threatened or actual violation of section [39-8403\(3\)](#), [39-8405\(1\)](#) or [39-8405\(4\)](#), Idaho Code, by a stamping agent and to compel the stamping agent to comply with such subsections.

(5) A person who violates section [39-8403\(3\)](#), Idaho Code, engages in an unfair and deceptive trade practice in violation of the Idaho consumer protection act, [chapter 6, title 48](#), Idaho Code.

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products?** Age 18.

(1) It shall be unlawful for a minor to possess, receive, purchase, use or consume tobacco products or electronic cigarettes or to attempt any of the foregoing.

(2) It shall be unlawful for a minor to sell or distribute tobacco products or electronic cigarettes or to attempt either of the foregoing.

(3) It shall be unlawful for a minor to provide false identification, or make any false statement regarding their age in an attempt to obtain tobacco products or electronic cigarettes.

(4) A minor who is assisting with a random unannounced inspection in accordance with this chapter shall not be in violation of this chapter. Idaho Code 39-5703 (1 – 4)

**Is there a different county/city/local minimum age for purchasing?**

None noted.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

(5) A minor may possess but not sell or distribute tobacco products or electronic cigarettes in the course of employment, for duties such as stocking shelves or carrying purchases to customers' vehicles. Idaho Code 39-5703(5).

**Is there a minimum age for possession of cigarettes or tobacco products?**

See above (Purchase).

**Are there minimum pricing laws in your state? Please explain.** Idaho is not a minimum pricing state.

It shall be unlawful to sell or distribute tobacco products for free or below the cost of such products to the sellers or distributors of the products for commercial or promotional purposes, to members of the general public in public places or at public events. Idaho Code 39-5707(2).

**Are there separate county/city/local minimum pricing laws?**

None noted.

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**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

None noted.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

None noted.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Idaho has a statewide ban on smoking in all enclosed public spaces with some exceptions, and some local governments have banned smoking in bars, private clubs, public outdoor spaces and parks.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

None noted.

## **License Information**

### **Cigarettes:**

It is unlawful for any person to act as a wholesaler of cigarettes without a permit. The permit shall be obtained by application to the State Tax Commission accompanied by a fee of \$50. The wholesaler permit shall be non-assignable and shall continue in force until surrendered or canceled. (ID Code 63-2503(1)).

It shall be unlawful for any retailer to purchase, sell, offer for sale, distribute, or store, or possess any cigarettes without first applying for and receiving a seller's permit (ID Code 63-2503(2)).

A permit shall be held only by persons actively engaged in making wholesale sales of cigarettes. Any person not so engaged shall forthwith surrender his permit to the state tax commission for cancellation. (ID Code 63-2503(3)).

Retail permits shall be issued annually for no charge for each business location. (ID Code 63-5704(3)).

A separate retail permit must be obtained for each place of business and is nontransferable to another person, business or location. (ID Code 63-5704(4)).

Whenever any person fails to comply with any provision relating to the purchase, sale or offering for sale or distribution of cigarettes or any rules of the state tax commission relating to the cigarette tax prescribed and adopted, the State Tax Commission may revoke or suspend any permit held by the person or may deny a new permit to such person (ID Code 63-2503(4)).

The State Tax Commission may revoke the permit of a person not actively engaged in activities requiring a permit (ID Code 63-2503(5)).

A permit, held by a person who for a period of 12 consecutive months files reports showing no reportable cigarette activity, shall expire automatically upon the State Tax Commission providing notice of the expiration to the last known address of the person to whom the permit was issued. (ID Code 63-2503(7)).

A person who engaged in activities requiring a permit without a permit or after a permit has been revoked or suspended, and any person who is a responsible person of such a business shall, after receiving written notice from the State Tax Commission, be subject to a civil penalty not in excess of \$100, and each day shall constitute a separate offense. (ID Code 63-2503(8)).

**Other Tobacco Products:**

No person shall engage in the business of a distributor or sub jobber of tobacco products at any place of business without first having received a permit from the commission. (ID Code 63-2554).

**Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

No. Permits/Licenses are perpetual.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

**OTP:**

There is no bond required for a tobacco distributors permit.

**Cigarettes:**

Only cigarette wholesalers/stampers (with an anticipated tax liability) need to file a bond. At the time an application for a wholesaler's license or permit is submitted to the State Tax Commission, the applicant shall file a bond, in such form as the commission may determine, conditioned upon faithful performance of all of the requirements. The total amount of the bond shall be fixed by the commission and shall be the greater of twice the estimated average tax liability for the reporting period for which the applicant will be required to file a return or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received. The total amount required to be secured by the bond may be increased or reduced by the commission at any time. (ID Code 63-2510A (1)).

A wholesaler may pay full value for stamps in advance in lieu of posting a bond. A wholesaler that has posted a bond may petition for release from the bond requirement after having filed timely and fully paid cigarette tax returns, for a period of not less than 12 months. (ID Code 63-2510A(3)).

If at any time after release of a bond requirement the wholesaler becomes delinquent for any period in the filing of tax returns or the payment of the tax as required, the State Tax Commission may make immediate demand that the return be filed or the payment be tendered and that a bond be filed. (ID Code 63-2510A(4)).

A wholesaler who acquires all cigarettes with tax stamps affixed at the time of acquisition may petition the state tax commission for waiver of the bond. (ID Code 63-2510A (5)).

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Idaho Code 63-2510A Bonding

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Idaho’s heat-applied cigarette stamps were redesigned and modernized in 2013 to enhance security features. Both the 20’s and 25’s maintain two separate serialization systems and variations of colors chosen from the Idaho state flag.

A package of cigarettes shall contain no less than 20 cigarettes and be packaged in increments of 5 (ID Code 63-2502(c)).

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Two (2). Roll and stamp number

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

63-2507. Stamps to be printed — affixed to individual packages. The state tax commission is hereby authorized and required to design and have printed Idaho cigarette stamps which are to be affixed to each individual package of cigarettes, which stamps shall be in the amount of the tax imposed by section 63-2506, Idaho Code. Except as otherwise prescribed by the state tax commission, each stamp shall be affixed in such a manner that it cannot be removed without being mutilated or destroyed. (ID Code 63-

2508). Stamps may be obtained only from the state tax commission, or its authorized agent, and only by a holder of a valid and current wholesaler permit. Stamps are shipped via UPS Ground with shipping paid for by the Idaho State Tax Commission. Stampers can request shipment via other common carriers by providing account information to bill the stamper directly.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

See Section – License Renewal and Section 3 – Bond Requirements.

### **Section 3 - Bond Requirements**

#### **Cigarettes:**

At the time an application for a wholesaler's license or permit is submitted to the State Tax Commission, the applicant shall file a bond, in such form as the commission may determine, conditioned upon faithful performance of all of the requirements. The total amount of the bond shall be fixed by the commission and shall be the greater of twice the estimated average tax liability for the reporting period for which the applicant will be required to file a return or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received. The total amount required to be secured by the bond may be increased or reduced by the commission at any time. (ID Code 63-2510A (1)).

A wholesaler may pay full value for stamps in advance in lieu of posting a bond. A wholesaler that has posted a bond may petition for release from the bond requirement after having filed timely and fully paid cigarette tax returns, for a period of not less than 12 months. (ID Code 63-2510A(3)).

If at any time after release of a bond requirement the wholesaler becomes delinquent for any period in the filing of tax returns or the payment of the tax as required, the State Tax Commission may make immediate demand that the return be filed or the payment be tendered and that a bond be filed. (ID Code 63-2510A(4)).

A wholesaler who acquires all cigarettes with tax stamps affixed at the time of acquisition may petition the state tax commission for waiver of the bond. (ID Code 63-2510A (5)).

### **Section 4 – Allowable Transfers**

#### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

No, Stamps may be obtained only from the state tax commission, or its authorized agent, and only by a holder of a valid and current wholesaler permit. (ID Code 63-2507).

#### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

#### **Transportation of cigarettes:**

(1) It shall be unlawful for any person to transport into, export from or receive in this state or carry or move from place to place within this state, except as provided in this section, any cigarettes which do not have affixed thereto Idaho stamps.

(2) Any wholesaler engaged in interstate business, who shall furnish surety bond in a sum satisfactory to the state tax commission, shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this chapter. Every wholesaler, at the time of shipping or delivering cigarettes, shall make a duplicate invoice, showing complete details of the sale, and shall retain the duplicate for inspection by the state tax commission or its agent.

(3) Except as provided in subsection (4) of this section, every person who shall transport cigarettes not stamped as required in this chapter upon the public highways, waterways, airways, roads or streets of this state shall have in his actual possession invoices or delivery tickets for such cigarettes which shall show:

- (a) The true name and the complete and exact address of the consignor or seller; and
- (b) The true name and complete and exact address of the consignee or purchaser; and
- (c) The quantity and brands of the cigarettes transported; and

(d) Either:

- (I) the true name and complete and exact address of the wholesaler licensed under this chapter who has or shall assume payment of taxes under this chapter; or
- (ii) The true name and complete and exact address of the person authorized to receive unstamped cigarettes by the law of the state or foreign country to which the cigarettes are destined.

(4) Any common or contract carrier, as defined in 18 U.S.C. section 2341, who transports cigarettes under a proper bill of lading or freight bill which states the quantity, source and destination of such cigarettes and who is without notice to itself or to any of its agents or employees that said cigarettes are not stamped as required in this chapter shall be deemed to have complied with this section. (ID Code 63-2505).

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes, see below.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Standard operating policy dictates that if > 50% of a stamp is present, a taxpayer may submit a Request for Cigarette Stamp Destruction.

## **Section 6 – Refund Limitations**

A wholesaler may claim a credit against taxes due on the tax return for taxes previously paid on cigarettes, which after stamps are affixed, become unmarketable and are returned to the manufacturer. When such return is verified in such manner as the State Tax Commission may, by rule provide, the credit applies to the tax return for the month in which the verification occurs; except that, any amount of credit exceeding the tax due on the tax return may be carried forward to the succeeding tax return, in chronological order until exhausted (ID Code 63-2510(7)). Where there has been an overpayment of any cigarette tax, the amount of the overpayment will be credited against any taxes due to the State Tax Commission and any excess balance will be refunded to the taxpayer (ID Code 63-2521(1)). No credit or refund of taxes, penalties or interest paid will be allowed or made after three (3) years from the time the return was filed (ID Code 63-2521(2))

## **Section 7 – Credit Process for Manufacturer Returns**

Credit for stamped cigarettes returned to the manufacturer can be taken on Page 1, Part II, and line 16 of the Idaho Cigarette Tax Return as a credit against tax owed. Credit should be figured using the following calculation: # of cigarettes x \$0.0276. This represents the value of the stamps less the discount received for affixing stamps. Documentation of the credit, (e.g., Returned Goods Memorandums, Manufacturers Affidavits), must accompany the tax return.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credit is taken on a future month's tax return.

## **Section 8 – Other Allowed Credits**

Credit for tax paid tobacco returned to the manufacturer can be taken on line 5 of the Idaho Tobacco Tax Return. Documentation substantiating the credit, (e.g., Returned Goods Memorandums, Manufacturer's Affidavits), must accompany the return.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Tax is due based on cigarettes stamps applied each month. If a wholesaler distributes more cigarettes than it has stamped, without otherwise claiming a valid exemption, the taxpayer will receive an audit adjustment reflecting the variance.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

### **Cigarette tax**

63-2521. Refunds — Limitations — Interest.

(1) Where there has been an overpayment of any cigarette tax imposed by this chapter, the amount of such overpayment shall be credited against any taxes then due to the state tax commission from the taxpayer and any balance of such excess shall be refunded to the taxpayer.

(2) No such credit or refund of taxes, penalties or interest paid, shall be allowed or made after three (3) years from the time the return was filed, unless before the expiration of such period a claim therefor is filed by the taxpayer with the commission.

(3) Interest shall be allowed on the amount of such credits or refunds at the rate provided in section [63-3045](#), Idaho Code; from the date such tax was paid.

(4) If the state tax commission denies a claim for refund in whole or in part, it shall provide notice of the denial and the claimant may petition the state tax commission for a redetermination of the denial in the manner provided in section [63-3045](#), Idaho Code. Appeal of a tax commission decision denying in whole or in part a claim for refund shall be made in accordance with and within the time limits prescribed in section [63-3049](#), Idaho Code.

## **Section 11 – Miscellaneous Information**

### **IDAHO — SALES TAX RELATIONSHIP**

Idaho levies a 6% sales and use tax on the sales price of tangible personal property. All tobacco products are subject to the tax with the cigarette and tobacco products taxes being included in the sales tax base. (ID Code 63-3619).

### **IDAHO — USE TAX**

Yes. The taxes are levied on all cigarettes and other tobacco products sold, used, consumed, handled or distributed within the state. There is no apparent consumer tax exemption allowance. (ID Code 63-2501, 63-2552, 63-2552A, 63-2552B).

The possession, purchase or consumption by any person of more than 10 packages of cigarettes without Idaho cigarette stamps is prohibited. Any person who possesses purchases or consumes more than 10 packages of cigarettes without Idaho cigarette stamps shall be subject to a civil penalty equal to three times the amount of tax due for each full or partial package of unstamped cigarettes in excess of 10, but in no event shall the penalty be less than \$50. The penalty imposed shall apply to persons acquiring cigarettes from internet, catalog, telephone and facsimile retailers. (ID Code 63-2512(b)).

Any person who does not hold a tobacco products tax permit who possesses, purchases or consumes tobacco products upon which tax imposed has not been paid, including tobacco

products sold by internet, catalog, telephone and facsimile sellers, is liable for the taxes imposed. (ID Code 63-2552B).

## **IDAHO — SAMPLES**

The sale or distribution of tobacco products for free or below the cost of such products to the sellers or distributors of the products for commercial or promotional purposes, to members of the general public in public places or at public events is prohibited. (ID Code 39-5707(1)).

## **IDAHO — MANUFACTURER’S CLASSIFICATION**

“Manufacturer” means any person who manufactures cigarettes by any method of preparing, processing or manipulating tobacco, except for his own personal consumption or use. (ID Code 63- 2528(3)).

## **IDAHO — RETAIL MANUFACTURER**

A cigarette rolling machine operator may not locate at, offer, or make a cigarette rolling machine available for use, or offer for sale cigarettes manufactured by the operator or any other person at the location of the operator's cigarette rolling machine, until the operator has first been certified by the attorney general upon a form prescribed by the attorney general. The attorney general shall annually certify a cigarette rolling machine operator, but only after he has obtained adequate certification from the operator and has been provided by the operator sufficient information identifying the operator, the location, the make and brand of the operator's cigarette rolling machine, and the person(s) from whom the operator will purchase its tobacco for purposes of the operator's cigarette rolling machine's manufacturing of cigarettes. (ID Code 39-8422).

Before a cigarette rolling machine operator may be certified by the State Attorney General, the operator shall certify, under penalty of perjury, that:

- (a) All tobacco to be used in the operator's cigarette rolling machine, regardless of the tobacco's label or description thereof, will only be of a brand family and of a tobacco product manufacturer listed on the directory maintained by the State Attorney General;
- (b) All applicable state tobacco taxes have been paid for the tobacco to be used in the operator's cigarette rolling machine;
- (c) The operator has obtained, and has a current permit issued;
- (d) All cigarette tubes used in the operator's cigarette rolling machine shall be constructed of paper of a type determined by the attorney general, pursuant to regulations to be promulgated by the attorney general, to reduce the likely ignition propensity of cigarettes to be made with such tubes;
- (e) At any location where the operator has a cigarette rolling machine, 75% of the revenues of the operator's total merchandise sales at that location are comprised of tobacco products, or the location where the cigarette rolling machine is situated prohibits minors from entering the premises;
- (f) The operator will not sell cigarettes or make a cigarette rolling machine available for use, in any quantity less than 20 cigarettes per transaction, except for samples prepared in

connection with the purchase or prospective purchase of tobacco and consumed or destroyed at the premises where the cigarette rolling machine is located; and  
(g) The operator will not accept or allow its cigarette rolling machine to be used to manufacture cigarettes with tobacco that was not first purchased or obtained from the operator and for which the operator will timely and properly report to the State Attorney General. (ID Code 39-8423(1)).

## **IDAHO — MINORS**

Individuals must be 18 years of age to purchase, use or possess tobacco products or electronic cigarettes. (ID Code 39-5703(1)).

It shall be unlawful for a minor to sell or distribute tobacco products or electronic cigarettes or to attempt either of the foregoing. (ID Code 39-5703(2)).

It is unlawful for a minor to provide false identification, or make any false statement regarding their age in an attempt to obtain tobacco products or electronic cigarettes. (ID Code 39-5703(3)). Penalties for violations by a minor shall be an infraction and shall be punishable by a fine of \$17.50. The first violation by a minor shall constitute an infraction and shall be punishable by a fine of \$200. The court may, in addition to the penalties provided herein, require the minor and the minor's parents or legal guardian to attend tobacco awareness programs or to perform community service in programs related to tobacco awareness (ID Code 39-5703(6)).

It shall be unlawful to sell, distribute or offer tobacco products or electronic cigarettes to a minor. (ID Code 39-5705) (1)).

The person holding the permit to sell will be notified in writing of penalties to be levied for further violations in the case of a first violation. (ID Code 39-5708)(3)).

In the case of a second violation, the permit holder will be fined \$200. (ID Code 39-5708) (4)).

For a third violation within a 2-year period, the permit holder will be fined \$200 and the permit suspended for 7 days. If the violation is by an employee at the same location who was involved in any previous citation, then the permit holder will be fined \$400. (ID Code 39-5708) (5)).

In the case of four or more violations within a 2 year period, the permit holder will be fined \$400 and the permit revoked until the permit holder demonstrates an effective training plan, plus suspension of permit. (ID Code 39-5708(6)).

Signs Posted: Retail Stores. A sign may be clearly visible to the customer and the seller and shall state: "STATE LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS. PROOF OF AGE REQUIRED. ANYONE WHO SELLS OR DISTRIBUTES TOBACCO TO A MINOR IS SUBJECT TO STRICT FINES AND PENALTIES. MINORS ARE SUBJECT TO FINES AND PENALTIES". (ID Code 39-5704(6)).

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped?**

No.

**If so, what are the guidelines?**

Little cigars meet the tax definition of another tobacco product.

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**Do you allow stamping in configurations other than 20 or 25 sticks/pack?**

No.

**If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

If you sell cigarettes and smokeless tobacco products, you must follow the Prevent All Cigarette Trafficking (PACT) Act. This Federal law went into effect July 1, 2010, and requires you to register with Idaho, submit monthly reports, and meet certain requirements.

According to 18 U.S.C. 2341 and 26 U.S.C. 5702, cigarettes include:

Any roll of tobacco wrapped in paper or in any substance not containing tobacco.

Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by, consumers as a cigarette as described in the bullet above.

Roll-your-own tobacco.

A delivery seller makes delivery sales. Delivery sales are sales of cigarettes or smokeless tobacco made to a consumer when:

- a. The consumer typically submits an order by telephone, the mail, the Internet, or isn't otherwise physically present when the purchase is made, or
- b. The cigarettes or smokeless tobacco is delivered by common carrier or other delivery service, or
- c. The seller isn't in the physical presence of the buyer when the buyer takes possession of the product.

The Act generally prohibits mailing cigarettes and smokeless tobacco through the U.S. Postal Service and requires those selling cigarettes or smokeless tobacco products into Idaho to:

- a. Register with and make monthly reports to the Idaho State Tax Commission.
- b. Pay all federal, state, and tribal tobacco taxes and affix cigarette tax stamps before delivering any products to any unlicensed customer, or acquire Idaho tax-paid product from an Idaho licensed cigarette wholesaler or tobacco distributor.
- c. Check the age and ID of customers at the time of purchase and when the tobacco products are delivered.



If you operate a business for profit that sells, transfers, or ships cigarettes or smokeless tobacco for interstate commerce into Idaho, or advertises these products for sale in Idaho, you must file a statement that includes the business name(s), address(es), telephone number(s), email address(es), website address(es), and the name, address, and phone number of an agent authorized to accept service.

Use Idaho Form CIG to register your business to comply with the PACT Act. You must also attach either a copy of your completed federal PACT Act Registration (ATF Form 5070.1) or a written statement that includes the information listed in the paragraph above.

If you're a delivery seller, you must apply for an Idaho cigarette tax permit and/or an Idaho tobacco tax permit if you plan to sell cigarettes (or smokeless tobacco) in Idaho. Use Idaho Form CIG to apply for an Idaho cigarette tax permit or an Idaho tobacco tax permit.

The PACT Act requires monthly reports to Idaho due by the 10th day of each month, while Idaho cigarette and tobacco tax returns are due by the 20th of each month. The Tax Commission encourages you to combine reports and file only once.

You can file your Idaho cigarette tax return and Idaho tobacco tax return by the 10th day of each month to comply with the PACT Act. However, you must also include an addendum or internal report that lists the brand of cigarettes or smokeless tobacco you're selling. If you're a delivery seller, please include the name, address, and phone number of your delivery service.

You still have the option of paying any tax you owe on or before the 20th.

# STATE OF ILLINOIS

(Last updated 04/2019)

## General Information

### Section 1 - Contact Information

**Contact Person:** Jacob Hunter - Alcohol, Tobacco, and Fuel Division: Alcohol and Tobacco Processing Manager

**Agency:** Illinois Department of Revenue

**Mailing Address:** P.O. Box 19467

**City, State, Zip Code:** Springfield, IL 62794-9467

**Phone Number:** (217) 785-2826

**Fax Number:** N/A

**E-mail Address:** [Jacob.hunter@illinois.gov](mailto:Jacob.hunter@illinois.gov)

**Alternate Email Address:** [rev.atp-mfr@illinois.gov](mailto:rev.atp-mfr@illinois.gov)

**Website:** <https://www2.illinois.gov/rev/Pages/default.aspx#&panel1-1>

**Agency:** Illinois Attorney General's Office - Tobacco Enforcement Bureau

**Mailing Address:** 500 South Second Street

**City, State, Zip Code:** Springfield, IL 62701

**Phone Number:** (217) 785-8541

**Fax Number:** (217) 524-4701

**E-mail Address:** [ttobacco@atg.state.il.us](mailto:ttobacco@atg.state.il.us)

**Website:** <http://ag.state.il.us/tobacco/index.html>

## **Section 2 - Statutes, Regulations and Rules**

Cigarette Tax Act:

- <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=584&ChapAct=35%2%A0ILCS%2%A0130/&ChapterID=8&ChapterName=REVENUE&ActName=Cigarette%2BTax%2BAct>.
- <https://www2.illinois.gov/rev/research/legalinformation/regs/Pages/Part440>

Cigarette Use Tax Act:

- <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=585&ChapAct=35%2%A0ILCS%2%A0135/&ChapterID=8&ChapterName=REVENUE&ActName=Cigarette%2BUse%2BTax%2BAct>.
- <https://www2.illinois.gov/rev/research/legalinformation/regs/Pages/Part450>

Tobacco Products Tax Act of 1995:

- <http://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=588&ChapterID=8>
- <https://www2.illinois.gov/rev/research/legalinformation/regs/Pages/Part660>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes - any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, and the wrapper or cover of which is made of paper.

Little Cigars - any roll, made wholly or in part of tobacco, where such roll has an integrated cellulose acetate filter and weighs less than 4 pounds per thousand and the wrapper or cover of which is made in whole or in part of tobacco.

Tobacco products other than moist snuff - any cigars, including little cigars; cheroots; stogies; perique's; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff (including moist snuff) or snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

Moist snuff - any finely cut, ground, or powdered tobacco that is not intended to be smoked, but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

## **Section 4 - The Basis for the Tax**

Cigarettes – 99 mills per cigarette or \$1.98 per pack of 20 (unit based).

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Tobacco products excluding moist snuff – 36% of wholesale price minus deductions.

Moist Snuff – 0.3 times total weight in ounces minus deductions.

Little Cigars – 99 mills per stick.

### **Section 5 - Tax Rates and Miscellaneous Fees**

Please see section 4 above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

There is no excise tax on these products currently.

### **Section 6 - Rate Updates**

There are no rate changes in the works.

### **Section 7 - State Collection Allowance or Discount**

Little Cigars and Cigarettes – 1.75% on the first \$3,000,000 paid each year or 1.5% after that threshold has been met.

### **Section 8 - Any Other Permissible Allowances**

There is no allowance for bad debt credits. There is an allowance for theft, must have police report and insurance claim.

### **Section 9 – The Point at Which Tax is Imposed**

Cigarettes – when they are stamped; Tobacco – when it is sold to a retailer.

### **Section 10 - Tax Return Due Dates**

Returns are due on the 15th of each month, or the next business day should the 15th fall on a holiday or weekend.

## **Section 11 – Tax Return Filings**

Electronic filing is available for all returns except the RC-55: Unstamped Little Cigar Sticks Tax Return.

Most returns can still be filed by paper.

MyTax Illinois or 3rd party software.

Companies with over 30 transactions per month are required to file electronically.

Effective August 1, 2018, the TP-1 return is mandatory electronic filing.

## **Section 12 – Tax Collection**

Taxes can be paid by check/money order or electronic payment. Electronic payments must be submitted by the due date. For checks/money orders, the postmark date is used.

## **Section 13 - Penalties for Late Filing**

Late filing penalty: 1-30 days - lesser of \$250 or 2% of tax due, >31 days - additional lesser of \$250 or 2%.

Late Payment penalty: 1-30 days = 2%; >31 days = 10%.

Bad Check penalty: \$25.

Collection fee: <\$1000 = \$30; >\$1000 = \$100.

## **Section 14 – Local Jurisdictional Tax**

Chicago, IL; Evanston, IL; Cook County, IL

## **Section 15 - Floor Stock Tax**

We did impose a floor stock tax in 2012, which was our last rate change.

## **Section 16 – Qualifying Exemptions**

Interstate commerce.

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Sales from one IL distributor to another.

Sales to U.S. military, government.

### **Section 17 - Laws or Rules for Tribal Sales**

There are no tribal lands in Illinois.

### **Section 18 - Information Required on a Customer Invoice**

The amount of the Cigarette Tax shall be separately stated, apart from the price of the goods, by distributors, manufacturer representatives, secondary distributors, and retailers, in all bills and sales invoices.

All distributors, manufacturer representatives, and secondary distributors must include their license number on all invoices on sales to retailers unless they have obtained a waiver.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	Illinois Attorney General’s Office
Enforcement/Collection:	Illinois Department of Revenue
Product Seizure Authority:	law enforcement and Criminal Investigation Division (Revenue)

### **Section 20 – New or Pending Legislation**

Tobacco Products- Under 21 – HB345 (passed both houses), SB21

Recreational Marijuana Use – HB902 legalization, HB 157 legalization process

Vape Products Regulatory Act– HB3420

Tobacco Tax E-Cigarettes – SB1124

Tobacco Products- “retailers”– SB1362

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18 for the state currently, but 21 for the following municipalities and counties:

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Chicago, Aurora, Berwyn, Bollingbrook, Buffalo Grove, Elgin, Elk Grove, Glen Ellyn, Gurnee, Hopkins Park, Lincolnshire, Maywood, Mundelein, Naperville, Peoria, Riverwoods, Skokie, Vernon hills, Washington, Wheaton, Wilmette, and Lake County.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

16.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No, but you cannot sell cigarettes for less than the excise tax.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No for the state, but the City of Chicago has a ban on the sale of flavored tobacco products or accessories, including menthol, within 500 feet of any High school.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No for the state, but the city of Chicago has banned smoking in public parks, waterside, and professional sporting events.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Cigarette retailers – covers cigarettes and tobacco – annual fee of \$75.

Tobacco retailer– only covers tobacco – annual fee of \$75.

A license is needed for each location.

Secondary distributors also need a retailer's license - \$250 annually to be a secondary distributor.

Cigarette distributor - \$250 annually.

Tobacco distributor - \$250 annually.

Central Registration Division  
Illinois Department of Revenue  
PO Box 19030  
Springfield, IL 62794-9030  
rev.regbond@illinois.gov  
(217)785-3707

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Annually.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, there is a \$2,500 bond for Cigarette Distributors, \$2,500 bond for Cigarette Machine Operators, and a bond of three times the average monthly tobacco tax liability for Tobacco Distributors.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Yes, Cigarette Distributors are required to provide three letters from licensed manufacturers stating intent to sell cigarettes to them once they are licensed.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Colored, numbered, and heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There are two rows of numbers on Illinois Stamps, the first row is the serial number of the roll of stamps and the second is the serial number of the stamp within the roll of stamps.



**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

Only on Little Cigars in packs of 20 or 25 that meet the definition of a cigarette per the Cigarette Tax Act.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, there is a unique 25s tax stamp differentiated by color.

## **Section 2 – Acquiring Stamps**

TP fills out RC-1-A Cigarette Tax Stamp Order; stamps can be picked up in Springfield or they can be shipped. Payment must be sent electronically.

**How are stamps delivered to the wholesaler/distributor?**

The wholesaler/distributor must have a FedEx and/or UPS account on file with IDOR.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is immediately debited from the account provided by the Distributor at the time the stamp order is placed. A bond is not required for this.

## **Section 3 - Bond Requirements**

You must be a licensed cigarette distributor in Illinois to be able to purchase stamps. A cigarette distributor’s license requires a \$2,500 bond.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

Yes, but only with prior authorization.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes. Licensed cigarette distributors may possess unstamped packages of cigarettes; therefore, they can transfer/sell them to other licensed distributors.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

66.7% (2/3).

## **Section 6 – Refund Limitations**

As to any claim filed hereunder with the Department on and after each January 1 and July 1, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty under this Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability under this Act, the claim may be filed at any time prior to the expiration of the period agreed upon.

## **Section 7 – Credit Process for Manufacturer Returns**

The TP completes a RC-16 Cigarette Tax Claim for Credit and returns it to Revenue with an affidavit from the manufacturer and a bill of lading.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

It is given in credit against the next stamp purchase, but it can be refunded for specific reasons or used on another return or tax type if requested.

## **Section 8 – Other Allowed Credits**

Deductions are allowed on all of our tax returns for returned products.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Both inventories are reported on our cigarette tax forms. Discrepancies over a certain threshold are referred to the Audit Division.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

There are none currently, but there is a proposed rule change that would limit stamp purchases based on Revenue's stamp inventory.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Yes, they are stamped the same way the cigarettes are. We only allow them in the 20/25 configuration.

## **PACT Act Reporting**

The taxpayer mails or emails their PACT report to Revenue.

# STATE OF INDIANA

(Last updated 02/2019)

## General Information

### Section 1 - Contact Information

**Contact:** Julie Smith, Director of Special Tax Administration

**Mailing Address:** 7811 Milhouse Rd

**City, State, Zip Code:** Indianapolis, IN 46241

**Phone Number:** 317-615-2528

**E-mail Address:** [julsmith@dor.in.gov](mailto:julsmith@dor.in.gov)

**Contact:** Amber Logsdon, Director of Tobacco Enforcement

**Agency:** Office of Attorney General Curtis Hill

**Mailing Address:** 302 West Washington Street IGCS-5th Floor

**City, State, Zip Code:** Indianapolis, IN 46204

**Phone Number:** 317-234-2623

**E-mail Address:** [amber.logsdon@atg.in.gov](mailto:amber.logsdon@atg.in.gov)

### Section 2 - Statutes, Regulations and Rules

Cigarette Tax - Ind. Code § 6-7-1 et. seq.

Tobacco Products Tax - Ind. Code § 6-7-2 et. seq.

### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

Cigarette – includes: any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition in this section shall not be construed to include cigars. I.C. 6-7-1-2

Tobacco Product – includes: (1) any product made from tobacco, other than a cigarette (as defined in IC 6-7-1-2), that is made for smoking, chewing, or both; or (2) snuff, including moist snuff. IC 6-7-2-5.

Moist Snuff - any finely cut, ground, or powdered tobacco that is not intended to be: (1) smoked; or (2) placed in the nasal cavity. IC 6-7-2-2.1

## **Section 4 - The Basis for the Tax**

None noted.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes:

On cigarettes weighing not more than three (3) pounds per thousand (1,000), a tax at the rate of four and nine hundred seventy-five thousandths cents (\$0.04975) per individual cigarette.

On cigarettes weighing more than three (3) pounds per thousand (1,000), a tax at the rate of six and six hundred twelve thousandths cents (\$0.06612) per individual cigarette, except that if any cigarettes weighing more than three (3) pounds per thousand (1,000) shall be more than six and one-half (6 ½ ) inches in length, they shall be taxable at the rate provided in subdivision (1), counting each two and three-fourths (2 ¾ ) inches (or fraction thereof) as a separate cigarette. IC 6-7-1-12

Tobacco Products:

twenty-four percent (24%) of the wholesale price of tobacco products other than moist snuff. IC 6-7-2-7

Moist Snuff:

forty cents (\$0.40) per ounce, and a proportionate tax at the same rate on all fractional parts of an ounce. If the tax calculated for a fractional part of an ounce carried to the third decimal place results in the numeral in the third decimal place being greater than four (4), the amount of the tax shall be rounded to the next additional cent. IC 6-7-2-7

### **Miscellaneous Fees:**

#### Cigarettes

Registration fee – To obtain or renew a registration, an annual fee of five hundred dollars (\$500) shall accompany the application for the registration certificate. IC 6-7-1-16

Bond - a distributor must file a bond or a letter of credit: (1) in a form and with a surety or financial institution approved by the department; (2) in the amount of one thousand dollars (\$1,000); (3) naming the state as obligee; and (4) conditioned upon the payment of taxes, damages, fines, penalties, or costs adjudged against the holder of the registration certificate by reason of the violation of any of the provisions of this chapter. IC 6-7-1-16

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## Tobacco Products

License fee - To obtain or renew a license under this section, a person must pay a fee of twenty-five dollars (\$25) at the time of application. IC 6-7-2-8

Bond – At the time of license application, applicants must post a bond, issued by a surety company approved by the department, in an amount not less than one thousand dollars (\$1,000) and conditioned on the applicant's compliance with this chapter. IC 6-7-2-8

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Not currently.

## **Section 6 - Rate Updates**

None noted.

## **Section 7 - State Collection Allowance or Discount**

### Cigarettes:

Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of one and three-tenths cents (\$0.013) per individual package of cigarettes as compensation for their labor and expense. I.C. 6-7-1-17

### Tobacco Products:

A distributor that files a complete return and pays the tax due within the time specified in section 12 of this chapter is entitled to deduct and retain from the tax a collection allowance of seven-thousandths (0.007) of the amount due. If a distributor files an incomplete report, the department may reduce the collection allowance by an amount that does not exceed the lesser of: (1) ten percent (10%) of the collection allowance; or (2) fifty dollars (\$50). I.C. 6-7-2-13

## **Section 8 - Any Other Permissible Allowances**

Bad Debt Credit - means the taxes attributable to any portion of a debt that is related to a sale of tobacco products subject to tax under I.C. 6-7-1-12 that is not otherwise deductible or excludable, that has become worthless or uncollectible in the time period between the date when taxes accrue to the state for the present return, and that is eligible to be claimed, or could be eligible to be claimed if the licensee kept accounts on an accrual basis, as a deduction pursuant to

section 166 of the Internal Revenue Code. A bad debt shall not include any interest on the wholesale price of a tobacco product, uncollectible amounts on property that remains in the possession of the licensee until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or any portion of the debt recovered, any accounts receivable that have been sold to a third party for collection, and repossessed property.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarette - It is the intent and purpose of this chapter to levy a tax on all cigarettes sold, used, consumed, handled, or distributed within this state, and to collect the tax from the person who first sells, uses, consumes, handles, or distributes the cigarettes. It is further the intent and purpose of this chapter that whenever any cigarettes are given for advertising or any purpose whatsoever, they shall be taxed in the same manner as if they were sold, used, consumed, handled, or distributed in this state. Notwithstanding any other provisions contained in this chapter, the liability for the excise taxes imposed by this chapter shall be conclusively presumed to be on the retail purchaser or ultimate consumer, precollected for convenience and facility only. When such taxes are paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of the cigarettes and recovered from the ultimate consumer or user. Distributors, wholesalers, or retailers may state the amount of the tax separately from the price of such cigarettes on all price display signs, sales or delivery slips, bills, and statements which advertise or indicate the price of such cigarettes.

Tobacco Products - the tax is imposed at the time the distributor: (1) brings or causes tobacco products to be brought into Indiana for distribution; (2) manufactures tobacco products in Indiana for distribution; or (3) transports tobacco products to retail dealers in Indiana for resale by those retail dealers. IC 6-7-2-7

## **Section 10 - Tax Return Due Dates**

Cigarette tax returns shall be filed electronically before the fifteenth day of each month. IC 6-7-1-19 and IC 6-7-1-37

Tax returns for tobacco products shall be filed electronically before the fifteenth day of each month. IC 6-7-2-12

If the 15th day of the month falls on a Saturday, a Sunday, a national legal holiday, or a statewide holiday, the due date is the next succeeding day that is not a Saturday, a Sunday, or such holiday.

## **Section 11 – Tax Return Filings**

Electronic filing information is available at: <http://www.in.gov/dor/5168.htm> and <http://www.in.gov/dor/5173.htm>

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## **Section 12 – Tax Collection**

None noted.

## **Section 13 - Penalties for Late Filing**

Cigarettes: Informational returns not received by the due date can be assessed \$10.

Other Tobacco Products: If tax liability is not paid on or before the due date, individuals are subject to 10% penalty as well as interest from the date the tax return was due until the date the tax return was actually received. The interest rate is determined on a calendar-year basis and can change from year to year. Please refer to our website at <http://www.in.gov/dor/files/dn03.pdf> for the current interest rate.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

None noted.

## **Section 16 – Qualifying Exemptions**

Cigarettes: A distributor does not incur tax liability with respect to sales or other dispositions of cigarettes to the United States government, its agencies and instrumentalities and need not affix tax stamps to individual packages of cigarettes so sold or otherwise disposed of. IAC 8.1-1-3  
Distributors do incur tax liability with respect to sales or other dispositions of cigarettes in this state to individuals, private stores, or concessionaires located upon federal areas and engaged in the business of selling cigarettes. In these situations, the distributor must affix tax stamps of proper denomination to each individual package of cigarettes before delivery thereof pursuant to a sale or other disposition. IAC 8.1-1-3

Other Tobacco Products: The sale of tobacco products to the United States or an agency or instrumentality thereof is exempt from the tobacco products tax. IC 6-7-2-23

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.



## **Section 18 - Information Required on a Customer Invoice**

No specific requirements noted.

## **Section 19 – Responsibility by Agency**

MSA Reporting: The Office of the Indiana Attorney General, Tobacco Enforcement  
Section of the Consumer Protection Division  
Enforcement/Collection: Indiana Department of Revenue  
Product Seizure Authority: Indiana Department of Revenue and Indiana Alcohol and Tobacco  
Commission

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The current minimum age for purchasing cigarettes or tobacco products is 18 years old. There is not a different minimum age for local jurisdictions.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

The minimum age to possess cigarettes or tobacco products in Indiana is 18 years old.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Indiana has a statewide minimum pricing structure for cigarettes. It is based upon the minimum markup between each tier in the distribution chain for the product. Indiana Code 24-3-2-2(i) defines the “cost to the retailer” whereas Indiana Code 24-3-2-2(j) defines the “cost to the distributor”. In the absence of qualifying discounts or exceptions, the “state minimum price” is calculated as the cost of the cigarettes from the manufacturer, plus the “cost to the distributor”, plus the “cost to the retailer”. There are not separate minimum pricing laws for local jurisdictions.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Indiana does not have any flavor bans outside of the federal flavor bans imposed by the FDA.

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**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Indiana does have a prohibition on smoking that encompasses some public areas which can be found at <http://iga.in.gov/legislative/laws/2018/ic/titles/7.1#7.1-5-12> . Local jurisdictions may impose smoking prohibitions that are stricter than the statewide prohibition.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Cigarettes:

Each distributor shall obtain from the department a registration certificate. Application for a registration certificate shall be made in writing upon forms prescribed by the department and shall be signed and verified by the distributor.

The registration certificate shall be issued only upon payment to the department of an annual fee of five hundred dollars (\$500) which shall accompany the application for the registration certificate. In addition, a distributor must concurrently file a bond or a letter of credit.

All registration certificates shall be personal, nontransferable, and valid for one (1) year from date of issuance unless revoked or suspended for cause by the department.

Other Tobacco Products:

A distributor, including a person that sells tobacco products through an Internet web site, must obtain a license under this section before it distributes tobacco products in Indiana.

A license issued under this section is valid for one (1) year unless revoked or suspended by the department and is not transferable.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, annually.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

OTP = \$1000 bond

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CIG = \$1000 bond + separate bond to cover the amount of outstanding stamp payment if they wish to purchase on credit.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Every distributor, upon the receipt of cigarettes taxed, shall cause each individual package to have the requisite denomination and amount of stamps firmly affixed. Every retailer, upon receipt of cigarettes not having the proper amount of stamps firmly affixed, to each individual package, or stamped by a meter stamping machine, by a distributor shall stamp or firmly affix stamps immediately on each individual package.

Stamps are green and gray. Each stamp has both the roll number and the individual stamp number printed on it. They are heat applied.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

2 sets of numbers, 5 digits each. One for roll number, one for stamp number.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

We have a separate stamp for 25s.

### **Section 2 – Acquiring Stamps**

Orders for stamps may be mailed to Indiana Department of Revenue Attention: Cigarette Tax, P.O. Box 901, Indianapolis, IN 46206-0901 Indianapolis, IN 46241-9612, emailed to INCigTax@dor.in.gov or faxed to (317) 615-2691. DOR will ship using either the DOR UPS shipping account or the purchaser's FedEx account.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

They can pay upon purchase or on 30 day credit. If using credit, a bond in an amount to cover all outstanding, unpaid purchases is required.

### **Section 3 - Bond Requirements**

Stamps must either be paid for at the time of purchase, or within 30 days of purchase if they have a bond. The bond must cover the cost of all outstanding/unpaid purchases.

### **Section 4 – Allowable Transfers**

Transfers of unaffixed stamps are not allowed. Transfers of unstamped cigarettes among distributors are not allowed.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

A distributor is entitled to a credit against the cost of stamps purchased in an amount equal to the distributor's receivables that: (1) are attributable to stamps purchased by the distributor under this chapter and affixed to cigarettes that were transferred to a retailer; (2) resulted from a transfer of cigarettes to a retailer in which the distributor did not collect the tax imposed by this chapter from the retailer; and (3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code 1 after December 31, 2006.

Where stamps or individual packages to which stamps have been affixed have become mutilated, or otherwise unfit for use, distributors shall notify the DOR, and, if an investigation discloses that said stamps have not evidenced a taxable transaction, replacement stamps shall be supplied to the distributor without cost.

### **Section 6 – Refund Limitations**

Stamped cigarettes returned to the manufacturer are refundable provided an original affidavit is received.

### **Section 7 – Credit Process for Manufacturer Returns**

Any unused stamps may be returned to the DOR by the distributor who purchased such stamps, and the department shall then refund to such distributor an amount equal to that paid therefor.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refund check in the case of Cigarettes, deduction on return in the case of OTP.

### **Section 8 – Other Allowed Credits**

None noted.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No requirement for stamping little cigars.

### **PACT Act Reporting**

A PACT Act report must be filed if anyone who advertises, offers for sale, sells, transfers, or ships (for profit) roll-your-own and/or smokeless tobacco in interstate commerce. The roll-your-own and/or smokeless tobacco must be shipped into another state, locality, or Indian nation that taxes the sale or use of roll your-own and/or smokeless tobacco.

PACT Act reports are filed electronically on or before the 10th day of the month immediately following the last day of the month being reported. If the 10th day of the month falls on a Saturday, a Sunday, a national legal holiday, or a statewide holiday, the due date is the next succeeding day that is not a Saturday, a Sunday, or such holiday. A report must be filed even if there is no activity within Indiana during the reporting period

**STATE OF IOWA**  
(Last updated 05/2019)

**General Information**

**Section 1 - Contact Information**

**Agency:** Iowa Department of Revenue

**Contact:** Scott Fitzgerald, Statistical Research Analyst

**Mailing Address:** 1305 E Walnut St

**City, State, Zip Code:** Des Moines, IA 50319

**Phone Number:** (515) 281- 5884

**Fax Number:** (515) 281- 3756

**E-mail Address:** [IDRCigarette@iowa.gov](mailto:IDRCigarette@iowa.gov)

**Website:** <https://tax.iowa.gov/>

**Agency:** Iowa Department of Justice/Office of the Attorney General

**Contact:** Matthew Gannon, Asst. Attorney General

**Mailing Address:** 1305 E Walnut St

**City, State, Zip Code:** Des Moines, IA 50319

**Phone Number:** (515) 281- 4951

**E-mail Address:** [matt.gannon@ag.iowa.gov](mailto:matt.gannon@ag.iowa.gov)

**Website:** <https://www.iowaattorneygeneral.gov/>

**Section 2 - Statutes, Regulations and Rules**

**Rules:**

<https://www.legis.iowa.gov/law/administrativeRules/chapters?agency=701&pubDate=09-03-2014>

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Chapter 82, Chapter 83, Chapter 84 and Chapter 85

453A <https://www.legis.iowa.gov/docs/code/453A.pdf>

453C <https://www.legis.iowa.gov/docs/code/453c.pdf>

453D <https://www.legis.iowa.gov/docs/code/453D.pdf>

421B <https://www.legis.iowa.gov/docs/code/421B.pdf>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

“*Cigarette*” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, “*cigarette*” shall not be construed to include cigars.

“*Tobacco products*” means cigars; little cigars as defined in section 453A.42, subsection 5; cheroots; stogies; perique’s; granulated; plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; or refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not mean cigarettes.

“*Snuff*” means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

“Little cigar” means any roll for smoking which: a. Is made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient; b. Is not a cigarette as defined in section 453A.1, subsection 4; and c. Either weighs not more than three pounds per thousand, irrespective of retail price, or weighs more than three pounds per thousand and has a retail price of not more than two and one-half cents per little cigar. For purposes of this subsection, the retail price is the ordinary retail price in this state, not including retail sales tax, use tax, or the tax on little cigars imposed by section 453A.43.

### **Section 4 - The Basis for the Tax**

“Wholesale Sales Price” means the established price for which manufacturer sells a tobacco product to a distributor, exclusive of any discounts or other reductions.  
Weight is by ounce.

### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes Pack 20s \$1.36 Pack 25s \$1.70

Tobacco Tax Information by State v. 07.22.19

OTP – 50% of wholesale sales price  
Snuff – \$1.19 an ounce  
Cigars – 50% of wholesale sales price or \$0.50 per stick.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

E-Cigarettes, ENDS, and other vapor products are subject to sales tax, not a tobacco tax.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

Yes, the Distributor gets the discount.

Cigarette 2% Tobacco 3.5%.

### **Section 8 - Any Other Permissible Allowances**

None noted.

### **Section 9 – The Point at Which Tax is Imposed**

Cigarette – Tax is paid when the stamps are purchased.

Tobacco – In-state distributors pay the tax when the product is purchased and brought into the state. Out-of-state distributors pay the tax when the product is sold into state.

### **Section 10 - Tax Return Due Dates**

If a due date falls on a weekend, federal holiday, or legal holiday as defined in Iowa Code section 4.1(34), the due date will extend to the next working day.

Cigarette – On or before the 10th day of the month following the month for which the return covers. Timely filed return is based on the postmark date.

Tobacco – On or before the 20th day of the month following the month for which the return covers. Timely filed return is based on the postmark date.



## **Section 11 – Tax Return Filings**

Returns must be submitted by mail. Payment must be included if tax is due.

## **Section 12 – Tax Collection**

Cigarette – Payment must be included with the order form. We do offer payments to be submitted electronically thru Dwolla.

Tobacco – Payment can only be made by check and submitted with the return

## **Section 13 - Penalties for Late Filing**

Cigarette – First late filed return \$200, second \$500, and \$1,000 for all subsequent late filed return within 3 years.

Tobacco – 5% or 10% of tax due.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

Yes.

## **Section 16 – Qualifying Exemptions**

None noted.

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.

## **Section 18 - Information Required on a Customer Invoice**

No response received from state.

Tobacco Tax Information by State v. 07.22.19

## **Section 19 – Responsibility by Agency**

MSA Reporting: Office of the Attorney General and Iowa Department of Revenue.  
Enforcement/Collection: Office of the Attorney General, Iowa Department of Revenue, and Iowa Alcoholic Beverage Division  
Product Seizure Authority: Local and state law enforcement and agent/representative for the Iowa Department of Revenue.

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18. 453A.2.1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen years of age. There is not a different age for county/city/local purchasing.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No. 453A.2.3. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under eighteen years of age does not constitute a violation under this section if the individual under eighteen years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the individual's employment and the individual is employed by a person who holds a valid permit under this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18. 453A.2.2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. 421B.3.1. It shall be unlawful for any wholesaler or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler or retailer, as the case may be, as defined in this chapter. Any wholesaler or retailer who violates the provisions of this section shall be guilty of a simple misdemeanor. See <https://tax.iowa.gov/documents/current-minimum-legal-price-list-cigarettes> for the current cigarette minimum price list.

Iowa Administrative Code 701—84.2 (421B) Minimum price. The formula for determining the “cost” to a wholesaler or retailer as defined in Iowa Code section 421B.2 is not conclusive. The retailer, wholesaler or the department may prove that the “cost” is either higher or lower. Any wholesaler or retailer who desires to prove that the wholesaler’s or retailer’s cost is less than the statutory presumptive cost computed according to the Iowa unfair cigarette sales Act, Iowa Code chapter 421B, shall submit a petition for approval of a lower cost along with actual cost data to the department of revenue. The statutory presumptive cost must be used in determining minimum price until approval has been granted by the department. If the requester continues to sell cigarettes at less than the presumptive cost, the department may revoke the requester’s permit or seek an injunction pursuant to Iowa Code section 421B.10 to prevent such action.

Any requester making sales of cigarettes in or into Iowa for more than 12 months shall submit cost data for the 12-month period ending no more than 30 days prior to the submission of the petition. Any requester making sales of cigarettes in or into Iowa for less than 12 months shall submit cost data for the period beginning with the start of business and ending no more than 30 days prior to the submission of the petition. The department shall notify the wholesaler or retailer of the acceptance or rejection of the petition. If the requester disagrees with the department’s determination, the requester may file a protest within 60 days of the department’s decision in accordance with rule 701—7.8(17A).

Costs of doing business shall include, but are not limited to, freight charges, labor, and equipment costs to affix stamps, ink, glue, permit fees, management fees, labor costs (including salaries of officers), rents, depreciation, selling costs, maintenance expenses, interest expenses, delivery costs, taxes, insurance, advertising expenses, and any other operational and administrative costs. The requester shall set forth the basis for allocated costs. When the computed cost amounts to any fractional part of a cent, the cost must not be less than the next higher cent. However, sales made between wholesalers as provided for in Iowa Code section 421B.5, sales described in Iowa Code section 421B.6, and sales outside of the ordinary channels of trade as provided in Iowa Code section 421B.9 shall not be required to adhere to the minimum pricing requirements set forth in Iowa Code section 421B.3 and this rule. See rule 84.5(421B).

84.2(1) Wholesaler’s cost of cigarettes. The statutory method for determining the wholesaler’s cost of cigarettes is as follows:

- a. “Basic cost of cigarettes” equals the lowest of true invoice cost, or lowest replacement cost, less trade or cash discounts plus one half of the state cigarette tax.
- b. “Cost to wholesaler” equals the basic cost of cigarettes plus 4 percent of the basic cost plus the one half of the state cigarette tax not already included.

84.2(2) Retailer’s cost of cigarettes. The statutory method for determining the retailer’s cost of cigarettes is as follows:

- a. “Basic cost of cigarettes” equals the lower of either true invoice cost exclusive of state cigarette tax or lowest replacement cost exclusive of state cigarette tax, minus trade or cash discounts plus one half of the state cigarette tax.

b. “Cost to retailers” equals the basic cost plus 4 percent of the basic cost, to the extent the retailer is allowed discounts ordinarily allowed wholesalers, plus 8 percent of the basic cost, plus the one half of the state cigarette tax not already included.

For purposes of determining the basic cost of cigarettes for wholesalers or retailers, trade or cash discounts may be deducted, if available, even though not taken. The discount taken or available must be clearly specified on the invoice or it will not be allowed as a reduction in the basic cost of cigarettes. Any financial incentive given to a wholesaler or retailer by a manufacturer at a later date will not reduce the basic cost of cigarettes.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

There are no state bans, but there are some county/city/local bans.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

**Do licenses need to be renewed and if so, how frequently?**

Retailers – Are required to obtain a retail permit to sell cigarettes, tobacco products, alternative nicotine products, and vapor products. Permits must be renewed each year and expire on June 30<sup>th</sup>. The permits fees are \$50 in places outside of any city, \$75 in cities less than fifteen thousand and \$100 in cities more than fifteen thousand. Permits are issued by the jurisdiction where the business is located.

Distributors/wholesalers/sub jobbers/manufacturers – Are required to obtain a permit with the Iowa Department of Revenue. Permits must be renewed each year and expire on June 30<sup>th</sup>.

Fees and required bonds are as follows:

- |  |                          |               |                          |
|--|--------------------------|---------------|--------------------------|
| 601/621 Cigarette Distributor (only) ..... | <input type="checkbox"/> | Fee: \$100.00 | Required Bond: \$2500.00 |
| 606/626 Tobacco Distributor (only).....    | <input type="checkbox"/> | Fee: \$100.00 | Required Bond: \$1000.00 |
| 602 Cigarette Manufacturers.....           | <input type="checkbox"/> | Fee: \$0      | Required Bond: \$5000.00 |
| 603 Cigarette Vendors (only).....          | <input type="checkbox"/> | Fee: \$100.00 | Required Bond: \$1000.00 |

- 604 Cigarette Wholesalers (only) .....  Fee: \$100.00 Required Bond: \$2500.00
- 605 Tobacco Sub jobbers (only).....  Fee: \$10.00 Required Bond: \$0
- 607 Distributing Agent.....  Fee: \$100.00 Required Bond: \$2500.00
- 608 Railway Car Retailers .....  Fee: \$25.00 Required Bond: \$500.00
- 601/621 and 606/626 (2 permits)
- Cigarette Distributor and Tobacco Distributor...  Fee: \$100.00 Required Bond: \$3500.00
- 604 and 605 (2 permits)
- Cigarette Wholesaler and Tobacco Sub jobber...  Fee: \$100.00 Required Bond: \$2500.00
- 611 Delivery Seller ..... Fee: \$0 Required Bond: \$1000.00

**Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

See above.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes. See above.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Yes. Cigarette and tobacco distributors must enclose letters from each manufacturer that intends to sell them unstamped cigarettes and untaxed other tobacco products. They must provide all brands purchased from each manufacturer.

**Cigarette/Cigarette Tax Stamp Information**

**Section 1 – Tax Stamp Attributes**

Pack 20s – Dark and light orange color with light blue lettering. Five digit roll number and five digit stamp number. Heat applied.

Pack 25s – Dark and light blue color with dark blue lettering. Five digit roll number and five digit stamp number. Heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

2 Rows. 1<sup>st</sup> row is roll ID, second row is stamp ID.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes.

## **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Stamps can be mailed by the Department’s mailing policy, Fed Ex (at the permit holder’s expense), or by walk-in.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchasing. Cigarette distributors are required to have a bond, and they are the only ones who can purchase cigarette stamps. See Section 3 below for bond requirements.

## **Section 3 - Bond Requirements**

601/621 Cigarette Distributor (only) Required Bond: \$2500.00

606/626 Tobacco Distributor (only) Required Bond: \$1000.00

602 Cigarette Manufacturers Required Bond: \$5000.00

603 Cigarette Vendors Required Bond: \$1000.00

604 Cigarette Wholesalers (only) Required Bond: \$2500.00

605 Tobacco Sub jobbers Required Bond: \$0

607 Distributing Agent Required Bond: \$2500.00

608 Railway Car Retailers Required Bond: \$500.00

601/621 and 606/626 (2 permits) Cigarette Distributor and Tobacco Distributor Required Bond: \$3500.00

604 and 605 (2 permits) Cigarette Wholesaler and Tobacco Sub jobber Required Bond: \$2500.00

611 Delivery Seller Required Bond: \$1000.00

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**  
No.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes. A refund affidavit can be submitted to the department for a refund.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Must have at least 50% of the stamp present to qualify for a refund.

### **Section 6 – Refund Limitations**

None noted.

### **Section 7 – Credit Process for Manufacturer Returns**

The distributor must submit an Iowa Cigarette Refund Affidavit Form 70-039 to the Department along with the original credit memo received from the manufacturer. The Department will review all claims and issue any refunds due to the distributor.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

A check is issued.

### **Section 8 – Other Allowed Credits**

Credit is given for OTP returned to the manufacturer.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Stamps shall be affixed within forty-eight hours, exclusive of Sundays and legal holidays, from the hour the cigarettes were received, and shall be affixed before such distributor sells, offers for sale, consumes or otherwise distributes or transports the same.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Yes. Little cigars are treated as if they were cigarettes and have the same guidelines as such. There is no stamping in configurations other than 20 or 25 packs.

### **PACT Act Reporting**

PACT Act reports are due on the 10th day of the month following the month for which the report is for. They can be sent in electronically through Secure File Exchange or by mail.



**STATE OF KANSAS**  
(Last updated 04/2017)

**General Information**

**Section 1 - Contact Information**

**Contact Person:** Marci Rosencutter, Cigarette Tobacco Manager

**Agency:** Kansas Department of Revenue

**Mailing Address:** P.O. Box 3506

**City, State, Zip Code:** Topeka, KS 66601-3506

**Phone Number:** (785) 368-8222, Opt. 1, Opt. 4, Opt. 1

**Fax Number:** (785) 296-4993

**Email Address:** [marcia.rosencutter@ks.gov](mailto:marcia.rosencutter@ks.gov)

**Alternate E-mail Address:** [cigtob@ks.gov](mailto:cigtob@ks.gov)

**Website:** <http://www.ksrevenue.org/bustaxtypescig.html>

**Contact Person:** Jordan Brewer

**Agency:** Kansas Attorney General Office

**Mailing Address:** 120 SW 10th Ave., 2nd Floor

**City, State, Zip Code:** Topeka, KS 66612-1597

**Phone Number:** (785) 368-6289

**Email Address:** [tobacco@ag.ks.gov](mailto:tobacco@ag.ks.gov)

**Website:** <http://ag.ks.gov/licensing/tobacco-enforcement>

## **Section 2 - Statutes, Regulations and Rules**

Statutes: <http://www.kslegislature.org> Cigarette and Tobacco Products Tax Laws – K.S.A. Chapter 79, Article 33

Regulations <http://rvpolicy.kdor.ks.gov/>

Cigarette Regulations, K.A.R. Agency 92, Article 5

Tobacco Products Regulations, K.A.R. Agency 92, Article 17

Consumable Material Regulations, K.A.R. Agency 92, Article 57

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

K.S.A. 79-3301, "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

K.S.A. 79-3301, "Tobacco products" means cigars, cheroots, stogies, perique's; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; Cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.

K.S.A. 79-3301, "Electronic cigarette" means a battery-powered device, whether or not such device is shaped like a cigarette that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

## **Section 4 - The Basis for the Tax**

K.S.A. 79-3378. Every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less four percent (4%) of such liability as compensation to reimburse the distributor for his or her expenses incurred in the administration of this act.

## **Section 5 - Tax Rates and Miscellaneous Fees**

K.S.A. 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. On and after July 1, 2015, the rate of such tax shall be \$1.29 on each 20 cigarettes or fractional part thereof or \$1.61 on each 25 cigarettes, as the case requires.

K.S.A. 79-3371. A tax is hereby imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor thereof, at the rate of ten percent (10%) of the wholesale sales price of such tobacco products.

K.S.A. 79-3399(a). On and after July 1, 2017, a tax is hereby imposed upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of \$.05 per milliliter of consumable material for electronic cigarettes and a proportionate tax at the like rate on all fractional parts thereof.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

## **Section 6 - Rate Updates**

None at this time.

## **Section 7 - State Collection Allowance or Discount**

Cigarette K.S.A. 79-3311. Stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of 0.55% on and after July 1, 2015, and thereafter, from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided.

OTP K.S.A. 79-3378. Each return shall be accompanied by a remittance for the full tax liability shown therein, less four percent (4%) of such liability as compensation to reimburse the distributor for his or her expenses incurred in the administration of this act.

Consumable Material None.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarette K.S.A. 79-3310. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes.

OTP K.S.A. 79-3371. Such tax shall be imposed at the time the distributor (a) brings or causes to be brought into this state from without the state tobacco products for sale; (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

Consumable Material K.S.A. 79-3399(a). For electronic cigarettes in the possession of retail dealers for which tax has not been paid, tax shall be imposed at the earliest time the retail dealer: (1) Brings or causes to be brought into this state from without the state electronic cigarettes for sale; (2) makes, manufactures or fabricates electronic cigarettes in this state for sale in this state; or (3) sells electronic cigarettes to consumers within this state.

## **Section 10 - Tax Return Due Dates**

Cigarette K.S.A. 79-3316. On or before the 10th day of each month.

OTP K.S.A. 79-3378. On or before the 20th day of each calendar month.

Consumable Material K.A.R. 92-57-5. On or before the 20th day of each calendar month.

## **Section 11 – Tax Return Filings**

All reports shall be made on forms provided by the director. Electronic filing is available through our web site. Specifications on the web site must be followed. Mandatory electronic reporting is expected soon.

## **Section 12 – Tax Collection**

Payments are accepted via mail and electronically through our web site. Electronic payments must be submitted by the due date. Mailed payments must be postmarked by the due date.

## **Section 13 - Penalties for Late Filing**

K.S.A. 79-3396. Failure to file; penalty. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a licensee has violated the provisions of subsection (u), (v) or (w) of K.S.A. 79-3321, and amendments thereto, or has failed to comply with the provisions of K.S.A. 2016 Supp. 79-3395, and amendments thereto, or any

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rule and regulation adopted pursuant thereto, may revoke or suspend the license of any licensee in the manner provided by K.S.A. 79-3309, and amendments thereto; the director also may impose a civil fine in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5,000. Such fine shall be imposed in the manner provided by K.S.A. 79-3391, and amendments thereto.

K.S.A. 79-3615. Interest and penalties. (a) If any taxpayer shall fail to pay the tax required under this act at the time required by or under the provisions of this act, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by subsection (a) of

K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

Additionally, any future cigarette stamp purchases are put on hold until late payments are brought current.

### **Section 14 – Local Jurisdictional Tax**

None noted.

### **Section 15 - Floor Stock Tax**

Usually yes, however, any floor stock tax is determined by the legislature. See K.S.A. 79-3310c.

### **Section 16 – Qualifying Exemptions**

For sales within the state, none.

### **Section 17 - Laws or Rules for Tribal Sales**

Each compacting tribe has a stamp that is applied instead of the state stamp. Any special laws are based on the compact signed. Tribal reporting forms, similar to non-tribal forms, are submitted monthly.

### **Section 18 - Information Required on a Customer Invoice**

K.S.A. 79-3316(c). All invoices issued by wholesale dealers shall be in duplicate and a copy must accompany the consigned cigarettes. Cigarettes sold by a wholesale dealer to any other dealer shall be evidenced by invoices bearing the vendee's name and license number. A wholesale dealer selling cigarettes to a manufacturer's salesperson shall at the time of delivery of

same make a true duplicate invoice inserting therein the name of the salesman together with the name of such salesperson's employer.

### **Section 19 – Responsibility by Agency**

MSA Reporting: Kansas Attorney General's Office  
Enforcement/Collection: Kansas Department of Revenue  
Product Seizure Authority: Kansas Attorney General's Office and Kansas Department of Revenue

### **Section 20 – New or Pending Legislation**

SB 13 (2017) – Liquor retailers may sell other goods or services, including cigarettes and other tobacco products.

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

**K.S.A. 79-3304.** The license fee for each biennium or portion thereof shall be as follows:

- (1) For retail dealer's license, \$25 for each dealer establishment.
- (2) For retailer's license on railroad or sleeping cars, \$50. Only one retail license need be obtained by each railroad or sleeping car Company to permit the sale of cigarettes on any or all of its cars within the state.
- (3) For show, carnival or catering license, \$50 for each concession.
- (4) For resident retail dealer's temporary license for a place of business of a temporary nature, \$2 for each seven days or portion thereof.
- (5) For wholesale dealer's license, \$50 for each dealer establishment.
- (6) For vending machine distributor's license, \$50.
- (7) For manufacturer's salesperson license, \$20 for each salesperson.
- (8) For vending machine operator's license, no fee.
- (9) For vending machine permit, \$25 for each permit.

**K.S.A. 79-3374.** Each application for a distributor's license shall be accompanied by a fee of twenty-five dollars (\$25).

**K.A.R. 92-57-2.** Each distributor shall obtain a certificate of registration issued by the director before engaging in the business of selling or dealing in consumable material in Kansas.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

# **Cigarette and Tax Stamp Information**

## **Section 1 – Tax Stamp Attributes**

K.S.A. 79-3311. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director.

Stamps are designed by the director. Current stamps are magenta in color for 20s and orange for 25s.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

## **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Orders are taken via phone, mail, email or electronically through our web site. They are then shipped via UPS. However, should the wholesaler request the order to be shipped Fed Ex; an account number must be provided.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

## **Section 3 - Bond Requirements**

**Cigarette License K.S.A. 79-3304.** No wholesale dealer's license shall be issued until the person applying therefor has filed with the director a bond payable to the state of Kansas in such an amount as shall be fixed by the director, but in no event less than \$1,000, with a corporate surety authorized to do business in the state of Kansas, and approved by the director. If a wholesale dealer is unable to secure a corporate surety bond, the director may issue a license to such



wholesale dealer, upon the wholesale dealer furnishing a personal bond meeting the approval of the director. Such bond shall be conditioned on the wholesale dealer's compliance with all the provisions of this act during the license period.

**Cigarette Stamps K.S.A. 79-3311.** Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond.

**OTP K.S.A. 79-3374.** The application shall be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties and accrued interest which may be due the state. The bond shall be in an amount to be determined by the director and in a form prescribed by the director. Whenever it is the opinion of the director that the bond given by a licensee is inadequate in amount to fully protect the state, he or she shall require an additional bond in such amount as he or she deems sufficient.

#### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No.

#### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

No.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No.

#### **Section 6 – Refund Limitations**

79-3312. The director shall redeem any unused stamps that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less 0.55% thereof if such stamps have been purchased from the director. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less 0.55% of such tax.

## **Section 7 – Credit Process for Manufacturer Returns**

Wholesalers are to complete form CG-47 and attach the manufacturer's affidavit.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

## **Section 8 – Other Allowed Credits**

79-3379. Where tobacco products, on which the tax imposed has been reported and paid, or which have been reported for the purpose of determining and imposing the tax for the privilege of doing business under the provisions of the act and on which the tax has been paid, are sold, shipped or transported by the distributor to retailers, distributors or ultimate consumers without the state, or are returned to the manufacturer by the distributor, or destroyed by the distributor, a refund or credit of such tax shall be made to the distributor.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

The wholesaler must complete lines 15a or 18 on form CG-8 monthly report.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

Effective Jan. 1, 2016, all PACT Act reports are required to be filed electronically in a manner prescribed by the Director of Taxation and the Kansas Attorney General. This bill was enforced effective June 1, 2016, to allow customers adequate time to convert to electronic filing. Filing specifications are posted on our web site.

Tobacco Tax Information by State v. 07.22.19

# STATE OF KENTUCKY

(Last updated 04/2019)

## General Information

### Section 1 - Contact Information

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**Agency:** Department of Revenue

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**Fax Number:** (502) 564-3393

**E-mail Address:** [Jeanne.Thompson@ky.gov](mailto:Jeanne.Thompson@ky.gov)

**Website:** <http://revenue.ky.gov/Business/Tobacco-Tax>

**Contact Person:** Michael Plumley

**Agency:** Attorney General

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**City, State, Zip Code:** Frankfort, KY 40601

**Phone Number:** (502) 696-5663

**Fax Number:** (502) 564-2894

**E-mail Address:** [Michael.Plumley@ky.gov](mailto:Michael.Plumley@ky.gov)

**Website:** <http://ag.ky.gov/civil/tobacco>

## **Section 2 - Statutes, Regulations and Rules**

Statutes: <https://apps.legislature.ky.gov/law/statutes/> (Chapter 131, 138, and 365)

Regulations: <https://apps.legislature.ky.gov/law/kar/TITLE103.HTM> (Chapter 41)

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

**Cigarettes:** Any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. Cigarettes do not include reference tobacco products or electronic cigarettes. <http://www.lrc.ky.gov/Statutes/statute.aspx?id=47332>

**Tobacco Products:** Any smokeless tobacco products, smoking tobacco, chewing tobacco, and any kind or form of tobacco product prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in an individual's oral cavity, except cigarettes. <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47332>

**Snuff:** Tobacco that is finely cut, ground, or powdered; and is not for smoking. Snuff includes snus. <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47332>

**Chewing Tobacco:** Any leaf tobacco that is not intended to be smoked and includes loose leaf chewing tobacco, plug chewing tobacco, and twist chewing tobacco, but chewing tobacco does not include snuff. <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47332>

**Electronic Cigarettes:** Not Applicable.

## **Section 4 - The Basis for the Tax**

**Cigarettes:** Stamping Wholesaler - Kentucky Revised Statute (KRS) 138.140  
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47335>

**Cigarette Enforcement and Administration Fee:** Stamping Wholesaler (KRS 365.390)  
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=34776>

**Tobacco Products (except Snuff and Chewing Tobacco):** Distributor's Sales Price (KRS 138.140); Retailer's Purchase Price (for resale to consumers only)  
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47335>

**Snuff:** Distributor/Retailer - Unit Based (KRS 138.140)  
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47335>

**Chewing Tobacco:** Distributor/Retailer - Weight Based (KRS 138.140)  
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47335>

**Electronic Cigarettes:** Not Applicable.

## **Section 5 - Tax Rates and Miscellaneous Fees**

**Cigarettes:** \$1.10/pack of 20 cigarettes, \$1.375/pack of 25 cigarettes.

**Cigarette Enforcement and Administration Fee:** \$0.003/pack of stamps affixed.

**Tobacco Products (except Snuff and Chewing Tobacco):** 15% of distributor's sales price or retailer's purchase price (for resale to consumers only).

**Snuff:** \$0.19 per each one and one-half (1-1/2) ounces or portion thereof by net weight sold.

**Chewing Tobacco:** \$0.19 per each single unit sold; \$0.40 per each half-pound unit sold; or \$0.65 per each pound unit sold.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

## **Section 6 - Rate Updates**

Effective July 1, 2018, the cigarette tax increased from \$0.60/pack of 20 cigarettes to \$1.10/pack of 20 cigarettes and from \$0.75/pack of 25 cigarettes to \$1.375/pack of 25 cigarettes. There was a floor stock tax on all unaffixed and affixed Kentucky tax stamps possessed by every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer on inventory in their control at 11:59 pm on June 30, 2018.

In addition, HB 487 also established a reduction of tax on any cigarette or tobacco product to which a modified risk tobacco product order is issued under 21 U.S.C. sec 387k(g)(1) or under 21 U.S.C. sec 387k(g)(2). This results in a 50% tax reduction or 25% tax reduction, respectively.

## **Section 7 - State Collection Allowance or Discount**

For the purchase of cigarette tax stamps, there is compensation of 9.09% on the first 5% of excise tax due. For all tobacco products (except cigarettes), there is a distributor discount of 1% for timely filed reports and payment of tax.

## **Section 8 - Any Other Permissible Allowances**

No, but compensation is allowed. See above.

## **Section 9 – The Point at Which Tax is Imposed**

**Cigarettes:** The tax imposed shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47337>

**Tobacco Products, Snuff, and Chewing Tobacco:** The tax imposed shall be due at the time of sale. <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47335>

## **Section 10 - Tax Return Due Dates**

<b>Name of Report</b>	<b>Due Date of Report</b>	<b>Due Date of Payment</b>
Monthly Report of Cigarette Wholesaler (Form 73A420) <a href="http://revenue.ky.gov/Forms/73A420212.pdf">http://revenue.ky.gov/Forms/73A420212.pdf</a>	The 20 <sup>th</sup> of the following month	The 20 <sup>th</sup> of the following month
Monthly Report of Tobacco Products, Snuff, and Chewing Tobacco (Form 73A422) <a href="http://revenue.ky.gov/Forms/FORM73A422MthlyTobRepUPDATED91613.pdf">http://revenue.ky.gov/Forms/FORM73A422MthlyTobRepUPDATED91613.pdf</a>	The 20 <sup>th</sup> of the following month	The 20 <sup>th</sup> of the following month

They are due the next business day following the holiday or weekend, if the due date falls on a holiday or weekend.

Postmarked for paper/electronic date stamp for electronic data, is considered a timely filed tax return.

## **Section 11 – Tax Return Filings**

Kentucky accepts mailed paper returns and payments at this time but encourages filers to file electronically through the KY Electronic Tobacco Filing System. Several filers are already utilizing this method.

## **Section 12 – Tax Collection**

Kentucky accepts mailed paper returns and payments at this time but encourages filers to file electronically through the KY Electronic Tobacco Filing System. Several filers are already utilizing this method. The Department of Revenue Direct-to-Distributor (Dtd) Cigarette Tax Stamp Ordering System went live on April 27, 2017. Licensed wholesalers can order and pay for cigarette tax stamps using a convenient web-based application.

## **Section 13 - Penalties for Late Filing**

<b>Name of Report</b>	<b>Report Penalties</b>	<b>Payment Penalties</b>
Monthly Report of Cigarette Wholesaler (Form 73A420)	2% of tax due for each 30 days that the report is late. Total penalty shall not exceed 20% of the total tax due, but not less than ten dollars (\$10).	2% of tax due for each 30 days that the report is late. Total penalty shall not exceed 20% of the total tax due, but not less than ten dollars (\$10).
Monthly Report of Tobacco Products, Snuff, and Chewing Tobacco (Form 73A422)	2% of tax due for each 30 days that the report is late. Total penalty shall not exceed 20% of the total tax due, but not less than ten dollars (\$10).	2% of tax due for each 30 days that the report is late. Total penalty shall not exceed 20% of the total tax due, but not less than ten dollars (\$10).

## **Section 14 – Local Jurisdictional Tax**

No local jurisdictional tax.

## **Section 15 - Floor Stock Tax**

Yes. Effective July 1, 2018, the cigarette tax increased from \$0.60/pack of 20 cigarettes to \$1.10/pack of 20 cigarettes and from \$0.75/pack of 25 cigarettes to \$1.375/pack of 25 cigarettes. There was a floor stock tax on all unaffixed and affixed Kentucky tax stamps possessed by every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer on inventory in their control at 11:59 pm on June 30, 2018.

## **Section 16 – Qualifying Exemptions**

Cigarettes sold to an instrumentality of the United States Government are not subject to the state tax. A Kentucky licensed Tobacco Product Distributor may sell tobacco products (other than

cigarettes) to another Kentucky licensed Tobacco Product Distributor without payment of the excise tax. In such case, the purchasing licensed distributor shall be the distributor liable for the tax. In addition, cigarette and tobacco products taxes shall not apply to reference cigarette and reference tobacco products.

### **Section 17 - Laws or Rules for Tribal Sales**

There are no Native American reservations in Kentucky.

### **Section 18 - Information Required on a Customer Invoice**

A licensed distributor or licensed retail distributor shall:

- a. Identify and display the distributor's or retail distributor's license number on the invoice to the retailer; and
- b. Identify and display the excise tax separately on the invoice to the retailer. If the excise tax is included as part of the product's sales price, the licensed distributor or licensed retail distributor shall list the total excise tax in summary form by tax type with invoice totals.

It shall be presumed that the excise tax has not been paid if the licensed distributor or licensed retail distributor does not comply with (a) and (b) above.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	The Kentucky Department of Revenue and the Attorney General's Office
Enforcement/Collection:	Any peace officer of Kentucky, the Kentucky Department of Revenue, and the Attorney General's Office
Product Seizure Authority:	Any peace officer of Kentucky, the Kentucky Department of Revenue, and the Attorney General's Office

### **Section 20 – New or Pending Legislation**

Effective July 1, 2018, the cigarette tax increased from \$0.60/pack of 20 cigarettes to \$1.10/pack of 20 cigarettes and from \$0.75/pack of 25 cigarettes to \$1.375/pack of 25 cigarettes. There was a floor stock tax on all unaffixed and affixed Kentucky tax stamps possessed by every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer on inventory in their control at 11:59 pm on June 30, 2018.

In addition, HB 487 also established a reduction of tax on any cigarette or tobacco product to which a modified risk tobacco product order is issued under 21 U.S.C. sec 387k(g)(1) or under 21 U.S.C. sec 387k(g)(2). This results in a 50% tax reduction or 25% tax reduction, respectively.

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## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The minimum age is 18. There are no different county/city/local minimum ages at this time.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

The minimum age is 18.

**Is there a minimum age for possession of cigarettes or tobacco products?**

The minimum age is 18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No, there is technically minimum pricing in the Kentucky statutes. However, it was deemed unconstitutional as to how the bill was passed.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No state/county/city/local flavor or menthol bans.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes, there are various government/public/school smoking bans.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

HB 487 (2018) established a reduction of tax on any cigarette or tobacco product to which a modified risk tobacco product order is issued under 21 U.S.C. sec 387k(g)(1) or under 21 U.S.C. sec 387k(g)(2). This results in a 50% tax reduction or 25% tax reduction, respectively.

<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47335>

## **License Information**

**Do licenses need to be renewed and if so, how frequently?**

An applicant needs to reapply every year for a valid cigarette/tobacco license. Cigarette and Tobacco Licenses are obtained through the Kentucky One Stop Business Portal.

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**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No. However, Kentucky reserves the right to request additional information in order to issue the appropriate license.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Kentucky's cigarette tax stamps are heat applied (bright yellow – 20s and bright teal – 25s) with serial numbers.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Two rows – first roll is the roll ID, and the second row is the unique stamp ID.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Yes, Kentucky has a tax stamp for 25s.

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

The Kentucky Department of Revenue utilizes the Direct-to-Distributor (DtD) system through Meyercord/SICPA. Licensed wholesalers can order and pay for cigarette tax stamps using a convenient web-based application. With the DtD system, Meyercord directly ships all orders from its fulfillment center to licensed stamping facilities. Free Ground Shipping is included with each order. For wholesalers who would like faster delivery, shipping charges can be billed directly to their FedEx or UPS account. To take advantage of this service, email [KRC.webresponsetobaccotax@ky.gov](mailto:KRC.webresponsetobaccotax@ky.gov) or [ussupport@sicpa.com](mailto:ussupport@sicpa.com).

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase of the tax stamps. No bond is required.

### **Section 3 - Bond Requirements**

Kentucky does not allow a bond to secure purchases of cigarette tax stamps on credit. Payment must be received before stamps are shipped to the wholesaler.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No, Kentucky law expressly forbids the transfer of stamps. Per KRS 138.146(5), “No tax evidence may be affixed, or used in any way, by any person other than the person purchasing the evidence from the department. Tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person.”

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

No. Per KRS 138.146(5), “Unaffixed tax evidence may be returned to the department for credit or refund.”

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No, the only way for a wholesaler to receive credit for a cigarette tax stamp is to return to the manufacturer and receive/submit an original Manufacturer’s Affidavit showing the package was stamped with a Kentucky stamp. There is no credit for misapplied tax stamps.

### **Section 6 – Refund Limitations**

Four years from the acquisition date.

## **Section 7 – Credit Process for Manufacturer Returns**

Submit the Cigarette Tax Credit Claim (Form 73B401) along with an original Manufacturer's Affidavit showing the package was stamped with a Kentucky stamp to receive credit. Ensure this credit is reported on the monthly return.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

The refund is given as a credit against the next stamp purchase.

## **Section 8 – Other Allowed Credits**

Credit is allowed on a distributor's return from a customer where Kentucky tax was charged or remitted. Documentation substantiating the credit must be maintained.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Tax is due based on cigarettes stamps applied each month. If a wholesaler distributes more cigarettes than it has stamped, the taxpayer will receive an adjustment reflecting the variance.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

A wholesaler shall have enough stamps to cover the unstamped cigarette inventory. Per KRS 138.146, *“The tax shall be due when any licensed wholesaler takes possession within this state of untax-paid cigarettes. The tax shall be paid by the purchase of stamps by a wholesaler within forty-eight (48) hours after the wholesaler receives the cigarettes.”*

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Kentucky does not require little cigars to be stamped.

## **PACT Act Reporting**

If you sell cigarettes and smokeless tobacco products, you must follow the Prevent All Cigarette Trafficking (PACT) Act. This Federal law went into effect July 1, 2010, and requires you to register with Kentucky, submit monthly reports, and meet certain requirements.

According to 18 U.S.C. 2341 and 26 U.S.C. 5702, cigarettes include:

- Any roll of tobacco wrapped in paper or in any substance not containing tobacco.
- Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by, consumers as a cigarette as described in the bullet above.
- Roll-your-own tobacco.

A delivery seller makes delivery sales. Delivery sales are sales of cigarettes or smokeless tobacco made to a consumer when:

- The consumer typically submits an order by telephone, the mail, the Internet, or isn't otherwise physically present when the purchase is made, or
- The cigarettes or smokeless tobacco is delivered by common carrier or other delivery service, or
- The seller isn't in the physical presence of the buyer when the buyer takes possession of the product.

The Act generally prohibits mailing cigarettes and smokeless tobacco through the U.S. Postal Service and requires those selling cigarettes or smokeless tobacco products into Kentucky to:

- Register with and make monthly reports to the Kentucky Department of Revenue.
- Pay all federal, state, and tribal tobacco taxes and affix cigarette tax stamps before delivering any products to any unlicensed customer, or acquire Kentucky tax-paid product from a Kentucky licensed cigarette wholesaler or tobacco distributor.
- Check the age and ID of customers at the time of purchase and when the tobacco products are delivered.

If you operate a business for profit that sells, transfers, or ships cigarettes or smokeless tobacco for interstate commerce into Kentucky, or advertises these products for sale in Kentucky, you must file a statement that includes the business name(s), address(es), telephone number(s), email address(es), website address(es), and the name, address, and phone number of an agent authorized to accept service.

The PACT Act requires monthly reports to Kentucky due by the 10th day of each month, while Kentucky cigarette and tobacco tax returns are due by the 20th of each month. The Kentucky Department of Revenue encourages you to combine reports and file only once.

You can file your Kentucky cigarette tax return and Kentucky tobacco tax return by the 10th day of each month to comply with the PACT Act. However, you must also include an addendum or internal report that lists the brand of cigarettes or smokeless tobacco you are selling. If you are a delivery seller, please include the name, address, and phone number of your delivery service. You still have the option of paying any tax you owe on or before the 20th.

**STATE OF LOUISIANA**  
(Last updated 05/2019)

**General Information**

**Section 1 - Contact Information**

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**Fax Number:** 225-219-2759

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**Agency:** Shirley Bonaccorso, Revenue Tax Research Analyst

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**Agency:** Makisha Dillon-Anderson, Field Agent

**E-mail Address:** [AndersonMa@ag.louisiana.gov](mailto:AndersonMa@ag.louisiana.gov)

## **Section 2 - Statutes, Regulations and Rules**

<http://www.legis.la.gov/Legis/LawSearch.aspx>

<http://www.doa.la.gov/Pages/osr/lac/books.aspx>

<http://revenue.louisiana.gov/LawsAndPolicies/Policies>

<http://www.legis.la.gov/Legis/LawSearch.aspx>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

"Cigarette" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material except where such wrapper is wholly or in greater part made of tobacco. [RS 47:842(2)]

"Cigars" includes any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco. [RS 47:842(3)]

"Smokeless tobacco" means all smokeless tobacco including but not limited to fine cut, long cut, packed in pouches, snuff, snuff flower, chewing tobacco, cavendish, plugs, twists, shorts, refuse and other scraps, clippings and sweepings of tobacco, and other forms of loose tobacco, articles and products made of tobacco, or a tobacco substitute. [RS 47:842(15)]



"Smoking tobacco" includes granulated, plug cut, crimp cut, ready rubbed and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in pipe or cigarette. [RS 47:842(16)]

"Vapor products" shall mean any noncombustible product containing nicotine or other substances that employ a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, used to produce vapor from nicotine in a solution or other form. "Vapor products" include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. [RS 47:842(20)]

#### **Section 4 - The Basis for the Tax**

Cigarettes – taxed per cigarette [RS 47:841(B)(1)-(7)]

Cigars, smoking, and smokeless tobacco – Invoice price as defined [RS 47:841(A), (C), and (E)].  
Definition provided at RS 47:842(6):

(6) "Invoice price" the manufacturers net invoiced price as invoiced to the Louisiana tobacco dealer, by the manufacturer, jobber, or other persons engaged in selling tobacco products in accordance with the tax levied by this chapter.

Vapor products – per milliliter of consumable nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used [RS 47:841(F)]

#### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes – combined rate of .054 cents per cigarette or \$1.08 per pack of 20 [RS 47:841(B)(1)-(7), LA Const. Art. VII, §4.1]

Cigars – 8% of invoice price for cigars invoiced at \$120 per thousand or less  
20% of invoice price for cigars invoiced at more than \$120 per thousand [RS 47:841(A)(1) and (2)]

Smoking tobacco – 33% of invoice price [RS 47:841(C)]

Smokeless tobacco – 20% of invoice price [RS 47:841(E)]

Vapor Products - \$.05 per milliliter of consumable nicotine liquid solution or other material depleted as vapor product is used [RS 47:841(F)]

## **Section 6 - Rate Updates**

None noted at this time.

## **Section 7 - State Collection Allowance or Discount**

A discount is given to wholesalers/distributors for collecting and remitting taxes. The discount is 5%, excluding vapor retailers.

A five percent discount is allowable for timely and accurately filing the report only on those purchases made by registered tobacco dealers in Louisiana who have a direct purchasing contract with a manufacturer. The secretary shall allow wholesale tobacco dealers of other states serving a trade area of retail dealers in this state who have a direct purchasing contract with a manufacturer to sell in this state with the benefit of the discount provided in this Section, provided the dealers meet the requirements of a wholesale dealer as set forth in R.S. 47:842(5).

## **Section 8 - Any Other Permissible Allowances**

5% on purchase of cigarette tax stamps as provided at RS 47:843(C)(3):

(3) Cigarette tax stamps shall be sold by the secretary of the Department of Revenue to bonded registered Louisiana tobacco dealers in the state of Louisiana who hold a valid stamping agent designation in accordance with R.S. 26:902(2)(a) and who have a direct purchasing contract with a manufacturer at a discount of five percent from the face value, when purchased in quantities of not less than one hundred dollars face value, and the same provisions and discount shall apply where the metered stamping machine or device is used

## **Section 9 – The Point at Which Tax is Imposed**

Cigarettes – when stamped

Cigars, smoking, smokeless, vapor – when brought into the state

## **Section 10 - Tax Return Due Dates**

Return due date – 20<sup>th</sup> day of month next month [RS 47:851(B)(4)(a)]

If due date falls on weekend or legal holiday, timely filed if filed on the next business day. [LAC 61:I.4903.A]

Timely filed is based on:

Postmark date if delivery is by United States Postal Service [LAC 61:I.4911.B.1]

Delivery date if delivered by courier or taxpayer [LAC 61:I.4911.B.2 and 3]

Transmittal date if electronically filed [LAC 61:I.4911.B.4]

### **Section 11 – Tax Return Filings**

Tobacco returns containing cigarette and stamp reconciliation and reporting of all OTP and payment of applicable tax are filed on paper.

Cigarette tax stamp orders and payments must be made electronically.

An online option cannot be used for filing of tax returns. The online option is for payment of taxes due through the use of LaTap (Louisiana Taxpayer Access Point) on agency's website.

### **Section 12 – Tax Collection**

Tax on cigarettes is paid at time tax stamps are purchased. Tax on tobacco products other than cigarettes and on vapor products is due on monthly tax reports.

Cigarette tax stamp purchases must be paid electronically. If stamps purchased on credit, payment must be made within thirty days of invoice.

Tax return payments must be made electronically if the monthly tax averages more than \$5,000.00. [RS 47:1519, 1520; LAC 61:I.4910]

Electronically transmitted funds are deemed paid on the date the funds are posted to agency's account. [LAC 61:I.4911.C.4]

### **Section 13 - Penalties for Late Filing**

Loss of any discount; penalty of 5% of tax due if delinquency is 10 days or less, 20% if delinquency is greater than 10 days [RS 47:843(C)(6)]

Tax stamps purchased on credit must be paid within 30 days of order, failure to make timely payment will result in loss of any discount, all outstanding stamp credit sales become due and payable, and dealer may be required to pay for tax stamps at time of purchase. [RS 47:843(C)(5), (7), and (8)]

### **Section 14 – Local Jurisdictional Tax**

None noted at this time.

Tobacco Tax Information by State v. 07.22.19

## **Section 15 - Floor Stock Tax**

A floor stock tax would be imposed only if it is included in legislation. The last time a floor stock tax was imposed was 1984.

## **Section 16 – Qualifying Exemptions**

Smoking and chewing tobacco purchased by or for state institutions for issue to inmates of the state; does not apply to cigarettes and cigars [RS 47:855]

Cigars and pipe tobacco sampled on the premises of convention facilities during the convention of the International Premium Cigar and Pipe Retailers Association (expires December 31, 2025) [RS 47:854(B)]

## **Section 17 - Laws or Rules for Tribal Sales**

There are no special laws; have tax compact with one federally recognized tribe that allows for the purchase of stamped cigarettes with the wholesaler claiming a credit for the amount of tax paid by the wholesaler as evidenced by the stamps.

## **Section 18 - Information Required on a Customer Invoice**

The information required on a customer invoice is as follows:

Wholesaler/distributor name, address; customer name and address; delivered to name and address; product manufacturer, name, brand family, quantity per pack, quantity per order, price, tax; and date of sale or transfer.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Department of Justice – Tobacco Unit
Enforcement/Collection:	Louisiana Department of Revenue
Product Seizure Authority:	Louisiana Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

The following legislation is pending:  
HB 38 Raises the minimum age relative to the distribution, sale, purchase, or possession of tobacco products, alternative nicotine products, or vapor products from 18 to 21.

HB 45 Provides for increased fines associated with selling vapor products to persons under the age of 18

HB 244 adds vapor products and alternative nicotine products to the definition of wholesale dealer, defines E-liquid" to mean a substance that does not include cannabis or CBD as defined under the laws of this state and the laws of the United States and which meets all of the following criteria:

- (a) May or may not contain nicotine.
- (b) Is intended to be vaporized and inhaled using a vapor product.
- (c) Is a legal substance under the laws of this state and the laws of the United States.

The bill adds a requirement for vapor retail dealers to purchase only from a wholesale dealer operating with a valid unsuspended Louisiana wholesale dealer permit and restricts manufacturers of vapor products from selling vapor products in this state without authorization from the office of alcohol and tobacco control and provides the specific information required to be included in the request for authorization.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The minimum age to purchase cigarettes or tobacco products is 18. No different county/city/local minimum age for purchasing.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

Minors may handle packaged tobacco products as part of the course and scope of their employment. However, the employer must fill out an “Application to Employ Minors Under 18” form and return it to the Louisiana Workforce Commission.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Yes, Louisiana smoking law states that it is unlawful for any person under the age of 18 to purchase or possess tobacco or tobacco products. The exception is if the minor possesses tobacco under the supervision of a parent, spouse, or legal guardian in a private residence or during the extent of the minor’s employment. La. R.S. 14:91.8

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes, Louisiana has minimum pricing laws. No different county/city/local minimum pricing.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Louisiana does not impose a flavor or menthol ban. County/city/local flavor or menthol bans could conceivably be imposed, but not aware of any at this time.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

Pharmacies in Louisiana can sell cigarettes and tobacco products.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes, on January 1, 2007, SB 742 went into effect, banning smoking in all schools, workplaces, and public places, including restaurants. The law exempts bars (food establishments where the majority of sales are derived from alcohol), private residences and automobiles except those when used as a healthcare or childcare facility, limousines under private hire, designated hotel/motel smoking rooms, retail tobacco shops, outdoor areas, private and semiprivate rooms of nursing homes occupied exclusively by smokers, casino gaming floors, workplaces of tobacco-related businesses such as manufacturers and distributors, convention and banquet facilities rented out to a private party, designated areas in nursing homes, and correctional facilities (until August 1, 2009). Local governments may regulate smoking more strictly than the state.

**Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

Not aware of any Louisiana modified risk tobacco laws.

**License Information**

Every person who sales, or is about to engage in the business of selling at retail, at wholesale, or by vending machine, or is about to engage in the business of receiving unstamped or non-tax paid cigarettes, cigars or other tobacco products, or who is engaged in the business of receiving stamped cigarettes at wholesale must obtain a permit from ATC in accordance with RS 26:901 et seq. [RS 47:844]

ATC authorized to issue the following types of permits:

Retail Dealer Permit – dealer other than wholesale dealer or vending machine operator for each retail outlet where cigars, cigarettes, other tobacco products, alternative nicotine products or vapor products are offered for sale either over the counter or by vending machine. Retail Dealer Permit is \$75 if the outlet does not hold an alcohol permit and \$25 if they do hold an alcohol permit.

Stamping Agent Designation – issued to a dealer that engages in the business of purchasing unstamped or non-tax paid cigarettes that meets all requirements of a wholesale dealer; must first apply for an exporter license allowing it to purchase or possess unstamped or non-tax paid cigarettes [\$75 per year]

Vending Machine Operator – issued to a vending machine operator operating one or more vending machines; licensed wholesale dealers who operate vending machines shall not be required to obtain a vending machine operator permit [\$75 per year]

Vending Machine – issued to vending machine operator or wholesale dealer for each vending machine he operates [\$5 per machine per year]

Wholesale Dealer – issued to a wholesale dealer for each wholesale place of business operated by the wholesale dealer [\$75 per year]

Tobacconist – is any bona fide tobacco retailer engaged in receiving bulk smoking tobacco for the purpose of blending such tobacco for retail sale at a particular retail outlet where fifty percent or more of the total purchases for the preceding twelve months were purchases of tobacco products, excluding cigarettes; permit allows tobacconist to operate as a retail dealer and as a wholesale tobacco dealer [\$100 per year]

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes – yearly unless a two-year permit was issued to licensee

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

LDR requires a bond in the minimum amount of \$2,500 for a wholesaler to obtain a license, La R.S. 47:848. LDR does not require license renewal. A bond is not required for a retail permit with ATC.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Tax stamps have a unique design, are colored with at least 3 different colors, numbered sequentially, and are heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There are two rows of numbers on each stamp. The first row of numbers is the roll or sheet ID and the second row of numbers is the unique stamp number.

Tobacco Tax Information by State v. 07.22.19

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, but none of these stamps have been purchased in years.

## **Section 2 – Acquiring Stamps**

Stamps are ordered by the licensed wholesaler/stamping agent using an electronic application available on website via LaTap; payment must be made electronically.

**How are stamps delivered to the wholesaler/distributor?**

Beginning in October 2015, tax stamps are shipped to licensed wholesalers directly from the stamp provider using either FedEx or UPS which must be provided to DOR and the stamp provider for proper billing.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase if the tax stamps are paid for in cash. If tax stamps are advanced against the bond, payment is due no later than 30 days after the date on which they were advanced, La. R.S. 47:843(C)(5). LDR requires a bond in the minimum amount of \$2,500 for a wholesaler to obtain a license, La R.S. 47:848.

## **Section 3 - Bond Requirements**

The minimum bond is \$2,500, but required amount is increased based on volume of business within the state. Stamps may be purchased on 30-day credit limited to the amount of bond on file.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No, unless exception is granted by DOJ pursuant to LA RS 47:847(C).



## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

No.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No.

## **Section 6 – Refund Limitations**

Since represent tax payment, within 3 years of purchase.

## **Section 7 – Credit Process for Manufacturer Returns**

The tax return or stamp purchase request must include credit memorandum issued by manufacturer attesting to the amount of tax paid on product returned.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credit is given on Line 27 of the tobacco return.

## **Section 8 – Other Allowed Credits**

None at this time.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

The monthly tobacco tax return contains a section wherein cigarette information is reported, including beginning and ending inventory, purchases, sales, credits, etc. Also included is a summary of stamp purchases, with beginning and ending inventory. Any shortages result in tax due on the monthly tax report.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Stamp purchases are monitored and restricted to normal activity prior to a rate increase.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No.

## **PACT Act Reporting**

PACT Act reports are submitted via e-mail to Louisiana Department of Revenue and to the Louisiana Department of Justice.

**STATE OF MAINE**  
(Last updated 04/2019)

**General Information**

**Section 1 - Contact Information**

**Agency:** Department of Revenue – Maine Revenue Services  
Sales, Fuel, and Special Tax Division

**Mailing Address:** P.O. Box 1060

**City, State, Zip Code:** Augusta, ME 04330-1060

**Phone Number:** 207-624-9693

**Fax Number:** 207-287-6628

**E-mail Address:** [sales.tax@maine.gov](mailto:sales.tax@maine.gov)

**Website:** [www.maine.gov/revenue](http://www.maine.gov/revenue)  
[www.maine.gov/dafs](http://www.maine.gov/dafs)

**Agency:** AGO/DOJ – Maine Attorney General  
Attn: Vivian Mikhail, AAG

**Mailing Address:** 6 State House Station

**City, State, Zip Code:** Augusta, ME 04333-0006

**Phone Number:** 207-626-8984

**Fax Number:** 207-624-7730

**E-mail Address:**

**Website:** <http://www.maine.gov/ag>

## **Section 2 - Statutes, Regulations and Rules**

<http://www.maine.gov/revenue/othertaxes/tobacco/ExciseBull3CigTob091109.pdf>

<http://www.mainelegislature.org/legis/statutes/36/title36ch704seco.html>

<http://www.maine.gov/ag/consumer/tobacco/index.shtml>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes. "Cigarette" means a cigarette, as defined in Section 5702 of the Code.  
36 M.R.S. §4361(1-A)

Tobacco products. "Tobacco products" means cigars; cheroots; stogies; periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; finecut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking but does not include tobacco products that are subject to the tax provided by chapter 703.  
36 M.R.S. §4401(9)

## **Section 4 - The Basis for the Tax**

Tobacco – Smoking tobacco is taxed at 20%; Smokeless tobacco in retail containers weighing less than 1 ounce are taxed at \$2.02 per package; Smokeless tobacco in retail containers weighing 1 ounce or more are taxed at \$2.02 per oz.

Cigarettes are taxed at the rate of 100 mills for each cigarette.

## **Section 5 - Tax Rates and Miscellaneous Fees**

See above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**  
Not at this time.

## **Section 6 - Rate Updates**

None noted at this time.

## **Section 7 - State Collection Allowance or Discount**

There is currently no discount for tobacco distributors, but there is a discount for cigarette distributors when placing an order for stamps. The discount is 1.15% for cigarette distributors.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

Tax is imposed when the product is brought into the State.

## **Section 10 - Tax Return Due Dates**

No due date given for cigarette tax stamp orders. If the due date falls on a holiday or weekend, it defaults to the next business day. The received date is the postmark date.

Tobacco Products Tax returns are due on or before the last day of the month. (36 M.R.S. §4404)

## **Section 11 – Tax Return Filings**

Currently returns can only be filed via paper.

## **Section 12 – Tax Collection**

Effective January 1, 2015, taxpayers remitting over \$10,000.00 in combined tax liability must pay electronically. For ACH Debit payments, taxpayers may utilize the MRS EZ pay system. For ACH Credit payments taxpayers must complete an application and obtain approval from MRS. The payment has to be remitted by midnight the day that it is due in order to be considered timely.

## **Section 13 - Penalties for Late Filing**

A return that is not filed at or before the time the return becomes due is liable for one of the following penalties if the person's tax liability shown on that return or otherwise determined to be due is greater than \$25.

A. If the return is filed before or within 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, or if the return is not filed but the tax due is assessed by the assessor before the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is \$25 or 10% of the tax due, whichever is greater.

B. If the return is not filed within 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is \$25 or 25% of the tax due, whichever is greater. The period provided by this paragraph must be extended for up to 90 days if the taxpayer requests an extension in writing prior to the expiration of the original 60-day period.

C. If the return is not filed and the assessor makes a determination of jeopardy pursuant to section 145, the penalty is 25% of the tax due.

### **Section 14 – Local Jurisdictional Tax**

No.

### **Section 15 - Floor Stock Tax**

Yes, for cigarette tax.

### **Section 16 – Qualifying Exemptions**

Tobacco tax does not apply to products exported from the State of Maine.

### **Section 17 - Laws or Rules for Tribal Sales**

If manufacturing, the Tobacco Product Manufacturer Annual Certificate of Compliance must be completed and returned to the Maine Attorney General’s Office. No special stamps are required.

### **Section 18 - Information Required on a Customer Invoice**

Distributor name, customer name, excise tax charged.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	Maine Attorney General
Enforcement/Collection:	DAFS/Maine Revenue Services/Special Enforcement Unit

Product Seizure Authority: A law enforcement officer. Duly authorized agent of the State Tax Assessor.

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The legal age is 21. No.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

Yes, for direct, face-to-face sales, employees who sell tobacco products must be at least 17 years of age. An employee who is 17 years of age or older and under 21 years of age may sell tobacco products only in the presence of an employee who is 21 years of age or older and is in a supervisory capacity.

**Is there a minimum age for possession of cigarettes or tobacco products?**

A person who has not attained 21 years of age may transport or permit to be transported in a motor vehicle tobacco products in the original sealed package in which they were placed by the manufacturer if the transportation is in the scope of that person's employment.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

There is a national ban on flavored cigarettes, but Maine does not ban flavored tobacco products. No. No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

Not at this time.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Smoking is prohibited in all enclosed areas of public places, outdoor eating areas as provided in section 1550 and all rest rooms made available to the public. In the case of a child care facility that is not home-based, smoking is also prohibited in a facility-designated motor vehicle within 12 hours before transporting a child who is in the care of the child care facility, and whenever

such a child is present in the vehicle. Smoking is also prohibited in outdoor areas of the facility where children may be present.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

In order to become a licensed tobacco or cigarette distributor, the Maine Revenue Services application for registration located at <http://www.maine.gov/revenue/forms/general/reg.pdf> must be completed. There is no fee for this registration form.

To become a tobacco retailer, the application located at <http://www.maine.gov/dhhs/mecdc/environmental-health/el/forms.htm#tobacco> must be completed. There are several licensing levels, all of which expire on March 31 annually. The schedule of fees for each license is located at [http://www.maine.gov/dhhs/mecdc/environmental-health/el/site-files/forms/Retail\\_Tobacco\\_Application.pdf](http://www.maine.gov/dhhs/mecdc/environmental-health/el/site-files/forms/Retail_Tobacco_Application.pdf)

Retailer license contact information: State of Maine, Department of Health and Human Services, Health Inspection Program, 11 State House Station, Augusta, ME 04333-0011

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Maine Revenue licenses expire annually, and need to be renewed by July 1.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No a bond is not required.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No.



# **Cigarette and Tax Stamp Information**

## **Section 1 – Tax Stamp Attributes**

The \$2.00 stamp is purple; the \$2.50 stamp is green. Both have the roll number listed on the stamp itself. They are heat affixed.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Maine has a 25 tax stamp.

## **Section 2 – Acquiring Stamps**

Cigarette stamps are requested through an order process. The order form is located at [www.maine.gov/revenue](http://www.maine.gov/revenue). The distributor completes the form, and sends to Maine Revenue Services via fax. Once the order has been reviewed, and approved the order is filled.

**How are stamps delivered to the wholesaler/distributor?**

The distributor must have a FedEx account if they wish the stamps to be shipped. In state distributors may come to Maine Revenue Services to pick up their order.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

At the time of purchase if the distributor is not bonded. If there is a bond with available funds, and the distributor is in good standing, stamps are shipped within 24 hours and the licensed distributor has 30 days after the date of purchase to pay. A bond is not required. Include information regarding how the bond amount is calculated. Maine allows stamp purchases for double the bonded amount.

## **Section 3 - Bond Requirements**

Distributors are not required to have a bond, but may postpone payment for stamps for up to 30 days if bonded for at least 50% of the price of the stamps.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes, from one licensed distributor to another.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes. The Cigarette refund request form must be completed and remitted as well as the stamps that were misapplied

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

The serial number on the stamp must be legible.

## **Section 6 – Refund Limitations**

A complete roll of stamps may be returned within 1 year of the purchase date. A partial roll may only be returned if the distributor is going out of business. They will get credit for the legible number of stamps remaining on the roll. A refund for stamps that have been destroyed by fire or unavoidable calamity must be requested within 10 days of the loss.

## **Section 7 – Credit Process for Manufacturer Returns**

The taxpayer has to complete a cigarette distributor's refund request form which is located at <http://www.maine.gov/revenue/othertaxes/cigarette/cigarette.htm>. The completed form must be returned with the manufacturer's affidavit of destruction within 90 days of the return date on the affidavit.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refunds are issued via check.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

This is currently handled through the audit process only.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No, Maine does not.

## **PACT Act Reporting**

PACT Act reports are filed via paper or email depending on the taxpayer. They are filed when the tax returns are filed.

# STATE OF MARYLAND

(Last updated 04/2019)

## General Information

### Section 1 - Contact Information

**Agency:** Field Enforcement Division

**Mailing Address:** 80 N. Calvert Street

**City, State, Zip Code:** Annapolis, MD 21404

**Phone Number:** (410) 260-7388

**Website:** <http://www.comp.state.md.us/>

### Section 2 - Statutes, Regulations and Rules

Other Tobacco Products (“OTP”) Statutes: §16.5 of the Business Regulations Section of the Maryland Annotated Code, <https://www.lexisnexis.com/hottopics/mdcode/>

Cigarette Statutes: §16 of the Business Regulations Section of the Maryland Annotated Code <https://www.lexisnexis.com/hottopics/mdcode/>

Tobacco tax regulations:

[http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=03.02.02.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=03.02.02.*)

Maryland Cigarette Sales Below Cost:

[http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=03.02.03.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=03.02.03.*)

Maryland Fire Safe Cigarette Regulations:

[http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=03.02.06.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=03.02.06.*)

### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

According to §16.5-101(I)(1) and (2) states that “Other Tobacco Products” means (1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or (2) any tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

§16.5-101(p)(1) and (2) states that “Premium Cigars” means cigars that: (1) have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain side, texture, or flavor; or (2) are designated as premium cigars by the Comptroller by regulation.

§12-101(b) of the Tobacco Tax Section of the Tax General Article of the Maryland Annotated Code states that a “cigarette” means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

§12-101(g) states that “Tax Stamp” means a device in the design and denomination that the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.

#### **Section 4 - The Basis for the Tax**

See below response received from state.

#### **Section 5 - Tax Rates and Miscellaneous Fees**

§12-105 of the Tax General Article of the Maryland Annotated Code states that for Cigarettes (1) \$1.00 for each package of 10 or fewer cigarettes; (2) \$2.00 for each package of at least 11 and not more than 20 cigarettes; (3) 10.0 cents for each cigarette in a package of more than 20 cigarettes; and (4) 10.0 cents for each cigarette in a package of free sample cigarettes.

§12-105(b) of the Tax General Article of the Maryland Annotated Code states that the tobacco tax rate for other tobacco products is 30% of the whole sale price of the tobacco products. Premium cigars are taxed at 15% of the wholesale price while regular cigars are taxed at 70% of the wholesale price.

#### **OTP-Other Tobacco Products**

“Pipe tobacco” means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to smoke in a pipe.

“Premium cigars” means cigars that have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor and includes no tips, filters or nontobacco mouthpieces.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No, the State of Maryland does not have a tax on e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products. Montgomery County does tax e-Cigarettes at a rate of 30% of wholesale.

### **Section 6 - Rate Updates**

No rate updates.

### **Section 7 - State Collection Allowance or Discount**

A discount is given to wholesalers/distributors for collecting and remitting taxes. The discount is 0.82% for each tax type.

### **Section 8 - Any Other Permissible Allowances**

None noted.

### **Section 9 – The Point at Which Tax is Imposed**

Cigarette tax imposed upon the cigarette stamp purchase from the Comptroller. OTP tax is imposed when a wholesaler purchases from a manufacturer, and when a retailer purchases untaxed OTP products from a Manufacturer or Wholesaler.

### **Section 10 - Tax Return Due Dates**

For cigarette wholesalers, they must file their returns on or before the 21st day of the month in which the wholesaler has the first possession, in the State, of unstamped cigarettes for which tax stamps are required.

For cigarette manufacturers must complete and file their return on or before the 15th day of the month that follows the month in which the manufacturer distributes in the State free sample cigarettes of the manufacturer.

### **Section 11 – Tax Return Filings**

If the due date falls on a holiday the return is due the next business day. A tax return is considered timely if the return is postmarked on the due date. The received date is used if no post mark date is provided. The return is considered on time when the received date reflects no more than one day after the due date.

Tobacco Tax Information by State v. 07.22.19

OTP - No option for electronic filing. Taxpayer prints form and mails to office.  
Cigarettes - No option for electronic filing.

### **Section 12 – Tax Collection**

OTP-A taxpayer must make and OTP payment electronically when they are submitting a payment of \$10,000 or more. When a payment is submitted electronically we must have extracted the payment from the taxpayers account no later than one day after the due date.

Cigarette-Any tax payment over \$10,000 is supposed to be made electronically by the 21st, following the report month. There is no time that the payment must be made on that day.

### **Section 13 - Penalties for Late Filing**

OTP-When a return is filed late a 25% penalty and 1.08% interest is assessed.

Cigarettes- Interest of 1.08% is imposed. Taxpayers may be granted one abatement per calendar year.

### **Section 14 – Local Jurisdictional Tax**

None noted.

### **Section 15 - Floor Stock Tax**

Yes.

### **Section 16 – Qualifying Exemptions**

None noted.

### **Section 17 - Laws or Rules for Tribal Sales**

There are no tribal sales in Maryland or any Native American Reservations in this state.

## **Section 18 - Information Required on a Customer Invoice**

Cigarette-Wholesaler name, license number, address, email address, phone number, period, stamps affixed to Maryland packs and non-Maryland packs, physical inventory at the beginning and end of month, any credits from auditors, corresponding schedules, packs sold to each county in Maryland and a signature of the owner.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Collected by Comptroller of Maryland, Revenue Administration  
Division and sent to Maryland Attorney Generals Office  
Enforcement/Collection: Comptroller of Maryland, Field Enforcement Division  
Product Seizure Authority: Comptroller of Maryland, Field Enforcement Division

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The minimum age for purchasing cigarettes has recently changed. On October 1<sup>st</sup>, 2019, the minimum age for purchasing will be raised from 18 to 21 years old. There is an exception for active military, they can be 18 years old.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Yes, as of October 1<sup>st</sup>, 2019 the age will change from 18 to 21 years old. There is an exception for active military, they can be 18 years old.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes, described in the Maryland Sales Below Cost Act. No, there are no separate county/city/local minimum pricing laws.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No, Maryland only imposes bans on clove cigarettes. No, there are no county/city/local flavor or menthol bans in our state.



**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes, on February 1<sup>st</sup>, 2008, the Maryland Clean Indoor Air Act of 2007 went into effect, banning smoking in all public transportation vehicles, enclosed public places, and enclosed workplaces, including bars, restaurants, casinos, and private clubs. Yes, there are county/city/local smoking bans. Local governments may regulate smoking more strictly than the state, though not less strictly.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Form 637 is the application for Cigarette and OTP licenses. It can be found here:

[http://forms.marylandtaxes.com/tobacco\\_forms/637.pdf](http://forms.marylandtaxes.com/tobacco_forms/637.pdf)

For Cigarette Licenses: A wholesaler license fee is \$750, a sub wholesaler is \$500, a vending machine operator license is \$500, a manufacturer license is \$25, and a storage warehouse license is \$25.

For OTP Licenses: A wholesaler license fee is \$250, a licensed OTP manufacturer is \$25, and an OTP storage warehouse license fee is \$25.

The Comptroller's Field Enforcement Division's Regulatory and Licensing Section handles request for licenses and can answer any questions applicant's may have. They can be reached at (410) 260-7532.

Retail cigarette licenses pay a \$25 plus \$30 for special cigarette license and OTP license is free with retail cigarette licenses. Retail OTP license without retail cigarette license is \$15. Certain counties may vary with retail cigarette, special cigarette and OTP license pricing. Please contact the Comptroller's Field Enforcement Division's, State License Bureau for details at 410-260-6240.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Yearly, expire at midnight on April 30th.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, a bond is required to obtain a new license. If the bond remains active the company is not required to obtain a new one upon license renewal. Tobacco wholesalers are required to hold a bond at a minimum of \$10,000.00. If they charge stamps, they need to hold a bond of at least \$64,000.00 and can only use up to 95% of that bond.

### **Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

In order to obtain a Cigarette and OTP Wholesaler’s License, an applicant must provide a confirmation letter or “direct-buy letter” from each cigarette and OTP manufacturer advising that they agree to supply cigarette and OTP to their company for distribution in Maryland.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Machine applied stamps and hand applied stamps are available-Green/White/Black, hologram, sequentially numbered (1, 5 digit number per roll/set handstamp sheets), micro script, verification taggant.

### **How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Maryland cigarette tax stamps have one row. That row is a 5-digit serial number that identifies the roll the stamp came from. Every stamp on one roll has the same 5-digit number, which denotes the wholesaler that bought that roll of stamps.

### **Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

### **Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, Maryland does have a 25-stick tax stamp.

## **Section 2 – Acquiring Stamps**

In accordance with §12-303 of the Tax General Article of the Maryland Annotated Code a licensed wholesaler may buy tax stamps, in the manner and at the time that the Comptroller requires by regulation. Furthermore, tax stamps may not be bought from a person other than the Comptroller unless the buyer has written permission from the Comptroller or is acting in accordance with the regulations of the Comptroller for stamping floor stock.

### **How are stamps delivered to the wholesaler/distributor?**

Stamps are picked-up from the Comptroller's office by authorized personnel or mailed via FedEx or UPS using their account number.

### **When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

The 21<sup>st</sup> of every month. Yes, the company is required to have a bond. If they charge stamps, they need to hold a bond of at least \$64,000.00 and can only use up to 95% of that bond.

## **Section 3 - Bond Requirements**

Tobacco wholesalers are required to hold a bond at a minimum of \$10,000.00. If they charge stamps they need to hold a bond of at least \$64,000.00 and can only use up to 95% of that bond.

## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

§12-304 (d)(2) of the Tax General Article of the Maryland Annotated Code states that a licensed wholesaler who possesses unstamped cigarettes has the burden of proving that the cigarettes are not possessed in violation of this title.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

In accordance with Section 13-901, Tax General Article of the Annotated code of Maryland, (h) A claim for refund of tobacco tax may be filed by a claimant who buys tobacco tax stamps that:

- (1) Are affixed erroneously to anything other than a package of cigarettes;
- (2) Are affixed to a package of unsalable cigarettes;
- (3) Are canceled by the Comptroller;

- (4) if the claim is \$250 or more, are lost or destroyed in the State due to fire, flood, or other disaster, vandalism, or malicious mischief, except loss due to theft; or
- (5) Mutilated or damaged, whether or not affixed to a package of cigarettes.

**Does the state allow a tax credit?**

Yes.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No response received from state.

### **Section 6 – Refund Limitations**

Claims must be submitted within 1 year of the date of loss, destruction, return to manufacturer, or other condition necessitating the claim.

### **Section 7 – Credit Process for Manufacturer Returns**

In accordance with Section 13-901, Tax General Article of the Annotated code of Maryland, refunds in the form of credit for Cigarette Excise Tax Stamps will be given only for the following reasons:

A. Stamps that are mutilated or damaged, whether or not affixed to a container of cigarettes. In this case, the stamps must be physically returned with Form COM/ATT-603 or witnessed by an authorized representative of the FED Regulatory and Licensing Section (attach copy of auditor's receipt).

B. Stamped cigarettes that are unsalable and returned to the manufacturer. In this case, the following must also be submitted:

1. Freight ticket showing date and number of cigarettes returned.
2. Manufacturer's packing slip signed by the manufacturer's representative and listing the number of cigarettes to be returned by taxing jurisdiction (including unstamped).
3. Wholesaler's Affidavit Form COM/ATT-601 listing the amount of cigarettes being returned (stamped and unstamped). The affidavit must match the corresponding freight ticket.
4. Manufacturer's affidavit (forms supplied by manufacturer) listing the number of Maryland stamped packs received from the licensee.

NOTE: Items 1 through 3 must be submitted to our office within one year of the date shipped from the licensee's location. Item 4 should be submitted to our office within one year of the date received at the manufacturer's location.

It is recommended that all items (1 through 4) be submitted simultaneously.

C. Stamps on carton flaps. Flaps with stamps on them must be returned with Form COM/ATT-603.

D. Multiple stamps cancelled by a representative of the Comptroller's Office. Attach a copy of representative's receipt.

E. The licensee's discontinuing the affixing of stamps. In the case of the discontinuance of business, a cash refund will be made. In all other instances, a credit will be issued.

General Information, Submit Form COM/ATT-603, in triplicate, to the FED Regulatory & Licensing Section, Louis L. Goldstein Treasury Building, P.O. Box 2999, Annapolis, Maryland 21404-2999. Submit only one of all other required documents.

Claims must be submitted within 1 year of the date of loss, destruction, return to manufacturer, or other condition necessitating the claim.

With regard to item "B" above, failure to submit documents within the time frame stated could result in denial of credit. If your claim is denied, however, such information would be considered in an audit of your firm.

As a result of your claim, a credit will be issued on an approved FED credit form. The original of this credit may only be applied to a future tax stamp order with the FED Licensing & Regulatory Section. Credits should be used within 6 months of their issuance.

The law also provides for a credit for lost or destroyed stamps in the State because of fire, flood, other disaster, vandalism or malicious mischief except loss due to theft. Should such a loss be incurred, contact the FED Regulatory & Licensing Section for instructions.

Questions pertaining to the proper completion of this form or those related to claims in general should be directed to the FED Regulatory & Licensing Section at 410-260-7382.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refunds are given to the manufacturers in the form of credit on there next stamp purchase. If the company goes out of business the refund money is sent to them.

### **Section 8 – Other Allowed Credits**

None noted.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No.

## **PACT Act Reporting**

PACT Act reporting is usually sent to the Revenue Administration Division via regular mail and email

**STATE OF MASSACHUSETTS**  
(Last updated 06/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Name:** Evan J. Garcia

**Agency:** Department of Revenue

**Mailing Address:** 200 Arlington Street

**City, State, Zip Code:** Chelsea, MA 02150

**Phone Number:** (617) 887-6515

**Fax Number:** (617) 660-9900

**E-mail Address:** [Garcia@dor.state.ma.us](mailto:Garcia@dor.state.ma.us)

**Website:** [www.mass.gov/dor](http://www.mass.gov/dor)

**Contact Name:** Daniel A. Less, Supervising Attorney to Tobacco Enforcement

**Agency:** Attorney General Office

**Mailing Address:** One Cambridge Street, 11th Floor

**City, State, Zip Code:** Boston, MA 02108

**Phone Number:** (617) 963-2452

**E-mail Address:** [Daniel.Less@MassMail.State.MA.US](mailto:Daniel.Less@MassMail.State.MA.US)

**Website:** [www.mass.gov/ago](http://www.mass.gov/ago)

## **Section 2 - Statutes, Regulations and Rules**

[www.mass.gov/dor](http://www.mass.gov/dor) TIR Cigarettes; Directive Cigarettes; APA 114.1 Cigarette Excise: GL c.64c; AP 114.2 Procedures for the Issuance Renewal, and Revocation of Cigarette Licenses and for the Appointment of Cigarette Stampers. [www.mass.gov/bills](http://www.mass.gov/bills) and Laws Chapter 62C and Chapter 64C.

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

See Section Four.

## **Section 4 - The Basis for the Tax**

Cigarettes taxed at \$3.51 and 6.25% sales tax. Any roll of tobacco wrapped in paper or in any substance containing tobacco. Little cigars, which shall mean rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco as to which 1,000 units weigh not more than 3 pounds. Cigar tax rate is 40% and 6.25 % sales tax, is any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco. Smoking tobacco is roll-your-own (RYO) tobacco and pipe tobacco and other kinds of tobacco suitable for smoking.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Smokeless tax rate of 210%, Cigar and Smoking Tobacco tax rate of 40%

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

## **Section 6 - Rate Updates**

None noted.

## **Section 7 - State Collection Allowance or Discount**

Wholesalers/stampers are given a compensation for their stamp purchases. \$12 per roll of 1,200 encrypted stamps. \$600 per roll of 30,000 encrypted stamps for the first 50 rolls purchased and \$200 per each additional roll of 30,000 encrypted stamps purchased.



## **Section 8 - Any Other Permissible Allowances**

The Commissioner shall redeem any unused or mutilated but identifiable stamps that any stamper may present for redemption; provided that they were originally lawfully purchased by the stamper who presents them for redemption.

## **Section 9 – The Point at Which Tax is Imposed**

At the time the stamp is applied.

## **Section 10 - Tax Return Due Dates**

CT-1 and CTS-1NR monthly return due on the 20th of the following month.

Cigar 2 quarterly return, due on the 20th of the following month.

## **Section 11 – Tax Return Filings**

Taxpayers are mandated to file electronically on DOR's Masstax connect system.

When it falls on the weekend or holiday it would be due on the next business day.

## **Section 12 – Tax Collection**

Filing and payments are made on the Departments Computerized system Masstax connect. Payments can be made by routing number of a checking account and by way of EFT debit or Credit. Account is considered timely as long as it is paid by Midnight of the due date.

## **Section 13 - Penalties for Late Filing**

No response received from state.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

None noted.

## **Section 16 – Qualifying Exemptions**

None noted.

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.

## **Section 18 - Information Required on a Customer Invoice**

The name and address of the wholesaler. The tax charged.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Office of the Attorney General
Enforcement/Collection:	Massachusetts Department of Revenue
Product Seizure Authority:	Massachusetts Department of Revenue and Massachusetts State Police, Tobacco Enforcement.

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

As of December 31, 2018 Massachusetts state law sets the minimum legal sale age to purchase any tobacco product at 21. However, there is an exemption written into the law that allows anyone who has turned 18 years old on or before December 30, 2018 to continue to purchase tobacco.

At the municipal level, 236 of the 351 municipalities have a local regulation that puts the minimum legal sales age to purchase tobacco at 21 with no exemptions.

Tobacco Tax Information by State v. 07.22.19

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

There is no state law that establishes a minimum age for retail clerks to sell tobacco products. At the municipal level, there are 5 municipalities with a minimum age for retail clerks.

**Is there a minimum age for possession of cigarettes or tobacco products?**

There is no state law that includes a minimum age for the possession of cigarettes or tobacco products.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. The Department of Revenue calculates a presumptive retail minimum cost and presumptive wholesale minimum cost of cigarettes.

175 municipalities have regulations that establish a minimum price for the sale of a single cigar at \$2.50 and a minimum price for multipack cigars at \$5.00.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

The state does not impose any flavor bans other than the federal ban on the sale of flavored cigarettes (excluding menthol). At least 145 municipalities restrict the sale of flavored tobacco including e-cigarettes to adult only retail establishments, approximately 10 municipalities include menthol in that restriction.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

As of December 31, 2018, state law established that the sale of all tobacco products is prohibited in all health care institutions including pharmacies.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

The Massachusetts Department of Recreation and Conservation adopted a policy that bans smoking on all state owned beaches and parks. There are multiple municipalities with regulations that ban smoking in parks and beaches.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

## **License Information**

CTL Application for All Cigarette Licenses except Retailers license Annual Licensing for Manufacturer \$250.00; Manufacture branch \$125.00; stamper no fee; Transportation company

\$50.00; Unclassified acquirer \$250.00; vending machine Operator \$150.00; vending machine operator branch \$75.00 ; Vending machine license \$50.00 for each machine must be renewed every even-numbered years; wholesaler \$250.00; wholesaler branch \$125.00.

Cigarette Retailer license \$50.00 biannually; Cigar Retailer license no fee biannually.

Cigar Distributor Annually no fee.

Contact for licensing information: Cigarette and Tobacco Unit 617-887-5900.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Yes Cigarette and Cigar Retailer Licenses renewed semiannually October 1 – September 30th even years. Cigar Distributors annually October 1st – September 30th.

Manufacturers including Stampers/Wholesalers, Unclassified Acquirers and Vending Machine operators annually July 1 – June 30th

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No bond is required to obtain/renew a license.

### **Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Yes. 3 affidavits from manufacturers stating they will supply cigarettes to the applicant if licensed.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Massachusetts has an encrypted stamp program. The color for Package of 20 is Orange tax rate is 3.51per pack. Color for Package of 25 is Pink tax rate is 4.3875. Stamps are applied by high volume and low volume machines by licensed stamper/wholesaler.

### **How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There is one visible row with a unique identifying number or alphanumeric of at least 5 digits or characters.

Tobacco Tax Information by State v. 07.22.19

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes

## **Section 2 – Acquiring Stamps**

Stamps orders are placed on SICPA’s DMS system. SICPA is the vendor for the Department of Revenue’s stamp program. All approved orders are filled by Meyercord in Illinois.

**How are stamps delivered to the wholesaler/distributor?**

Orders are FedEx by standard 2 days or expedite overnight at an additional charge. Wholesalers/stampers do not have a FedEx account on file with DOR.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No bond is required. If stamper/wholesaler has a bond, payment must be made within 30 days.

## **Section 3 - Bond Requirements**

Having a bond is not required by DOR. Those wholesalers not having a bond must pay for their stamps in full when making a stamp order.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No stamper shall not sell, borrow, loan or exchange stamps except as getting authorization from the Commissioner of Revenue or his/her designated appointee.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Transfer of unstamped cigarettes between wholesalers is only allowed by written permission to the Commissioner of Revenue or his/her designated appointee.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

None noted.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

The wholesaler returning the stamped cigarettes to a manufacturer would obtain an affidavit from the manufacturer and would submit this with the Massachusetts Form ABT Application for Abatement for a refund for these stamps.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

A check would be issued to the wholesaler.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Stamps must be applied within 72 hours of delivery.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Yes if they are rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco and as to which 1,000 units weigh not more than 3 pounds would be stamped. There is no tax stamp adjustment for Little Cigars.

## **PACT Act Reporting**

Any person who sells, transfers, or ships for profit cigarettes or smokeless tobacco in interstate commerce into Massachusetts must submit Form CT-MM Monthly Memorandum for PACT Act Registrants along with Form CT-MM T Massachusetts State Tobacco Report or and Form CT-MM C Massachusetts State Cigarette Report. These reports are Email to the Cigarette and Tobacco Unit on a monthly basis.

# STATE OF MICHIGAN

(Last updated 04/2018)

## General Information

### Section 1 - Contact Information

**Agency:** Michigan Department of Treasury, Tobacco Tax Unit

**Mailing Address:** P.O. Box 30474

**City, State, Zip Code:** Lansing, MI 48909

**Phone Number:** (517) 636-4630

**Fax Number:** (517) 636-4631

**E-mail Address:** [Treas\\_TobaccoTaxes@Michigan.gov](mailto:Treas_TobaccoTaxes@Michigan.gov)

**Agency:** Department of Justice, Attorney General's Office

**Mailing Address:** P.O. Box 30212

**City, State, Zip Code:** Lansing, MI 48909

**Phone Number:** (517) 373-1110

**Fax Number:** (517) 373-3042

**E-mail Address:** [miag@michigan.gov](mailto:miag@michigan.gov)

**Website:** [www.michigan.gov/ag](http://www.michigan.gov/ag)

### Section 2 - Statutes, Regulations and Rules

1. State of Michigan Tobacco Taxes – [www.Michigan.gov/Tobaccotaxes](http://www.Michigan.gov/Tobaccotaxes)
2. See Frequently Asked Questions page, linked to the above for more information
3. Michigan Compiled Laws (MCL) – [www.legislature.mi.gov](http://www.legislature.mi.gov)
4. Revenue Administrative Bulletins (RAB) - [http://www.michigan.gov/taxes/0,4676,7-238-44087\\_44090---,00.html](http://www.michigan.gov/taxes/0,4676,7-238-44087_44090---,00.html)



5. Tobacco Products Tax Act (TPTA) of 327 of 1993 -  
[http://www.legislature.mi.gov/\(S\(2r1e3gkox5s1ox15hiftrsw\)\)/mileg.aspx?page=GetObject&objectname=mcl-Act-327-of-1993](http://www.legislature.mi.gov/(S(2r1e3gkox5s1ox15hiftrsw))/mileg.aspx?page=GetObject&objectname=mcl-Act-327-of-1993)

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes: “Cigarette” means a roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, which roll has a wrapper or cover made of paper or any other material. Cigarette does not include cigars”. (MCL 205.422(a))

Noncigarette smoking tobacco: “tobacco sold in loose or bulk form that is intended for consumption by smoking and includes roll-your-own cigarette tobacco”. (MCL 205.422 (n))

Cigarettes are taxed at 100 mills, or \$0.10 per stick; \$2.00 per pack

Other Tobacco Products (OTP) are taxed at 32% of the wholesale price

Cigars cap the OTP tax to 50 cents per individual cigar. MCL 205.427(1)(g)

### **Section 4 - The Basis for the Tax**

See above.

### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes are taxed as follows:

Equivalent tax per standard pack of 20: \$2.00 (MCL 205.427(1)(b)(c)(d)(e))  
Statutory rate: 37.5 mills per cigarette (MCL 205.427(1)(b)); plus 15 mills per cigarette (MCL 205.427(1)(c)); plus 10 mills per cigarette (MCL 205.427(1)(d)); plus 37.5 mills per cigarette (MCL 205.427(1)(e)).

Other Tobacco Products (OTP)

Thirty-two percent (32%) of the wholesale price (MCL 205.427(1)(g)).  
OTP tax on Cigars shall not exceed .50 cents per cigar.

Equity Assessment on Non-Participating Manufacturer (NPM) Cigarettes and RYO

Equivalent equity assessment, per standard pack of 20: \$0.35 (MCL 205.426d(4)).  
Statutory rate: 17.5 mills per cigarette (MCL 205.426d(4)).  
.09 ounces of ‘roll-your-own’ (RYO) tobacco equals one cigarette, and is assessed as such.

Escrow deposits are required by Non-Participating Manufacturer's quarterly and reconciled annually. Escrow rate is determined by the Attorney General's office on an annual basis. This amount is subject to change.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No, not currently.

### **Section 6 - Rate Updates**

The \$0.50 cap on OTP tax applicable to cigars expires on November 1, 2022.

### **Section 7 - State Collection Allowance or Discount**

In the State of Michigan, for Cigarettes, a discount equal to 1.5% of the total amount to tax due is allowed licensees as compensation for expenses incurred in the administration of the act (MCL205.427(3)(c)) there is an additional allowance of 1.5% on sales of untaxed cigs to Indian tribes under MCL 205.427(3)(c).

OTP a discount of 1% of the total amount of tax due is allowed licensees as compensation for expenses incurred in the administration of this act (MCL205.427(3)(a)).

### **Section 8 - Any Other Permissible Allowances**

According to the TPTA, Section 205.427b, listed under bad debt; deduction; definition, "...a licensee may deduct the amount of bad debts from the tax levied under section 7. The amount deducted must be charged off as uncollectible on the books of the licensee. If a person pays all or part of a bad debt with respect to which licensee claimed a deduction under this section, the licensee shall be liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department under section 7." It adds that "any claim for a bad debt reduction under this section shall be supported by all of the following: a copy of the original invoice; evidence that the tobacco products described in the invoice were delivered to the person who ordered them; evidence that the person who ordered and received the tobacco products did not pay the licensee for the tobacco products and that the licensee used reasonable collection practices in attempting to collect the debt."

The TPTA does not currently layout an allowance for direct theft of product from a licensee.

## **Section 9 – The Point at Which Tax is Imposed**

- a. Wholesale licensee, the tax is due upon sale.
- b. Unclassified Acquirer licensee pays the tax upon purchase/import of the tobacco product.
- c. Secondary Wholesaler and Vending Machine operator purchase tax paid product only from Wholesaler or Unclassified Acquirer.

## **Section 10 - Tax Return Due Dates**

The due date for all State of Michigan Tobacco tax returns is on the 20th of each month. If the due date falls on a weekend or during a holiday-or observed holiday, it would move to the next regular business date. Timely filing is a return postmarked on/or before the due date. There is no 'grace period', and interest and penalty begin accruing after the 20th.

## **Section 11 – Tax Return Filings**

Electronic filing only. Taxpayers have the choice of a Web Direct, XML schema, or an Excel spreadsheet.

### Web Filing for a single business.

1. Navigate to the Michigan Department of Treasury's Tobacco Tax Web site: [www.michigan.gov/tobaccotaxes](http://www.michigan.gov/tobaccotaxes)
2. Select the link to eServices MiMATS
3. Enter Username and Password
4. Click "Log in" button. This brings you to your "Home" page.
5. Below the logon information, click on the tab for accounts
6. Click on the link for the return you wish to file.
7. Select the month you want to file. There will typically be an orange triangle indicating actions needed to be taken for this period
8. Click File Return
9. Enter invoice information under the appropriate schedule tab and subtab.
10. Review return facesheet.
11. Click on Next.
12. Click on Submit.
13. Enter password, then click okay.

## **Section 12 – Tax Collection**

Payments can be mailed in, but must be postmarked on, or before the 20th of the month. Electronic payments are due on/or before the 20th of the month. Electronic payments are initiated through the MiMATS e-Services portal located at [www.michigan.gov/tobaccotaxes](http://www.michigan.gov/tobaccotaxes).

## **Section 13 - Penalties for Late Filing**

Per MCL 205.424:

(1) “If a taxpayer fails or refuses to file a return or pay a tax administered under this act within the time specified, the department, as soon as possible, shall assess the tax against the taxpayer and notify the taxpayer of the amount of the tax. A liability for a tax administered under this act is subject to the interest and penalties prescribed in subsections (2) to (5).

(2) Except as provided in subsections (3), (6), and (7), if a taxpayer fails or refuses to file a return or pay a tax within the time specified for notices of intent to assess issued on or before February 28, 2003, a penalty of \$10.00 or 5% of the tax, whichever is greater, shall be added if the failure is for not more than 1 month, with an additional 5% penalty for each additional month or fraction of a month during which the failure continues or the tax and penalty is not paid, to a maximum of 50%. Except as provided in subsections (3), (6), and (7), if a taxpayer fails or refuses to file a return or pay a tax within the time specified for notices of intent to assess issued after February 28, 2003, a penalty of 5% of the tax shall be added if the failure is for not more than 2 months, with an additional 5% penalty for each additional month or fraction of a month during which the failure continues or the tax and penalty is not paid, to a maximum of 25%. In addition to the penalty, interest at the rate provided in section 23 for deficiencies in tax payments shall be added on the tax from the time the tax was due, until paid. After June 30, 1994, the penalty prescribed by this subsection shall not be imposed until the department submits for public hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, a rule defining what constitutes reasonable cause for waiver of the penalty under subsection (4), which definition shall include illustrative examples.

(3) If a person is required to remit tax due pursuant to section 19(2) and fails or refuses to pay the tax within the time specified, a penalty of 0.167% of the tax shall be added for each day during which the failure continues or the tax and penalty are not paid as follows:

(a) For notices of intent to assess issued on or before February 28, 2003, to a maximum of 50% of the tax.

(b) For notices of intent to assess issued after February 28, 2003, to a maximum of 25% of the tax.

(4) If a return is filed or remittance is paid after the time specified and it is shown to the satisfaction of the department that the failure was due to reasonable cause and not to willful neglect, the state treasurer or an authorized representative of the state treasurer shall waive the penalty prescribed by subsection (2).”

(5) For failure or refusal to file an information return or other informational report required by a tax statute, within the time specified, a penalty of \$10.00 per day for each day for each separate failure or refusal may be added. The total penalty for each separate failure or refusal shall not exceed \$400.00.

## **Section 14 – Local Jurisdictional Tax**

Local jurisdictions may have their own fee/tax. Tobacco Unit advises all taxpayers to contact their local offices.

## **Section 15 - Floor Stock Tax**

According to the Tobacco Products Tax Act 327 of 1993, MCL 205.427 Sec. 7(4), licensees and retailers, who had tobacco products on hand as of August 1, 2002 were directed to file an inventory of said products. Taxpayers were directed to pay the difference in tax, between what they had paid already and what the new levels were.

## **Section 16 – Qualifying Exemptions**

Qualifying exemptions include US Agencies; military bases and Federal prisons. Tribal Agreements with Treasury are addressed in #17 below in accordance with MCL 205.30c.

## **Section 17 - Laws or Rules for Tribal Sales**

The TPTA is applicable to the extent not superseded by a valid tax agreement or federal preemption. There are 12 federally recognized Indian tribes located in Michigan, 10 of which have tax agreements with the State. With regard to those with a tax agreement, you are directed to the tax agreements themselves for a description of the associated protocols. They are located on the Michigan Department of Treasury’s web site ([www.michigan.gov/taxes](http://www.michigan.gov/taxes)) where they may be found under the heading Special filing situations – Tax information for Native American in both the Individual Income Tax and Business Taxes subcategories. The substantive portion of the agreements is the same for all of the Tribes. With regard to the two tribes who do not have a tax agreement, they operate under the same principles as outlined under the “refund method” of the tax agreements.

## **Section 18 - Information Required on a Customer Invoice**

Under MCL 205.426(1), “A manufacturer, wholesaler, secondary wholesaler, vending machine operator, transportation company, unclassified acquirer, or retailer shall keep a complete and accurate record of each tobacco product manufactured, purchased, or otherwise acquired”. It adds, “. . .the records shall include a written statement containing the name and address of both the seller and the purchaser, the date of delivery, the quantity, trade name or brand, and the price paid for each tobacco product purchased”.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	The Office of the Attorney General
Enforcement/Collection:	Department of Treasury: Discovery & Tax Enforcement Division, Michigan State Police, and Special Taxes Division
Product Seizure Authority:	Department of Treasury’s Enforcement Team and Michigan State Police’s Tobacco Tax Enforcement Team

## **Section 20 – New or Pending Legislation**

SB 0106 of 2019: Tobacco; retail sales; prohibit sale of electronic cigarette or any oral device that provides vapor nicotine to minors

SB 0155 of 2019: Tobacco; retail sales; sellers of liquid nicotine containers to ensure that the products meet certain requirements; require, and restrict customer access to certain products.

HB 4017 of 2019: Tobacco; retail sales; prohibit sale of electronic cigarette or any oral device that provides vapor nicotine to minors

HB 4039 of 2019: Tobacco; other; youth tobacco act; Prohibit selling, giving, or furnishing tobacco products or tobacco paraphernalia to individuals under 21 and repeal prohibition of the purchase, possession, or use of tobacco products by minors.

HB 4040 of 2019: Taxation; tobacco; tobacco products tax act; Prohibit tobacco vending machines

HB 4164 of 2019: Tobacco; retail sales; sale of electronic cigarette or any oral device that provides vapor nicotine to minors; prohibit, require sellers of liquid nicotine containers to ensure that the products meet certain requirements, and provide for other general amendments.

HB 4188 of 2019: Taxation; tobacco; tax on certain electronic smoking devices and certain tobacco products; modify, and earmark revenue.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18 years old state wide.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

16 years old.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18 years old.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No minimum pricing.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Smoking ban includes in all restaurants, bars and businesses (including hotels and motels).

Smoking ban within 20 feet of a public building and in a moving vehicle with a minor 18 years or younger in the vehicle.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Tobacco licenses are offered in the following classifications:

- a. Manufacturer: Fee is \$100 for cigarettes and/or RYO and OTP. This is for a business that produces or manufactures cigarettes or OTP and sells to a Michigan licensed wholesaler or unclassified acquirer.
- b. Wholesaler: Fee is \$100 for cigarettes and/or RYO and OTP. This is a Michigan based business that purchases 75% or more of cigarettes or OTP from a manufacturer and sells 75% or more of the tobacco to other businesses for resale.
- c. Unclassified Acquirer: Fee is \$100 for cigarettes and \$10 for RYO and OTP. This is a business that imports or acquires TAX UNPAID cigarettes or OTP from a source other than a wholesaler or secondary wholesaler for its own consumption, for sale to consumers or other businesses for resale.
- d. Secondary Wholesaler: Fee is \$25 for cigarettes and/or OTP and RYO. This is a business that purchases TAX PAID cigarettes or OTP from a Michigan licensed wholesaler or unclassified acquirer and that sells the tobacco to other businesses for re-sale.
- e. Vending Machine Operator: \$25 for the first machine and \$6.25 for each additional. This is a business that purchases TAX PAID cigarettes or OTP from a Michigan licensed wholesaler or secondary wholesaler and sells the products to consumers through 1 or more vending machines.
- f. Transporter: Fee is \$50. This is a person that imports and transports into this state, or transports in this state, cigarettes or OTP obtained from a source located outside this state, or obtained from a person that is not a Michigan tobacco tax licensee.

Those wishing to get licensed within the State of Michigan should visit the tobacco tax website [www.Michigan.Gov/TobaccoTaxes](http://www.Michigan.Gov/TobaccoTaxes). Tobacco Tax Application Form 336 is required for licensing, along with applicable documentation noted on Page 1. Any questions can be directed

to our main Tobacco Tax number, which is (517) 636-4630. You can also Fax Tobacco Tax at (517) 636-4631, email at: [treas\\_tobaccotaxes@michigan.gov](mailto:treas_tobaccotaxes@michigan.gov) or send mail to: Michigan Department of Treasury, P.O. Box 30474, Lansing, MI 48909-7974 ATTN: Tobacco Tax

Note: Retailers do not have to be licensed in the State of Michigan for tobacco products purchased within Michigan.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Tobacco Products Tax License are valid from July 1 – June 30th. Licenses must be renewed annually, on or before June 30th.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

The department may require a licensee under this section to furnish a surety bond with a surety company authorized to do business in this state in an amount the department may fix, conditioned upon the payment of the tax provided by this act. The department may also require a licensee under this section to file a financial statement with the department showing all assets and liabilities and any other information the department may prescribe, to be filed within 30 days after the date requested. MCL 205.423(7).

### **Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Michigan’s Tobacco Products Tax Act does not speak to this, but department practice is that licensees wishing to become a instate cigarette stamper must submit a letter stating purchasing acceptance from the manufacturer.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

The tobacco stamps utilized today are silver in color, and come with a watermark-type seal (TWO images are visible by holding the stamp at 12 o’clock and 3 o’clock), and a digitally embedded quick response (QR) code, per State of Michigan regulations. The cigarette stamps are pressure applied with a hand stamp or high speed digital machine.

OTP products stamp is an ink based stamp. Not a decal that is applied to the original shipping container.



**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

One row of serial numbers. Unique stamp ID.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

Yes, on the original shipping container, an ink based hand held marking.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, Michigan has a 20 stick and a 25 stick digital stamp. We also have a 20 stick and 25 stick Tribal digital stamp.

## **Section 2 – Acquiring Stamps**

Cigarette digital stamp orders are placed and processed through the OpSec security portal, Michigan’s cigarette stamp vendor. A stamp order confirmation email is sent to both the wholesaler/distributor and the Tobacco Tax electronic mailbox. Stamps are shipped directly from OpSec to the wholesaler/distributor within 2-3 days. Taxpayer is not responsible for payment of cigarette stamps.

Form 323 is required to obtain an OTP stamp. The request is processed by the department and forwarded to the stamp vendor, RibType, to be manufactured. Each OTP stamp contains a unique number for identification by enforcement. The stamp is shipped directly to the physical location of the licensee. The taxpayer is not responsible for payment of the OTP stamp..

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due as part of filing monthly tax returns.

## **Section 3 - Bond Requirements**

There are no bond requirements.

## **Section 4 – Allowable Transfers**

The State of Michigan does not allow any transfers of cigarette tax stamps. The state does not allow unstamped product to be shipped between wholesalers/distributors.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

The State of Michigan does not allow tax credits for cigarette tax stamps, because they are provided free of charge to stamping agents. It is only after the product is sold or shipped that it is taxable.

## **Section 6 – Refund Limitations**

This is not applicable, since the State of Michigan does not allow for tax credits on cigarette tax stamps.

## **Section 7 – Credit Process for Manufacturer Returns**

The State of Michigan provides inventory adjustments for damaged/returned cigarettes. The licensee claiming the damaged/returned cigarettes would provide to the Department a credit memo and a stamp affixed affidavit. The affidavit is notarized stating the cigarettes were shipped back to the manufacturer. For Wholesaler's, the credit is applied to digital stamp inventory, not a tax credit.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

For Unclassified Acquirer of cigarettes that are in Michigan, a tax credit is applied to the next original return. (Michigan currently does not have a licensed business in this category)

## **Section 8 – Other Allowed Credits**

The State of Michigan provides inventory adjustments for OTP products. The licensee (Wholesaler or Unclassified Acquirer) claiming the damaged/returned OTP would provide to the Department a credit memo and (if applicable) a notarized affidavit from the manufacturer. The Wholesaler credit is applied for OTP inventory purposes only, not a tax credit. An Unclassified Acquirer would receive a tax credit. The State of Michigan currently has no dealings with ENDS products.

The Department accepts returned product (both cigarette and OTP) from retailers to the licensee (Wholesaler or Unclassified Acquirer) to receive a tax credit. The licensee submits the credit using a Returned Tax Paid schedule submitted on their monthly reporting.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

The Department does not monitor discrepancies between cigarette inventory and tax stamp inventory. The Department does monitor Shipments and Disbursements between buyer and seller.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

There are no additional restrictions or requirements.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp’s value adjusted? How is the adjustment accounted for?**

No, we do not require little cigars to be stamped.

## **PACT Act Reporting**

The Prevent All Cigarette Trafficking (“PACT”) ACT, 15 U.S.C. 375 seq., is designed to eliminate illegal trafficking of cigarettes. Per the terms of the Act, “all persons (as defined in the agreement) who sell, transfer, or ship for profit cigarettes, little cigars, roll-your-own or smokeless tobacco in interstate commerce must: (1) register with the Attorney General of the United States and (2) register with the Tobacco Tax Administrator of the state into which shipment is made and (3) file reports, no later than the 10th of each month, with the Tobacco Tax Administrator of the state into which the shipment is made, fully outlining by invoice; brand, quantity, price, and recipients of cigarettes, little cigars, roll-your-own or smokeless tobacco shipments into such state.”

“Continued compliance with the PACT Act is a requirement for continued listing on the Directory of approved participating and non-participating manufacturers located on the State of Michigan’s tobacco website.” (from the PACT Act flier on State of Michigan website)

Reporting this information is separate from normal monthly reporting, and goes to our Enforcement Division. PACT Act reports are mailed in, via U.S. Mail.

- Registration: You can get the registration form at: [www.atf.gov/forms/alcohol-tobacco](http://www.atf.gov/forms/alcohol-tobacco) (ATF Form 5070.1)
- Reporting: You can obtain the Michigan PACT Act Cigarette and Other Tobacco reporting forms at [www.michigan.gov/tobaccotaxes](http://www.michigan.gov/tobaccotaxes). Forms are to be completed no later than the 10th day of each month. (Forms must be mailed in)

Tobacco Tax Information by State v. 07.22.19

# STATE OF MINNESOTA

(Last updated 05/2018)

## General Information

### Section 1 - Contact Information

**Agency:** Minnesota Department of Revenue

**Contact:** Dan Hughes

**Mailing Address:** 600 North Robert Street

**City, State, Zip Code:** St. Paul, MN 55146

**Phone Number:** (651) 556-4750

**Fax Number:** (651) 297-1939

**E-mail Address:** [dan.hughes@state.mn.us](mailto:dan.hughes@state.mn.us)

**Website:** <http://www.revenue.state.mn.us>

### Section 2 - Statutes, Regulations and Rules

Minnesota statutes related to cigarette and tobacco administration are under Minnesota statute 297F and can be found at the site:

<https://www.revisor.mn.gov/statutes/?id=297F>

### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

Minnesota statute 297F.01 provides definitions of items taxed as a cigarette and/or tobacco product by Minnesota. These items include:

Cigarette:

Subd.3. Cigarette

“Cigarette” means any roll for smoking made wholly or in part of tobacco that weighs 4.5 pounds or less per thousand:

(1) the wrapper or cover of which is made of paper or another substance or material except tobacco; or

(2) wrapped in any substance containing tobacco, however labeled or named, which, because of its appearance, size, the type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to or purchased by consumers as a cigarette, as defined in clause (1), unless it is wrapped in whole tobacco leaf and does not have a cellulose acetate or other cigarette-like filter.

Please note that Minnesota includes little cigars in the definition of cigarettes. This is referenced in clause (2) of the Minnesota cigarette definition.

#### Other Tobacco Products (OTP):

##### Subd.19 Tobacco products

(a) "Tobacco products" means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigarettes as defined in this section. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(b) Except for the imposition of tax under section 297F.05, subdivisions 3 and 4, tobacco products includes a premium cigar, as defined in subdivision 13a.

#### Moist Snuff:

##### Subd.10b Moist snuff

"Moist snuff" means any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the mouth.

#### Premium Cigar:

##### Subd.13a Premium cigar.

"Premium cigar" means any cigar that is hand-constructed and hand-rolled, has a wrapper that is made entirely from whole tobacco leaf, has a filler and binder that is made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor, and has a wholesale price of no less than \$2.

## **Section 4 - The Basis for the Tax**

#### Cigarette Tax Rate

The cigarette excise tax rate is a by stick calculation and is currently \$.152 per stick. In addition, a sales tax of .0275 per stick is assessed on cigarette products.

A tax is imposed upon the sale of cigarettes in this state, upon having cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the

use or storage by consumers, at the rate of 152 mills, or 15.20 cents, on each cigarette. (MN Statute 297F.05, Subdivision 1).

A tax is imposed on distributors on the sale of cigarettes by a cigarette distributor to a retailer or cigarette sub jobber for resale in this state. The tax is equal to the combined tax rate under section 297A.62, multiplied by the weighted average retail price and must be expressed in cents per pack rounded to the nearest one-tenth of a cent. The weighted average retail price must be determined annually, with new rates published by November 1, and effective for sales on or after January 1 of the following year. The weighted average retail price must be established by surveying cigarette retailers statewide in a manner and time determined by the commissioner. (MN Statute 297F.05, Subdivision 25).

### Tobacco Tax Rate

The tobacco products tax is based upon the wholesale sales price of the product purchased by a Minnesota licensed distributor. The tax rate is 95% of the wholesale sales price of the product.

Wholesale sales price means the price at which a distributor purchases a tobacco product. Wholesale sales price includes the applicable federal excise tax, freight charges, or packaging costs, regardless of whether they were included in the purchase price (MN Statute 297F.01, Subdivision 23).

A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor, at the rate of 95 percent of the wholesale sales price of the tobacco products. The tax is imposed at the time the distributor:

- (1) brings, or causes to be brought, into this state from outside the state tobacco products for sale;
  - (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or
  - (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.
- (MN Statute 297F.05, Subdivision 3).

### Moist Snuff Tax Rate

The tax on moist snuff is a minimum tax based upon the tax on a regular 20 pack of cigarettes or 95% of the wholesale sales price. The tax imposed is based upon whichever tax is greater.

A minimum tax equal to the rate imposed on a pack of 20 cigarettes weighing not more than three pounds per thousand, as established under subdivision 1, is imposed on each container of moist snuff.

For purposes of this subdivision, a "container" means the smallest consumer-size can, package, or other container that is marketed or packaged by the manufacturer, distributor, or retailer for separate sale to a retail purchaser (MN Statute 297F.05, Subdivision 3(b)).

### Premium Cigar Rate

The tax on premium cigars is \$.50 per cigar or 95% of the wholesale sales price. The tax imposed is based upon whichever tax is lower.

Premium cigar means any cigar that is hand-constructed, has a wrapper that is made entirely from whole tobacco leaf, has a filler and binder that is made entirely of tobacco, except for

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adhesives or other materials used to maintain size, texture, or flavor, and has a wholesale price of no less than \$2. (MN Statute 297F.01, Subdivision 13a)

A tax is imposed upon all premium cigars in this state and upon any person engaged in business as a tobacco product distributor, at the lesser of:

- (1) the rate of 95 percent of the wholesale sales price of the premium cigars; or
  - (2) \$.50 per premium cigar.
- (b) The tax imposed under paragraph (a) is imposed at the time the tobacco products distributor:
- (1) brings, or causes to be brought, into this state from outside the state premium cigars for sale;
  - (2) makes, manufactures, or fabricates premium cigars in this state for sale in this state; or
  - (3) ships or transports premium cigars to retailers in this state, to be sold by those retailers.
- (MN Statute 297F.05, Subdivision 3a)

## Section 5 - Tax Rates and Miscellaneous Fees

### Cigarette Tax Rate

#### January 1, 2017 - Present

<b>Non-Settlement Brands</b>	Per Carton	Per Pack	<b>Settlement Brands</b>	Per Carton	Per Pack
Cigarette tax	\$30.40	\$3.04	Cigarette tax	\$30.40	\$3.04
Cig. Sales Tax	\$5.50	\$0.550	Cig. Sales Tax	\$5.50	\$0.550
Fee on non-settlement brands	\$5.00	\$0.50	Fee on non-settlement brands	\$0.00	\$0.00
	<u>\$40.90</u>	<u>\$4.090</u>		<u>\$35.90</u>	<u>\$3.590</u>
					<b>Price/Stamp</b>

### Tobacco Tax Rate

The tobacco products tax is based upon the wholesale sales price of the product purchased by a Minnesota licensed distributor. The tax rate is 95% of the wholesale sales price of the product.

### Moist Snuff Tax Rate

The tax on moist snuff is a minimum tax based upon the tax on a regular 20 pack of cigarettes or 95% of the wholesale sales price. The tax imposed is based upon whichever tax is greater.

### Premium Cigar Rate

The tax on premium cigars is \$.50 per cigar or 95% of the wholesale sales price. The tax imposed is based upon whichever tax is lower.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

## **Section 6 - Rate Update**

No adjustment in the excise tax for cigarette or tobacco products is expected in the near future. However, the sales tax for cigarettes is adjusted each year based upon the change in the average retail price of cigarettes.

## **Section 7 - State Collection Allowance or Discount**

Minnesota does not have any collection allowance for cigarette or tobacco distributors.

## **Section 8 - Any Other Permissible Allowances**

Minnesota does have an allowance for bad debt; the taxpayer would make a request and send along a copy of the Federal return for processing.

### Minnesota Statute 297F.14, Subdivision 4

For any reporting period, a taxpayer may offset against taxes payable under this chapter the amount of taxes previously paid under this chapter that is attributable to a bad debt. The taxes must have been included in a transaction the consideration for which was a debt owed to the taxpayer and which became uncollectible, but only in proportion to the portion of debt that became uncollectible. To qualify for offset under this subdivision, the debt must have qualified as a bad debt under section 166(a) of the Internal Revenue Code. The taxpayer may claim the offset within the time period prescribed in section 297F.17, subdivision 6. If the taxpayer is no longer liable for taxes imposed under this chapter, the commissioner shall refund to the taxpayer the amount of the taxes attributable to the bad debt. Any recovery of the tax claimed as a refund or credit must be reported to the commissioner on the tax return for the month in which the recovery is made. If the taxpayer is no longer required to file returns under this chapter, the taxpayer must reimburse the commissioner for tax recovered in the month following the recovery.

## **Section 9 – The Point at Which Tax is Imposed**

No response received from state.

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## Section 10 - Tax Return Due Dates

Cigarette Distributors pay tax on their stamp purchases on the 18th of the month following the month in which they purchased stamps.

### **Minnesota Statute 297F.09 RETURNS; PAYMENT OF TAX.**

#### Subdivision 1. Monthly return; cigarette distributor.

On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from outside the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. A licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full unpaid tax liability shown by it. For distributors subject to the accelerated tax payment requirements in subdivision 10, the return for the May liability is due two business days before June 30th of the year and the return for the June liability is due on or before August 18th of the year.

Tobacco distributors pay the tax the 18th of the month following the receipt of tobacco products purchased.

#### Subdivision 2 Monthly return; tobacco products distributor.

On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product:

- (1) brought, or caused to be brought, into this state for sale; and
- (2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month.

Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full tax liability shown. For distributors subject to the accelerated tax payment requirements in subdivision 10, the return for the May liability is due two business days before June 30th of the year and the return for the June liability is due on or before August 18th of the year.

The postmark date is considered the official date that a paper return is filed to the Minnesota Department of Revenue. The received date for electronically filed returns would be the date that the electronic return is accepted by the Minnesota Department of Revenue's processing system.

## **Section 11 – Tax Return Filings**

Returns may be filed paper or electronically. There is a manual entry or a schema for filing electronically.

## **Section 12 – Tax Collection**

In certain circumstances, Minnesota statute does require that payments must be made electronically. Please review Minnesota statute 270C for the administrative rules and requirements for filing and the required payment methods. This information can be found at the following site: <https://www.revisor.mn.gov/statutes/?id=270C>

## **Section 13 - Penalties for Late Filing**

Minnesota does impose a penalty for late filing and is based upon the following statute:

Minnesota statute 297F, Subdivision 2. Penalty for failure to pay tax.

If a tax imposed by this chapter is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the tax not paid on or before the date specified for payment of the tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

## **Section 14 – Local Jurisdictional Tax**

Minnesota does not have any local jurisdiction that allows local excise taxes. However, local jurisdictions do have the authority on regulating what type and the nature of the tobacco products that is allowed to be sold in their jurisdiction.

## **Section 15 - Floor Stock Tax**

The Minnesota legislature would have to implement a floor tax when there is a change in rate. Historically, that has been a common practice over the past couple cigarette excise tax rate increases.

## **Section 16 – Qualifying Exemptions**

Sales that are exempt from taxation are outlined in Minnesota statute 297F.06. These would include:

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## 297F.06 EXEMPTIONS FROM TAX.

### Subdivision 1. Federal laws.

The tax imposed by this section does not apply with respect to any sale of cigarettes or tobacco products which under the Constitution and laws of the United States may not be subject to taxation by the state.

### Subdivision 2. Use tax.

The use tax does not apply if the tax imposed on cigarettes or tobacco products has been paid.

### Subdivision 3. Cigarette use tax.

The cigarette use tax does not apply to the use or storage of cigarettes in quantities of 200 or fewer in the possession of any one consumer, provided that the cigarettes were carried into this state by that consumer.

### Subdivision 4. Tobacco products use tax.

The tobacco products use tax does not apply to the possession, use, or storage of tobacco products if (1) the tobacco products have an aggregate cost in any calendar month to the consumer of \$50 or less, and (2) the tobacco products were carried into this state by that consumer.

### Subdivision 5. Ocean-going vessels.

The commissioner may adopt rules for the sale by licensed distributors of tax-free cigarettes to the masters of ocean-going vessels for use aboard ship outside the continental limits of the United States, provided the cigarettes are also exempt from the taxes imposed on cigarettes by the United States government.

## **Section 17 - Laws or Rules for Tribal Sales**

Minnesota has agreements with 10 of our Minnesota tribal reservation governments for the sharing of cigarette and tobacco tax revenue between the respective tribes and the state of Minnesota.

Wholesalers who sell cigarette and tobacco products on Minnesota tribal lands must use Minnesota Native American Stamps on cigarettes. In addition, the distributor has the responsibility to complete a monthly schedule of all sales made on a tribal lands and they are required to file this schedule with their monthly Minnesota cigarette and tobacco excise return.

## **Section 18 - Information Required on a Customer Invoice**

The information that must be listed on an invoice is outlined on Minnesota statute 297F.01, Subdivision 9a. This information would include:

(1) name of seller;

- (2) name of purchaser;
- (3) date of sale;
- (4) invoice number;
- (5) itemized list of goods sold including brands of cigarettes and number of cartons of each brand, unit price, and identification of tobacco products by name, quantity, and unit price; and
- (6) any rebates, discounts, or other reductions.

### **Section 19 – Responsibility by Agency**

MSA Reporting: Minnesota is not a MSA state  
Enforcement/Collection: Minnesota Department of Revenue  
Product Seizure Authority: Minnesota Department of Revenue and law enforcement

### **Section 20 – New or Pending Legislation**

Minnesota has no current or pending legislation related to the administration of the cigarette or tobacco excise taxes.

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

The State of Minnesota licenses distributors and sub jobbers for a two-year license period. The period is from the first day of the even year to the last day of the odd year. The fee for a distributor license for the two-year period for Cigarettes is \$300.00 and Tobacco \$75.00. The fee for a sub jobber license is cigarette \$24.00 and tobacco \$20.00. If a license is obtained in the second year of licensing period, the cost is one-half the full-term cost.

The return/application is on the Revenue website for the tax type.

<http://www.revenue.state.mn.us/businesses/cigarette/Pages/Forms.aspx>

<http://www.revenue.state.mn.us/businesses/tobacco/Pages/Forms.aspx>

Contact information is the Cigarette, Alcohol and Tobacco Unit, 651-556-4703. The unit processes all new and renewal licenses.

Minnesota Statute 297 F.01 Definitions:

### **Subdivision 4 Cigarette distributor.**

"Cigarette distributor" means any of the following:

- (1) a person engaged in the business of selling cigarettes in this state and who manufactures or who brings, or causes to be brought, into this state from outside the state any packages of cigarettes for sale to sub jobbers or retailers;
- (2) a person engaged in the business outside this state who ships or transports cigarettes to retailers in this state, to be sold by those retailers;
- (3) a person who is on direct purchase from a cigarette manufacturer and applies cigarette stamps on at least 50 percent of cigarettes sold by that person.

### **Subdivision 5 Cigarette sub jobber.**

"Cigarette sub jobber" means any person who acquires stamped cigarettes or other state's stamped cigarettes for the primary purpose of resale to retailers, and any licensed distributor who

delivers, sells, or distributes stamped cigarettes from a place of business other than that licensed in the distributor's license.

"Ci No response received from state.

garette sub jobber" also means a person who is a vending machine operator. A vending machine operator is a person whose principal business is operating, or owning and leasing to operators, machines for the vending of merchandise or service.

No response received from state.

#### Subdivision 20 Tobacco products distributor.

"Tobacco products distributor" means any of the following:

- (1) a person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale;
- (2) a person who makes, manufactures, or fabricates tobacco products in this state for sale in this state;
- (3) a person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers.

#### Subdivision 21 Tobacco products sub jobber.

"Tobacco products sub jobber" means a person, other than a manufacturer or distributor, who buys from a distributor tobacco products upon which the tax imposed by this chapter has been paid and sells them to persons other than the ultimate consumers, and any licensed distributor who delivers, sells, or distributes tobacco products upon which the tax imposed by this chapter has been paid from a place of business other than that licensed in the distributor's license.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, every two years.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

The Minnesota tax stamp is two toned with a green band along the top it has two rows of serial numbers and is a heat-applied stamp. Most distributors use either an older Meyer cord machine or a Red line machine.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

Minnesota Revenue keeps an inventory of stamps on hand for sales to licensed distributors. Distributors request to purchase stamps with Minnesota form CT211. The stamps are shipped via UPS on the customer’s account. Some customers utilize other delivery service options such as an in-person pick up or an armored car service.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

The Minnesota Commissioner of Revenue may require the furnishing of a corporate surety bond or a certified check in an amount suitable to guarantee payment of the tax stamps purchased by a distributor. The bond or certified check may be required when the commissioner determines that a distributor is (1) delinquent in the filing of any return required under this chapter, or (2) delinquent in the payment of any uncontested tax liability under this chapter. The distributor shall furnish the bond or certified check for a period of two years, after which, if the distributor

has not been delinquent in the filing of any returns required under this chapter, or delinquent in the paying of any tax under this chapter, a bond or certified check is no longer required. The commissioner at any time may apply the bond or certified check to any unpaid taxes or fees, including interest and penalties, owed to the department by the distributor.

#### **Section 4 – Allowable Transfers**

Minnesota does not allow distributors to resell or transfer any stamps purchased by the distributor from the commissioner. A distributor may transfer another state's stamped cigarettes to another distributor for the purpose of resale in the other state. A distributor who has on hand any unused stamps at the time of discontinuing the business of selling cigarettes may return them to the commissioner and receive a refund of the amount paid for the stamps.

#### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

##### **Does the state allow a tax credit?**

If cigarettes products, upon which the Minnesota tax has been reported and paid, are shipped or transported by the distributor to consumers to be consumed outside the state, or to retailers or sub jobbers outside the state to be sold by those retailers or sub jobbers outside the state, or are returned to the manufacturer by the distributor, or destroyed by the distributor, refund of the tax or credit may be made to the distributor.

##### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No rules on the percentage of cigarette stamp that must be presented to qualify for a refund. This is handled on a case by case basis.

#### **Section 6 – Refund Limitations**

A claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date prescribed for filing the return plus any extension of time granted for filing the return.

#### **Section 7 – Credit Process for Manufacturer Returns**

The process for claiming credit for stamped cigarettes returned to the manufacturer would administratively be handled through the monthly cigarette excise return filing. The credit for the returned product would be claimed on the return and documentation in support of this returned cigarette product would require an affidavit of action from the distributor and manufacturer and this information would be included as an attachment to the return.



**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

### **Section 8 – Other Allowed Credits**

Distributors would be able to claim credit for any cigarette and tobacco product which have been returned. The distributor would have to complete Minnesota form CT109A to claim this credit on the cigarette and/or tobacco excise return.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

If a discrepancy is reported on a return, the distributor could file an amended return to address this issue. Otherwise, this issue will be reviewed during the next audit examination by Minnesota Revenue.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirement**

None noted.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp’s value adjusted? How is the adjustment accounted for?**

No response received from state.

### **PACT Act Reporting**

The federal Prevent All Cigarette Trafficking (PACT) Act imposed registration and reporting requirements on anyone who advertises, sells, transfers or ships cigarettes into a state - including roll-your-own (RYO) and smokeless tobacco.

Any “delivery seller” who advertises or ships cigarettes, RYO or smokeless tobacco into Minnesota must do both of the following:

- Register with the U.S. Attorney General and with the Minnesota Department of Revenue. To do so, you can use the federal PACT Act Registration Form, available at the Bureau of Alcohol, Tobacco and Firearms website.
- File sales reports with the Minnesota Department of Revenue by the 10th day of each month. The report must include the following information for each shipment made during the previous month:
  - a. Name and address of the person who received the shipment
  - b. Invoice information for the customer, including the brand and quantity of cigarettes, RYO tobacco and smokeless tobacco in the shipment
  - c. Name, address, and phone number of the person who delivered the shipment

You must submit monthly reports electronically on a CD or other digital media, in standard file formats such as a database file or Excel spreadsheet.

What is a "delivery seller"?

A "delivery seller" is a seller who delivers or ships cigarettes, RYO tobacco or smokeless tobacco to a consumer when any of the following is true:

- buyer isn't physically present when making their purchase, such as when they order by telephone, mail or Internet
- order is delivered by common carrier or other delivery service
- seller isn't physically present when the buyer takes possession of the order

Delivery sellers must comply with all applicable Minnesota laws, taxes and other requirements as if the sales occurred entirely in the state. This includes all state, local, tribal or other laws relating to the sale, distribution or delivery of cigarettes, RYO or smokeless tobacco.

# **STATE OF MISSISSIPPI**

(Last updated 05/2019)

## **General Information**

### **Section 1 - Contact Information**

**Agency:** Mississippi Department of Revenue

**Mailing Address:** Post Office Box 1033

**City, State, Zip Code:** Jackson, MS 39225

**Phone Number:** (601) 923-7015

**Fax Number:** (601) 923-7034

**Website:** [www.dor.ms.gov](http://www.dor.ms.gov)

### **Section 2 - Statutes, Regulations and Rules**

Statutes – Mississippi Code Annotated 27-69-1

Link to Web Site - <http://www.dor.ms.gov/Pages/Tobacco.aspx>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes -a thin cylinder of finely cut tobacco rolled in paper for smoking.

OTP (smokeless tobacco, snuff, cigars, roll your own) - defined as anything containing tobacco other than cigarettes.

### **Section 4 - The Basis for the Tax**

Cigarettes –taxed at \$.68 per pack on 20-packs, and \$.85 per pack on 25-packs.

### **Section 5 - Tax Rates and Miscellaneous Fees**

15% of Manufacturer’s list price on OTP.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**  
Mississippi does not tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products.

### **Section 6 - Rate Updates**

NSM Fees increase every July.

### **Section 7 - State Collection Allowance or Discount**

If wholesalers pay for Cigarette orders within 30 days, they receive a 4.65% discount.

### **Section 8 - Any Other Permissible Allowances**

There is no allowance for bad debt credits, or theft.

### **Section 9 – The Point at Which Tax is Imposed**

Tax on cigarettes is imposed at the time of stamp sale. OTP tax is due the month the product is brought into the state, and is reported the following month.

### **Section 10 - Tax Return Due Dates**

Returns are due on 15th of the month. If the date falls on a holiday or weekend, it will be due the next business day.

### **Section 11 – Tax Return Filings**

All returns are filed electronically through our tax system called TAP (Taxpayer Access Portal). Taxpayers are required to set up an account, add access to the Tobacco tax type, and file the returns monthly.

### **Section 12 – Tax Collection**

Taxpayers must file returns electronically. They have the option to pay electronically or send the payment through the mail. The electronic payments must be submitted prior to the close of business. Manual payments must be postmarked by the due date.

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### **Section 13 - Penalties for Late Filing**

There is a 50% penalty for late filing. Interest starts to accumulate at the legal rate per month after one month of no payment.

### **Section 14 – Local Jurisdictional Tax**

None noted.

### **Section 15 - Floor Stock Tax**

Yes.

### **Section 16 – Qualifying Exemptions**

Sales directly to Military Commissaries, Federal Government, Products intended for export from the United States, Midstream sales to ship vessels. Donated products to institutions for inmate use.

### **Section 17 - Laws or Rules for Tribal Sales**

Sales to the tribes are exempt, but sales to individual Indians are taxable.

### **Section 18 - Information Required on a Customer Invoice**

Date, Wholesaler's name, Customer's name, billing address, shipping address, selling price and excise tax charged.

### **Section 19 – Responsibility by Agency**

MSA Reporting: Mississippi is non-MSA.  
Enforcement/Collection: Mississippi Department of Revenue  
Product Seizure Authority: Mississippi Department of Revenue and Attorney's General Office

### **Section 20 – New or Pending Legislation**

There is no pending legislation.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

There is no minimum age; however, all clerks must sign affidavit that they will not sell tobacco products to anyone under the age of eighteen.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. Wholesalers must sell at a minimum of 2% above cost if picked up. 2 1/2 % above cost if delivered, with additional restrictions found in unfair cigarette sales tax law. Retailers must sell at a minimum of 6% price paid to wholesales with exceptions found in unfair cigarettes tax law. We update the NSM fees annually in July.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes. These restrictions are jurisdictional based on the local ordinances.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

**Do licenses need to be renewed and if so, how frequently?**

Mississippi has two licenses:

Wholesaler's licenses - manufacturer, wholesaler, dealer and distributor. These are renewable on an annual basis. January 31st is common expiration date.

Retailer's license – covers cigarettes and OTP. This license does not expire.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No; however, tobacco stamping agents can provide a surety bond for stamp purchasing on consignment with payments due within 30 days of invoicing.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

Yes. Wholesales are required to provide proof that they are approved to purchase tobacco products from manufactures.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

The current stamp is green and yellow with two serial numbers. They can be applied with a stamping machine, or hand-affixed with a heating iron.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

The stamps have two rows. The first number is the roll ID, and the second number is the individual stamp unique ID.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Yes. There are 25s tax stamps on sheet of 150 stamps per sheet.

### **Section 2 – Acquiring Stamps**

They are ordered from Mississippi Department of Revenue.

**How are stamps delivered to the wholesaler/distributor?**

Cigarette stamps are shipped directly from Meyer cord to the distributor. The distributor must have the FedEx or UPS account on file with Meyercord.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is required at the time of order for cash orders. Bonded orders are required to be paid within 30 days. No bond is required. Optional bonding amounts are determined by the taxpayer on estimated purchases.

**Section 3 - Bond Requirements**

Bond Requirements are optional, but bonded wholesalers have longer to pay for the stamps they order.

**Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

From the Manufacturer to the Wholesale Distributor.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes. As long as they are stamped before they reach the retailers.

**Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes, credit is given if the stamps are returned to the Mississippi Department of Revenue.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

We will give credit if 25% of the stamp is present.

**Section 6 – Refund Limitations**

Within 36 months of original purchase.



## **Section 7 – Credit Process for Manufacturer Returns**

The most common way is through Manufacturer Affidavit Statements. However, stamps can be sent back to Mississippi Department of Revenue with a cover letter explain the reason for the credit request.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credit is issued for use against for future stamp purchases if can be absorbed within 12 months.

## **Section 8 – Other Allowed Credits**

Credits are allowed through Manufacturer Affidavits on OTP.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

There is no current process for reporting discrepancies.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Little cigars are taxed as OTP, which is 15% of manufacturer's list price. Stamps are issued for denominations of 20 or 25 packs only. There is no other pack configuration allowed.

## **PACT Act Reporting**

Distributors not licensed in Mississippi are required to send a report; the most common medium is through e-mail.

**STATE OF MISSOURI**  
(Last updated 03/2019)

**General Information**

**Section 1 - Contact Information**

**Cigarette Tax**

**Agency:** Missouri Department of Revenue

**Mailing Address:** P.O. Box 811

**City, State, Zip Code:** Jefferson City, MO 65105

**Phone Number:** (573) 751-7163

**Fax Number:** (573) 522-1720

**E-mail Address:** [excise@dor.mo.gov](mailto:excise@dor.mo.gov)

**Website:** <http://dor.mo.gov/>

**OTP Tax**

**Agency:** Missouri Department of Revenue

**Mailing Address:** P.O. Box 3320

**City, State, Zip Code:** Jefferson City, MO 65105

**Phone Number:** (573) 751-5772

**Fax Number:** (573) 522-1720

**E-mail Address:** [excise@dor.mo.gov](mailto:excise@dor.mo.gov)

**Website:** <http://dor.mo.gov/>

**Contact Person:** Joshua Tolbert

**Agency:** Attorney General Office

**Mailing Address:** P.O. Box 899

**City, State, Zip Code:** Jefferson City, MO 65102

**Phone Number:** (573) 751-8759

**Fax Number:** (573) 751-5660

**E-mail Address:** [josh.tolbert-smith@ago.mo.gov](mailto:josh.tolbert-smith@ago.mo.gov)

**Website:** <http://ago.mo.gov/>

## **Section 2 - Statutes, Regulations and Rules**

Missouri tobacco tax statutes, Chapter 149 RSMo:

<http://revisor.mo.gov/main/OneChapter.aspx?chapter=149>; Missouri tobacco

Missouri tobacco tax regulations, Title 12, Division 10, Chapter 16:

<http://www.sos.mo.gov/cmsimages/adrules/csr/current/12csr/12c10-16.pdf>;

Missouri tobacco tax website: <http://dor.mo.gov/business/tobacco/>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

As defined in Chapter 149.011 RSMo: "Cigar", any roll for smoking, except cigarettes, made chiefly of tobacco or any substitute therefor;

"Cigarette", an item manufactured of tobacco or any substitute therefor, wrapped in paper or any substitute therefor, weighing not to exceed three pounds per one thousand cigarettes and which is commonly classified, labeled or advertised as a cigarette;

"Smokeless tobacco", chewing tobacco, including, but not limited to, twist, moist plug, loose leaf and firm plug, and all types of snuff, including, but not limited to, moist and dry;

(16) "Tobacco product", cigarettes, cigarette papers, clove cigarettes, cigars, smokeless tobacco, smoking tobacco, or other form of tobacco products or products made with tobacco substitute containing nicotine.

## **Section 4 - The Basis for the Tax**

Cigarettes - As referenced in Chapter 149.015.1 RSMo: A tax shall be levied upon the sale of cigarettes at an amount equal to eight and one-half mills per cigarette.

OTP - As referenced in Chapter 149.160.1 RSMo: A tax is levied upon the first sale of tobacco products, other than cigarettes, within the state. The tax on tobacco products shall be at the rate of ten percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes - As referenced in Chapter 149.015.1 RSMo: \$.17 per pack; As referenced in Chapter 66.340 RSMo: An additional \$.05 per pack for cigarettes sold in St. Louis County; as referenced in Chapter 210.320 RSMo: An additional \$.05 per pack for cigarettes sold in Jackson County

OTP - As referenced in Chapter 149.160.1 RSMo: ten percent of the manufacturer's invoice price before discounts and deals.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

## **Section 6 - Rate Updates**

None noted.

## **Section 7 – State Collection Allowance or Discount**

Cigarettes - As referenced in Chapter 149.021.1 RSMo: Each wholesaler purchasing stamps from the director as required by law may purchase the stamps from the director at a reduction of three percent of the face value of each lot of stamps so purchased.

OTP – As referenced in Chapter 149.170.1 RSMo: The person required to remit shall be entitled to deduct and retain an amount equal to two percent.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarette - As referenced in Chapter 149.015.2 RSMo: When the stamp is applied.

OTP - As referenced in Chapter 149.160.1 RSMo: First sale of the product within the state.

## **Section 10 - Tax Return Due Dates**

Cigarette - As referenced in Chapter 149.041.2 RSMo: Due Date is the 20th of each month.

OTP - As referenced in Chapter 149.170.1 RSMo: Due Date is the 15th of the month.

When a due date falls on a holiday or weekend, the due date extends to the next business day. Returns are considered timely based on postmark.

## **Section 11 – Tax Return Filings**

Tax returns are filed on paper; there is no option for electronic filing.

## **Section 12 – Tax Collection**

Electronic payments must be submitted by the due date.

## **Section 13 - Penalties for Late Filing**

As referenced in Chapter 149.190.3 RSMo: Any person responsible for the tax imposed in section 149.160 who fails to pay such tax within the time and manner required by law, shall pay, as part of the tax imposed, a penalty equal to twenty-five percent of the tax liability.

## **Section 14 – Local Jurisdictional Tax**

Yes, a list of local jurisdictions can be found on the last page of form Schedule F at:  
<http://dor.mo.gov/forms/Schedule%20F.pdf>

## **Section 15 - Floor Stock Tax**

None noted.

## **Section 16 – Qualifying Exemptions**

As referenced in Chapter 149.061.1: All wholesalers are hereby required to affix tax stamps to each package of cigarettes sold to civilian clubs or other social organizations located within the confines of a United States military camp or reservation located in the state, with the exception of post exchanges, commissaries and other instrumentalities of the federal government.

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.

## **Section 18 - Information Required on a Customer Invoice**

None noted.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Missouri Department of Revenue  
Enforcement/Collection: Missouri Department of Revenue  
Product Seizure Authority: Missouri Department of Revenue

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No.

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**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

A completed application, surety, cash bond, or letter of credit and \$100 license fee must be submitted for issuance of cigarette wholesaler, OTP wholesaler and OTP retailer licenses. The registration application form 2175 can be found at:

<http://dor.mo.gov/forms/index.php?category=14>. Direct registration inquiries and correspondence to the contact information listed above.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

As referenced in Chapter 149.035.1 RSMo: All licenses are renewed annually on or before February fifteenth each year.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, a bond in the amount of three times the average tax liability, minimum five hundred dollars, by every person making a first sale of tobacco products in the state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No.

# **Cigarette and Tax Stamp Information**

## **Section 1 – Tax Stamp Attributes**

Missouri cigarette tax stamps are colored by type and denomination, with an assigned unique roll number. The stamps are heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Stamps include one row of serial numbers which indicates roll ID.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, Missouri issues 25s tax stamps.

## **Section 2 – Acquiring Stamps**

As referenced in Chapter 149.015.2: Missouri cigarette tax stamps are purchased from the Missouri Department of Revenue.

**How are stamps delivered to the wholesaler/distributor?**

Stamps are delivered by common carrier or picked up in person. Wholesalers purchasing stamps with delivery by common carrier are required to have a carrier account on file.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase, if purchasing stamps on a cash basis. If purchasing stamps on a credit basis, payment is due the 15th of the following month. A bond in an amount equal to the estimated total monthly tax liability of the wholesaler is required.

## **Section 3 - Bond Requirements**

As referenced in Chapter 149.025 RSMo: Any wholesaler desiring to purchase stamps or meter units on a deferred payment basis shall file with the director a bond in an amount equal to the estimated total monthly tax liability of the wholesaler.



## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

Yes, as referenced in Chapter 149.041.2 RSMo: Every wholesaler receiving unstamped cigarettes shall file a report with the director on or before the twentieth day of each month covering the previous calendar month, on forms prescribed and furnished by the director, disclosing the beginning and closing inventory of unstamped cigarettes, the beginning and closing inventory of stamped cigarettes, the beginning and closing inventory of cigarette stamps.

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

As referenced in Chapter 149.015.5 RSMo: No tax stamp need be attached to a package of cigarettes transported in the state between wholesalers or distributors unless and until such package is sold to a retailer or consumer.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

Cigarettes - As referenced in Chapter 149.031 RSMo: The director shall make a refund or exchange new stamps for any stamps which are damaged, or for stamps which have been affixed to packages of cigarettes returned to factories, sold or shipped into another state for sale or use there or have become unfit for use and consumption or unsalable.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

## **Section 6 – Refund Limitations**

Claims for credit or refund must be submitted within two years of stamp purchase, pursuant to Chapter 136.035.3 RSMo.

## **Section 7 – Credit Process for Manufacturer Returns**

As referenced in Chapter 140.031 RSMo: Application to the director for the exchange or refund must be accompanied by affidavit, damaged stamps, bill of lading covering shipment to factories or other states, or any other proof as required by the director.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credit on next stamp purchase or refund is allowed.

## **Section 8 – Other Allowed Credits**

OTP – As referenced in Chapter 149.160.1 RSMo: Licensed persons making first sales within the state shall be allowed approved credit for returned merchandise provided the tax was paid on the returned merchandise and the purchaser was given a refund or credit. Such licensed person shall take such approved credit on the return for the month in which the purchaser was given the refund or credit.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No stamping of little cigars. Stamping occurs in denominations of 20 or 25.

## **PACT Act Reporting**

Monthly filing of PACT Act reports are submitted via paper or email.

**STATE OF MONTANA**  
(Last updated 06/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Person:** Mark Schoenfeld, Miscellaneous Tax Unit Manager

**Agency:** Montana Department of Revenue, Business & Income Tax Division  
Miscellaneous Tax Unit

**Mailing Address:** PO Box 5805

**Physical Address:** 125 N Robert St., 3rd Floor

**City, State, Zip Code:** Helena, MT 59604-5805

**Phone Number:** (406) 444-1940

**Fax Number:** (406) 444-7997

**E-mail Address:** [mschoenfeld@mt.gov](mailto:mschoenfeld@mt.gov)

**Website:** <https://mtrevenue.gov/liquor-tobacco/tobacco/>

**Contact Person:** Anne Yates, Assistant Attorney General

**Agency:** Montana Department of Justice, Office of Consumer Protection  
Tobacco Settlement Program

**Mailing Address:** PO Box 200151

**Physical Address:** 555 Fuller Avenue

**City, State, Zip Code:** Helena, MT 59620-0151

**Phone Number:** (406) 444-0089

**Fax Number:** (406) 442-1894

**E-mail Address:** [anneyates@mt.gov](mailto:anneyates@mt.gov)

**Website:** <https://dojmt.gov/consumer/tobacco-sales-and-directory-tobacco-settlement/>

## **Section 2 - Statutes, Regulations and Rules**

Statutes, Montana Code Annotated (MCA): <https://leg.mt.gov/statute/>

Regulations, Administrative Rules of Montana (ARM):

Revenue <http://mtrules.org/gateway/Department.asp?DeptNo=42>

Justice <http://mtrules.org/gateway/Department.asp?DeptNo=23>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarette (Little Cigars) – Any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

Any roll of tobacco wrapped in paper or in any substance not containing tobacco, or

Any tobacco, because of its appearance is likely to be offered to or purchased by consumers as a cigarette

Moist Snuff – fine cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the oral cavity.

Other Tobacco Products – all other products containing tobacco that are intended for human consumption or use but has not determined to be a cigarette or moist snuff.

Vape Products – Noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance.

## **Section 4 - The Basis for the Tax**

Cigarette Tax = \$1.70 per pack of 20 sticks or \$0.085 per stick of cigarettes.

Moist Snuff Tax = \$0.85 per ounce of packaged moist snuff.

Other Tobacco Products Tax = 50% of the manufacturer's list price.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarette Tax = \$1.70 per pack of 20 sticks or \$0.085 per stick of cigarettes.

Moist Snuff Tax = \$0.85 per ounce of packaged moist snuff.

Other Tobacco Products Tax = 50% of the manufacturer's list price.

## **Section 6 - Rate Updates**

None noted.

## **Section 7 - State Collection Allowance or Discount**

There are discounts provided for wholesalers' tax payments

Cigarette tax discounts are provided with the tax insignia purchase. 0.90% discount on the first 25,800 stamps purchased, 0.60% discount on the next 25,800 stamps and 0.45% discount for all stamps ordered after the purchase of the first 51,600 stamps. The discount rates are given monthly.

The tobacco tax discount for timely tax payment for moist snuff and other tobacco product is 1.5%.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Montana does not currently tax vapor products.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

The Cigarettes, Moist Snuff and Other Tobacco Products taxes are pre-collected and paid by licensed wholesalers.

## **Section 10 - Tax Return Due Dates**

All tobacco taxes are monthly tax returns. Their due dates are all the same, 15 days after the end of the month.

## **Section 11 – Tax Return Filings**

Montana offers both papers filing and electronic filing. We've encouraged all of our wholesalers to file their returns online.

## **Section 12 – Tax Collection**

Cigarette tax is collected through the sales of tax insignia. All stamps purchases must be paid with their orders. 30 days credit line is allowed once a wholesaler has over 12 months history with the state and the wholesaler must submit a bond equal to their largest order within the last 12 months.

Other tobacco product and moist snuff taxes are paid with their monthly tax return. Checks, credit cards, wire transfer and ACH transaction are accepted by our department.

## **Section 13 - Penalties for Late Filing**

There is a late file penalty and a late pay penalty.

- Late filing penalty is the greater of \$50 or 5% of the tax due.
- Late paid, or underpaid penalty, is 1.5% a month up to 15% of the tax due.

## **Section 14 – Local Jurisdictional Tax**

There are regional resort sales taxes that are imposed on all sales within various Montana resorts.

## **Section 15 - Floor Stock Tax**

Yes. The floor stock tax is not codified in code. The floor tax is a legislative choice each time the tobacco taxes are modified.

## **Section 16 – Qualifying Exemptions**

Cigarettes & tobacco sales within Native American Reservation are not regulated by the state of Montana. Cigarettes and tobacco sold on Native American Reservation are pre-paid by our licensed wholesalers. The tax collected is paid back to the leadership of the reservation.

## **Section 17 - Laws or Rules for Tribal Sales**

Cigarettes & tobacco sales within Native American Reservation are not regulated by the state of Montana. Cigarettes and tobacco sold on Native American Reservation are pre-paid by our licensed wholesalers. The tax collected is paid back to the leadership of the reservation.

## **Section 18 - Information Required on a Customer Invoice**

Invoices provided by Montana licensed wholesalers to their retail customers must contain the following on their invoices:

“Tobacco tax are collected and paid to the State of Montana”

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Montana Department of Justice Office of Consumers Protection Division Tobacco Settlement Program
Enforcement/Collection:	Montana Department of Revenue Business and Income Tax Division Miscellaneous Tax Unit
Product Seizure Authority:	Montana Department of Justice

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18 state wide

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

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The age limitation is not regulated by the Montana Department of Revenue or Justice. The age limitation is regulated by the State's Labor laws. Currently, there is not an age limit for retail clerks selling tobacco products.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18 Statewide

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes, the minimum price code is applied statewide

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Currently there are no bans against tobacco flavoring.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Public smoking bans are regulated by the Montana Clean Air Act. Outdoor smoking in public spaces are regulated by the local county health department.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No

## **License Information**

Montana licensing information can be found here

[http://revenue.mt.gov/home/businesses/estop\\_licensing](http://revenue.mt.gov/home/businesses/estop_licensing)

Montana has five tobacco license types;

Wholesaler – (fee = \$50 annually) for tobacco sales to licensed retail businesses & permitted to stamp tax insignia to packs of cigarette.

Sub jobber – (fee = \$50 annually) for tobacco sales to licensed retail businesses.

Vendor – (fee = \$50 annually) for businesses that own and operate 10 or more cigarette vending machines.



Retailer (v) – (fee = \$5 annually) for retail businesses that own and operate 1-9 vending machines at their place of business.

Retailer – (fee = \$5 annually) for tobacco retail sale to the consumers.

Vape Retailer – (fee = \$5 annually) for retail businesses selling vaping products  
\*\* Not tobacco related.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, annually.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No, a Bond is required from cigarette wholesale distributors who wish to have 30 days to pay for their tax insignia orders.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No, Montana has no regulation regarding manufacturer’s direct buy activities

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Montana tax insignia are wax based stamps. It is applied by heat transfer. Stamps are individually identifiable with a unique ID number. The color of the stamp is changed randomly for security purposes. The stamps and paper include several security features.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Two rows

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Yes

## **Section 2 – Acquiring Stamps**

Montana licensed wholesalers are allowed to buy stamps from the Department. A new wholesaler must include payment with their stamp order for the first 12 months. Wholesalers can chose to continue this ordering process or apply for 30 day credit. To obtain the 30 days credit, the wholesaler must obtain a bond equal to their largest stamp order within the past 12 months. The value of the bond is reviewed annually.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due with the tax insignia order.

## **Section 3 - Bond Requirements**

To obtain the 30 days credit, the wholesaler must obtain a bond equal to their largest stamp order within the past 12 months. The value of the bond is reviewed annually for any increased order within the past 12 months.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

No.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Montana state law has no rules or regulations governing the appearance of the tax insignia.

## **Section 6 – Refund Limitations**

There is no limit in Montana.

## **Section 7 – Credit Process for Manufacturer Returns**

Claims for stamped cigarettes returned to the manufacturer are filed on the Montana cigarette tax form CT-203. For credit approval, an affidavit of cigarette destruction must be provided by the manufacturer with the return.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credits are given based on the wholesalers' choice.

## **Section 8 – Other Allowed Credits**

Other tobacco and moist snuff tax credits can be claimed within the monthly OTP tax filing (TP-101). Affidavits of destruction are not required; copies of the return credit invoices are required.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Our monthly cigarette reconciliation reporting form was created to compare the cigarette sales to the number of stamps used. The monthly report allows the wholesaler to see their loss or errors. Discrepancies are identified during audit and assessment of sales without tax stamps.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

42.31.206 A TOBACCO PRODUCT LABELED AS ANYTHING OTHER THAN A CIGARETTE

(1) A tobacco product labeled as anything other than a cigarette or not bearing a label, including but not limited to little cigars, may be considered, as provided in ARM 42.31.207, a cigarette under 16-11-102, MCA, if it meets two or more of the following criteria:

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- (a) the product is sold in packs containing 20 or 25 sticks;
  - (b) the product is available for sale in cartons of ten packs;
  - (c) the product is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type boxes;
  - (d) the product is of a length and diameter found in commercially-manufactured cigarettes;
  - (e) the product has a cellulose acetate or other integrated filter;
  - (f) the product weighs less than three pounds per thousand sticks;
  - (g) the product is marketed or advertised to consumers as a cigarette or cigarette substitute; or
  - (h) other evidence that the product fits within the definition of cigarette in 16-11-102, MCA.
- (2) Tobacco products that are determined to be cigarettes must meet the requirements of 16-11-307, MCA
- (3) A cigar is a roll of tobacco that is wrapped in 100% natural leaf tobacco or:
- (a) is wrapped in any substance that contains 75% or more tobacco which did not in the reconstitution process lose its tobacco character (taste, aroma, identifiable chemical components) and is of a color consistent with that of the natural leaf tobaccos traditionally used as a wrapper for American cigars; and
  - (b) does not meet the criteria stated in (1).

(History: 16-11-103, MCA; IMP, 16-11-102, MCA; NEW, 2007 MAR p. 124, Eff. 7/1/07.)

## **PACT Act Reporting**

Montana does not have any specific regulations or rules regulating the reporting of the PACT Act.

**STATE OF NEBRASKA**  
(Last updated 06/2017)

**General Information**

**Section 1 - Contact Information**

**Contact Name:** Kara Parga, Revenue Tax Specialist Senior

**Agency:** Nebraska Department of Revenue

**Mailing Address:** PO Box 94818  
301 Centennial Mall South

**City, State, Zip Code:** Lincoln, Nebraska 68509

**Phone Number:** (402) 471-5781

**Fax Number:** (402) 471-5767

**E-mail Address:** kara.parga@nebraska.gov

**Website:** [www.revenue.nebraska.gov](http://www.revenue.nebraska.gov)

**Contact Name:** Daniel J. Muelleman, Assistant Attorney General

**Agency:** Nebraska Attorney General's Office

**Mailing Address:** 2115 State Capitol Building

**City, State, Zip Code:** Lincoln, NE 68509

**Phone Number:** (402) 471-1921

**E-mail Address:** [daniel.muelleman@nebraska.gov](mailto:daniel.muelleman@nebraska.gov)

**Website:** <https://ago.nebraska.gov/>

**Section 2 - Statutes, Regulations and Rules**

<http://www.revenue.nebraska.gov/legal/legal.html>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarette means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other material excepting tobacco.

Tobacco Products include: cigars; roll-your-own (RYO) tobacco; cheroots; stogies; perique's; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared for chewing or smoking in a pipe or otherwise; except snuff and snuff flour.

Snuff is any finely cut, ground, or powdered tobacco that is not intended to be smoked, and includes both "moist snuff" that is intended to be placed in the mouth and "dry snuff" that is intended to be inhaled or sniffed through the nose.

### **Section 4 - The Basis for the Tax**

Tobacco Products are taxed at 20% of the total net invoice amount of tobacco products imported into Nebraska.

**Tobacco Products include:** cigars; roll-your-own (RYO) tobacco; cheroots; stogies; perique's; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared for chewing or smoking in a pipe or otherwise; **except snuff and snuff flour.**

Snuff is taxed at \$.44 per ounce of snuff imported into Nebraska.

Snuff is any finely cut, ground, or powdered tobacco that is not intended to be smoked, and includes both "moist snuff" that is intended to be placed in the mouth and "dry snuff" that is intended to be inhaled or sniffed through the nose.

### **Section 5 - Tax Rates and Miscellaneous Fees**

Current cigarette tax rate \$.64/pack of 20 and \$.80/pack of 25

Snuff \$.44/ounce

Tobacco Products Other Than Snuff 20%

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**  
No response received from state.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

Cigarette discount on stamp purchase orders is 1.85%.

Tobacco Products Tax collection fee of 2.5% of total tax due up to \$75.00.

### **Section 8 - Any Other Permissible Allowances**

None noted.

### **Section 9 – The Point at Which Tax is Imposed**

Cigarette – tax is imposed when the stamp is applied.

Tobacco Products – tax is imposed when the product is brought into the state.

### **Section 10 - Tax Return Due Dates**

Cigarette – a return is considered filed in a timely manner if uploaded by the fifteenth day of the month following the tax period, or the following business day if the due date lands on a holiday or weekend.

Tobacco Products – a return is considered filed in a timely manner if postmarked on or before the tenth day of the month following the tax period, or the following business day if the due date lands on a holiday or weekend.

### **Section 11 – Tax Return Filings**

Cigarette – returns are required to be filed electronically in XML format

Tobacco Products – returns are filed in paper.

Tobacco Tax Information by State v. 07.22.19

## **Section 12 – Tax Collection**

Cigarette – stamps are purchased through sending in paper forms. Payment can be made through check or electronic payment. Any additional tax payment due with a monthly return is required to be submitted electronically.

Tobacco Tax – a check payment can accompany the paper return or an electronic payment.

## **Section 13 - Penalties for Late Filing**

Tobacco Products – if the return is not filed by the due date, a penalty will be assessed in the amount of 25% of the tax due.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

Yes.

## **Section 16 – Qualifying Exemptions**

(a) Cigarette sales on a federal installation in a transaction that is exempt from state taxation under federal law.

(b) Cigarette sales on an Indian tribe's Indian country to its tribal members where state taxation is precluded by federal law.

## **Section 17 - Laws or Rules for Tribal Sales**

Any retailer located on an Indian reservation in Nebraska who sells cigarettes or tobacco products to a Native American reservation Indian, where title and possession of such items are taken within the boundaries of a Native American Indian reservation in Nebraska can receive credit for the cigarette and/or tobacco products tax previously paid to the wholesaler. A reservation Indian is a Native American Indian who resides in Nebraska on an Indian reservation.



## **Section 18 - Information Required on a Customer Invoice**

None noted.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Attorney General’s Office  
Enforcement/Collection: Nebraska Department of Revenue  
Product Seizure Authority: Nebraska Department of Revenue

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

### **License Information**

Nonresident Cigarette Wholesale Dealer (nonresident wholesaler) - Every nonresident wholesaler's out-of-state location that affixes Nebraska cigarette tax stamps to packages of cigarettes for sale in this state must be licensed. A surety bond in the amount of \$10,000 must be submitted with the application and \$500 licensing fee. In addition, an applicant located in a state other than Nebraska must designate an agent for service of process in Nebraska and provide notice that must be submitted with the application. This license is required to be renewed annually.

Directory License - Every resident wholesaler must obtain a Directory License allowing it to purchase or possess in this state cigarettes and roll-your-own tobacco products of a cigarette manufacturer or brand family that is not listed in the Directory. This license is required to be renewed annually.

Cigarette Manufacturer's Registration - Every cigarette manufacturer selling unstamped cigarettes in or into Nebraska must register with the Nebraska Department of Revenue (Department) as a manufacturer.

Distributor's Registration. Every distributor selling unstamped cigarettes in or into Nebraska must register with the Department as a distributor.

Tobacco Products License - A tobacco products license must be obtained by the first owner of the tobacco products. The first owner is any person who is: engaged in the business of selling tobacco products in this state who brings or causes tobacco products to be brought into this state for sale in this state; who manufactures and sells tobacco products in this state; or who is an out-of-state supplier who ships or transports tobacco products to retailers in this state and obtains a license. Tobacco products include those forms of tobacco, other than cigarettes, suitable for chewing or smoking. The \$25 licensing fee must be submitted with the application.

Permit to Transport Unstamped Cigarettes. Common carriers transporting unstamped cigarettes from any bonded warehouse to a licensed resident cigarette wholesale dealer in Nebraska must obtain a permit to transport unstamped cigarettes. A surety bond in the amount of \$1,000 must be submitted with the application and the permit fee.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Resident Cigarette Wholesale Dealer (resident wholesaler) - Every resident wholesaler's location in Nebraska that affixes Nebraska cigarette tax stamps to packages of cigarettes for sale in this state must be licensed. A surety bond in the amount of \$10,000 must be submitted with the application and the \$500 licensing fee. This license is required to be renewed annually.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

### **Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Heat applied stamp that contains the roll ID number.

### **How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

### **Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No response received from state.

### **Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

#### **How are stamps delivered to the wholesaler/distributor?**

Stamps are issued by the Department of Revenue.

Stamps can be picked up or shipped registered mail or through FedEx or UPS.

Tobacco Tax Information by State v. 07.22.19

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

A surety bond in the amount of \$10,000.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes, unstamped cigarettes can be transferred between other licensed wholesalers.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

With a written request and return of any used stamps credit will be issued.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

### **Section 6 – Refund Limitations**

None noted.

### **Section 7 – Credit Process for Manufacturer Returns**

Manufacturer's affidavits should be sent to the Department. Credit will be issued in the form of a voucher that can be used on future purchases of cigarette tax stamps.

### **Section 8 – Other Allowed Credits**

Manufacturer's affidavits should be sent to the Department. Credit will be issued in the form of a voucher that can be used on future tobacco products tax return.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Cigarette tax is due in any amount for which cigarette subject to tax for each month exceeds the value of stamps used each month.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

Cigarette PACT Act is required to be filed electronically in XML format.  
Tobacco PACT Act can be accepted in any format.

# STATE OF NEVADA

(Last updated 01/2018)

## General Information

### Section 1 - Contact Information

**Agency:** Department of Taxation

**Contact:** Brandy Delaney, Management Analyst I

**Mailing Address:** 1550 College Pkwy Ste 115

**City, State, Zip Code:** Carson City, NV 89706

**Phone Number:** 775-684-2165

**Fax Number:** 775-684-2020

**E-mail Address:** [bdelaney@tax.state.nv.us](mailto:bdelaney@tax.state.nv.us)

**Website:** [https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

**Agency:** Department of Taxation

**Contact:** Brian Deem, Tax Program Supervisor I

**Mailing Address:** 1550 College Pkwy Ste 115

**City, State, Zip Code:** Carson City, NV 89706

**Phone Number:** 775-684-2143

**Fax Number:** 775-684-2020

**E-mail Address:** [bdeem@tax.state.nv.us](mailto:bdeem@tax.state.nv.us)

**Website:** [https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

**Agency:** Department of Taxation

**Contact:** Jo Lynn Smith, Tax Program Supervisor II

**Mailing Address:** 1550 College Pkwy Ste 115

**City, State, Zip Code:** Carson City, NV 89706

**Phone Number:** 775-684-2029

**Fax Number:** 775-684-2020

**E-mail Address:** [jlynsmith@tax.state.nv.us](mailto:jlynsmith@tax.state.nv.us)

**Website:** [https://tax.nv.gov/Forms/Cigarette and Other Tobacco Products Tax Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

**Agency:** Attorney General's (AG) Office Tobacco Enforcement Unit

**Mailing Address:** 5420 Kietzke Lane Ste 202

**City, State, Zip Code:** Reno, NV 89511

**Phone Number:** 775-687-2100

**Fax Number:** 775-688-1822

**E-mail Address:** [tobaccoenforcement@ag.nv.gov](mailto:tobaccoenforcement@ag.nv.gov)

**Website:** [http://ag.nv.gov/Hot\\_Topics/Issue/Tobacco/](http://ag.nv.gov/Hot_Topics/Issue/Tobacco/)

**Contact:** Hillary Bunker, Sr. Supervising Deputy AG

**Mailing Address:** 5420 Kietzke Lane Ste 202

**City, State, Zip Code:** Reno, NV 89511

**Phone Number:** 775-687-2140

**Fax Number:** 775-688-1822

**E-mail Address:** [Hbunker@ag.nv.gov](mailto:Hbunker@ag.nv.gov)

**Website:** [https://tax.nv.gov/Forms/Cigarette and Other Tobacco Products Tax Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

**Contact:** Elizabeth Hickman, Deputy AG

**Mailing Address:** 5420 Kietzke Lane Ste 202

**City, State, Zip Code:** Reno, NV 89511

**Phone Number:** 775-687-2144

**Fax Number:** 775-688-1822

**E-mail Address:** [Hbunker@ag.nv.gov](mailto:Hbunker@ag.nv.gov)

**Website:** [https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

**Contact:** Ursula Sindlinger, Compliance Investigator

**Mailing Address:** 5420 Kietzke Lane Ste 202

**City, State, Zip Code:** Reno, NV 89511

**Phone Number:** 775-687-2143

**Fax Number:** 775-688-1822

**E-mail Address:** [Usindlinger@ag.nv.gov](mailto:Usindlinger@ag.nv.gov)

**Website:** [https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

## **Section 2 - Statutes, Regulations and Rules**

Nevada Revised Statutes (NRS) Chapter 370 – TOBACCO: LICENSES AND TAXES;  
SUPERVISION OF MANUFACTURERS AND WHOLESALE DEALERS

<http://www.leg.state.nv.us/Division/Legal/LawLibrary/NRS/NRS-370.html>

Nevada NRS Chapter 370A – MANUFACTURERS OF TOBACCO PRODUCTS

<http://www.leg.state.nv.us/Division/Legal/LawLibrary/NRS/NRS-370a.html>

Nevada Administrative Code (NAC) Chapter 370 – TOBACCO: LICENSES AND TAXES;  
SUPERVISION OF MANUFACTURERS

<http://www.leg.state.nv.us/Division/Legal/LawLibrary/NAC/NAC-370.html>



Nevada Department of Taxation Suspension/Revocation Regulations R146-15

[https://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/LCB\\_File\\_No.\\_R146-15\\_Tobacco\\_Licenses.pdf](https://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/LCB_File_No._R146-15_Tobacco_Licenses.pdf)

Nevada Department of Taxation Tax Bulletin TOB 16-0001 issued May 16, 2016

[https://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/TO\\_%2016-0001\\_Cigarette\\_Reporting\\_Requirements\\_Technical\\_Bulletin\(1\).pdf](https://tax.nv.gov/uploadedFiles/taxnvgov/Content/TaxLibrary/TO_%2016-0001_Cigarette_Reporting_Requirements_Technical_Bulletin(1).pdf)

Cigarette and Other Tobacco Products Taxes & FAQ's

[https://tax.nv.gov/FAQs/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Taxes\\_FAQ\\_s/](https://tax.nv.gov/FAQs/Cigarette_and_Other_Tobacco_Products_Taxes_FAQ_s/)

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes: All cigarettes sold in Nevada are taxed unless they are sold and delivered on Tribal land, but they must bear a Tribal stamp, or if they are sold and delivered to a military base. Cigarette tax stamps are affixed to packages and the excise tax is charged to the retail dealer when they purchase stamped cigarettes from a wholesale dealer. All definitions are located under NRS 370, NRS 370A and NAC 370.

**NRS 370.010 “Cigarette” defined.** “Cigarette” means all rolled tobacco or substitutes therefor wrapped in paper or any substitute other than tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated or mixed with any other ingredient. [Part 1:192:1947; A 1951, 124] — (NRS A [1977, 782](#); [1989, 1517](#))

**NRS 370A.050 “Cigarette” defined.** “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

1. Any roll of tobacco wrapped in paper or in any other substance not containing tobacco;
2. Tobacco, in any form, that is functional in the product, which because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette; or
3. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette described in subsection 1.

The term includes “roll-your-own” tobacco, that is, any tobacco which because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes. For the purposes of this section, 0.09 ounces of “roll-your-own” tobacco constitutes one individual cigarette. (Added to NRS by [1999, 1106](#))

**NRS 370.013 “Cigarette package” defined.** “Cigarette package” means the individual pack, box or other container that contains a cigarette. The term does not include a container that itself contains other containers, such as a carton of cigarettes. (Added to NRS by [2005, 1185](#))

**NRS 370.0275 “Counterfeit cigarettes” defined.** “Counterfeit cigarettes” means any cigarettes or cigarette packages:

1. Bearing false manufacturing labels;
  2. Bearing counterfeit stamps; or
  3. Meeting any combination of the descriptions contained in subsections 1 and 2.
- (Added to NRS by [2005, 1185](#))

OTP Tax is charged to any wholesale dealer or retail dealer that purchased the product and the same rate applies to all OTP products, including roll-your-own (RYO) cigarette tobacco.

**NRS 370.0318 “Other tobacco product” defined.** “Other tobacco product” means any tobacco of any description or any product made from tobacco, other than cigarettes, alternative nicotine products and vapor products.

(Added to NRS by [2007, 2056](#); A [2015, 2496](#))

**NRS 370.052 “Tobacco product package” defined.** “Tobacco product package” means the individual pack, box or other container that contains any other tobacco product. The term does not include a container that itself contains other containers. (Added to NRS by [2007, 2056](#))

**NRS 370.0317 “Other counterfeit tobacco product” defined.** “Other counterfeit tobacco product” means any other tobacco product or tobacco product package bearing a false manufacturing label. (Added to NRS by [2007, 2056](#))

ENDS are not taxed as tobacco products. Currently, only sales tax applies to these products.

**NRS 370.003 “Alternative nicotine product” defined.** “Alternative nicotine product” means any noncombustible product containing nicotine that is intended for

human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term does not include:

1. A vapor product;
2. A product made or derived from tobacco; or
3. Any product regulated by the United States Food and Drug Administration under subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq. (Added to NRS by [2015, 2495](#)).

**NRS 370.054 “Vapor product” defined. “Vapor product”:**

1. Means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine in a solution or other form.
2. Includes, without limitation:
  - (a) An electronic cigarette, cigar, cigarillo or pipe or a similar product or device; and
  - (b) A vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo or pipe or a similar product or device.
3. Does not include any product regulated by the United States Food and Drug Administration pursuant to subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq. (Added to NRS by [2015, 2496](#))

#### **Section 4 - The Basis for the Tax**

Cigarette tax is calculated per stick. The tax rate is \$.09 per stick/\$1.80 per 20 pack or \$2.25 per 25 pack. Nevada had a \$0.05/stick tax increase effective July 1, 2015.

**NRS 370.165 Levy, rate and collection of tax.** There is hereby levied a tax upon the purchase or possession of cigarettes by a consumer in the State of Nevada at the rate of 90 mills per cigarette. The tax may be represented and pre-collected by the affixing of a revenue stamp or other approved evidence of payment to each package, packet or container in which cigarettes are sold. The tax must be pre-collected by the wholesale or retail dealer, and must be recovered from the consumer by adding the amount of the tax to the selling price. Each person who sells cigarettes at retail shall prominently display on the premises a notice that the tax is included in the selling price and is payable under the provisions of this chapter.

Tobacco Tax Information by State v. 07.22.19

(Added to NRS by [1977, 782](#); A [1985, 470](#); [1987, 1789](#); [1989, 2185, 2191](#); [1991, 287](#); [2003, 20th Special Session, 169](#); [2015, 2902](#))

OTP tax is 30%. The tax basis is calculated one of two ways; 1) the price the product was purchased from a manufacturer or another wholesale dealer/distributor for before any discounts are given, 2) the price the product was sold for if the wholesale dealer/distributor is also a manufacturer of the product sold.

Vapor products are not taxable as tobacco products. Currently, only sales tax applies to these products.

### **Section 5 - Tax Rates and Miscellaneous Fees**

None noted.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

All cigarette wholesale dealers who purchase stamps and remit their payment timely or OTP wholesale dealers who remit tax timely receive .25% (.0025) collection allowance. If the payment is late, no collection allowance is granted. In addition, if a refund of taxes paid is granted for stale cigarettes or returned OTP product to the manufacturer, the collection allowance is removed from the refund amount. No allowances for bad debt or theft are allowed by statute.

#### **Cigarettes:**

**NRS 370.220 Allowance of discounts for services rendered by dealers.** In the sale of any cigarette revenue stamps or any metered machine settings to a licensed cigarette dealer, the Department and its agents shall allow the purchaser a discount of 0.25 percent against the amount of excise tax otherwise due for the services rendered in affixing cigarette revenue stamps or metered machine impressions to the cigarette packages.

[12:192:1947; A 1949, 598; 1951, 124; 1955, 360] — (NRS A 1961, 676; [1971, 1166](#); [1975, 1716](#); [1977, 786](#); [1983, 320](#); [1991, 2293](#); [2003, 20th Special Session, 19](#); [2008, 25th Special Session, 19](#); [2009, 2097](#))

**NRS 370.280 Tax refunds.**

1. Upon proof satisfactory to the Department, refunds shall be allowed for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed, upon cigarettes that are sold to:

- (a) The United States Government for Army, Air Force, Navy or Marine Corps purposes and are shipped to a point within this State to a place which has been lawfully ceded to the United States Government for Army, Air Force, Navy or Marine Corps purposes;
- (b) Veterans' hospitals for distribution or sale to service personnel with disabilities or ex-service personnel with disabilities interned therein, but not to civilians or civilian employees;
- (c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the cigarette tax imposed under this chapter; or
- (d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the cigarette tax imposed under this chapter.

2. Upon proof satisfactory to the Department, refunds shall be allowed to cigarette dealers, or to manufacturers or their representatives, for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed upon cigarettes destroyed because the cigarettes had become stale. Applications for refunds shall be submitted in an amount of not less than \$15 and shall be accompanied by an affidavit of the applicant setting forth:

- (a) The number of packages of cigarettes destroyed for which refund is claimed;
- (b) The date or dates on which the cigarettes were destroyed and the place where destroyed;
- (c) That the cigarettes were actually destroyed because they had become stale;
- (d) By whom the cigarettes were destroyed; and
- (e) Other information which the Department may require.

3. Upon proof satisfactory to the Department, refunds may be allowed to licensed wholesale cigarette dealers for the face value of the cigarette metered machine stamp tax paid, less any discount previously allowed upon:

- (a) The balance of unused stamps on the descending register of a cigarette meter machine destroyed by fire, if the cigarette meter counting positions can be determined by the manufacturer of the meter stamping machine;
- (b) Cigarettes which were stamped on their carton covers because of stamping machine failure to open the carton and stamp the cigarette packs; or
- (c) Cigarettes which were not stamped but were registered on the machine as being stamped because of failure of the meter counters.

4. Any refund shall be paid as other claims against the State are paid.

[Part 14:192:1947; A 1949, 598; 1951, 124; 1953, 101] — (NRS A 1959, 371; 1960, 1; [1965, 301](#); [1973, 1008](#); [1975, 1719](#); [1977, 788](#))

**OTP:**

**NRS 370.490 Allowance of credits.**

1. The Department shall allow a credit of 30 percent of the wholesale price, less a discount of 0.25 percent for the services rendered in collecting the tax, for other tobacco products on which the tax has been paid pursuant to [NRS 370.450](#) and that may no longer be sold. If the other tobacco products have been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.
2. A credit must also be granted for any other tobacco products shipped from this State and destined for retail sale and consumption outside the State on which the tax has previously been paid. A duplicate or copy of the invoice is required for proof of the sale outside the State.
3. A wholesale dealer may claim a credit by filing with the Department the proof required by this section. The claim must be made on a form prescribed by the Department.

**Section 8 - Any Other Permissible Allowances**

None noted.

**Section 9 – The Point at Which Tax is Imposed**

None noted.

**Section 10 - Tax Return Due Dates**

**Monthly Cigarette Inventory Reports** – Due the 25<sup>th</sup> of the following month being reported or if the 25<sup>th</sup> falls on a holiday or weekend, the next business day (November 2017 due December 26<sup>th</sup>). There are two Microsoft Excel versions of this report; Standard Cigarette Inventory report can be filed electronically via email to [taxation-adminMSA@tax.state.nv.us](mailto:taxation-adminMSA@tax.state.nv.us) and [tobaccoenforcement@ag.nv.gov](mailto:tobaccoenforcement@ag.nv.gov), via fax or via postal mail in PDF format. The Electronic Cigarette Inventory Report can only be filed electronically via email. As long as the envelope is postmarked by the due date, the return is considered timely.

**Monthly OTP Returns** – Due the 20<sup>th</sup> of the following month being reported or if the 20<sup>th</sup> falls on a holiday or weekend, the next business day. As long as the envelope is postmarked by the due date, the return is considered timely. This report must be submitted in paper form to the Department. It can be faxed, postal mailed or emailed to [taxation-adminMSA@tax.state.nv.us](mailto:taxation-adminMSA@tax.state.nv.us).

## **Section 11 – Tax Return Filings**

See above.

## **Section 12 – Tax Collection**

Cigarette Tax is pre-collected by the wholesale dealer when they purchase and affix the stamps to the cigarette packs. The wholesale dealer then includes the cigarette tax to the sales made to the retail dealer and the retail dealer then charges the consumer. Cigarette stamps can be paid for online through Nevada Tax- File & Pay and the taxpayer can schedule the payment any date they choose or payment can be mailed in to the Carson City office. Pursuant to NRS 370.077, cigarette taxes are a direct tax upon the consumer and are precollected for convenience only.

OTP Tax is due after the sale is made. The wholesale dealer charges the tax to its customers then remits what they collected to the Department. OTP tax can be paid online through Nevada Tax-File & Pay and the taxpayer can schedule the payment any date they choose or payment can be mailed in to the Carson City office with the return.

## **Section 13 - Penalties for Late Filing**

**Cigarette Stamp Payments** – if a wholesale dealer who is on the deferred stamp payment program makes a late cigarette stamp payment, pursuant to NRS 370.425(1)(a)(I), the wholesale dealer shall pay 500% penalty plus the tax owed and .75% in interest for every month or fraction of a month late. Penalty and interest is calculated by the postmark of the payment. In addition, if a wholesale dealer fails to pay any cigarette taxes owed, pursuant to 370.382, 370.390 and 370.425, the wholesale dealer can be assessed a civil penalty, charged criminally, and/or pursuant to NRS 370.250, have their license temporarily suspended or permanently revoked.

**Monthly Cigarette Inventory Report** – if a wholesale dealer files a late or inaccurate return, pursuant to NRS 370.696, civil penalties can be assessed by the AG’s office, up to \$1,000 per day, in addition to a penalty from the Department for up to \$1,000 pursuant to NRS 370.425. Lastly, they can be charged criminally, and/or pursuant to NRS 370.250, have their license temporarily suspended or permanently revoked.

**OTP Return & Payment** – if an OTP tax return and payment are late, the Department shall charge no more than a maximum 10% penalty and .75% interest for every month or fraction of a month late. Penalty and interest is calculated by the postmark of the payment, not the postmark of the return. In addition, pursuant to NRS 370.465, the Department may impose a penalty on a wholesale dealer who violates any of the provisions of this section as follows:

For the first violation within 7 years, a fine of \$1,000.

(b) For a second violation within 7 years, a fine of \$5,000.

(c) For a third or subsequent violation within 7 years, revocation of the license of the wholesale dealer.

### **Section 14 – Local Jurisdictional Tax**

Currently no local jurisdictions in Nevada impose additional excise taxes on tobacco products.

### **Section 15 - Floor Stock Tax**

Effective 7/1/15, the Cigarette Tax rate in Nevada went from 4 mils per cigarette, \$.80 for a pack of 20s and \$1.00 for a pack of 25s, to 9 mils per cigarette, \$1.80 per pack of 20s and \$2.25 per pack of 25s. The Department did impose a floor tax on the difference for any cigarette stamps purchased prior to 6/30/15 but not affixed to packages before 7/1/15. The Department gave the wholesale dealer's the option to pay the entire floor tax they owed up front or as they affix and make monthly payments.

### **Section 16 – Qualifying Exemptions**

All OTP sales made and shipped out of Nevada are exempt from tax.

All cigarettes and OTP sold to a US Government entity are eligible for a refund of excise taxes paid pursuant to NRS 370.280(1)(a) for cigarettes and 370.503(1)(a).

### **Section 17 - Laws or Rules for Tribal Sales**

All cigarette and OTP sales made and delivered on the reservation or on Tribally trusted land are exempt from excise taxes if the Tribe has an ordinance on file with the Department stating they will collect the same amount or greater for cigarette tax and OTP taxes as the State. All cigarettes sold to Tribal smoke shops must bear Tribal stamps received from the Department free of charge and any OTP sales made and delivered on the reservation or Tribally trusted land are sold to them tax free. The wholesale dealer must report how many cigarette packages were sold to Tribal entities on their monthly Cigarette Inventory Reports including which Tribal entities, how many of each brand, invoice numbers and date of sales. Wholesale dealers are also required to report how much OTP was sold to Tribal entities on their OTP returns and must also provide invoices for those Tribal sales.

#### **Cigarettes:**

**NRS 370.170 Revenue stamp to be affixed to each package of cigarettes; tribal stamp required on each package of cigarettes sold on tribal land or by Indian tribe.**

1. Except as otherwise provided in this chapter, it is unlawful for any person to give, sell or offer to give or sell any cigarettes in this state unless there is affixed to each of the cigarette Tobacco Tax Information by State v. 07.22.19



packages a Nevada cigarette revenue stamp which is issued by the Department and affixed by a metered stamping machine approved by and registered with the Department or any other method approved by the Department, and which is for the amount of the tax on all of the cigarettes contained in the cigarette package.

2. Each cigarette package sold on qualified tribal land or by an Indian tribe or a member of a tribe for which the Department does not collect a state excise tax pursuant to [NRS 370.515](#) must bear a tribal stamp issued by the Department.

[Part 8:192:1947; A 1949, 598; 1951, 124; 1953, 142] — (NRS A 1959, 116; 1961, 675; [1969, 1131](#); [1975, 1715](#); [1983, 709](#); [1985, 470](#); [2013, 2656](#))

**OTP:**

**NRS 370.503 Allowance of refund for certain taxes paid.**

1. Upon proof satisfactory to the Department and subject to the requirements of [NRS 360.236](#), a refund must be allowed for the taxes paid pursuant to [NRS 370.450](#) on other tobacco products that are sold to:

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the tax imposed pursuant to [NRS 370.501](#); or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to [NRS 370.501](#).

2. Any refund must be paid as other claims against the State are paid.

(Added to NRS by [1991, 2280](#); A [2009, 66](#); [2015, 2499](#))

## **Section 18 - Information Required on a Customer Invoice**

**Cigarettes:**

**NRS 370.255 Maintenance and retention of records regarding certain transactions of wholesale dealers, retail dealers and manufacturers.**

1. Each:

(a) Wholesale dealer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the wholesale dealer is the seller, purchaser, consignor, consignee or recipient of cigarettes. The invoices or documentation must indicate the name and address of the consignor, seller, purchaser or consignee, and the quantity by brand and style of the cigarettes involved in the transaction.

(b) Retail dealer shall maintain copies of invoices or equivalent documentation for every transaction in which the retail dealer receives or purchases cigarettes at each of its facilities. The invoices or documentation must indicate the name and address of the wholesale dealer from

whom, or the address of another facility of the same retail dealer from which, the cigarettes were received, and the quantity of each brand and style of the cigarettes received in the transaction.

(c) Manufacturer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the manufacturer is the seller, purchaser, consignor, consignee or recipient of cigarettes. The invoices or documentation must indicate the name and address of the consignor, seller, purchaser or consignee, and the quantity by brand and style of the cigarettes involved in the transaction.

2. The records required by this section must be preserved on the premises described in the license of the manufacturer, wholesale dealer or retail dealer in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the Department. With the permission of the Department, manufacturers, wholesale dealers and retail dealers with multiple places of business may retain centralized records, but shall transmit duplicates of the invoices or the equivalent documentation to each place of business within 24 hours after the request of the Executive Director or his or her designee.

3. The records required by this section must be retained for not less than 3 years after the date of the transaction unless the Department authorizes, in writing, their earlier removal or destruction.

(Added to NRS by [1971, 1164](#); A [1973, 1007](#); [1975, 1717](#); [1977, 786](#); [1993, 2473](#); [2005, 1195](#))

**OTP:**

**NRS 370.470 Invoices for certain products required.** A wholesale dealer must obtain from each manufacturer or wholesale dealer who is not licensed in this State, itemized invoices of all other tobacco products purchased from and delivered by the manufacturer or wholesale dealer who is not licensed in this State. The wholesale dealer must obtain from the manufacturer or wholesale dealer who is not licensed in this State separate invoices for each purchase made. The invoice must include:

14. The name and address of the manufacturer or wholesale dealer who is not licensed in this State;

15. The name and address of the wholesale dealer;

3. The date of the purchase; and

4. The quantity and wholesale price of the other tobacco products.

(Added to NRS by [1983, 707](#); A [1997, 1505](#); [2001, 1597](#); [2015, 2498](#))

## **Section 19 – Responsibility by Agency**

MSA Reporting:	The Department and the AG’s Office
Enforcement/Collection:	The Department, its agents, and all peace officers and revenue-collecting officers
Product Seizure Authority:	The Department, its agents, sheriffs within their respective counties and all other peace officers of the State of Nevada

## **Section 20 – New or Pending Legislation**

Assembly Bill (AB) 62 was effective 7/1/2017 which created or amended current requirements regarding location specific cigarette licensing, record retention, sharing of information with law enforcement officials, shipments into Nevada, and higher bond requirements for non-participating manufacturers.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## License Information

### **Cigarettes:**

#### **NRS 370.080 Required licensing of wholesale dealers, retail dealers and manufacturers.**

1. A person shall not engage in business as a wholesale dealer in the State of Nevada unless that person first secures a license to engage in that activity from the Department.
2. A person shall not engage in business as a retail dealer in the State of Nevada unless that person first secures a license to engage in that activity from the Department.
3. A manufacturer shall not:
  - (a) Sell any cigarettes to a wholesale dealer in the State of Nevada; or
  - (b) Operate or permit any person other than the manufacturer to operate a cigarette rolling machine for the purpose of producing, filling, rolling, dispensing or otherwise manufacturing cigarettes, unless that manufacturer first secures a license to engage in that activity from the Department.
4. A separate license is required to engage in each of the activities described in this section. [2:192:1947; 1943 NCL § 6528.02] — (NRS A [1973, 1006](#); [1975, 1714](#); [1977, 783](#); [2005, 1193](#); [2015, 2958](#))

License fees:

Cigarette Manufacturer – No fee, renewed annually.

Cigarette Wholesale – \$150 per calendar year prorated per quarter, renewed annually.

This license also has a bond requirement, minimum of \$1,000.

Tobacco Retail – No fee, renewed annually.

All required forms are available at the below link including lists of licensed manufacturers, wholesale dealers and retail dealers:

[https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

#### **NRS 370.090 Inventory required for licensing as wholesale dealer.**

1. Each applicant for a wholesale dealer's license must, and each person licensed as a wholesale dealer shall keep on hand at all times cigarettes of a wholesale value of at least \$10,000.
2. The provisions of this section do not apply to any person who was a wholesale dealer on June 30, 1973. [Part 4:192:1947; 1943 NCL § 6528.04] — (NRS A [1973, 1006](#); [1977, 784](#); [1991, 2280](#))

### **OTP:**

#### **NRS 370.445 Dealer's license required; refusal to issue or renew; suspension or revocation; regulations; penalty.**

1. The Department shall issue a license as a wholesale dealer or a license as a retail dealer to a person who submits a complete application on a form prescribed by the Department and who otherwise complies with the applicable provisions of this chapter and any regulations adopted by the Department. The Department shall not charge any fee for the issuance of a license pursuant to this subsection.

2. Except as otherwise provided in subsection 3, a person shall not engage in the business of a wholesale dealer or retail dealer in this State unless the person first obtains a license as a wholesale dealer or retail dealer from the Department. A person may be licensed as a wholesale dealer and as a retail dealer.
3. A person who wishes to engage in the business of a retail dealer is not required to obtain a license as a retail dealer pursuant to this section if the person is licensed as a retail cigarette dealer pursuant to [NRS 370.001](#) to [370.430](#), inclusive.
4. The Department may refuse to issue or renew, or may suspend or revoke, a license issued pursuant to this section for any violation of the provisions of [NRS 370.440](#) to [370.503](#), inclusive.
5. The Department may adopt regulations prescribing the form and contents of an application for, or which are otherwise necessary for the issuance of, a license pursuant to this section.
6. Any person who violates any of the provisions of this section is guilty of a misdemeanor.  
(Added to NRS by [1997, 1503](#); A [2013, 2659](#))  
License Fees & Renewal  
OTP Wholesale – No fee, not renewed currently  
Tobacco Retail – No fee, renewed annually (same license as mentioned above as it covers retail of both cigarettes and OTP.  
All required forms are available at the below link including lists of licensed manufacturers, wholesale dealers and retail dealers:  
[https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/)

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

All of the Nevada tax stamps are thermal and must be applied with heat. All rolls/pads of 20s and all rolls of Tribal stamps have two rows of numbers; the top row is the roll number and the bottom row is the individual stamp number in that roll. The rolls of 25s only have one row of

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numbers. Hidden holographic designs are also embedded in the stamp to avoid counterfeiting. The Nevada cigarette tax stamps are blue, white and yellow stating “Tax Paid” and the Tribal stamps are orange, black and white.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

## **Section 2 – Acquiring Stamps**

All licensed cigarette wholesale dealers who purchases stamps must order them through the online ordering system at <https://www.nvtaxstamp.net> as of October 2014. In order for the stamp order to be approved and released for shipment, the payment for the stamps must be received in the Department’s Carson City office or the company must be on the deferred payment program and not have exceeded their current bond amount. The company must also enter their FedEx or UPS account number into their online profile to allow the stamps to ship once the order is approved and released by the Cigarette Tax Examiner. Wholesale dealers can purchase 20s in rolls of 30,000 or pads of 750 at \$1.80 per stamp minus the .25% collection allowance (\$53,865/roll or \$1,346.62/pad) or 25s in rolls of 3,600 at \$2.25 per stamp minus the collection allowance. Tribal stamps are free to the wholesale dealer aside from FedEx or UPS shipping charges.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

## **Section 3 - Bond Requirements**

All licensed cigarette wholesale dealer are required to have a bond on file in a principal sum equal to the largest amount of tax precollected by the wholesale cigarette dealer in any quarter of the preceding year, or if the information to establish that amount is not available, then in a sum required from a licensee operating under conditions deemed comparable by the Department. No bond may be for less than \$1,000. Wholesale dealers with the minimum bond amount must pay

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for the stamps prior to the order being approved and released for shipment. Wholesale dealers on the deferred payment program must make payment of the deferred stamp orders in any calendar month by the 25<sup>th</sup> of the following month.

**NRS 370.155 Wholesale dealers: Bond or other security.**

1. Except as otherwise provided in this section, each licensed wholesale cigarette dealer shall furnish a bond executed by the wholesale cigarette dealer as principal, and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada and conditioned upon the payment of all excise taxes required to be precollected by the wholesale cigarette dealer under the provisions of this chapter. Each bond must be in a principal sum equal to the largest amount of tax precollected by the wholesale cigarette dealer in any quarter of the preceding year, or if the information to establish that amount is not available, then in a sum required from a licensee operating under conditions deemed comparable by the Department. No bond may be for less than \$1,000. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount must be rounded up to the next larger integral multiple of \$100.
2. Except as otherwise provided in this section, each licensed wholesale cigarette dealer who wishes to defer payment on the purchase of revenue stamps or metered machine impressions shall furnish a bond executed by the wholesale cigarette dealer as principal, and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada and conditioned upon the payment of all deferred payments for revenue stamps and metered machine impressions. Each bond must be in a principal sum equal to the maximum amount of revenue stamps or metered machine impressions which the wholesale dealer may have unpaid at any time. No bond may be for less than \$1,000. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount must be rounded up to the next larger integral multiple of \$100.
3. In lieu of a bond a licensed wholesale cigarette dealer may deposit with the Department, under such terms as the Department may prescribe, a like amount of lawful money of the United States or any other form of security authorized by [NRS 100.065](#). If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department. The Department shall deposit all cash and bonds of the United States or of the State of Nevada received pursuant to this subsection with the State Treasurer as custodian.
4. Upon application and a satisfactory showing, the Department may increase or decrease the amount of a bond required by subsection 1 or 2, based on the amount of excise tax pre-collected or payments deferred, respectively, by the wholesale cigarette dealer.
5. The Department may waive the requirement of the bond required by subsection 1 or 2, whenever a licensed wholesale cigarette dealer has maintained a satisfactory record of payment of excise taxes or deferred payments, respectively, for a period of 5 consecutive years.
6. A wholesale dealer is not entitled to a refund of any portion of money paid as a bond pursuant to this section if the wholesale dealer has failed to file a report required by this chapter or owes the Department any payment or penalty pursuant to this chapter.

## **Section 4 – Allowable Transfers**

Un-affixed Stamps – the Department does not allow the transfer of un-affixed cigarette stamps.

Unstamped Cigarettes – pursuant to NRS 370.055, currently wholesale dealers are allowed to purchase unstamped cigarettes from another Nevada licensed wholesale dealer.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Laws, Rules, Policies:** Pursuant to NAC 370.030(1)(b), only cigarette bearing clear and legible cigarette revenue stamps may be distributed by a wholesale dealer. In addition, pursuant to NAC 370.030(1)(d), all cigarette revenue stamps must be applied on the bottom of the original package. Nevada statutes do not define a percentage for the purpose of tax stamp that must be present.

**Tax Credit/Refund:** pursuant to NRS 370.280(3)(a-c), refunds of cigarette stamps are only allowed for certain circumstances, other than packages sold to US Government or Tribal entities:

The balance of unused stamps on the descending register of a cigarette meter machine destroyed by fire, if the cigarette meter counting positions can be determined by the manufacturer of the meter stamping machine;

Cigarettes which were stamped on their carton covers because of stamping machine failure to open the carton and stamp the cigarette packs; or

Cigarettes which were not stamped but were registered on the machine as being stamped because of failure of the meter counters.

Nevada statutes currently do not allow tax credit/refunds to wholesale dealers for un-affixed cigarette tax stamps.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

In order to apply and receive the refund, the following procedure must be followed:

The wholesale dealer, manufacturer or their representatives must apply to the Department for a refund of cigarette revenue stamp taxes paid after the cigarettes are destroyed by the manufacturer. Applications for refund shall be submitted in an amount not less than \$15 and must be accompanied by an affidavit of the wholesale dealer, manufacturer or their representatives setting forth:

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- (a) The number of packages of cigarettes destroyed for which refund is claimed;
- (b) The date or dates on which the cigarettes were destroyed and the place where destroyed;
- (c) That the cigarettes were actually destroyed because they had become stale;
- (d) By whom the cigarettes were destroyed; and
- (e) Other information which the Department may require.

Pursuant to section “e”, the Department requires an affidavit from the manufacturer to whom the cigarettes were returned and destroyed by to be submitted with the application for refund. All refunds are issued in electronic funds transfers (EFT) to the account of the wholesale dealer, manufacturer or their representatives on file with the Nevada Controller’s Office.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

**Section 8 – Other Allowed Credits**

Pursuant to NRS 370.490, the Department shall allow a credit of 30% of the wholesale price, less a discount of .25% for the services rendered in collecting the tax for OTP on which the tax has been paid pursuant to NRS 370.450 and that may no longer be sold. The credit is only allowed if a credit memo from the manufacturer for the returned products accompanies the OTP return.

**Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

The Department will request additional information from cigarette wholesale dealer regarding any discrepancies found during the review of the Cigarette Inventory Report. The additional information requested can vary depending on the situation described by the wholesale dealer.

**Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

All wholesale dealers who purchase and affix stamps must keep an on-hand inventory of all stamps by roll number and how many stamps remain on each roll in their possession at all times. In addition, the on-hand inventory of stamps must be kept under lock and key until the roll is needed by the wholesale dealer.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

PACT Act Reports are required to be filed by any out-of-state person or company that sells, ships, transfers or otherwise disposes of cigarettes, roll-your-own cigarette tobacco and/or smokeless tobacco for a profit in Nevada. These reports must be filed with both the Department and the AG and must be postmarked on or before the 10<sup>th</sup> of the month following the reporting period to be considered timely. The reports can be sent to both agencies via postal mail, fax or email to [taxation-adminMSA@tax.state.nv.us](mailto:taxation-adminMSA@tax.state.nv.us) and [tobaccoenforcement@ag.nv.gov](mailto:tobaccoenforcement@ag.nv.gov). The person or company can complete the Nevada PACT Act Reporting Form in its entirety or a company must file the 1<sup>st</sup> page of the Nevada PACT Act Reporting Form and can then send a spreadsheet with same required information as on the standard reporting form. The PACT Act Reporting Form is available on both the Department's website, [https://tax.nv.gov/Forms/Cigarette\\_and\\_Other\\_Tobacco\\_Products\\_Tax\\_Forms/](https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/), and the AG's website, [http://ag.nv.gov/Hot\\_Topics/Issue/Tobacco/](http://ag.nv.gov/Hot_Topics/Issue/Tobacco/).

**STATE OF NEW HAMPSHIRE**  
(Last updated 06/2019)

**General Information**

**Section 1 - Contact Information**

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**Website:** [Tobacco@dra.nh.gov](mailto:Tobacco@dra.nh.gov)

**Contact Name:** Lisa Qualter, Lead Tobacco Auditor

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## **Section 2 - Statutes, Regulations and Rules**

NH Tobacco Statutes (RSA 78): <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-V-78.htm>

NH Tobacco Rules (REV 1000):

[http://www.gencourt.state.nh.us/rules/state\\_agencies/rev1000.html](http://www.gencourt.state.nh.us/rules/state_agencies/rev1000.html)

NH Technical Information Releases: <http://www.revenue.nh.gov/tirs/technical-releases.htm>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

**Cigarettes** –RSA 78: XVII. (a) In conformity with RSA 541-C:2, IV, "cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
- (2) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
- (3) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (a)(1).

(b) The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

**Tobacco Products** – RSA 78: XIV. "Tobacco products" mean cigarettes, loose tobacco, smokeless tobacco, and cigars, but shall not include premium cigars.

## **Section 4 - The Basis for the Tax**

### **Cigarettes**

RSA 78:7 Tax Imposed - A tax upon the retail consumer is hereby imposed at the rate of \$1.78 for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

### **Other Tobacco Products (OTP)**

RSA 78:7-c Tax Imposed on Tobacco Products Other Than Cigarettes. – A tax upon the retail consumer is hereby imposed on tobacco products other than cigarettes at a rate of 65.03 percent of the wholesale sales price. The tax under this section may be rounded to the nearest cent if the commissioner determines that the amount of tax would not thereby be made materially disproportionate. No such tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States. No such tax shall be imposed on premium cigars.

RSA 78:1 III-a. "Wholesale sales price" means the established price for which a manufacturer sells tobacco products other than cigarettes to a wholesaler, exclusive of any discount or other reduction.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes - \$1.78 per pack of 20 cigarettes/\$2.23 per pack of 25 cigarettes.

Little Cigars (defined as a cigarette) - number sold multiplied by the rate of \$.089.

RYO (defined as a cigarette) – Total weight in ounces divided by .09 then multiplied by \$.089.

Other Tobacco Products (OTP) – 65.03% of the wholesale sales price.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

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New Hampshire does not currently tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products. However, there is legislation which could pass which would tax the products effective 1/1/2020.

### **Section 6 - Rate Updates**

No rate changes are proposed at this time.

### **Section 7 - State Collection Allowance or Discount**

There are no discounts given to wholesalers in NH.

### **Section 8 - Any Other Permissible Allowances**

There are currently no permissible allowances given in NH.

### **Section 9 – The Point at Which Tax is Imposed**

Currently, the tax is imposed at the time of sale from a NH licensed wholesaler to either another NH licensed wholesaler, a NH licensed sub-jobber or a NH licensed retailer.

### **Section 10 - Tax Return Due Dates**

All wholesalers shall report their tax liability for the collection of the tax on a monthly basis. A return is due on or before the fifteenth day of the month following the end of the reporting period. U.S Post Office postmark is proof of date filed.

### **Section 11 – Tax Return Filings**

Tobacco returns must be mailed into the department. We currently do not have an e-file option for tobacco returns.

### **Section 12 – Tax Collection**

Tobacco returns do not currently require an electronic payment. The wholesalers can mail in a check with their returns.

### **Section 13 - Penalties for Late Filing**

Failure to Pay Penalty: A penalty equal to 10% of any nonpayment or underpayment of taxes shall be imposed if the taxpayer fails to pay the tax when due. If the failure to pay is due to fraud, the penalty shall be 50% of the amount of the nonpayment or underpayment.

Failure to File Penalty: A taxpayer failing to timely file a complete return may be subject to a penalty equal to 5% of the tax due or \$10, whichever is greater, for each month or part thereof that the return remains unfiled or incomplete. The total amount of this penalty shall not exceed 25% of the balance of tax due or \$50, whichever is greater.

### **Section 14 – Local Jurisdictional Tax**

None noted.

### **Section 15 - Floor Stock Tax**

Every tax rate change is dependent upon the will of the NH legislature who determines how the change will take affect and any actions the department is required to take in regards to the tax change.

### **Section 16 – Qualifying Exemptions**

Premium Cigars are exempt from tax as long as they meet the following definition:

RSA 78:1 XXI. "Premium cigars" means cigars which :

- (a) Are made entirely by hand of all natural tobacco leaf;
- (b) Are hand constructed and hand wrapped;
- (c) Weigh more than 3 pounds per 1,000 cigars; and
- (d) Are kept in a humidor.

Sales of tobacco products to residents of the Veterans home are exempt from tax in accordance with RSA 78:7-b Exemption. – Notwithstanding the provisions of RSA 78, no state tax shall be imposed on tobacco products sold at the New Hampshire veterans' home to residents of said home; provided, that no such resident shall be permitted to purchase more than 2 such tax exempt cartons of cigarettes in any one week.

### **Section 17 - Laws or Rules for Tribal Sales**

NH does not have any tribal sales.

## **Section 18 - Information Required on a Customer Invoice**

Statement from the wholesaler that the “NH tobacco tax has been paid.”

## **Section 19 – Responsibility by Agency**

MSA Reporting: NH Department of Justice, Office of the Attorney General  
Enforcement/Collection: NH Department of Revenue Administration  
Product Seizure Authority: NH Department of Revenue Administration

## **Section 20 – New or Pending Legislation**

NH currently has no pending legislation.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The current age for purchasing cigarettes in NH is 18. However, there are three localities in NH which have passed laws requiring an individual to be 21 to purchase cigarettes. (Keene, Dover, Newport)

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

The minimum age for anyone selling cigarettes or tobacco products is 18.

**Is there a minimum age for possession of cigarettes or tobacco products?**

The minimum age for possession of cigarettes or tobacco products is 18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

There are no minimum pricing laws in NH.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

There are currently no flavor bans at any state, county, city or local level.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

There are no bans from pharmacies selling cigarettes or tobacco products in NH.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

There are currently no public outside smoking bans in the state or any county, city or locality.

Tobacco Tax Information by State v. 07.22.19



## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

There is no modified risk legislation in NH.

## **License Information**

The licensing requirements per RSA 78:2 Licenses.-

Each manufacturer, wholesaler, and sub-jobber shall secure a license from the commissioner before engaging in the business of selling or distributing tobacco products in this state or continuing to engage in such business. Each wholesale and sub-job outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person. The commissioner shall issue a license upon application stating such information necessary to identify the outlet and the character of business transacted. The fees for licenses shall be: \$100 for a manufacturer's license; \$250 for a wholesaler's license; and \$150 for a sub-jobber's license, for the purpose of helping to pay the cost of administering this chapter. Each license shall be prominently displayed on the premises described in it. Any person who shall sell, offer for sale or possess with intent to sell any tobacco products without such license as provided in this section or under RSA 178 shall be subject to the penalty provisions of RSA 21-J:39.

\*Every retail location that sells taxable tobacco products in NH must obtain a license through the NH Liquor Commission.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

NH currently licenses manufacturers, wholesalers and sub-jobbers every even year on July 1st. The same license is obtained for selling both cigarettes and other tobacco products. NH does not currently tax electronic nicotine delivery systems or premium cigars therefore, neither require a license to be sold.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

There are no bond requirements for licensing, however if stamping wholesaler wishes to buy tobacco stamps on credit they must provide a bond and can purchase up to 75% of the bonds value. The wholesaler then has 30 days to pay for the stamps.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

NH does license manufacturers. They are licensed biannually on even years and the cost is \$100.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

NH has four separate tax stamps:

**A Stamp** – Used for packs of 25 cigarettes from a participating manufacturer, yellow in color, numerical designation and heat applied.

**B Stamp** – Used for packs of 20 cigarettes from a participating manufacturer, green in color, numerical designation and heat applied.

**C Stamp** – Used for packs of 20 cigarettes from a non-participating manufacturer, blue in color, numerical designation and heat applied.

**D Stamp** – Used for packs of 25 cigarettes from a non-participating manufacturer, yellow in color, numerical designation and heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There are two rows of serial numbers on NH cigarette stamps. One number represents the unique roll ID, and the other is the number of the stamp in the roll.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

NH does not require stamping or any other identifying marks on anything other than cigarettes.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

New Hampshire does have a tax stamp to apply to packs of 25 sticks.

### **Section 2 – Acquiring Stamps**

A wholesaler has the option to purchase tax stamps by the following methods:

1. Charging the purchases to the wholesaler’s credit account; or
2. Immediate payment for the total amount of the order by presenting the department with cash, a money order issued through a third party payable to the State of NH, a cashier’s check payable to the State of NH or a certified check payable to the State of NH.

**How are stamps delivered to the wholesaler/distributor?**

The wholesaler can either pick up the stamps or they will be shipped to them through common carrier.

**Must a wholesaler/distributor have a FedEx and/or UPS account on file with DOR?**

They must have an account with the common carrier being used.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Unless the taxpayer has a bond with the state, payment is due immediately to purchase stamps and must be made by cash or bank check. If the taxpayer provides a bond, they are allowed to purchase stamps in an amount up to 75% of the bonds value. Payment after that must be made within 30 days and can be paid with a company check.

**Section 3 - Bond Requirements**

Rev 1005.03 Purchases of Tax Stamps on Credit.

(a) To open a credit account and charge purchases of tax stamps, wholesalers shall submit a written request to:

New Hampshire Department of Revenue Administration  
Collections Division  
P.O. Box 454  
Concord N.H. 03302-0454.

(b) The request shall be accompanied by:

- (1) The wholesaler's most recent financial statement prepared in accordance with generally accepted accounting principles;
- (2) The names, addresses and telephone numbers of 3 credit references; and
- (3) A completed Form CD-18, "Tobacco Tax Credit Bond", in accordance with Rev 1009.06.

A wholesaler shall not have an outstanding balance for more than 30 days for charged purchases in an amount not to exceed 75% of the bond amount.

Wholesalers shall be required to pay for a charged order within 30 calendar days of shipment of the tax stamps.

Wholesalers may pay for orders charged to their credit account using a noncertified company check.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

NH does not allow transfer of unaffixed cigarette stamps.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No, a wholesaler/distributor may only purchase unstamped products from a manufacturer.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes. Wholesalers are allowed a refund for misapplied cigarette tax stamps.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

REV 1002.01 Requirements for Use of Stamps.

- (j) A stamp affixed to an individual package shall be deemed to comply with this section only if:
- (1) A single stamp is affixed to each package;
  - (2) The stamp as at least 75% visible; and
  - (3) The stamp's numerical designation is legible.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

Rev 1005.05 Refunds for Stamps on Outdated, Damaged or Unsaleable Cigarettes for Wholesalers.

- (a) Wholesalers shall obtain refunds for tax paid on outdated, damaged or unsaleable returned cigarettes, as provided by RSA 78:10, by completing a Form CD-92, “Notice of Intent to Return Damaged or Obsolete Cigarettes to Manufacturer,” and filing it with the department’s collections division, in accordance with Rev 1009.07, at least 10 business days prior to shipping the cigarettes back to the manufacturer.
- (b) Form CD-92, “Notice of Intent to Return Damaged or Obsolete Cigarettes to Manufacturer”, shall be accompanied by copies of all documents used by the wholesaler to return the cigarettes to the manufacturer.
- (c) After filing Form CD-92, wholesalers shall file with the department all affidavits from the manufacturer verifying the receipt, the date, and method of destruction of the cigarettes for which the refund is being claimed.

- (d) The affidavits in (c) above shall be mailed to:  
New Hampshire Department of Revenue Administration  
Collections Division  
P. O. Box 454  
Concord, New Hampshire 03302-0454.

(d) Upon receipt of all required documents, the department shall issue the refunds. The amount of the refund shall be calculated using the tax rate and wholesale price in effect at the time the tobacco product was purchased.

(e)

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refunds on stamped packs returned to the manufacturer are paid by check.

### **Section 8 – Other Allowed Credits**

Rev 1003.03 Credits or Refunds for Returned OTP for Wholesalers.

(a) Wholesalers shall obtain credits or refunds for outdated, damaged or unsaleable returned OTP, as provided by RSA 78:10, by either of the following methods:

(1) By taking a credit of the amount due against the tax liability on their Form DP-151, “Wholesalers’ Other Tobacco Products Tax Return”; or

(2) By mailing a written request to the department for a refund to:

New Hampshire Department of Revenue Administration  
Collections Division  
P. O. Box 454  
Concord, New Hampshire 03302-0454.

(b) The amount of credit or refund shall be calculated using the tax rate and wholesale sales price in effect at the time the tax was paid.

(c) Each wholesaler requesting a credit or refund shall also provide copies of:

(1) Invoices showing the following:

- a. The name and address of the retailer returning the OTP to the wholesaler;
- b. The date the OTP was sent back to the wholesaler;
- c. The description and quantity of OTP returned by the retailer to the wholesaler; and
- d. The reason the OTP was returned;

(2) Any documents used by the wholesaler to return the OTP to the manufacturer; and

(3) All affidavits from the manufacturer verifying the receipt and destruction of the OTP for which the credit or refund is being claimed.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

NH statutes define little cigars that are packed in 20 or 25 sticks/pack and are deemed cigarettes, to be stamped. NH does not allow stamping of packs other than 20 or 25 sticks. Any packs other than 20 or 25 sticks, must file and pay monthly on for DP-151 and pay on a per stick basis.

## **PACT Act Reporting**

NH follows the federal guidelines for PACT ACT reporting.

**STATE OF NEW JERSEY**  
(Last updated 04/2019)  
**PARTIAL INFORMATION RECEIVED**  
**General Information**

**Section 1 - Contact Information**

**Agency:** New Jersey Division of Revenue and Enterprise Services

**Mailing Address:** P O Box 252

**City, State, Zip Code:** Trenton, NJ 08646

**Phone Number:** 609-292-9292 (Call Center)

**Website:** <https://www.state.nj.us/treasury/revenue/>

**Contact Name:** Penny Filipowicz

**Agency:** New Jersey Division of Taxation

**Mailing Address:** P O Box 187

**City, State, Zip Code:** Trenton, NJ 08695

**Phone Number:** 609-633-8878

**E-mail Address:** Penny.Filipowicz@treas.nj.gov

**Website:** <https://www.state.nj.us/treasury/taxation/cigarette.shtml>

**Contact Name:** Jesse J. Sierant, Deputy Attorney General

**Agency:** Attorney General Office/ Department of Justice

**Mailing Address:** Division of Law, 124 Halsey Street, 5th Floor

**City, State, Zip Code:** Newark, New Jersey 07101

**Phone Number:** (973) 648-3416

**Fax Number:** (973) 648-3956

Tobacco Tax Information by State v. 07.22.19

**E-mail Address:** [Jesse.Sierant@law.njoag.gov](mailto:Jesse.Sierant@law.njoag.gov)

**Website:** [https://www.nj.gov/oag/oag\\_tobacco.html](https://www.nj.gov/oag/oag_tobacco.html)

## **Section 2 - Statutes, Regulations and Rules**

<http://www.njleg.state.nj.us/>

N.J.S.A. 54:40A-1 et seq. New Jersey Cigarette Tax Act

N.J.A.C. 18:5-1.1 et seq. New Jersey Cigarette Tax Act rules

N.J.S.A. 54:40B-1 et seq. New Jersey Tobacco and Nicotine Products Wholesale Sales and Use Tax Act

N.J.S.A. 52:4D-1 et seq. New Jersey Statute regarding Cigarette smoking, health, financial concerns to State; policy (MSA Statute)

N.J.S.A. 56:7-18 et seq. New Jersey Unfair Cigarette Sales Act of 1952 (minimum pricing)

N.J.A.C. 18:6-1 et seq. New Jersey Unfair Cigarette Sales Act rules (minimum pricing)

N.J.S.A. 2C:33-13.1 Sale of cigarettes, electronic smoking devices to persons under age 21, petty disorderly persons offense

N.J.S.A. 2A:170-51.4 Sale, distribution of tobacco, electronic smoking device to persons under age 21; prohibited; civil penalties

N.J.S.A. 26:3D-55 et seq. New Jersey Smoke-Free Air Act

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

- Cigarettes are taxed under N.J.S.A. 54:40A-1 et seq. New Jersey Cigarette Tax Act, at the current rate of \$2.70 per pack.
- "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.
- Other tobacco products are taxed under N.J.S.A. 54:40B-1 et seq. New Jersey Tobacco and Nicotine Products Wholesale Sales and Use Tax Act. The rates are as follows: Tobacco products – 30% of the wholesale price, Moist Snuff - \$.75 per ounce, Liquid nicotine \$.10 per fluid milliliter (starting 9/29/2018). The definitions are as follows:
- Tobacco product" means any product containing, made, or derived from any tobacco, nicotine, or other chemicals or substances for consumption by a person, including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, dry and moist snuff, and liquid nicotine, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.).
- Moist snuff" means any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the oral cavity, but does not include dry snuff.



- Liquid nicotine" means any solution containing nicotine that is designed or sold for use with an electronic smoking device.

#### **Section 4 - The Basis for the Tax**

For tobacco products, "Wholesale price" means the actual price for which a manufacturer sells tobacco products to a distributor. The tax is 30% of the wholesale price for tobacco products, \$.75 per ounce for Moist Snuff, and \$.10 per fluid milliliter for Liquid nicotine (starting 9/29/2018).

#### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes are taxed at the current rate of \$2.70 per pack.

The rates are as follows for: Tobacco products – 30% of the wholesale price, Moist Snuff - \$.75 per ounce, Liquid nicotine \$.10 per fluid milliliter (starting 9/29/2018).

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

New Jersey taxes liquid nicotine.

54:40B-3.2 Tax imposed on liquid nicotine.

5. a. There is imposed a tax upon the sale, use, or distribution of liquid nicotine within this State by a distributor or wholesaler to a retail dealer or consumer at the rate of \$0.10 per fluid milliliter on the volume of the liquid nicotine as listed by the manufacturer, and a proportionate rate on all fractional parts of a fluid milliliter of volume of liquid nicotine as listed by the manufacturer.

b. Unless liquid nicotine has already been or will be subject to the tax imposed in subsection a. of this section, if a distributor or wholesaler uses the liquid nicotine within the State, there is imposed upon the distributor or wholesaler a compensating use tax of \$0.10 per fluid milliliter of the volume of liquid nicotine as listed by the manufacturer, and a proportionate rate on all fractional parts of a fluid milliliter of the volume of liquid nicotine as listed by the manufacturer.

c. Unless a tax is due pursuant to subsection b. of this section, if a distributor or wholesaler has not paid the tax imposed in subsection a. of this section upon a sale that is subject to the tax imposed in that subsection a., there is imposed upon the retail dealer or consumer chargeable for the sale a compensating use tax of \$0.10 per fluid milliliter on the volume of the liquid nicotine as listed by the manufacturer, and a proportionate rate on all fractional parts of a fluid milliliter of the volume of liquid nicotine as listed by the manufacturer, which shall be collected in the manner provided in subsection b. of section 5 of P.L.1990, c.39 (C.54:40B-5).

## **Section 6 - Rate Updates**

### **Are any tax rates expected to change in the near future?**

Liquid nicotine was not previously taxed. Effective 9/29/2018, the tax on liquid nicotine is \$.10 per fluid milliliter.

## **Section 7 - State Collection Allowance or Discount**

Is there a discount given to wholesalers/distributors for collecting and remitting taxes?

- No, but there is a discount when the distributor buys the Cigarette Tax Stamps.

If so, how much is the discount for each tax type?

- A discount of .00166667 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$ 2.70, when the number purchased is 1,000 stamps or more, or in multiples of 30,000 stamps for machine applied stamps.

## **Section 8 - Any Other Permissible Allowances**

**Is there an allowance for bad debt credits? Is there an allowance for theft?**

No.

## **Section 9 – The Point at Which Tax is Imposed**

At the time of sale, when the stamp is applied, when the product is brought into the state, etc.

- For cigarettes, the tax is paid when the stamps are purchased by the distributor. The tax is imposed on the sale, use or possession for sale or use within this State of all cigarettes.
- For Tobacco Products & Liquid Nicotine, the tax is due at the time of the sale, use or distribution within the state.

## **Section 10 - Tax Return Due Dates**

Most of the Cigarette Tax returns are due on the 20th day of the month for the preceding month's sales. However, some of the returns are due on the 10th. The Tobacco Tax returns are due on the 20th. The postmark date is used for timely filed tax returns, and if the due date falls on a holiday or weekend, then the 1st business day after the holiday or weekend is the due date.

## **Section 11 – Tax Return Filings**

All of the Cigarette and Tobacco Tax returns are paper returns that must be mailed in.

## **Section 12 – Tax Collection**

The Cigarette Tax is paid by ACH to NJ Division of Revenue.

The Tobacco Tax is paid by a check mailed in with the return, or by EFT.

## **Section 13 - Penalties for Late Filing**

The late filing penalty is 5% for each month or fraction thereof that such return is delinquent, not to exceed 25%. There is also a 5% Amnesty penalty for any returns that qualified for Amnesty that were not filed. For habitually delinquent taxpayers, there is a \$100 per month late filing penalty also.

## **Section 14 – Local Jurisdictional Tax**

There are no local jurisdictional taxes.

## **Section 15 - Floor Stock Tax**

Yes, there is a floor stock tax on the inventory in your possession at the close of business on the day prior to enactment of the new tax rate

## **Section 16 – Qualifying Exemptions**

Sales occurring at U.S. Military or Veterans Administration facilities are exempt.

## **Section 17 - Laws or Rules for Tribal Sales**

New Jersey has no Tribal territories

## **Section 18 - Information Required on a Customer Invoice**

New Jersey's invoice requirements include, but not limited to, names and addresses of seller and purchaser, invoice number and date, quantity sold, and price of product. Excise tax is reflected only on non-cigarette tobacco products.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Department of Revenue  
Enforcement/Collection: Department of Revenue  
Product Seizure Authority: Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

List any new or pending legislation

## **Section 21 – Other Laws, Rules, or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

21.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

21.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. 56:7-21. "Cost to the retailer" defined

a. The term "cost to the retailer" shall mean the "basic cost of cigarettes" to the retailer plus the "cost of doing business by the retailer," as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising; provided, that any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler shall, in determining "cost to the retailer," pursuant to this subsection, add the "cost of doing business by the wholesaler," as defined in section five of this act, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer."

b. In the absence of the filing with the director of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer" shall be presumed to be eight per centum (8%) of the "basic cost of cigarettes" to the retailer.

c. In the absence of the filing with the director of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer," who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall

be presumed to be eight per centum (8%) of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler."

56:7-22. "Cost to the wholesaler" defined

a. The term "cost to the wholesaler" shall mean the "basic cost of cigarettes" to the wholesaler plus the "cost of doing business by the wholesaler," as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising.

b. In the absence of the filing with the director of satisfactory proof of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be 5.25% of the "basic cost of cigarettes" to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the director of satisfactory proof of a lesser or higher cost, shall be deemed to be 3/4 of 1% of the "basic cost of cigarettes" to the wholesaler.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Yes, cigarettes may not be flavored other than menthol.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes, smoking is prohibited in an indoor public place or workplace or at a public park or beach. Smoking is prohibited in any area of any building of, or on the grounds of, any public or nonpublic elementary or secondary school, regardless of whether the area is an indoor public place or is outdoors.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute**

No.

## **License Information**

Tobacco products sellers are not licensed in New Jersey.

Cigarette licensing falls under N.J.S.A. 54:40A-4, which is listed below:

54:40A-4 License; issuance, fees.

202. a. All licenses shall be issued by the director, who shall make rules and regulations respecting applications therefor and issuance thereof.

b. The following individuals related to distributors, wholesale dealers, retail dealers operating more than nine cigarette vending machines, and retail dealers who sell cigarettes at retail at more than nine premises shall submit with applications for a license, fingerprints, which shall be processed through the Federal Bureau of Investigation and the New Jersey State Police, and such other information as the director may require:

- (1) Individuals having any interest whatsoever in a proprietorship or company.
- (2) Partners of a partnership, regardless of percentage.
- (3) Joint venturers in a joint venture.
- (4) Officers, directors, and all stockholders holding directly or indirectly a beneficial interest in more than 5% of the outstanding shares of a corporation.
- (5) Employees receiving in excess of \$30,000.00 per annum compensation whether as salary, commission, bonus or otherwise and persons who, in the judgment of the director are employed in a supervisory capacity or have the power to make or substantially affect discretionary business judgments of the applicant entity with regard to the cigarette business.

(6) Other persons who the director establishes have the ability to control the applicant entity through any means including but not limited to, contracts, loans, mortgages or pledges of securities where such control is inimical to the policies of this act because such person is a career offender or a member of a career offender cartel as defined in paragraph (2) of subsection e. of this section. Individuals licensed pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) shall only be required to produce evidence of said licensure in satisfaction of the foregoing.

The provisions in this subsection as to wholesale dealers, retail dealers operating more than nine cigarette vending machines, and retail dealers who sell cigarettes at retail at more than nine premises do not apply to retail grocery stores and supermarkets primarily engaged in the self-service sale of foods and household supplies for off-premises consumption, to drug stores and pharmacies engaged in the retail sale of prescription drugs and patent medicines and which may carry a number of lines of related merchandise, or to restaurants, hotels and motels operated by national corporations with such premises in six or more states and primarily engaged in the sale of foods for retail consumption or in the rental of rooms for lodging.

c. (1) The director shall not issue any license under this act where he has reasonable cause to believe that anyone required to submit information under this act has willfully withheld information requested of him for the purpose of determining the eligibility of the applicant to receive a license or where the director has reasonable cause to believe that information submitted in the application is false and misleading and is not made in good faith.

(2) The director shall not issue a license under this act to a person that is a manufacturer or importer of cigarettes, tobacco products or processed tobacco if the manufacturer or importer does not possess a valid federal permit issued pursuant to section 5713 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.5713, that is not suspended or revoked.

d. The director shall not issue any license under this act where he has reasonable cause to believe that anyone required to be licensed or anyone required to submit information under this act, has been convicted of any offense in any jurisdiction which would be at the time of conviction a crime involving moral turpitude.

It is further provided that any applicant or person required to submit information who has a charge pending pursuant to any of the foregoing shall disclose that fact to the director. The

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director may then withhold action on new applications or, in the case of an application for the renewal of a license, issue a temporary license until there has been a disposition of the charge. The director shall have the discretion to waive the prohibition against licensure herein provided upon the presentation of proof that a period of not less than five years has elapsed since the last conviction or the expiration of any period of incarceration imposed with respect thereto.

e. The director shall not issue any license where the applicant or anyone required to submit information has been identified as a career offender or a member of a career offender cartel in such a manner as to create a reasonable belief that the association is of such a nature as to be inimical to the policies of this act or to the taxation, distribution, and sale of cigarettes within the State. The director may request the Attorney General for advice respecting whether a person is a "career offender" within the meaning of this subsection, or is a "contumacious defiant" within the meaning of subsection f. of this section.

As used in this subsection:

(1) "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State; and (2) "career offender cartel" means any group of persons who operate together as career offenders.

f. The director shall not issue any license where the applicant or anyone required to submit information has been found to be contumaciously defiant before any legislative investigative body or other official investigative body of this State or of the United States when such body is engaged in the investigation of organized crime, official corruption or the cigarette industry itself.

g. Each such license shall lapse on March 31 of the period for which it is issued, and each such license shall be continued annually upon the conditions that the licensee shall have paid the required fee and complied with all the provisions of this act and the rules and regulations of the director made pursuant thereto.

h. For each license issued to a distributor there shall be paid to the director a fee of \$350.00. If a distributor sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license shall be required for each place of business. Each license, or certificate, thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director. The director shall require each licensed distributor to file with him a bond in an amount not less than the average monthly value of the cigarette stamps used by the licensed distributor to guarantee the proper performance of his duties and the discharge of his liabilities under this act. The bond shall be executed by such licensed distributor as principal, and by a corporation approved by the director and duly authorized to engage in business as a surety company in the State of New Jersey, as surety. The bond shall run concurrently with the distributor's license.

For each license issued to a manufacturer, and for each continuance thereof, there shall be paid to the director a fee of \$10.00.

For each license issued to a manufacturer's representative, and for each continuance thereof, there shall be paid to the director a fee of \$5.00.

For each license issued to a wholesale dealer there shall be paid to the director a fee of \$250.00. If a wholesale dealer sells or intends to sell cigarettes at 10 or more places of business, whether established or temporary, a separate license shall be required for each place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director.

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For each license issued to a retail dealer and for each continuance thereof, excepting a retail dealer operating a cigarette vending machine, there shall be paid to the director a fee of \$40 in 1996 and \$50 in 1997 and each year thereafter. For each license issued to a retail dealer operating a vending machine for the sale of cigarettes and for each continuance thereof, there shall be paid to the director a fee of \$40 in 1996 and \$50 in 1997 and each year thereafter. Of the license fee of \$40 and \$50, respectively, \$30 shall be credited in 1996 and \$40 shall be credited in 1997 and each year thereafter to the special projects and development fund in the Department of Health and Senior Services established pursuant to section 7 of P.L.1966, c.36 (C.26:2F-7) for the purposes specified therein, and \$5 shall be credited each year, beginning with 1996, to the division for administrative costs associated with the requirements established pursuant to subsection i. of this section and section 2 of P.L.1995, c.320 (C.26:3A2-20.1). The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected by the director which are to be credited to the special projects and development fund in the Department of Health.

If a retail dealer sells or intends to sell cigarettes at two or more places of business, whether established or temporary, or whether in the same building or not, a separate license shall be required for each place of business. Each vending machine for the sale of cigarettes shall be separately licensed and be deemed a separate place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director.

Any person licensed only as a distributor or as a manufacturer or as a manufacturer's representative or as a wholesale dealer or as a retail dealer shall not operate in any other capacity except under that for which he is licensed herein, unless the appropriate license or licenses therefor are first secured.

For each license issued to a consumer and for each continuance thereof there shall be paid to the director a fee of \$1.00. Each license, or certificate thereof, or such other evidence of license as may be prescribed by the director, shall be so kept by the consumer as to be readily available for inspection.

No license shall be issued to any person except upon the payment of the full fee therefor, any statute or exemption to the contrary notwithstanding. No license shall be assignable or transferable, except as hereinafter provided, but in the case of death, bankruptcy, receivership, or incompetency of the licensee, or if for any other reason whatsoever the business of the licensee shall devolve upon another by operation of law, the director may, in his discretion, extend said license for a limited time to the executor, administrator, trustee, receiver, or person upon whom the same has devolved. A purchaser or assignee of a licensed wholesaler or licensed distributor, or any other person upon whom the business of a licensed wholesaler or licensed distributor shall devolve by operation of law, shall upon application to the director, be entitled to an assignment or transfer of the wholesale or distributor license for the balance of the existing license period upon payment of a transfer fee of \$5.00 and subject to his qualification to be a licensed wholesaler or licensed distributor under the provisions of this act. The license issued for each vending machine for the sale of cigarettes may be transferred from machine to machine in the same ownership. No refund of the license fee shall be paid to any person upon the surrender or revocation of any license except a license fee paid or collected in error. But, upon payment of a \$1.00 fee, there may be obtained (1) a duplicate license, or certificate thereof, in the event the original is lost, destroyed or defaced, and (2) an amended license, or certificate thereof, upon a change in the location of the place of business of any distributor or dealer.



i. The director shall require an applicant for a cigarette retail dealer license, including a license to operate a vending machine for the sale of cigarettes, to include on the application the address of the place of business where the cigarettes will be sold or the address where the vending machine will be located, as the case may be.

If the place of business or the vending machine is moved to a different address than that provided on the license application, the licensee shall notify the director within 30 days of the change of address.

## **Section 1 – License Renewal**

Do licenses need to be renewed and if so, how frequently?

Yes, licenses are renewed annually. The license period is April 1 to March 31.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes. A non-resident Cigarette Wholesaler must obtain a \$2,000 performance bond. A Cigarette Distributor that buys cigarette stamps on credit must obtain a bond as follows:

### **54:40A-13. Credit sales of revenue stamps**

The director, in his discretion, may permit a licensed distributor to pay for revenue stamps within thirty days after the date of purchase; provided, a bond or an irrevocable letter of credit, issued by a State or federally chartered bank, that is satisfactory to the director in an amount not less than the sales price of such stamps shall have been filed with the director. The bond, conditioned to secure payment for such stamps, shall be executed by the licensed distributor, as principal, and by a corporation duly authorized to engage in business as a surety company in the State of New Jersey, as surety.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

New Jersey's Cigarette Revenue Stamp is currently a shade of yellow; heat applied, typically by machine; utilizes a two row numbering system, one row identifying the roll's serial number and the other an individual stamp sequence number; stamp also contains security features such as variable image.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes, but it is no longer used.

**What percentage of the stamp is required to be applied to be considered a valid stamp?**

75% of the stamp and a legible serial number on the pack.

## **Section 2 – Acquiring Stamps**

Stamps are ordered from NJ Revenue directly from licensed NJ Cigarette Distributors, businesses authorized to both buy stamps and unstamped cigarettes from manufacturers. In New Jersey, the Distributors stamp the cigarettes.

New Jersey contracts with UPS and sends stamps to Cigarette Distributors via next day ground shipping. The Cigarette Distributor also has the option to pick up the stamps from New Jersey Division of Revenue, or provide their FedEx account number for shipment.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

The payment is made by ACH on the same day that the stamps are ordered. A Cigarette Distributor that buys cigarette stamps on credit must obtain a bond as follows:

### **54:40A-13. Credit sales of revenue stamps**

The director, in his discretion, may permit a licensed distributor to pay for revenue stamps within thirty days after the date of purchase; provided, a bond or an irrevocable letter of credit, issued by a State or federally chartered bank, that is satisfactory to the director in an amount not less than the sales price of such stamps shall have been filed with the director. The bond, conditioned to secure payment for such stamps, shall be executed by the licensed distributor, as principal, and by a corporation duly authorized to engage in business as a surety company in the State of New Jersey, as surety.

## **Section 3 - Bond Requirements**

If the Distributor uses the 30 day payment option, they must provide a Cigarette Tax Stamp Credit Bond in the amount of the largest dollar amount of stamps that they would purchase in one month. They are not allowed to purchase stamps in a dollar amount larger than the bond in any 30 day period.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No. Our wholesalers are not allowed to possess unstamped cigarettes

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

NJSA 54:40A-19 and NJAC 18:5-4.1 et seq. New Jersey issues a refund for misapplied or unusable tax stamps. The policy is 75% (3/4 of a stamp) and a visible serial number must be present to qualify for a tax stamp refund.

## **Section 6 – Refund Limitations**

The refund limitation is four years from the sale date.

## **Section 7 – Credit Process for Manufacturer Returns**

NJ Cigarette Distributes returning product to the manufacturer will receive an affidavit, affirming the number of NJ stamps affixed to packs. This affidavit is submitted with the refund claim form.

## **Section 8 – Other Allowed Credits**

For tobacco products, the taxpayer is allowed to take a credit against their sales for the current month, and pay the tax on the net sales. If the credit is more than the current month's sales, they are allowed to carry the credit forward to the next month until it is used up. We do not refund for returned tobacco products.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

In New Jersey, our Resident Distributors report based on unstamped cigarettes for inventory purposes. If there is a discrepancy between the tax stamps used and the cigarettes stamped, then we will assess during the course of an audit. If the distributor experiences a theft or physical

inventory loss adjustment of unstamped cigarette inventory, then they are required to report it in a timely manner, and pay the tax on the unstamped cigarettes that were stolen or lost.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No.

### **PACT Act Reporting**

PACT Act reports are filed by email.

# STATE OF NEW MEXICO

(Last updated 11/2017)

## General Information

### Section 1 - Contact Information

**Contact Name:** Phillip Bachicha

**Agency:** New Mexico Office of the Attorney General

**Mailing Address:** 408 Galisteo Street

**City, State, Zip Code:** Santa Fe, NM 87501

**Phone Number:** 505-490-4055

**Fax Number:** 505-490-4881

**E-mail Address:** [pbachicha@nmag.gov](mailto:pbachicha@nmag.gov)

**Website:**

### Section 2 - Statutes, Regulations and Rules

<http://www.tax.newmexico.gov/forms-publications.aspx>

### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

Definitions as used in the Tobacco Products Tax Act:

A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "distribute" means to sell or to give;

C. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

D. "first purchaser" means a person engaging in business in New Mexico who manufactures tobacco products or who purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;

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E. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;

F. "product value" means the amount paid, net of any discounts taken and allowed, for tobacco products or, in the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and

G. "tobacco product" means any product, other than cigarettes, made from or containing tobacco. (Laws 2009, Chapter 197, Section 20)  
7-12-2.

Definitions as used in the Cigarette Tax Act:

3.9.1.7 For purposes of the Cigarette Tax Act, a "cigarette" is:

A. a roll of tobacco wrapped in paper or any substance not containing tobacco; or

B. a roll of tobacco that is wrapped in a substance containing tobacco other than one hundred percent natural leaf tobacco, that weighs no more than three pounds per thousand sticks, and that has three or more of the following characteristics:

(1) it has a typical cigarette size and shape;

(2) it has a cellulose acetate or other cigarette-type integrated filter;

(3) it has a filler primarily consisting of flue-cured, burley, oriental, or unfermented tobaccos or has a filler material yielding the smoking characteristics of any of those tobaccos;

(4) it has a filler, binder and wrapper that together contain three percent or more by weight of total reducing sugars and four percent or less by weight of non-reducing sugars;

(5) it is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type packages;

(6) it is sold in a package that labels the product as a cigarette or a cigarette substitute, or in a package that does not clearly and conspicuously declare that the product is a cigar.

SECTION 42. DEFINITIONS.--As used in the Tobacco Products Tax Act: Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read: D. "closed system cartridge" means a single-use, pre-filled disposable cartridge containing five milliliters or less of e-liquid for use in an e-cigarette; E. "e-cigarette" means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act; F. "e-liquid" means liquid or

other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis;

#### **Section 4 - The Basis for the Tax**

None provided.

#### **Section 5 - Tax Rates and Miscellaneous Fees**

D. Tax stamps shall be sold at their face value with the following discounts:

- (1) fifty-five hundredths percent less than the face value of the first thirty thousand dollars (\$30,000) of stamps purchased in one calendar month;
- (2) forty-four hundredths percent less than the face value of the second thirty thousand dollars (\$30,000) of stamps purchased in one calendar month; and
- (3) twenty-seven hundredths percent less than the face value of stamps purchased in excess of sixty thousand dollars (\$60,000) in one calendar month.

E. Tax-credit stamps shall be provided only to distributors and shall be provided free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act.

F. If the face value of tax stamps sold in a single sale is less than one thousand dollars (\$1,000), the discount provided for in this section shall not be allowed.

G. Payment for tax stamps shall be made on or before the twenty-fifth day of the month following the month in which the sale of stamps by the department is made.

H. Tax-exempt stamps shall be provided only to distributors and shall be free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act.

(Laws 2010, Chapter 5, Section 9 – Effective July 1, 2010)

##### 3.9.1.12 - CIGARETTE STAMP QUANTITIES

The minimum order for cigarette stamps is 1,500, and the minimum order for tax-exempt stamps is 15,000.

[3.9.1.12 NMAC – N, 11/15/06]

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

## **Section 6 - Rate Updates**

Current OTP tax rate is 25 % of the products value. No rate changes are anticipated.

## **Section 7 - State Collection Allowance or Discount**

**Is there a discount given to wholesalers/distributors for collecting and remitting taxes?**

Yes.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

OTP-The tax is imposed on the “first purchaser” as defined by statute.

## **Section 10 - Tax Return Due Dates**

- A. Each person who sells in New Mexico cigarettes manufactured by that person or who receives on consignment or buys cigarettes either directly from the manufacturer or from any out-of-state person for resale in New Mexico shall report to the department by the twenty-fifth day of each month that person's sales of cigarettes during the preceding month in each municipality and within that portion of each county outside of the municipalities located in that county. The department shall then advise the state treasurer of the proportion of the total sales of cigarettes for the month within each municipality and within that portion of each county outside of municipalities, including sales of cigarettes to tribes or tribal members in a county or municipality. The reports of such persons shall, upon receipt by the department, become public records.
- B. Any person who sells in New Mexico cigarettes manufactured by that person or who receives on consignment or buys cigarettes for resale in New Mexico who willfully fails to render accurately the reports required by this section and any municipal or county officer who approves any expenditure or expends funds distributed from the county and municipality recreational fund for any purposes other than permitted by Section 7-12-15 NMSA 1978 is guilty of a petty misdemeanor.
- C. Any tobacco product manufacturer, stamping agent or importer of cigarettes, or any officer, employee or agent of any such entity, who knowingly makes a materially false statement in any record required to be kept by the Cigarette Tax Act, or in any report or return required to be filed with the department by the Cigarette Tax Act, is guilty of a fourth-degree felony.



(Laws 2010, Chapter 5, Section 11 – Effective July 1, 2010)

### **Section 11 – Tax Return Filings**

As of March 2018, distributors are required to file electronically.

Using the TAP (Taxpayer Access Point), Beginning March 1, 2018 all entities who file Cigarette Tax reports will be required to file on TAP. Currently the Cigarette Distributor's Monthly Report and schedules, Non-Participating Manufacturer Brand Cigarettes Distributed or Sold, and Cigarette Sales (Tax-Paid) in New Mexico Counties & Municipalities are available for online filing.

### **Section 12 – Tax Collection**

None noted.

### **Section 13 - Penalties for Late Filing**

There is no penalty for filing informational reports, only a penalty and interest for OTP late filing.

### **Section 14 – Local Jurisdictional Tax**

No local jurisdictions impose an excise tax at this time.

### **Section 15 - Floor Stock Tax**

A floor stock tax is imposed when there is a change in tax rate.

### **Section 16 – Qualifying Exemptions**

7-12-4. EXEMPTION -

A. Exempted from the cigarette tax are sales of cigarettes:

- (1) to the United States or any agency or instrumentality thereof or the state of New Mexico or any political subdivision thereof;
- (2) to a tribe, or to a tribal member licensed by the governing body of a tribe for use or sale on that tribe's land, if the tribe has in place a qualifying tribal cigarette tax; and
- (3) sales that the state is prohibited from taxing by a provision of the United States constitution or the constitution of the state of New Mexico.

B. As used in this section, the term "agency or instrumentality" does not include persons who are agents or instrumentalities of the United States for a particular purpose or only when acting in a particular capacity or corporate agencies or instrumentalities.  
(Laws 2010, Chapter 5, Section 6 – Effective July 1, 2010)

## **Section 17 - Laws or Rules for Tribal Sales**

Exempt Entities:

- A. A distributor shall sell packages of cigarettes bearing a tax-exempt stamp only to:
- (1) the United States or any agency or instrumentality thereof;
  - (2) the State of New Mexico or any political subdivision thereof;
  - (3) an Indian tribe, as defined in Subsection A of 3.2.4.7 NMAC, for use or sale on that tribe's reservation or pueblo grant; or
  - (4) a person who is recognized by the governing body of an Indian tribe to be an enrolled member of that Indian tribe and who is authorized by that Indian tribe to sell cigarettes on the reservation or pueblo grant of that Indian tribe for use or sale on that tribe's reservation or pueblo grant.
- B. The distributor must maintain records demonstrating that the sale is to an entity or person described in Subsection A above.
- C. For sales to a purchaser described in Paragraphs (1) and (2) of Subsection A above, the distributor shall retain documentation related to the transaction showing the governmental entity's name, such as purchase orders, copies of warrants issued in payment and contracts related to the cigarettes sold.
- D. For sales to a purchaser described in Paragraph (3) of Subsection A above, the distributor shall obtain a statement, signed by the purchaser of the cigarettes that the purchaser is an Indian tribe, as defined by Subsection A of 3.2.4.7 NMAC, and that the cigarettes are being purchased for use or sale on that tribe's reservation or pueblo grant. The statement must be attested to by a tribal official.
- E. For sales to a purchaser described in Paragraph (4) of Subsection A above, the distributor shall obtain a statement signed by an official of the purchaser's Indian tribe confirming that the purchaser is an enrolled member of that Indian tribe. The statement of membership may also be provided to the distributor by the Indian tribe on behalf of one or more of its members, if attested to by a tribal official. This documentation shall be conclusive evidence, and the only material evidence, that the purchaser is an enrolled member of an Indian tribe.
- F. For sales to a purchaser described in Paragraph (4) of Subsection A above, the distributor shall also obtain documentation that the purchaser is authorized by, or under, the authority of the governing body of the purchaser's Indian tribe to sell or use cigarettes on the reservation or pueblo grant of that Indian tribe. This documentation must be attested to by a tribal official. The purchaser of the cigarettes shall also affirm in writing to the distributor that the cigarettes are being purchased for use or sale on that tribe's reservation or pueblo grant.

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### 3.9.1.9 - DOCUMENTATION TO SUBSTANTIATE THE ISSUANCE OF A TRIBAL LICENSE

Any documentation showing that a governing body or, if the governing body has delegated the licensing function to an administrative agency, the appropriate administrative agency, has authorized the enrolled tribal member to use or sell cigarettes on that tribe's reservation or pueblo grant is sufficient to claim the exemption under Section 7-12-4 NMSA 1978.

[3.9.1.9 NMAC – N, 11/15/06]

## **Section 18 - Information Required on a Customer Invoice**

None noted.

## **Section 19 – Responsibility by Agency**

MSA Reporting: New Mexico Attorney General's Office (NMAGO).  
Enforcement/Collection: NMAGO. Collections are done by revenue agents with New Mexico Taxation and Revenue Dept.  
Product Seizure Authority: TRD

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

### 7-12-9.1. LICENSING--GENERAL LICENSING PROVISIONS -

- A. A person shall not engage in the manufacture or distribution of cigarettes in New Mexico without a license issued by the department.
- B. The department shall issue or renew a license for a term not to exceed one year.
- C. The department may charge a license fee of up to one hundred dollars (\$100) for each manufacturer's or distributor's license issued or renewed.
- D. An application for a license or renewal of a license shall be submitted on a form determined by the department and shall include:
  - (1) the name and address of the applicant and:
    - (a) if the applicant is a firm, partnership or association,
    - (b) the name and address of each of its members; or
    - (c) if the applicant is a corporation, the name and address of each of its officers;
  - (2) the address of the applicant's principal place of business and every location where the applicant's business is conducted; and
  - (3) any other information the department may require.
- E. The department may issue a distributor's license and a manufacturer's license to the same person.
- F. Persons licensed as manufacturers or distributors may sell stamped cigarettes at retail.
- G. A license may not be granted, maintained or renewed if one or more of the following conditions applies to an applicant:
  - (1) the applicant owes five hundred dollars (\$500) or more in delinquent cigarette taxes;

- (2) the applicant has had a manufacturer's or distributor's license revoked by the department or any other state within the past two years;
  - (3) the applicant is convicted of a crime related to contraband cigarettes, stolen cigarettes or counterfeit stamps;
  - (4) the applicant is a manufacturer but not a participating manufacturer as defined in Section II(jj) of the master settlement agreement and the applicant is not in compliance with the provisions of Section 6-4-13 NMSA 1978 or the Tobacco Escrow Fund Act; or
  - (5) the applicant is a manufacturer and imports cigarettes into the United States that are in violation of 19 U.S.C. 1681a or manufactures cigarettes that do not comply with the Federal Cigarette Labeling and Advertising Act.
- H. In addition to a civil or criminal penalty provided by law, upon a finding that a licensee has violated a provision of the Cigarette Tax Act or the Tobacco Escrow Fund Act or a rule adopted pursuant to either act, the department may revoke or suspend the license or licenses of the licensee.
- I. As used in this section, "applicant" includes a person or persons owning, directly or indirectly, in the aggregate, more than ten percent of the ownership interest in the business holding or applying for a license pursuant to the Cigarette Tax Act.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, yearly.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

There are 4 stamps used in New Mexico. White background with red imprinted roadrunner are the excise stamps (\$1.66) used on 20 count packages. Orange stamp for 25 count packages (\$2.075). Yellow stamp is the Tax-Exempt Stamp used for government entities etc. Finally, the Green stamp is the Tax Credit stamp used for Tribal cigarette sales.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

## **Section 2 – Acquiring Stamps**

If bonded, the distributor may order stamps by email. If not bonded, the order must be accompanied with a check. Stamps are typically shipped FedEx or picked at DOR of purchased by local distributor.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

## **Section 3 - Bond Requirements**

None; however, distributor may bond at 1.5 times the average monthly order.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes, will refund for damaged stamps.

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## 7-12-5. AFFIXING STAMPS -

- (a) Except as provided in Section 7-12-6 NMSA 1978, all cigarettes shall be placed in packages or containers to which a stamp shall be affixed. Only a distributor with a valid license issued pursuant to the Cigarette Tax Act may purchase or obtain unaffixed tax-exempt stamps, tax-credit stamps or tax stamps. A distributor shall not sell or provide unaffixed stamps to another
- (b) distributor, manufacturer, export warehouse proprietor or importer with a valid permit pursuant to 26 U.S.C. 5713 or any other person.
- (c) Stamps shall be affixed by the distributor to each package of cigarettes to be sold or distributed in New Mexico within thirty days of receipt of those packages.
- (d) A distributor shall apply stamps only to packages of cigarettes that the distributor has received directly from another distributor or from a manufacturer or importer of cigarettes that possesses a valid and current permit pursuant to 26 U.S.C. 5713.
- (e) A distributor shall not affix a stamp to a package of cigarettes of a manufacturer or a brand family that is not included in the directory or sell, offer or possess for sale cigarettes of a manufacturer or brand family that is not included in the directory.
- (f) Packages shall contain cigarettes in lots of five, ten, twenty or twenty-five.
- (g) Unless the requirements of this section are waived pursuant to Section 7-12-6 NMSA 1978, a tax stamp shall be affixed to each package of cigarettes subject to the cigarette tax, a tax-credit stamp shall be affixed to each package of cigarettes subject to a qualifying tribal cigarette tax, and a tax-exempt stamp shall be affixed to each package of cigarettes not subject to the cigarette tax pursuant to Section 7-12-4 NMSA 1978.
- (h) A tax-exempt stamp or tax-credit stamp is not an excise tax stamp for purposes of determining units sold pursuant to Section 6-4-12 NMSA 1978.
- (i) Stamps shall be affixed inside the boundaries of New Mexico, unless the department has granted a license allowing a person to affix stamps outside New Mexico.  
(Laws 2010, Chapter 5, Section 8 – Effective July 1, 2010)

### 3.9.1.8 - CIGARETTES AS PRIZES ARE TAXABLE

Cigarettes which are used as prizes for performing certain skills at carnivals, amusement parks, fairs or similar recreation facilities are required to have New Mexico cigarette tax stamps affixed.

[4/30/99; 3.9.1.8 NMAC - Rn, 3 NMAC 9.1.8, 12/14/00]3.9.1.11 - QUALIFICATIONS FOR A STAMP TO BE CONSIDERED AFFIXED

In order for a stamp to be considered affixed, a package must have at least 60% of the stamp visible, including the entire serial number. Packages of cigarettes that do not meet these requirements shall be considered contraband cigarettes and may be subject to the penalties imposed under Section 7-12-13.1 NMSA 1978.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

None noted.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

7-12-3.2. CIGARETTE INVENTORIES -

A. At the close of business on the day prior to any date on which the cigarette tax imposed by Section 7-12-3NMSA 1978 is increased, each distributor shall take inventory of tax-exempt stamps, tax-credit stamps and tax stamps on hand, including stamps affixed to packages of cigarettes.

B. Each distributor shall report the total number of tax-exempt stamps, tax-credit stamps and tax stamps in inventory at the close of business on the day prior to the date on which the cigarette tax increases and pay the cigarette inventory tax due.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.



## **PACT Act Reporting**

No specific requirements. Can be hardcopy or emailed on spreadsheet. Can be sent on CD.

# STATE OF NEW YORK

(Last updated 07/2017)

## General Information

### Section 1 - Contact Information

**Contact Name:** Jacqueline Trembley, Program Manager

**Agency:** New York State Department of Taxation and Finance, TDAB – Cigarette and Tobacco Taxes

**Mailing Address:** WA Harriman Campus

**City, State, Zip Code:** Albany, NY 12227

**Phone Number:** (518) 937-9472

**Fax Number:** (518) 435-8546

**E-mail Address:** [Jacqueline.trembley@tax.ny.gov](mailto:Jacqueline.trembley@tax.ny.gov)

**Website:** [www.tax.ny.gov](http://www.tax.ny.gov)

**Agency:** Office of the Attorney General, Tobacco Compliance Unit

**Mailing Address:** 120 Broadway, 26th

**City, State, Zip Code:** New York, NY 10271

**Phone Number:** (212) 416-6343

**Website:** [www.ag.ny.gov](http://www.ag.ny.gov)

### Section 2 - Statutes, Regulations and Rules

[General Cigarette and Tobacco Tax Information](#)

[Cigarette and Tobacco Products Tax Law](#)

[New York Codes, Rules and Regulations \(unofficial\)](#)

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

**Cigarette:** Any roll for smoking made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

**Tobacco products:** Any cigar, including a little cigar, or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

**Roll-your-own tobacco:** Any tobacco product that, because of its appearance, type packaging or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

**Little cigar:** Any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco wrapper, and weighing not more than four pounds per thousand or with a cellulose acetate or other integrated filter.

**Snuff:** Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

**Cigar:** Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette). “Cigar” shall include, except where expressly excluded, any little cigar.

### **Section 4 - The Basis for the Tax**

New York State and New York City impose an excise tax on all cigarettes possessed in the state for sale.

The state excise tax rate is \$4.35 per package of 20 cigarettes.

The New York City local excise tax is \$1.50 per package of 20 cigarettes, bringing the combined tax rate for a package of 20 cigarettes purchased in New York City to \$5.85.

New York State imposes an excise tax on tobacco products possessed in the state for sale at the following rates:

75% of the wholesale price on cigars and tobacco products (other than little cigars and snuff);  
\$4.35 per 20 little cigars;  
\$2 per container of snuff with one ounce or less; and  
\$2 per ounce of snuff and a proportionate rate on any fractional amount for containers with more than one ounce (for example, the tax on a 1.25 oz. container would be \$2.50).

## Cigarette Marketing Standards Act (CMSA)

Article 20-A of the Tax Law establishes minimum resale prices for sales of cigarettes at the wholesale and retail levels. Under the CMSA, it is unlawful for any agent, or wholesale or retail dealer, to intentionally injure competitors or to destroy or substantially lessen competition. It is also unlawful for such parties to intentionally avoid the collection or paying over of taxes or to advertise, offer to sell, or sell cigarettes at a price below their cost plus a statutorily determined minimum percentage markup. The CMSA also includes fines and penalties for violations of these requirements.

### **Section 5 - Tax Rates and Miscellaneous Fees**

See above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

Cigarette stamping agents are entitled to a commission for the services and expenses incurred in affixing stamps. The current rates are:

<b>Value of stamps purchased during calendar year</b>	<b>Rates for NY State stamps only</b>	<b>Rates for joint NY State and NYC stamps</b>
\$5,611,200 or less	.003696	.004071
More than \$5,611,200	.002625	.002893

### **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

The cigarette excise tax is paid when a licensed cigarette stamping agent purchases New York State tax stamps from the Tax Department. As evidence of payment of the state tax, stamps must be affixed to the bottom of each pack of cigarettes sold in New York State. A joint New York State and New York City tax stamp is evidence that both the state and city excise taxes was paid. In addition to the cigarette excise tax, the agent pays a prepaid sales tax at the time the cigarette tax stamps are purchased and passes that tax on to wholesalers and retailers.

The tobacco tax is paid by a distributor when the distributor imports tobacco products into this state or causes them to be imported or manufacturers them in the state.

## **Section 10 - Tax Return Due Dates**

Cigarette agent inventory reports are due monthly on the 15<sup>th</sup> of the following month.

Cigarette wholesale dealer informational returns are due quarterly on the 20<sup>th</sup> day of the month following the end of the previous quarter.

Tobacco distributor tax returns are due monthly on the 20<sup>th</sup> day of the following month.

Tobacco products wholesale dealer informational returns are due quarterly on the 20<sup>th</sup> day of the month following the end of the previous quarter.

See [Publication 55](#) for rules regarding when a return, payment, or other document is considered timely.

## **Section 11 – Tax Return Filings**

There is no option for electronic filing of cigarette agent inventory reports.

Cigarette wholesale dealers are encouraged to file their information returns through a Business Online Services account. See [Online Services for Businesses](#) for additional information. However, wholesale dealers who do not keep their records electronically may file a paper return. There is no option to file Tobacco products tax returns electronically.

## **Section 12 – Tax Collection**

There is no option to pay the tax electronically.

### **Section 13 - Penalties for Late Filing**

See Tax Bulletin, TB-ST-805 [Sales and Use Tax Penalties](#)

### **Section 14 – Local Jurisdiction Tax**

New York City imposes an additional cigarette excise tax that is paid at the time the licensed cigarette stamping agent purchases joint NYS/NYC tax stamps.

### **Section 15 - Floor Stock Tax**

Generally, yes.

### **Section 16 – Qualifying Exemptions**

Cigarette sales to qualified Indians for their own use and consumption on their nations' or tribes' qualified reservation.

Cigarette or tobacco sales to the United States.

Cigarette or tobacco sales to or by a military Base Exchange store (sales tax only).

### **Section 17 - Laws or Rules for Tribal Sales**

In general, all packages of cigarettes are required to have New York tax stamps affixed to them. For cigarettes sold to Indian nations or tribes or reservation cigarette sellers, the Tax Law provides two alternatives to ensure there is an adequate quantity of tax-exempt cigarettes available for the use or consumption of an Indian nation or tribe or by its members. The governing body of an Indian nation or tribe may elect to participate in the Indian tax exemption coupon system or, if the election is not made, the prior approval system will be used.

The prior approval system allows licensed wholesale dealers (or wholesale dealer/agents) to sell stamped packs of cigarettes to Indian nations or tribes and reservation cigarette sellers without collecting the taxes to the extent Indian tax exemption coupons are provided or to the extent prior approval is received from the Tax Department, and the cigarettes were brought or delivered to the purchaser's qualified reservation.

Special rules apply to the Oneida Indian Nation, pursuant to an Agreement with the State.

Licensed wholesale dealers (or wholesale dealer/agents) may file a claim for an expedited refund with respect to any cigarette and prepaid sales taxes previously paid on stamped packages of

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cigarettes sold to an Indian nation, tribe, or reservation cigarette seller. The claim for refund is filed on form [CG-114-E](#).

For further information regarding sales of cigarettes to qualified reservations see NYS Tax Law § 471-e.

### **Section 18 - Information Required on a Customer Invoice**

Invoices must show the name and address of the seller, the name and address of the purchaser, the quantity and brands of the cigarettes or tobacco products, and the name and address of the person who has, or will assume, the payment of the tax. Tobacco products invoices must also show the wholesale price or the tax paid or payable.

Delivery invoices must show:

- The date of delivery
- The number of packages and number of cigarettes per package or the wholesale price of each tobacco product shipped
- The name of the purchaser

### **Section 19 – Responsibility by Agency**

MSA Reporting:	Office of the Attorney General
Enforcement/Collection:	Department of Taxation and Finance, Office of the Attorney General, Department of Health (enforcement authority for violations of Public Health Law and fire safety provisions), Office of Fire Prevention and Control (enforcement authority for violations of fire safety provisions)
Product Seizure Authority:	Police officers, Department of Taxation and Finance, Office of Fire Prevention and Control peace officers for fire safety standards

### **Section 20 – New or Pending Legislation**

No response received from state.

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

Applications:

Cigarette Stamping Agent

- Must file an application CG-100-A([CG-100-A, CG-100-A Instructions](#))
- Pay Non-refundable \$1,500 application fee (\$1,000 if filed within 12 months of paying a prior \$1,500 fee)
- Meet all other requirements such as but not limited to:
  - secure separate warehousing facilities,
  - bonding (*determined by the number of stamp rolls to be purchased on credit*),
  - Proof of financial security, etc.
- Contact the Department's Registration and Bond Unit at 518-591-3089 with questions

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#### Wholesale Dealer of Cigarettes

- Must file an application CG-100-W([CG-100-W](#), [CG-100-W Instructions](#))
- Pay Non-refundable \$1,500 application fee (\$1,000 if filed within 12 months of paying a prior \$1,500 fee)
- Meet all other requirements:
  - Secure separate warehousing facilities,
  - bonding (\$10,000),
  - Proof of financial security, etc.
- Contact the Department's Registration and Bond Unit at 518-591-3089 with questions

#### Retail Dealer of Cigarettes

- Must file an online application DTF-716 to obtain a Certificate of Registration. [DTF-716 Application](#)
  - Contact the Department's Cigarette Tax Information Center at 518-485-7652 with questions
- #### Tobacco Products Distributor
- Must file an application MT-202 ([MT-202](#), [MT-202 Instructions](#))
  - Contact the Department's Registration and Bond Unit at 518-591-3089 with questions

#### Tobacco Products Wholesale Dealer

- Must file an application MT-202 ([MT-202](#) , [MT-202 Instructions](#) )
- Contact the Department's Registration and Bond Unit at 518-591-3089 with questions

#### Tobacco Products Retail Dealer

- Must file an online application DTF-716 to obtain a Certificate of Registration. [DTF-716 Application](#)
- Contact the Department's Cigarette Tax Information Center at 518-485-7652 with questions

Retail Dealers of Cigarettes and Tobacco Products are required to complete a renewal application, DTF-719-MN, annually.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Cigarette stamping agents, wholesale dealers of cigarettes, tobacco products distributors and wholesale dealers of tobacco products are generally not required to renew their registrations. However, the Department may require them to re-apply for a new license not more frequently than every three years.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

We have 4 different colored, numbered, heat-transferred stamps in use now with the following security features:

- Taggants
- Micro Imaging
- Stamp Numbering
- Variable Image
- UV Watermarking

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

Cigarette stamping agents purchase stamps from the New York State Department of Taxation and Finance.

**How are stamps delivered to the wholesaler/distributor?**

Stamps are delivered via priority mail to the cigarette stamping agent.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

To purchase stamps on credit, a bond is required in an amount equal to the value of the stamps to be purchased. If an agent chooses to pay cash there is no bond requirement.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No transfer of unaffixed stamps is allowed.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Cigarette stamping agents may sell unstamped cigarettes to other agents for resale outside the state. No transfer of unstamped cigarettes is allowed between wholesalers that are not stamping agents.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

If a stamp is misapplied or unfit for use or consumption, a refund claim may be filed, provided documentation and inspection of the misapplication is completed by the Department and the misapplied or unfit stamps are sent back to the Department for destruction.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

The entire serial number must be visible to qualify for a refund.

### **Section 6 – Refund Limitations**

With proper documentation, 2 years from the date of purchase or 2 years from the date of affixation, whichever is later.

### **Section 7 – Credit Process for Manufacturer Returns**

A [CG-114](#), *Claim for Redemption/Refund of Cigarette Tax Stamps and Prepaid Sales Tax*, is filed; an inspection may be requested; once permission is granted to return to the manufacturer, a manufacture's statement or affidavit of return is required. [CG-114 Instructions](#).

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**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

### **Section 8 – Other Allowed Credits**

[MT-203-MN](#), *Tobacco Products Tax Return*, allows a credit for tobacco products that are unfit for use and consumption, unsalable, or destroyed. If returned to the manufacturer or other seller, the distributor must attach a signed statement from the manufacturer or other seller documenting the return of the tobacco products. A copy of any approval from the Federal Alcohol Tobacco Tax and Trade Bureau must also be attached.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Cigarette stamping agent monthly cigarette tax reports ([CG-5](#) or [CG-6](#)) require the agent to account for any discrepancies.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Stamp inventory must be reported monthly on the CG-5 or CG-6.  
Stamps should be stored in a locked room or safe in a secure area with limited access.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

### PACT-ACT Reporting Procedures

All persons, including manufacturers, who sell, transfer, ship, advertise, or offer to sell cigarettes or smokeless tobacco in interstate commerce must first register with NYS to file PACT-ACT reports. Registrants submit reports via secure Tax Department e-mail account. Reports are due by the 10th of each month. No specific form or format is required but the following specific information is to be included on the reports submitted:

- The name and address of the person to whom the shipment was made;
- The brand and quantity of cigarettes or smokeless tobacco; and
- The name, address and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller.

# STATE OF NORTH CAROLINA

(Last updated 06/2019)

## General Information

### Section 1 - Contact Information

**Contact Person:** Al Milak

**Agency:** Department of Revenue

**Mailing Address:** 1429 Rock Quarry Road, Suite 105

**City, State, Zip Code:** Raleigh NC 27610

**Phone Number:** (919) 707-7583

**Fax Number:** (919) 733-8654

**E-mail Address:** [Al.Milak@ncdor.gov](mailto:Al.Milak@ncdor.gov)

**Website:** <https://www.ncdor.gov/taxes-forms/tobacco-products-tax>

**Contact Person:** Richard L. Harrison

**Agency:** North Carolina Department of Justice

**Mailing Address:** 9001 Mail Service Center

**City, State, Zip Code:** Raleigh, NC 27699-9001

**Phone Number:** (919) 716-6400

**Fax Number:** (919) 716-6750

**Website:** <http://www.ncdoj.gov/Top-Issues.aspx>

### Section 2 - Statutes, Regulations and Rules

[http://www.ncga.state.nc.us/enactedlegislation/statutes/pdf/byarticle/chapter\\_105/article\\_2a.pdf](http://www.ncga.state.nc.us/enactedlegislation/statutes/pdf/byarticle/chapter_105/article_2a.pdf)

<https://www.ncdor.gov/taxes-forms/corporate-income-franchise-tax/north-carolina-administrative-code>

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### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

OTP – Other tobacco products (other than cigarettes)

Cigarette - A roll of tobacco wrapped in paper or in a substance that does not contain tobacco. b. A roll of tobacco wrapped in a substance that contains tobacco and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by a consumer as a cigarette described in subpart a. of this subdivision.

Consumable product - Any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used. Any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

Vapor product - Any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

### **Section 4 - The Basis for the Tax**

North Carolina Cigarette Tax - \$0.45 / pack In North Carolina, cigarettes are subject to a state excise tax of \$0.45 per pack of 20. Cigarettes are also subject to North Carolina sales tax of approximately \$0.31 per pack, which adds up to a total tax per pack of \$0.76. The average cost of a pack of cigarettes in North Carolina is \$4.87.

North Carolina Other Tobacco Products Tax - 12.80% / Wholesale Price In North Carolina, other tobacco products are subject to a state excise tax of 12.80% / wholesale price as well as federal excise taxes (listed below).

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

North Carolina applies a \$0.05/milliliter tax to e-cigarette and vaping liquid.

## **Section 5 - Tax Rates and Miscellaneous Fees**

License costs:

A distributor who purchases cigarettes directly from a manufacturer shall pay a continuing license of \$25.00.

A nonresident distributor selling and shipping cigarettes into North Carolina on his own truck shall pay a continuing license of \$25.00.

A manufacturer who sells cigarettes to a distributor shall pay a continuing license of \$25.00.

A manufacturer who sells cigarettes to a retail dealer or an ultimate consumer shall pay a continuing license of \$25.00.

A wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a continuing license of \$25.00.

A retail dealer shall obtain for each place of business a continuing tobacco products license of \$10.00. A “place of business” is a place where a wholesale dealer or where a retail dealer makes tobacco products other than cigarettes; or a wholesales dealer or a retail dealer receives or stores non-tax-paid tobacco products other than cigarettes.

Tax Rates:

Tax Rate: 2.25¢ per Cigarette

Pack of 20, Rate 45¢

Pack of 25, Rate 56.25¢

Other Tobacco Products 12.8% of the cost price of the products

Vapor Products, 5¢ per flued milliliter

## **Section 6 - Rate Updates**

No. Currently there is a bill to raise the tax on all tobacco products.

## **Section 7 - State Collection Allowance or Discount**

A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount

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covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.

A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer as provided in this subsection and apply to the Secretary for refund of the tax.

A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part on tobacco products but not including vapor products, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond.

A wholesale dealer or retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax.

### **Section 8 - Any Other Permissible Allowances**

None noted.

### **Section 9 – The Point at Which Tax is Imposed**

G.S. 105-113.5. Tax on cigarettes: A tax is levied on the sale or possession for sale in this State by distributor, of all cigarettes at the rate of two and one-fourth cents (2.25¢) per individual cigarette.

§ 105-113.6. Use tax levied. A tax is levied upon the sale or possession for sale by a person other than a distributor, and upon the use, consumption, and possession for use or consumption of cigarettes within this State at the rate set in G.S. 105-113.5. This tax does not apply, however, to cigarettes upon which the tax levied in G.S. 105-113.5 has been paid.

G.S. 105-113.35. Tax on tobacco products other than cigarettes.

(b) Primary Liability. – The wholesale dealer or retail dealer who first acquires or otherwise handles tobacco products subject to the tax imposed by this section is liable for the tax imposed by this section. A wholesale dealer or retail dealer who brings into this State a tobacco product made outside the State is the first person to handle the tobacco product in this State. A wholesale dealer or retail dealer who is the original consignee of a tobacco product that is made outside the State and is shipped into the State is the first person to handle the tobacco product in this State.

(c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.

(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. A manufacturer who ships vapor products to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the vapor products shipped to either a wholesale dealer or retail dealer. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

### **Section 10 - Tax Return Due Dates**

Returns are due within twenty days after the end of each month.

Return is timely filed if delivered in person or mailed or electronically submitted to the Department on or before the next business day after the Saturday, Sunday, or legal holiday.

### **Section 11 – Tax Return Filings**

No option for electronic filing.

### **Section 12 – Tax Collection**

Electronic payment methods are available through our website at [www.ncdor.gov](http://www.ncdor.gov).

All transactions submitted before 5 pm EST are effective the following banking day. The NCDOR will confirm your transaction by email within two business days of the date you submitted your payment information. Save the email for your records.

### **Section 13 - Penalties for Late Filing**

Failure to Pay - 10%.

Failure to File - 5% per month, maximum 25%.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

G.S. 105-113.4D. Tax with respect to inventory on effective date of tax increase.

Every person subject to the taxes levied in this Article who, on the effective date of a tax increase under this Article, has on hand any tobacco products must file a complete inventory of the tobacco products within 20 days after the effective date of the increase, and must pay an additional tax to the Secretary when filing the inventory. The amount of tax due is the amount due based on the difference between the former tax rate and the increased tax rate.

## **Section 16 – Qualifying Exemptions**

G.S. 105-113.8 Federal Constitution and statutes. Any activities which this Article may purport to tax in violation of the Constitution of the United States or any federal statute are hereby expressly exempted from taxation under this Article.

G.S. 105-113.10. Manufacturers exempt from paying the tax. Any manufacturer shipping cigarettes to other distributors who are licensed under G.S. 105-113.12 may, upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the taxes levied in this Part.

G.S. 105-113.37. Payment of tax. A wholesale dealer who sells a tobacco product to a person who has notified the wholesale dealer in writing that the person intends to resell the item in a transaction that is exempt from tax under G.S. 105-113.35(a2) (1) or G.S. 105-113.35(a2)2) may, when filing a monthly report under subsection (a), designate the quantity of tobacco products sold to the person for resale.

G.S. 105-113.10. Manufacturers exempt from paying tax.

(a) Shipping to Other Distributors. – Any manufacturer shipping cigarettes to other distributors who are licensed under G.S. 105-113.12 may, upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the taxes levied in this Part. No manufacturer may be relieved of the requirement to be licensed as a distributor in order to make shipments, including drop shipments, to a retail dealer or ultimate user.

(b) Shipping for Affiliated Manufacturer. – A manufacturer may, upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the taxes levied in this Part on cigarettes that are manufactured by an affiliated manufacturer and temporarily stored at and shipped from its facilities

### **Section 17 - Laws or Rules for Tribal Sales**

Session Laws 2015-262, s. 2, provides: “The Department of Revenue may enter into an agreement with the Eastern Band of Cherokee Indians in regards to the excise tax on tobacco products administered under Article 2A of Chapter 105 of the General Statutes. The agreement must be approved by the Tribal Council of the Eastern Band of Cherokee Indians and signed by the Principal Chief of the Eastern Band of Cherokee Indians on behalf of the Eastern Band of Cherokee Indians and must be signed by the Secretary of Revenue on behalf of the Department of Revenue. The agreement may be effective for a definite period of time or an indefinite period, as specified in the agreement.”

### **Section 18 - Information Required on a Customer Invoice**

G.S. 105-113.31. (b) (1) Every person who transports non-tax-paid cigarettes on the public highways, roads, streets, or waterways of this State must transport with the cigarettes invoices or delivery tickets for the cigarettes showing the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes transported, and the true name and complete and exact address of the person who has paid or who will pay the tax imposed by this Part or the tax, if any, of the state or foreign country at the point of ultimate destination.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	The Office of the Attorney General and North Carolina Department of Revenue
Enforcement/Collection:	North Carolina Department of Revenue
Product Seizure Authority:	North Carolina Department of Revenue, Tax Enforcement and Bureau of Alcohol, Tobacco, Firearms and Explosives and Any Officer of the law

### **Section 20 – New or Pending Legislation**

Amend 105-113.29, regarding unlicensed places of businesses, to include businesses selling other tobacco products to clarify licensure requirements extend to both cigarette and OTP vendors and to correct other clerical errors.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18 years of age.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

16 years of age. However, person engaged in the sale of tobacco products, the definition of which includes tobacco-derived products or vapor products as defined, or cigarette wrapping papers at retail or through a vending machine shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is less than 18 years of age. Failure to demand proof of age as required is a Class Two misdemeanor if in fact the prospective purchaser is under 18 years of age. 'Proof of age' is defined as a driver's license or other photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18 years of age.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

In North Carolina, cigarettes are subject to a state excise tax of \$0.45 per pack of 20. Cigarettes are also subject to North Carolina sales tax of approximately \$0.31 per pack, which adds up to a total tax per pack of \$0.76.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

None noted.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

None noted. However, they can independently decide not to sell tobacco products.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Smoking is prohibited in several specific types of public places in North Carolina, including public schools, state government buildings and vehicles, long-term care facilities and all restaurants and bars. The use of tobacco products is also prohibited completely in and on the grounds of public schools and in state correctional facilities. Specific exceptions to the law include: 1) up to 20 percent of rooms in lodging establishments; 2) cigar bars as specified and defined; and 3) private clubs as defined. Smoking is also allowed in private workplaces as well as most public places and workplaces not listed above.

Stronger local laws/ordinances further restricting smoking are allowed in some public places and local government buildings, but not in private workplaces and the specific places/vehicles listed below. Except as specified, a local government may adopt and enforce ordinances, board of health

rules, and policies restricting or prohibiting smoking that are more restrictive than state law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places. However, the definitions in North Carolina General Statutes section 130A-492 apply to local laws. Local laws or policies cannot restrict or prohibit smoking in: 1) a private residence; 2) a private vehicle; 3) a tobacco shop as specified; 4) all of the premises, facilities, and vehicles owned, operated, or leased by any tobacco products processor or manufacturer, or any tobacco leaf grower, processor, or dealer; 5) smoking guest rooms in lodging establishments; 6) a cigar bar as specified and defined in state law; 7) a private club as defined in state law; 8) the actors or performers portraying the use of tobacco products on a motion picture, television, theater, or other live production set. Penalties and enforcement must be the same as state law as well.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

Yes.

[https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_105/GS\\_105-113.4E.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_105/GS_105-113.4E.pdf)

G.S. 105-113.4E. Modified risk tobacco products.

(a) Definition. – The term "modified risk tobacco product" means a tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

(b) Tax Rate Reduction. – The tax imposed under this Article is reduced by the following:

(1) Fifty percent (50%) for a modified risk tobacco product issued a risk modification order by the United States Food and Drug Administration under 21 U.S.C. § 387k(g)(1).

(2) Twenty-five percent (25%) for a modified risk tobacco product issued an exposure modification order by the United States Food and Drug Administration under 21 U.S.C. § 387k(g)(2).

(c) Substantiation. – Generally, tobacco products are subject to the tax imposed under this Article, unless a taxpayer substantiates that a product qualifies as a modified risk tobacco product and is subject to a reduced rate of tax in accordance with subsection (b) of this section. A taxpayer may substantiate that a product qualifies as a modified risk tobacco product by providing the Department a copy of the order issued by the United States Food and Drug Administration verifying the product as a modified risk tobacco product. Once the taxpayer provides the order to the Department, the Department must reduce the tax due as required under subsection (b) of this section effective on the first day of the next calendar month. If the order indicating a product qualifies as a modified risk tobacco product is renewed, the order renewing the product must be provided to the Department within 14 days of receipt.

If the product no longer qualifies as a modified risk tobacco product, the rate reduction under subsection (b) of this section is forfeited. A product no longer qualifies when the Tobacco Tax Information by State v. 07.22.19

order qualifying the product as a modified risk tobacco product expires and is not renewed or the order is withdrawn by the United States Food and Drug Administration. The taxpayer must provide notice of such expiration or withdrawal to the Department within 14 days of receipt. Upon determination by the Department that the product no longer qualifies as a modified risk tobacco product, the Department must determine if the taxpayer paid a reduced rate after the order expired or was withdrawn. If the taxpayer did avoid taxes, the taxpayer is liable for all past taxes avoided as a result of the product no longer qualifying plus interest at the rate established under G.S. 105-241.21, computed from the date the taxes would have been due if the rate reduction had not been allowed. The past taxes and interest are due 30 days after the date the rate reduction is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236.

## **License Information**

### § 105-113.4A. Licenses.

- (a) General. – To obtain a license required by this Article, an applicant must file an application with the Secretary on a form provided by the Secretary and pay the tax due for the license. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary. A license is not transferable or assignable and must be displayed at the place of business for which it is issued.
- (b) Requirements. – An applicant for a license must meet the following requirements:
- (1) If the applicant is a corporation, the applicant must either be incorporated in this State or be authorized to transact business in this State.
  - (2) If the applicant for a license is a limited liability company, the applicant must either be organized in this State or be authorized to transact business in this State.
  - (3) If the applicant for a license is a limited partnership, the applicant must either be formed in this State or be authorized to transact business in this State.
  - (4) If the applicant for a license is an individual or a general partnership, the applicant must designate an agent for service of process and give the agent's name and address.

### § 105-113.13. Secretary may require a bond or irrevocable letter of credit.

The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. The amount of the bond is two times the distributor's average expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of the distributor and increase the required bond amount if the amount no longer covers the anticipated tax liability of the distributor and decrease the amount if the Secretary finds that a lower bond amount will protect the State adequately from loss. For purposes of this section, a distributor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must

be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section.

§ 105-113.38. Bond or irrevocable letter of credit.

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. The amount of the bond is two times the wholesale or retail dealer's average expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of dealers, and increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss.

For purposes of this section, a wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section.

NCDOR Link to bond forms and tax forms for Tobacco and OTP  
<http://www.dorn.com/downloads/tobacco.html>

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

No.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, for both cigarette and other tobacco products

The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due. A bond must be conditioned on compliance, payable to the State, and in the form required by the Secretary. The amount of the bond is two times the distributor's average expected monthly tax liability, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of the distributor and increase the required bond amount if the amount no longer covers the anticipated tax liability of the distributor and decrease the amount if



the Secretary finds that a lower bond amount will protect the State adequately from loss. A distributor may substitute an irrevocable letter of credit for the secured bond required. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance and in the amounts stipulated in this section.

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due. A bond must be conditioned on compliance, payable to the State, and in the form required by the Secretary. The amount of the bond is two times the wholesale or retail dealer's average expected monthly tax liability, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of dealers, and increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss. A wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance, and in the amounts stipulated in this section

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

For a Cigarette Distributor's license, list ALL manufacturers from whom you have a letter stating that they will sell you non-tax-paid cigarettes. Attach a copy of each letter of intent.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

North Carolina does not have any tax stamps.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Not applicable.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

Not applicable.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Not applicable.

## **Section 2 – Acquiring Stamps**

Not applicable.

**How are stamps delivered to the wholesaler/distributor?**

Not applicable.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Not applicable.

## **Section 3 - Bond Requirements**

None noted.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

None noted.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

None noted.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

None noted.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

None noted.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Not applicable.

## **PACT Act Reporting**

<https://www.atf.gov/alcohol-tobacco/docs/form/prevent-all-cigarette-trafficking-pact-act-registration-form-atf-form/download>

PACT Act can be submitted via e-mail.

# STATE OF NORTH DAKOTA

(Last updated 06/2019)

## General Information

### Section 1 - Contact Information

**Agency:** North Dakota Office of State Tax Commissioner

**Mailing Address:** 600 East Boulevard Ave. Dept. 127

**City, State, Zip Code:** Bismarck, ND 58505-0599

**Phone Number:** (701) 328-3343

**Fax Number:** (701) 328-0336

**E-mail Address:** cig-tobaccotax@nd.gov

**Website:** [www.nd.gov/tax/tobacco](http://www.nd.gov/tax/tobacco)

**Agency:** North Dakota Attorney General's Office

**Mailing Address:** 600 East Boulevard Ave. Dept. 125

**City, State, Zip Code:** Bismarck, ND 58505

**Phone Number:** (701) 328-2210

**Fax Number:** (701) 328-4300

**E-mail Address:** ndag@nd.gov

**Website:** [www.attorneygeneral.nd.gov](http://www.attorneygeneral.nd.gov)

### Section 2 - Statutes, Regulations and Rules

\*\* Tobacco Products Tax Law can be accessed at:

[www.nd.gov/tax/tax-resources/laws--regulations](http://www.nd.gov/tax/tax-resources/laws--regulations)

\*\* Other statutes that can be accessed at the following link listed below for Tobacco Product Manufacturer Sales (Chapter 51-25), Remote Sales of Tobacco Products (51-32), Unfair Trade Practices Law (51-10) and Ignition Propensity for Cigarettes (18-13):

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### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarette - means any roll for smoking made wholly or in part of tobacco or processed tobacco and encased in any material except tobacco. "Cigarette" also means any product of a cigarette-making machine.

Cigar - means any roll of tobacco wrapped in tobacco.

Pipe Tobacco - means any processed tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

Other Tobacco Products - means snuff and chewing tobacco.

Snuff - means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth.

Chewing Tobacco - means any leaf tobacco that is intended to be placed in the mouth.

### **Section 4 - The Basis for the Tax**

Cigarettes Tax = \$0.44/pack of 20  
\$0.55/pack of 25

Cigars & Pipe Tobacco Tax = 28% of wholesale purchase price. The term "Wholesale Purchase Price" shall mean the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction.

Snuff Tax = \$0.60 per ounce.

Chewing & Plug Tobacco Tax = \$0.16 per ounce.

### **Section 5 - Tax Rates and Miscellaneous Fees**

Tax rates listed above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

## **Section 6 - Rate Updates**

**Are any tax rates expected to change in the near future?**

No.

## **Section 7 - State Collection Allowance or Discount**

**Is there a discount given to wholesalers/distributors for collecting and remitting taxes?**

Yes, as long as return is filed and paid on-time.

**If so, how much is the discount for each tax type?**

Cigarette Tax discount is 1.5% of tax or \$100, whichever is less. No discount is given for OTP (cigars, pipe tobacco, snuff, & chewing tobacco).

## **Section 8 - Any Other Permissible Allowances**

**Is there an allowance for bad debt credits?**

No.

**Is there an allowance for theft?**

No.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarettes – Taxed when sold to North Dakota retailer.

Tobacco Products – Taxed when product is brought into North Dakota.

## **Section 10 - Tax Return Due Dates**

Returns are due the 15<sup>th</sup> of the month following the period ending date. If the 15<sup>th</sup> falls on a holiday or weekend the return will be due the next business day. A return's timeliness is based on the postmark date for a paper return or if return is e-filed the date it is electronically submitted.

## **Section 11 – Tax Return Filings**

Describe how returns can be filed: Returns can be submitted electronically through Taxpayer Access Point (TAP). TAP allows for data to be manually entered or be imported through an Excel template. In addition to electronic filing, returns may also be filed on a paper return along with supporting schedules.

Tobacco Tax Information by State v. 07.22.19

## **Section 12 – Tax Collection**

**Is there an option for, or point at which a taxpayer must make an, electronic payment? If so, is there a time by which the electronic payment must be transmitted to be considered timely, (i.e., no later than 3pm the day prior to the due date)?**

Yes, electronic payments are available if return is e-filed through TAP. Electronic payment must be submitted in TAP by 11:59 pm on the due date of the return to be timely.

## **Section 13 - Penalties for Late Filing**

Penalty is five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due.

## **Section 14 – Local Jurisdictional Tax**

North Dakota does not have any local jurisdictions that also impose an excise tax.

## **Section 15 - Floor Stock Tax**

The Floor Stock Tax is TBD based on the specifics of the tax change.

## **Section 16 – Qualifying Exemptions**

All gift cigarettes, snuff, cigars, and other tobacco products, not for resale, which are given to the North Dakota Veterans' Home or the North Dakota State Hospital for distribution to the occupants thereof, are exempt from the excise taxes.

## **Section 17 - Laws or Rules for Tribal Sales**

North Dakota currently has one tribal agreement with the Standing Rock Sioux Tribe. This tribal agreement mirrors our state tobacco products tax law. Tax is reported on a separate supporting schedule (Schedule 5) as part of the North Dakota cigarette and tobacco tax return form (Form 44CT) for sales made onto the North Dakota portion of the Standing Rock Reservation.

Sales to Native American retailers owned by an enrolled tribal member and located on one of the other reservations in North Dakota are currently exempt from cigarette and tobacco products excise tax. Sales to a corporation or LLC located on a reservation are not exempt from the cigarette and tobacco products excise tax as these entity types are not considered to have an ethnic origin and are not considered Native American retailers.

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## **Section 18 - Information Required on a Customer Invoice**

Provide what information is required on a customer invoice (i.e., wholesaler/distributor license number, customer license number, excise tax charged, etc.): Our law does not specifically require certain information be listed on invoices. The expectation, though, is that proper identifying information for the involved parties should be listed with the transaction details listed in an easy to decipher manner.

## **Section 19 – Responsibility by Agency**

MSA Reporting: North Dakota Office of State Tax Commissioner tracks MSA data and reports applicable NPM escrow information to the North Dakota Attorney General’s Office. The Attorney General’s Office enforces payment of the escrow deposits from the appropriate NPM’s.

Enforcement/Collection: North Dakota Office of State Tax Commissioner handles collection efforts for delinquent returns. As stated above, the AGO handles enforcement of NPM escrow deposits.

Product Seizure Authority: North Dakota Office of State Tax Commissioner.

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

State law does not specify a minimum age for a retail clerk selling tobacco products but political subdivisions may establish a minimum age in their local code.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

N.D.C.C. § 51-10 Unfair Trade Practices Law indicates that a retailer or wholesaler may not sell below cost. We are not aware of any local minimum pricing laws.



**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Currently no flavor bans at state or local level.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

N.D.C.C. § 23-12-10 prohibits smoking in all enclosed areas of public places and places of employment. Smoking is prohibited within twenty feet of entrances, exits, operable windows, air intakes and ventilation systems of enclosed areas where smoking is prohibited. Some exemptions to the above may apply.

No outdoor smoking bans at state or local level.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

The license application can be accessed from the North Dakota Attorney General's Office website: [www.attorneygeneral.nd.gov](http://www.attorneygeneral.nd.gov)

The contact person regarding licensing is Missy Tesky; phone number (701) 328-2329.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Tobacco Products licenses are issued at the wholesale and retail levels in North Dakota. The wholesale license is \$25/year with a \$1000 surety bond required. The retail license is \$15/year. Both licenses must be renewed annually. The license term is July 1 – June 30. Sellers of e-cigs or other vaping products currently do not need to be licensed.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, for a tobacco wholesale license, which is issued by the North Dakota Attorney General Office, a \$1000 surety bond is required. No bond is required for a tobacco retail license.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No.

## **Cigarette and Tax Stamp Information**

North Dakota does not stamp packs of cigarettes.

### **Section 1 – Tax Stamp Attributes**

Not applicable.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

North Dakota does not stamp packs of cigarettes.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

North Dakota does not stamp packs of cigarettes.

### **Section 2 – Acquiring Stamps**

Not applicable.

**How are stamps delivered to the wholesaler/distributor?**

North Dakota does not stamp packs of cigarettes.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

North Dakota does not stamp packs of cigarettes.

### **Section 3 - Bond Requirements**

Not applicable.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

North Dakota does not stamp packs of cigarettes.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes. The wholesaler selling cigarettes will take the applicable deduction allowed on our return and the purchasing wholesaler will be responsible for the excise tax when cigarettes are sold to a North Dakota retailer.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Not applicable.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

North Dakota does not stamp packs of cigarettes

### **Section 6 – Refund Limitations**

Not applicable.

### **Section 7 – Credit Process for Manufacturer Returns**

Not applicable.

### **Section 8 – Other Allowed Credits**

Not applicable.

**Section 9 – Requirements for Reporting Discrepancies  
between Cigarette and Tax Stamp Inventory**

Not applicable.

**Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Not applicable.

**Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No. North Dakota taxes little cigars as a tobacco product.

**PACT Act Reporting**

North Dakota century code chapter 51-32 covers remote sales of tobacco products. PACT Act reports for cigarettes and tobacco products, which are separate from the tax return, can be mailed, faxed or emailed to tax commissioner. Reports are due the 10<sup>th</sup> of the month for the prior month.

# STATE OF OHIO

(Last updated 07/2017)

## General Information

### Section 1 - Contact Information

**Contact Name:** William Ditto, Administrator

**Agency:** Excise & Energy Tax Division

**Mailing Address:** 4485 Northland Ridge Blvd; P.O. Box 530

**City, State, Zip Code:** Columbus Ohio 43215

**Phone Number:** (855) 466-3921

**Fax Number:** (206) 350-6722

**Website:** <http://www.tax.ohio.gov>

**Contact Name:** Carol Mosholder, Tobacco Counsel

**Agency:** Attorney General Office

**Phone Number:** (614) 387-5600

**Website:** [www.ohioattorneygeneral.gov](http://www.ohioattorneygeneral.gov)

### Section 2 - Statutes, Regulations and Rules

Agency Website: <http://www.tax.ohio.gov>

Ohio Statutes: <http://codes.ohio.gov/orc/>

### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

"Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

Tobacco Tax Information by State v. 07.22.19

"Tobacco product" or "other tobacco product" means any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff.

"Little cigar" means any roll for smoking, other than cigarettes, made wholly or in part of tobacco that uses an integrated cellulose acetate filter or other filter and is wrapped in any substance containing tobacco, other than natural leaf tobacco.

#### **Section 4 - The Basis for the Tax**

Cigarettes are taxed per stick- an excise tax on sales of cigarettes is hereby levied at the rate of eighty mills on each cigarette.

Other Tobacco Products, an excise tax on tobacco products is hereby levied at one of the following rates:

(1) For tobacco products other than little cigars, seventeen per cent of the wholesale price of the tobacco product received by a distributor or sold by a manufacturer to a retail dealer located in this state.

(2) For invoices dated October 1, 2013, or later, thirty-seven per cent of the wholesale price of little cigars received by a distributor or sold by a manufacturer to a retail dealer located in this state.

#### **Section 5 - Tax Rates and Miscellaneous Fees**

See above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

#### **Section 6 - Rate Updates**

\$0.50 cap on premium cigars.

#### **Section 7 - State Collection Allowance or Discount**

For Other Tobacco Products: If the return is filed and the amount of tax shown on the return to be due is paid on or before the date the return is required to be filed, the distributor is entitled to a discount equal to two and five-tenths per cent of the amount shown on the return to be due.

For Cigarettes: The discount on sales of cigarette tax stamps and meter impressions to licensed wholesale dealers shall be one and eight-tenths per cent of the tax value thereof, irrespective of the amount of such sales.

### **Section 8 - Any Other Permissible Allowances**

None noted.

### **Section 9 – The Point at Which Tax is Imposed**

Cigarettes - when the stamp is applied.  
OTP – when the products enter the state.

### **Section 10 - Tax Return Due Dates**

Cigarettes – returns need to be postmarked by the last day of the month following the reporting period.

OTP – returns need to be postmarked by the 23rd of the month following the reporting period.

### **Section 11 – Tax Return Filings**

The returns are currently filed by paper. Electronic filing will be available soon.

### **Section 12 – Tax Collection**

OTP – payment is made by check. Acceptance of electronic payments will be available soon.

Cigarettes – If purchasing cigarette tax stamps on credit, an electronic payment must be made on or before the invoice due date. All other stamp purchases can be paid via a check, or electronically.

### **Section 13 - Penalties for Late Filing**

OTP - \$50 or 10% of the tax due, whichever is greater.

CIG - \$1 per day.

## **Section 14 – Local Jurisdictional Tax**

There is an additional county permissive tax for cigarettes sold into Cuyahoga County.

## **Section 15 - Floor Stock Tax**

Depends on what is passed legislatively.

## **Section 16 – Qualifying Exemptions**

None noted.

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.

## **Section 18 - Information Required on a Customer Invoice**

Each distributor of tobacco products shall mark on the invoices of tobacco products sold that the tax has been paid and shall indicate the distributor's account number as assigned by the tax commissioner.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	The Ohio Attorney General's Office in collaboration with The Department of Taxation
Enforcement/Collection:	The Ohio Attorney General's Office
Product Seizure Authority:	Ohio Department of Taxation, Criminal Investigation Division and Agents

## **Section 20 – New or Pending Legislation**

\$0.50 cap on premium cigars.



## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

**Do licenses need to be renewed and if so, how frequently?**

Cigarette Wholesalers, Manufacturers, Importers, Retailers are required to be licensed. The licenses renew annually on the fourth Monday of May. The annual fee for the wholesale license is \$1,000 and \$125 for the retail license.

Other Tobacco Products Distributors, Manufacturers and Importers are required to be licensed. The licenses renew annually on February 1st. The annual fee for the distributor's license is \$1,000.

Tobacco Tax Information by State v. 07.22.19

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Ohio uses a fusion heat applied stamp with overt and covert markings and a serialized number for the roll or sheet. The Ohio Department of Taxation sells the stamps to licensed wholesalers.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

The Ohio Department of Taxation sells the stamps to licensed wholesalers. A wholesaler must be licensed to purchase stamps. The stamps can be picked up at ODT or shipped to the wholesaler via UPS or FedEx.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

The Ohio Department of Taxation does have a bond option. Upon submission and approval of the bond form, the wholesalers can purchase on credit for 30 days.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No, all unaffixed must be returned to the Ohio Department of Taxation for a refund.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes, only with a pre-authorized consent, detailing brand, quantity, date and how shipped.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

All packs of cigarettes must have a stamp applied before leaving a wholesaler for sell to retail or at least 3/4ths of a stamp affixed or is subject to confiscation.

OTP must have the Distributors account number with the verbiage “Ohio excise taxes paid” on all invoices showing proof of taxes paid or is subject to confiscation.

**Does the state allow a tax credit?**

None noted.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Yes, 3/4ths of the stamp must be available for a refund.

### **Section 6 – Refund Limitations**

None noted.

### **Section 7 – Credit Process for Manufacturer Returns**

Refund for product sent back to the manufacturer is that a refund claim must be filed within the 36 month statute of limitations and must be accompanied with four documents.

Return Goods Authorization, Bill of lading, Credit Memo, and Manufacturers Affidavit.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

Tobacco Tax Information by State v. 07.22.19

## **Section 8 – Other Allowed Credits**

Destruction of products must be requested with a pre-authorization from the Department prior to destruction.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

In Ohio, the taxpayer is required to conduct a physical inventory monthly and if there are discrepancies with the physical creating an overage or a liability then the Ohio Department of Taxation collects on liability and does not refund on overages.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

PACT ACT-Any person who sells, transfers, or ships for profit of cigarettes or smokeless tobacco in interstate commerce, whereby such cigarettes or smokeless tobacco are into a State, locality, or Indian country of an Indian tribe taxing sale or use of cigarettes or smokeless tobacco or who advertise or offer's cigarettes or smokeless tobacco for sale, transfer or shipment.

Ohio requires in a form prescribed by the tax commissioner.

**STATE OF OKLAHOMA**  
(Last updated 03/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Name:** Jerry Leonard

**Agency:** Oklahoma Tax Commission

**Mailing Address:** 2501 N Lincoln Blvd

**City, State, Zip Code:** Oklahoma City, OK 73194

**Phone Number:** (405) 521-3242

**Fax Number:** (405) 522-1942

**E-mail Address:** [jleonard@tax.ok.gov](mailto:jleonard@tax.ok.gov)

**Website:** <https://www.ok.gov/tax/>

**Contact Name:** John Settle

**Agency:** Oklahoma Attorney General Office

**Mailing Address:** 313 NE 21st St

**City, State, Zip Code:** Oklahoma City, OK 73105

**Phone Number:** (405) 522-3787

**Website:** <https://www.ok.gov/oag/index.html#>

**Section 2 - Statutes, Regulations and Rules**

<http://www.oscn.net/applications/oscn/Index.asp?ftdb=STOKST68&level=1> 68-301-380 for cigarettes and 68-401-429 for OTP

Agency Rules

[https://www.ok.gov/tax/documents/Chapter%2070%20Tobacco%20Tobacco%20Products%20and%20Cigarettes\\_13.pdf](https://www.ok.gov/tax/documents/Chapter%2070%20Tobacco%20Tobacco%20Products%20and%20Cigarettes_13.pdf)

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes - The term "cigarette" is defined to mean and include all rolled tobacco or any substitute therefor, wrapped in paper or any substitute therefor and weighing not to exceed three (3) pounds per thousand cigarettes

Other Tobacco Products - The words "tobacco products" shall mean any cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including Cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing), however prepared; and shall include any other articles or products made of tobacco or any substitute therefor.

### **Section 4 - The Basis for the Tax**

**Rates effective January 1, 2005, applicable to non-tribal sales.** The non-tribal rates are:

- (1) For little (Class A) cigars: \$0.1015 each.
- (2) For Class B cigars: \$0.10 each.
- (3) For all other (Class C) cigars: \$0.12 each.
- (4) For smoking tobacco: Eighty percent (80%) of the Factory List Price.
- (5) For chewing tobacco: Sixty percent (60%) of the Factory List Price.

The terms "New Unity Compact" and "New Unity Rate" apply to compacts signed after July 1, 2013, which contain the provision that the rate will increase by an amount equal to any tax increase that becomes effective on or after January 1, 2004, and to sales made thereunder:

- (1) For little (class A) cigars: \$0.1015 each
- (2) For all other (class C) cigars: \$0.12 each
- (3) For smoking tobacco: Eighty percent (80%) of the Factory List Price
- (4) For chewing tobacco: Sixty percent (60%) of the Factory List Price

### **Section 5 - Tax Rates and Miscellaneous Fees**

None noted.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

## **Section 6 - Rate Updates**

Cigarette tax fee is to go into effect July 1, 2018. The new rate will be \$2.03 per 20 pack and \$2.5375 per 25 pack. Also, Little cigars will be taxed as cigarettes, if in packs of 20's they will require a stamp to be affixed. Other than 20's will be reported on the OTP form as cigarettes.

## **Section 7 - State Collection Allowance or Discount**

For cigarettes the discount is on the purchase of stamps is \$0.015 per stamp.

For OTP the reporter is allowed a discount of 2% of the tax due on the monthly report.

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

For cigarettes it is when the stamp is purchased.

OTP products wholesalers pay when the product is shipped into the state.

## **Section 10 - Tax Return Due Dates**

All returns, both cigarette and OTP are due by the 20th of the month for the previous month's activities.

If the due date falls on a weekend or holiday the due date is then the next business day. The postmark date is considered to be a timely filed return. However Oklahoma requires all cigarette and tobacco wholesalers to file electronically.

## **Section 11 – Tax Return Filings**

Wholesalers are required to file electronically; they file on the OkTAP Gentax system.

## **Section 12 – Tax Collection**

Payment must be made in order for a cigarette stamp order to process. Payment must be made when filing an OTP return for the return to be considered timely.

Tobacco Tax Information by State v. 07.22.19

### **Section 13 - Penalties for Late Filing**

OTP interest is calculated at 1 ¼% per month of the unpaid tax. If any amount of tobacco tax is not paid within 30 days the penalty is 10% of the total amount of delinquent tax.

### **Section 14 – Local Jurisdictional Tax**

None noted.

### **Section 15 - Floor Stock Tax**

None noted.

### **Section 16 – Qualifying Exemptions**

None noted.

### **Section 17 - Laws or Rules for Tribal Sales**

Sales made to tribal shops must have a tribal stamp affixed to the pack. All wholesalers must report those sales to the Oklahoma Tax Commission and all tribes are rebate based on their compact a portion of the tax collected.

### **Section 18 - Information Required on a Customer Invoice**

None noted.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	Oklahoma Attorney General’s office
Enforcement/Collection:	Oklahoma Tax Commission
Product Seizure Authority:	Oklahoma Tax Commission

### **Section 20 – New or Pending Legislation**

HB1010XX cigarette tax increase effective July 1, 2018.



## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18 years of age, 63-1-229.13. This applies to the entire state. Cities and towns may pass and enforce tobacco and vapor ordinances so long as the penalties are not more stringent than Oklahoma state laws.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. Unfair Cigarette and Tobacco Products Sales Act 68-326.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=91967>

No separate county/city/local minimum pricing laws.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Cigarette and/or Tobacco Wholesalers - \$250.00 due annually Cigarette Manufacture - \$250.00 due annually Wholesale cigarette and/or tobacco vehicle license \$10 per vehicle due annually Cigarette Distributing Agent permit - \$100 due annually Retail cigarette permit \$30 due every three years Retail tobacco permit \$30 due every three years.

Tobacco Tax Information by State v. 07.22.19

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Cigarette/Tobacco wholesalers and manufactures renewed annually.

Cigarette/Tobacco retailers renewed every three years

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes per 68-320. Every person making application for a wholesaler's or jobber's license under this article shall, before being issued such license and as a condition of carrying on such business, file with the Tax Commission a surety or collateral or cash bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) payable to the State of Oklahoma and conditioned upon compliance with the provisions of this article and the rules of the Oklahoma Tax Commission.

### **Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

Yes per 68-304.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

All stamps are colored, numbered and are heat applied. Full rate stamps are green, tribal stamps are tan.

### **How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

There are 2 rows of serial numbers. First row is the stamp number, the second row is the unique stamp ID.

### **Does your state require stamping or any other identifying markings on 'other tobacco products'?**

Not at this time.

### **Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Oklahoma has a 25 tax stamp that must be applied to the packs of 25s. The packs of 25s cannot be stamped with a 20's stamp.

## **Section 2 – Acquiring Stamps**

### **How are stamps delivered to the wholesaler/distributor?**

All cigarette stamps must be ordered through the wholesaler's OkTAP account and orders are then sent to Meyercord in Carol Stream IL for processing. Stamps are then delivered (standard delivery of 2 days) the OTC will pick up shipping costs. If wholesale needs overnight delivery they have the option to order that type of delivery on the order system. They must have a Fed Ex account and they pay for that cost.

### **When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment for stamps is due at time of purchase. Wholesaler is not eligible to purchase stamps unless the wholesaler has a current bond. All bonds are a flat \$25,000.

## **Section 3 - Bond Requirements**

All Cigarette and/or Tobacco Wholesalers must post a \$25,000 bond.

## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

Unaffixed stamps are only allowed to be transferred if the two wholesalers are owned by the same entity.

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

Not for misapplied stamps.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

No.

## **Section 6 – Refund Limitations**

No time limits.

## **Section 7 – Credit Process for Manufacturer Returns**

Wholesaler must send in an affidavit from the manufacture in order to claim a credit for stamps applied to cigarettes returned to a manufacture.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

The refund for manufacture returns is given to the wholesaler to be used as a credit on their next stamp purchase.

## **Section 8 – Other Allowed Credits**

OTP product returned to a manufacture must have an affidavit supplied in order to claim credit.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Difference is reported on monthly return

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Yes, if the little cigars are sold in packs of 20's. If sold in packs other than 20's no stamp is required and these are reported on the Other Tobacco Product return and taxed at the cigarette rate.

## **PACT Act Reporting**

Required to be reported by the 10th of the month for the previous month's activities they file by email, with their returns and via mail.

**STATE OF OREGON**  
(Last updated 03/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Name:** Shannon Johns

**Agency:** Department of Revenue

**Mailing Address:** 955 Center St. NE

**City, State, Zip Code:** NE, Salem, OR 97301

**Phone Number:** (503) 971-1171

**Fax Number:** (503) 947-2255

**E-mail Address:** [Shannon.johns@oregon.gov](mailto:Shannon.johns@oregon.gov)

**Website:** <http://www.oregon.gov/dor/>

**Contact Name:** Kristen Gilman, Assistant Attorney General |Tobacco Enforcement Unit and Civil Recovery Section

**Agency:** Oregon Department of Justice

**Mailing Address:** 1162 Court St. NE

**City, State, Zip Code:** Salem, OR 97301-4096

**Phone Number:** 503.934.4400

**E-mail Address:** [Kristen.a.gilman@state.or.us](mailto:Kristen.a.gilman@state.or.us)

**Website:** <http://www.doj.state.or.us/tobacco/pages/index.aspx>

## **Section 2 - Statutes, Regulations and Rules**

Cigarettes and Tobacco Products Revenue and Taxation

Oregon Revised Statutes: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors323.html](https://www.oregonlegislature.gov/bills_laws/ors/ors323.html)

Oregon Administrative Rules:

[http://arcweb.sos.state.or.us/pages/rules/oars\\_100/oar\\_150/150\\_323.html](http://arcweb.sos.state.or.us/pages/rules/oars_100/oar_150/150_323.html)

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

### **"Cigarette" (ORS 323.010(1))**

Any product that contains nicotine is intended to be burned or heated under ordinary conditions of use and consists of or contains:

Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

Tobacco, in any form, that is functional in the product and that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

Any roll of tobacco that is wrapped in any substance containing tobacco and that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

### **"Tobacco products" (ORS 323.500(14))**

Cigars, cheroots, stogies, perique's, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, moist snuff, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes as defined in ORS 323.010 (Definitions for ORS 323.005 to 323.482).

### **"Cigar" (ORS 323.500(2))**

A roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000 of these rolls collectively weigh more than three pounds. "Cigar" does not include a cigarette, as defined in ORS 323.010 (Definitions for ORS 323.005 to 323.482).

### **"Moist snuff" (ORS 323.500(9))**

- a. Any finely cut, ground or powdered tobacco that is not intended to be smoked or placed in a nasal cavity; or

- b. Any other product containing tobacco that is intended or expected to be consumed without being combusted.

## **Section 4 - The Basis for the Tax**

### **Cigarette**

Unit based—tax is imposed on the distribution of each cigarette in this state. ORS 323.030 and 323.031

### **Tobacco Products**

Wholesale sales price—the price paid for untaxed tobacco products to or on behalf of a seller by a purchaser of the untaxed tobacco products. ORS 323.500(16) and 323.505(2) (c)

### **Cigar**

Wholesale sales price—the price paid for untaxed tobacco products to or on behalf of a seller by a purchaser of the untaxed tobacco products. ORS 323.500(16) and 323.505(2) (a)

Cap—the cigar tax cannot exceed \$0.50 per cigar. ORS 323.505(2) (a)

### **Moist Snuff**

Weight based—the tax is calculated per ounce based on the net weight determined by the manufacturer. ORS 323.505(b)

Minimum—the minimum tax for moist snuff products is \$2.14 per retail contained. ORS 323.505(b)

Provide tax rates and any miscellaneous fees due with the tax returns (as of 4/10/17)

## **Section 5 - Tax Rates and Miscellaneous Fees**

### **Cigarette**

\$1.32 tax per 20 packs (\$1.65 tax per 25 packs). ORS 323.030 and 323.031

### **Tobacco Products**

65% of the wholesale sales price of any tobacco products that are not cigars or moist snuff. ORS 323.505(2) (c)

### **Cigar**

65% of the wholesale sales price of cigars, but not to exceed 50 cents per cigar. ORS 323.505(a)

### **Moist Snuff**

\$1.78 per ounce, except that the minimum tax is \$2.14 per retail container. ORS 323.505(b)

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**  
Oregon does not currently e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products.

## **Section 6 - Rate Updates**

The cigarette tax rate is schedule to increase January 1, 2018 from \$1.32 tax per 20 pack (\$1.65 tax per 25 pack) to \$1.33 tax per 20 pack (\$1.6625 tax per 25 pack). *See Oregon Laws 2013 (Special Session), chapter 5, sections 16 & 19.*

The Oregon legislature has bills with proposed increases as follows:

### **Cigarette tax increases**

\$0.50/20 pack – \$2.00/20 pack rate increase

### **OTP tax increases**

#### Cigars

16.25% - 25% rate increase

Increase cigar cap \$0.125 per cigar (currently @ \$0.50 per cigar)

Remove cigar cap

#### Moist Snuff

\$0.45 - \$0.68 rate increase

Increase minimum tax \$0.54 – \$0.82 (currently @ \$1.78 per container)

#### General OTP

16.25% - 25% rate increase

## **Section 7 - State Collection Allowance or Discount**

Tobacco Distributor – Receives a discount of 0.015 of quarterly tax due. ORS 323.505(4).

Cigarette Distributor- Receives a discount of \$0.004 per tax stamp purchased. ORS 323.170(2).

## **Section 8 - Any Other Permissible Allowances**

We may grant other allowances depending on the circumstances.



## **Section 9 – The Point at Which Tax is Imposed**

### **Cigarette:**

The tax is imposed at the point of distribution. Generally, this is the point that the product is brought into the state. Distribution is defined at ORS 323.015 as:

- (a) The sale in this state of untaxed cigarettes.
- (b) The use or consumption in this state of untaxed cigarettes.
- (c) The receipt or retention in this state of untaxed cigarettes at a place of business where cigarettes are customarily sold or offered for sale to consumers.
- (d) The placing of cigarettes in vending machines in this state.
- (e) The use or consumption by the first person in possession in this state of untaxed cigarettes transported to the state in quantities of more than 199 in a single shipment.
- (f) Donations of sample cigarettes or gift cartons by the manufacturers of the cigarettes, except sample packages containing not more than five cigarettes and labeled as "sample," "not for sale" or with similar wording.
- (g) The possession in this state of untaxed cigarettes that were transported to this state in quantities of more than 199, unless the person in possession of the untaxed cigarettes is in possession of the untaxed cigarettes in order to transport the cigarettes to a location outside this state.

### **Tobacco Products:**

The tax is imposed at the time the distributor distributes the tobacco products. Generally, this is the point that the product is brought into the state. Distribute is defined at ORS 323.500 as:

- (a) Bringing, or causing to be brought, into this state from without these state tobacco products for sale, storage, use or consumption;
- (b) Making, manufacturing or fabricating tobacco products in this state for sale, storage, use or consumption in this state;
- (c) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored, used or consumed by those retail dealers;
- (d) Storing untaxed tobacco products in this state that are intended to be for sale, use or consumption in this state;
- (e) Selling untaxed tobacco products in this state; or
- (f) As a consumer, being in possession of untaxed tobacco products in this state.

## **Section 10 - Tax Return Due Dates**

Oregon Quarterly Tax Return for Tobacco Distributors – Due date is the last day of January, April, July, and October of each year for the preceding calendar quarter.

Oregon Cigarette Distributor Quarterly Reconciliation Report – Due date is the 20th day of January, April, July, and October of each year for the preceding calendar quarter.

## **Section 11 – Tax Return Filings**

We have electronic and paper filing methods available. Electronic filing is completed via the department's secure taxpayer portal, Revenue Online. Paper returns can be downloaded from the department's website and submitted in person or via U.S. mail.

## **Section 12 – Tax Collection**

### **Cigarette:**

The tax is collected from distributors when tax stamp orders are received. Distributors who purchase stamps using the deferred method submit payment on a monthly basis to cover the orders from the preceding month. As discussed below, the department requires that those distributors using the deferred method have a security deposit in the form of a bond or other approved security in place.

### **Tobacco Products:**

The tax must be paid by each distributor to the department on or before the last day of January, April, July, and October for any distributions that occurred in the proceeding calendar quarter.

**Is there an option for, or point at which a taxpayer must make an, electronic payment? If so, is there a time by which the electronic payment must be transmitted to be considered timely, (i.e., no later than 3pm the day prior to the due date)?**

Electronic payment is not required. EFT debit from a savings or checking account will be considered timely if submitted by 11:59 PM on the due date from our Revenue Online system. Credit/Debit card payments are directed to an outside site. Credit is given to your account on the date the transaction is authorized by the service provider. A credit/debit card option is not available for purchasing cigarette stamps.

## **Section 13 - Penalties for Late Filing**

5% Failure to pay timely (ORS 314.400(1))

20% Failure to file and pay timely (ORS 314.400(3) (a))

25% failure to file (ORS 314.400(3) (b))

100% failure to file for 3 years in a row (ORS 305.992(1))

### **Civil penalties:**

Cigarette: \$1,000 civil penalty for violation of ORS 323.005 to ORS 323.482 (ORS 323.480(1))

Tobacco: \$1,000 civil penalty for violation of ORS 323.500 to ORS 323.645 (ORS 323.630(1))

## **Section 14 – Local Jurisdictional Tax**

No, the state cigarette and tobacco taxes are imposed in lieu of all other county or municipal taxes on the sale or use of cigarettes (ORS 323.030(2) and 323.640)

## **Section 15 - Floor Stock Tax**

We have imposed a floor stock tax due to a tax rate change; however, we do not impose a floor stock tax for every tax rate change.

## **Section 16 – Qualifying Exemptions**

### **Cigarettes:**

- (a) Distributions of cigarettes by the manufacturer to a licensed distributor
- (b) The sale of cigarettes by a distributor to a common carrier engaged in interstate or foreign passenger service or to a person authorized to sell cigarettes on the facilities of the carrier.
- (c) The sale of cigarettes to United States Army, Air Force, Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration or Public Health Service of the United States Department of Health and Human Services exchanges and commissaries and Navy or Coast Guard ships' stores, the United States Department of Veterans Affairs, ships' stores maintained under federal bond, or to any person that by virtue of the Constitution or statutes of the United States cannot be made the subject of taxation by this state.
- (d) The sale or gift of federally tax-free cigarettes when the cigarettes are delivered directly from the manufacturer under Internal Revenue bond to a veterans' home or a hospital or domiciliary facility of the United States Department of Veterans Affairs for gratuitous issue to veterans receiving hospitalization or domiciliary care. The tax may not be imposed with respect to the use or consumption of these cigarettes by the institution or by the veteran patients or domiciliaries.
- (e) The use or consumption of untaxed cigarettes transported to this state in a single lot or shipment of not more than 199 cigarettes.

### **Tobacco Products:**

- (a) Sales of any tobacco products which under the Constitution and laws of the United States may not be made the subject of taxation by the state.
- (b) The sale of tobacco products by a distributor to a common carrier engaged in interstate or foreign passenger service or to a person authorized to sell tobacco products on the facilities of a common carrier.

## **Section 17 - Laws or Rules for Tribal Sales**

### **Cigarettes:**

The Department of Revenue is authorized to enter into a cigarette tax refund agreement with the governing body of any Indian reservation in Oregon. The agreement may provide for a mutually agreed upon amount as a refund to the governing body of any cigarette tax prepaid on sales of cigarettes to Indians upon the reservation and paid into the State Treasury. This provision is in addition to other laws allowing tax refunds. (ORS 323.401(1)).

### **Tobacco Products:**

The Director of the Department of Revenue is authorized to enter into a tobacco products tax refund agreement with the governing body of any Indian reservation in Oregon. The agreement may provide for a mutually agreed upon amount as a refund to the governing body of any tobacco tax collected under ORS 323.500 to 323.645 in connection with the sale of tobacco products to Indians on the Indian reservation, or the use, storage or consumption of tobacco products by Indians on the Indian reservation. (ORS 323.615(1)).

## **Section 18 - Information Required on a Customer Invoice**

Oregon law requires licensed OTP distributors to adhere to invoice requirements, all invoices must contain:

- The name and address of the seller.
- The name and address of the purchaser.
- The date of the sale.
- A description of the products and the quantity.
- The price paid for the products and any discount applied.
- The license number for the distributor.
- A certified statement by the distributor of the tobacco products that all taxes under ORS 323.500 to 323.645 have been or will be paid.

Oregon Cigarette Wholesalers must provide invoices for sales to other retailers, these invoices must contain:

- The name and address of the seller.
- The name and address of the purchaser.
- The date of the sale.
- A description of the cigarettes and the quantity.
- The license number for the cigarette wholesaler.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Oregon Department of Justice  
Enforcement/Collection: Oregon Department of Revenue & the Attorney General  
Product Seizure Authority: Oregon Department of Revenue and any law enforcement agency

## **Section 20 – New or Pending Legislation**

Cigarette, tobacco, and Inhalant Delivery System (i.e. ENDS) retailer registration; SB 998 (2017 Session)

Cigarette tax increase and associated floor tax; HB 2119 (2017 Session)

Remove tax cap on cigars; HB 2662 (2017 Session)

Increase tax cap on cigars; HB 2037 (2017 Session)

Increase minimum tax on moist snuff; HB 2056 (2017 Session)

Tobacco Tax increase; HB 2056 (2017 Session)

Nicotine Substitute (i.e. contains nicotine but not tobacco) tax; HB 3296 (2017 Session)

Inhalant Delivery System (i.e. ENDS) tax; HB 3403 (2017 Session)

Minimum age increase (from 18 to 21); SB 754 (2017 Session)

Note: bill numbers listed above are not intended to be exhaustive. Some concepts are included in multiple bills.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

You must be 21 to purchase cigarettes or tobacco in Oregon. ORS 167.755

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No. State law does not specify an age requirement for retail clerks to sell cigarettes or tobacco products.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Yes. You must be at least 18 to possess tobacco products or inhalant delivery systems in Oregon. ORS 167.785

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. You must be at least 18 to possess tobacco products or inhalant delivery systems in Oregon.  
ORS 167.785

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes.

- Oregon's Indoor Clean Air Act (ICAA) prohibits smoking, aerosolizing, or vaporizing an inhalant in a public place, a workplace and within 10 feet of entrances, exits, windows, or ventilation intakes. The ICAA provides exemptions for certain businesses, including cigar bars and smoke shops. All cigar bars and smoke shops, including hookah lounges, must be certified by the Oregon Health Authority, and abide by specific requirements. In addition, the ICAA allows a hotel/motel owner to allow smoking in 25% of sleeping rooms. ORS 433.845, ORS 433.847, and OAR 333-105-0035
- Use of tobacco products is prohibited on state agency grounds. Executive Order 12-13
- Some counties, cities, and municipalities have enacted stricter local bans on smoking in public areas or workplaces.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No; Federal law applies.

## **License Information**

To apply for a distributor or wholesaler license most businesses must be registered with the Secretary of State's office. All businesses, except certain sole proprietorships, are required to have a federal tax identification number. There is no fee to apply for or obtain a distributor or wholesaler license. Distributors may be required to provide a surety bond or security deposit. Applicants must be compliant with all tax and non-tax programs administered at DOR. Oregon DOJ has additional requirements for licensed distributors and wholesalers.

There are three types of licenses:

Cigarette Distributor's License: For people who bring untaxed cigarettes into Oregon for resale. This license allows you to purchase Oregon tax stamps from us.

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Cigarette Wholesaler's License: For people who buy stamped cigarettes from licensed distributors. This license allows you to resell these cigarettes to other retailers.

Tobacco Products Distributor's License: For people who bring untaxed tobacco products into Oregon for resale.

Completed applications are submitted electronically using Revenue Online, or paper applications are sent to:

Oregon Department of Revenue  
PO Box 14630  
Salem OR 97309-5050  
Phone: 503-945-8120  
Fax: 503-947-2255 Oregon.gov/dor

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Licenses do not need to be renewed. However, distributors with an active license must file a return, even if there is no activity in the state.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

A bond or cash deposit is required for tobacco licensing.

### **Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Oregon cigarette tax stamps are orange; each stamp has a roll or pad number and a stamp number. The stamps are applied with a stamping machine or heat source.

Stamps must be affixed to each individual package of cigarettes. Stamps must be affixed to the bottoms of packages in a manner that is clearly visible to subsequent purchasers. OAR 150-323-1000.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Oregon’s tax stamp has two rows of serial numbers. The first number is the roll number (each roll has a unique roll number), and the second number is the stamp number.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Oregon has both 20 and 25s tax stamps.

## **Section 2 – Acquiring Stamps**

Tax stamp orders are submitted by cigarette distributors electronically through Revenue Online. Orders are then automatically transmitted to Meyercord (DOR’s cigarette stamp manufacturer), who ships orders directly to distributors.

**How are stamps delivered to the wholesaler/distributor?**

DOR pays for 2-day PM delivery (standard) shipping through FedEx. Distributors who select a different delivery option must provide the name of their courier and their courier account number.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at time of order or the 20<sup>th</sup> of the month following date of order for distributors purchasing on deferred payment method, which requires a bond. Deferred payment cannot exceed amount of bond; bond requirement calculated based on historic purchases and up to two-times the average purchase amount.

## **Section 3 - Bond Requirements**

Distributors that choose to defer cigarette tax stamp purchases must have a security deposit in the form of a bond or other approved security in place. The amount of the security cannot be more than 2 times the estimated monthly liability for the distributor.



## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

A licensed distributor may sell unaffixed stamps to another person with prior written approval from DOR. See ORS 323.165(1).

DOR may enter into contracts with financial institutions to act as the department's agent for the sale of stamps and matters relating to the sale of stamps. ORS 323.165(2)

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

The transfer of unstamped cigarettes between wholesalers/distributors is generally not allowed.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

ORS 323.160 (Tax stamps; rules) and OAR 150-323-0110 (Definition of "Appropriate Stamp") OAR 150-323-0230 (refunds (1) where at least 50% of a stamp is affixed; (2) where more than one stamp is affixed; and (3) where stamps are affixed to packaging).

### **Does the state allow a tax credit?**

Yes

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Must be at least 50% to qualify for a tax credit. OAR 150-323-0230.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

Complete a Claim for Refund of Oregon Cigarette Tax and attach original, signed manufacturer's "Statement of Returned-Cigarettes" and a copy of the shipping document. Send completed request and required documents to DOR to be processed for a refund.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refunds are issued via check.

## **Section 8 – Other Allowed Credits**

Cigarette Distributors may also receive refunds for stamps affixed to packages that have become unfit to use or unsalable or have been destroyed, returned for credit or replaced. ORS 323.320(1) (b). See also OAR 150-323-0230 (Refund Value of Stamps on Unsalable and Mistamped Cigarette Packages and Cartons).

When tobacco products, upon which the tax imposed under ORS 323.500 to 323.645 has been reported and paid, are returned to the manufacturer by the distributor or destroyed by the distributor, credit for tax may be made to the distributor. ORS 323.560.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

A quarterly reconciliation report is filed by the Distributor which would show any discrepancy cigarettes distributed and stamps applied. If the report does not balance, the shortfall may be addressed during an audit. Discrepancies are not automatically adjusted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Only licensed distributors may purchase or possess unaffixed stamps. Stamped and unstamped cigarettes must be segregated.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Little cigars are not currently required to be stamped. Some legislative bills proposed in the 2019 legislative session may require little cigars to be stamped. See [Section 20 – New or Pending Legislation](#) for further information on proposed legislation.

## **PACT Act Reporting**

PACT Act reports are due by the 10th day of each calendar month. These reports are submitted by mail or email to both DOR & DOJ.

**STATE OF PENNSYLVANIA**  
(Last updated 6/2019)

**General Information**

**Section 1 - Contact Information**

**Agency:** PA Department of Revenue, Miscellaneous Tax Division

**Mailing Address:** PO BOX 280909

**City, State, Zip Code:** HARRISBURG PA 17128-0909

**Phone Number:** (717)783-9374

**Fax Number:** (717)705-8413

**Cigarette Email:** [RA-RVBTFTCIGTAX@PA.GOV](mailto:RA-RVBTFTCIGTAX@PA.GOV)

**OTP E-mail Address:** [RA-RVBTFTOTP@PA.GOV](mailto:RA-RVBTFTOTP@PA.GOV)

**Website:** <http://www.revenue.pa.gov>

**Agency:** Pennsylvania Office of Attorney General

**Mailing Address:** Strawberry Square

**City, State, Zip Code:** Harrisburg, PA 17120

**Phone Number:** 717-787-3391

**Website:** <https://www.attorneygeneral.gov/resources/tobacco-enforcement/>

**Section 2 - Statutes, Regulations and Rules**

<http://www.revenue.pa.gov/GeneralTaxInformation/TaxLawPoliciesBulletinsNotices/Pages/default.aspx#.WPUT2eLD9hE>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarettes (72 P.S. Section 8201) – Any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of any substance or material other than tobacco regardless of the size or shape of the roll and regardless of whether or not the tobacco is flavored, adulterated or mixed with any other ingredient; or a little cigar.

Other Tobacco Products (72 P.S. Section 8201-A) – Electronic cigarettes, roll-your-own tobacco, perique's, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, dry snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or ingesting or for smoking in a pipe or otherwise, or any combination of chewing, ingesting or smoking.

### **Section 4 - The Basis for the Tax**

Cigarettes – 13 cents per stick = \$2.60 per pack of 20 cigarettes/little cigars and \$3.25 per pack of 25 cigarettes/little cigars.

Philadelphia Cigarette Tax Rate - 23 cents per stick, \$4.60 per pack of 20 cigarettes/little cigars and 5.75 per pack of 25 cigarettes/little cigars

OTP – Smokeless tobacco and roll-your-own/smoking tobacco for units less than 1.2 ounces: \$0.66. Smokeless tobacco and roll-your-own/smoking tobacco for ounces 1.2 or greater: \$0.55. Electronic cigarettes and electronic cigarette products: 40% of the purchase price from dealer or manufacturer to retailer in this Commonwealth.

### **Section 5 - Tax Rates and Miscellaneous Fees**

See Above.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Retailers of E-Cigarettes and Vapor products are taxed at 40% of the purchase price.

### **Section 6 - Rate Updates**

We are currently unaware of any upcoming tax rate changes.

### **Section 7 - State Collection Allowance or Discount**

A cigarette stamping agent shall be entitled to a commission for the agent's services and expenses in affixing cigarette tax stamps. The commission shall be equal to five hundred eighty-

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six thousandths percent (0.586%) of the total value of Pennsylvania cigarette stamps purchased by the agent from the department or its authorized agents to be used in the stamping of unstamped cigarette for sale within this Commonwealth.

### **Section 8 - Any Other Permissible Allowances**

A refund of any tax imposed by this article shall be made to a person on proof satisfactory to the department, that the claimant:

Paid the tax on cigarettes withdrawn by him from the market.

Shipped cigarettes into another state for sale or use therein under the conditions as provided by the regulations promulgated by the department.

Sold to persons exempt from the tax under the provisions of this article or regulations prescribed thereunder.

Had possession of cigarettes which were lost (otherwise than by theft) or destroyed by fire, casualty or act of God.

Paid the tax in error.

Has no further use for cigarette stamps originally purchased by him.

### **Section 9 – The Point at Which Tax is Imposed**

Cigarette Tax (72 P.S. Section 8206) – Tax is imposed at the time CSA's purchase stamps from the Department of Revenue.

Other Tobacco Products (72 P.S. Section 8202-A) – Wholesalers and manufacturers are required to collect tax from retailers or first point of entry into commerce.

### **Section 10 - Tax Return Due Dates**

Please reference link below to obtain cigarette and tobacco products due dates.

[http://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/Documents/Cigarette%20Tax/2017\\_rev-703.pdf](http://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/Documents/Cigarette%20Tax/2017_rev-703.pdf)

If the report due date falls on a weekend or a holiday, the report is due the following business day.

The postmark date is taken into consideration for a timely filed return.

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## **Section 11 – Tax Return Filings**

Other Tobacco Products tax returns must be filed electronically. All other OTP and cigarette reports must be filed on paper.

**Is there an option for electronic filing? Briefly explain the process.**

OTP taxpayers visit e-TIDES, Pennsylvania’s free electronic filing system.  
[www.etides.state.pa.us](http://www.etides.state.pa.us).

All other reports for monthly filings are found on the Department’s website at  
[www.revenue.pa.gov](http://www.revenue.pa.gov).

## **Section 12 – Tax Collection**

No, Pennsylvania does not require electronic payments for any cigarette or OTP taxes.

## **Section 13 - Penalties for Late Filing**

Late File Penalty: 5 percent of the tax due for each month or fraction of a month that the period remains unfiled.

Underpayment Penalty: 5 percent of the difference between the amount due and the amount paid. This penalty increases by 5 percent each month or fraction of a month the underpayment isn’t addressed.

## **Section 14 – Local Jurisdictional Tax**

Yes, Philadelphia.

## **Section 15 - Floor Stock Tax**

Yes.

## **Section 16 – Qualifying Exemptions**

Out-of-state sales, tobacco products sales to dealers other than a retailer or unclassified importer, sales to veterans’ organizations approved by the Department, sales to voluntary unincorporated organization of military forces personnel, sales to patients in Veterans Administration hospitals by retail dealers located in such hospitals.

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Please reference form REV-1042, Cigarette Tax and Tobacco Products Exemption Certificate:  
<http://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/Documents/Cigarette%20Tax/rev-1042.pdf>

### **Section 17 - Laws or Rules for Tribal Sales**

None noted.

### **Section 18 - Information Required on a Customer Invoice**

Invoice or delivery ticket.” Any invoice or delivery ticket which shows the true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes transported, the correct date of purchase or shipment and the true name and complete and exact address of the person who shall assume the payment of the Pennsylvania State tax or the tax, if any, of the state or foreign country at the point of ultimate destination.

In addition, for other tobacco products the tax must be separately stated on the invoice or sales document.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	Pennsylvania Office of Attorney General
Enforcement/Collection:	Pennsylvania Department of Revenue, Bureau of Criminal Tax Investigations
Product Seizure Authority:	Pennsylvania Department of Revenue, Bureau of Criminal Tax Investigations and Pennsylvania Office of Attorney General

### **Section 20 – New or Pending Legislation**

None noted.

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

It is unlawful for any minor (currently defined as under the age of 18) to purchase or attempt to purchase tobacco products under 18 PA. Const. Stat § 6305(a.1). It is also unlawful for any persons to sell or furnish, by purchase, gift or other means, tobacco to a minor under 18 PA. Const. Stat § 6305(a). Tobacco Products are defined as “a cigarette, cigar, pipe tobacco or other Tobacco Tax Information by State v. 07.22.19

smoking tobacco product or smokeless tobacco in any form, manufactured for the purpose of consumption by a purchaser, and any cigarette paper or product used for smoking tobacco” under 18 PA. Const. Stat § 6305(k).

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Philadelphia, Pennsylvania signed an executive order in 2014 that bans smoking in public parks via an extension of their Clean Indoor Air Worker Protection Act (their CIAA law). Pennsylvania Department of Health also works with communities to create tobacco-free parks, playgrounds and recreational areas through the Young Lungs at Play (YLAP) program (see website below).

<https://www.health.pa.gov/topics/programs/tobacco/Pages/Young-Lungs-at-Play.aspx>

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.



## **License Information**

Cigarette:	Other Tobacco Products:
CSA - \$1,500	Manufacturer - \$1,500
Wholesaler - \$500	Wholesaler - \$1,500
Retailer - \$25 per location	Retailer - \$25 per location
Vending Operator - \$25 per location	Vending Operator - \$25 per location

All licensees must be tax compliant. Retail locations must have a valid sales tax license.

### **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, annual renewal is required.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No Requirement

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No Requirement

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Stamps are heat fusion applied upon each package of cigarettes offered for sale to indicate that the cigarette tax authorized by Commonwealth of Pennsylvania law has been paid.

Each stamp shall measure Height – 0.45” and Width – 0.45”.

Each stamp will have a unique two line 9-digit numeric ending with an alphabetic character.

Each stamp shall have a keystone or other symbol with irregular shape and outline as part of the design and shall consist of three ink colors.

Each stamp will have the first line, which indicates the stamp roll. The second line of numbers is the individual stamp number

The ink colors are as follows:

Outline of the stamp

Background of the stamp

Center portion of the stamp

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The current colors of Pa Stamps are Yellow for state and Violet for Philadelphia. These are subject to change per the department's discretion.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Each stamp has two rows of serial numbers. Each stamp will have the first line, which indicates the stamp roll. The second line of numbers is the individual stamp number. Each roll or stamp will go in ascending order numbered across (left to right).

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Yes, PA has 25's tax stamps

## **Section 2 – Acquiring Stamps**

Cigarette Stamping Agents (CSA's) must purchase stamps from the Department.

**How are stamps delivered to the wholesaler/distributor?**

Yes, all CSA's must provide either a FedEx or UPS account number for shipping purposes. CSA's can also opt to pick stamps up directly by coming to the Department of Revenue with proper payment.

**When is payment due for the tax stamps?**

15<sup>th</sup> of every month

**Is a bond required? Include information regarding how the bond amount is calculated.**

No

## **Section 3 - Bond Requirements**

The department shall by regulation permit a cigarette stamping agency to pay for purchases on a deferred basis, upon the filing of a surety bond, of the type approved by the department, with the department, in an amount deemed sufficient by the department to protect the revenue, said bond to be executed by the cigarette stamping agency as principal and by a corporate surety company, duly authorized to engage in such business in the Commonwealth of Pennsylvania, as surety. In lieu of the bond required by this subsection, the department shall accept other forms of security, such as a line of credit, if the department deems the security sufficient to protect the revenue.

The department shall deny deferred purchase plans to any stamping agency in any state where Tobacco Tax Information by State v. 07.22.19

such state denies stamping agencies in Pennsylvania the right to use deferred purchase plans. The department may deny any cigarette stamping agent the right to purchase cigarette tax stamps if the cigarette stamping agent is delinquent in remitting cigarette taxes or fines owed the Commonwealth.

The department shall, upon application, permit a cigarette stamping agency to post a surety bond with the department for fifty per cent of the amount of the tax stamp purchase, provided that the agency has a record of timely payments of the tax for a three-year period prior to application and further provided that the agency files with the department a financial statement that demonstrates assets sufficient to protect the revenues. To preserve the discounted bond arrangement an agency may be required to provide an updated financial statement at the request of the department. If the department determines the cigarette stamping agency's financial condition and the type and amount of security posted by the cigarette stamping agency is insufficient to protect the revenue, the department may require additional security in the type and amount necessary to protect the revenue. If the cigarette stamping agency fails to post the type and amount of security requested within ten days of the mailing date of the request, the department may revoke the cigarette stamping agency's license.

#### **Section 4 – Allowable Transfers**

##### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

No, under no circumstances shall any cigarette stamping agency be permitted to sell, transfer or deliver to any person any unstamped cigarettes, or any unused cigarette tax stamps unless specifically permitted by the provisions of this article.

##### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Under no circumstances shall any cigarette stamping agency be permitted to sell, transfer or deliver to any person any unstamped cigarettes, or any unused cigarette tax stamps unless specifically permitted by the provisions of this article.

Every person other than a common carrier engaged in interstate commerce that shall possess or transport more than two hundred unstamped cigarettes upon the public highways, roads or streets of this Commonwealth, shall be required to have in his possession invoices or delivery tickets for such cigarettes. The invoices or delivery tickets shall show the correct date of purchase or shipment, true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes so transported and the true name and complete and exact address of the person who shall assume the payment of the Pennsylvania State tax or the tax, if any, of the state or foreign country at the point of ultimate destination. If the cigarettes are consigned to or purchased by any person in the Commonwealth of Pennsylvania such consignee or purchaser must be a licensed cigarette stamping agency or otherwise authorized by this article to possess unstamped cigarettes within the boundaries of this Commonwealth. The absence of such invoices or delivery tickets shall be prima facie evidence that the possession of such cigarettes is contrary to the provisions of this article and shall subject the possessor to the penalties imposed herein.

(e) In the absence of such invoices or delivery tickets or, if the name or address of the purchaser or consignor is falsified, or if the purchaser or consignee in this Commonwealth is not authorized to possess unstamped cigarettes then and in that event the cigarettes so transported shall be

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subject to confiscation at the discretion of the Secretary of Revenue as is more fully described in section 1285.1

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

The department's policy is 50% of the tax stamp.

## **Section 6 – Refund Limitations**

3 years from the purchase date.

## **Section 7 – Credit Process for Manufacturer Returns**

§ 71.6. Refunds or credits for cigarette tax stamps.

Affixed tax stamps. A refund or credit for cigarette tax stamps purchased by a cigarette stamping agent which have been affixed to packages of cigarettes will be made to the agent upon satisfactory proof presented to the Department that the tax-stamped cigarettes have been withdrawn from the market because they are unsaleable, sold to persons exempt from the tax under the act, or lost or destroyed by fire, casualty or Act of God. A refund or credit will not be granted for cigarette tax paid upon stamped cigarettes that have been stolen.

A cigarette stamping agent's refund or credit shall be based upon the face value of the stamps, less commissions allowed the cigarette stamping agent under the act.

If the cigarettes are returned to the manufacturer, the cigarette stamping agent shall give to the Department a sworn statement by the manufacturer certifying receipt of the returned cigarettes.

Unaffixed tax stamps. The Department may issue a refund or a credit to present or former cigarette stamping agents for previously-purchased, unaffixed tax stamps when the Department deems a refund or credit appropriate such as when a cigarette stamping agent is no longer qualified to affix tax stamps, when a cigarette stamping agent is in liquidation, when a cigarette stamping agent possesses damaged tax stamps that are unfit for use or when a cigarette stamping agent possesses stamps that have been superseded by stamps of a newer design or denomination.

The Department will issue a refund or credit for unaffixed tax stamps for the actual amount of cigarette tax paid for the stamps if satisfactory proof is presented to the Department within the time permitted under section 1253 of the act (72 P. S. § 8253). A claim for a refund or credit may not be filed when cigarette tax stamps have not been paid for in full. The Department will determine whether the cigarette stamping agent is entitled to either a refund or credit and the method of payment.

Unaffixed stamps shall accompany the claim, which shall be sent to the Department by registered mail or other method approved by the Department

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

CSA's provide the department with an affidavit showing the return product. Once approved, the CSA can use the credit on future stamp purchases.

### **Section 8 – Other Allowed Credits**

Credits for OTP on returned goods are deducted from the total taxable sales for the current reporting period.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

The Department requires monthly reporting of beginning and ending stamp inventories. An audit is performed to determine if additional money is owed to the Department.

REV-1030, Resident Stamp Affixing Monthly Report

REV-1036 – Non-Resident Stamp Affixing Monthly Report

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Yes, little cigars packaged in 20 - 25 sticks, similar to cigarettes, must be stamped. Wholesalers are required to collect the tax from retailers on all unstampable little cigar sales.

### **PACT Act Reporting**

Monthly reporting requirements: On or before the 10th day of each calendar month, any person who sells, transfers, ships, advertises or offers for sale cigarettes or smokeless tobacco in interstate commerce must file with the tobacco tax administrator of the state into which the

shipment is made, a memorandum or a copy of the invoice covering each and every shipment of cigarettes or smokeless tobacco made during the previous calendar month into the state.

PACT reporting forms, Cigarette Sales Report (REV-1163) and Tobacco Sales Report (REV 1164) are available on our website, [www.revenue.state.pa.us](http://www.revenue.state.pa.us) REV-1163 and REV-1164 are forms for reporting shipments made into Pennsylvania only.

# STATE OF RHODE ISLAND

(Last updated 03/2019)

## General Information

### Section 1 - Contact Information

**Contact Name:** Theriza Salib-Iafrate

**Agency:** DOR

**Mailing Address:** One Capitol Hill

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**Fax Number:** (401) 574-8914

**E-mail Address:** [theriza.iafrate@tax.ri.gov](mailto:theriza.iafrate@tax.ri.gov)

**Website:** [Tax.excise@tax.ri.gov](mailto:Tax.excise@tax.ri.gov)

**Contact Name:** Maria Lenz

**Agency:** AGO/DOJ

**Mailing Address:** One Capitol Hill

**City, State, Zip Code:** Providence, Rhode Island 02903

**Phone Number:** (401) 274-4400 Ext: 2225

**Fax Number:** (401) 574-8914

**E-mail Address:** [marialenz@riag.ri.gov](mailto:marialenz@riag.ri.gov)

**Website:** [www.riag.ri.gov](http://www.riag.ri.gov)

## **Section 2 - Statutes, Regulations and Rules**

No response received from state.

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

“Cigarettes” means and includes any cigarettes suitable for smoking in cigarette form, and each sheet of cigarette rolling paper; (R.I.G.L 44-20-1)

“Other Tobacco Product/s” (OTP) means any cigars (excluding Little Cigars which are subject to cigarette tax), cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or otherwise), chewing tobacco (including Cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing), any and all forms of hookah and shisha tobacco, snuff, and shall include any other articles or products made of tobacco or any substitute therefore, except cigarettes; (RI Regulation OTP 14-01)

## **Section 4 - The Basis for the Tax**

Cigarettes are tax per stick. OTP is tax based on the wholesale cost which means:

In the case of a Manufacturer of Other Tobacco Products, the price set for such products or, if no price has been set, the wholesale value of such products;

In the case of a Distributor, the price at which the Distributor purchases Other Tobacco Products before the allowance of any discounts, trade allowances, rebate or other reduction;

In the case of a Dealer of Other Tobacco Products, the invoice price to the Dealer.

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarette tax is based on 187.5 mills per stick or 3.75 per 20 pack.

OTP- At the rate of eighty percent (80%) of the wholesale cost of cigars, pipe tobacco products and smokeless tobacco other than snuff.

In the case of cigars, the tax shall not exceed fifty cents (\$.50) for each cigar.

At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight as listed by the manufacturer, provided, however, that any product listed by the manufacturer as having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2 ounces.

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**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No, e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products are not currently taxed.

### **Section 6 - Rate Updates**

The rate for Cigarettes may increase to 4.00 per pack of 20 effective August 1, 2017 if the law passes.

### **Section 7 - State Collection Allowance or Discount**

A discount of 1.25% is given to Licensed Cigarette Distributors who buy Cigarettes stamps.

### **Section 8 - Any Other Permissible Allowances**

No other credit given.

### **Section 9 – The Point at Which Tax is Imposed**

Examples – At the time of sale, when the stamp is applied, when the product is brought into the state, etc. Cigarette tax along with a prepaid sales tax is due at the time it is purchased by the licensed Cigarette Distributor. The Cigarettes are sold to the consumer, the additional sales is due. The OTP tax is due when the product enters the state.

### **Section 10 - Tax Return Due Dates**

No response received from state.

### **Section 11 – Tax Return Filings**

All returns are currently required to be filed by paper.

### **Section 12 – Tax Collection**

There is an option to pay electrically. Payment must be paid before 4 pm in order to be considered timely.

**Section 13 - Penalties for Late Filing**

10% penalty of the tax due if payment is filed late and 18% per year interest rate.

**Section 14 – Local Jurisdictional Tax**

None noted.

**Section 15 - Floor Stock Tax**

Yes.

**Section 16 – Qualifying Exemptions**

Sales to the Federal Government.

**Section 17 - Laws or Rules for Tribal Sales**

None noted.

**Section 18 - Information Required on a Customer Invoice**

Each manufacturer, importer, distributor and dealer shall maintain copies of invoices or equivalent documentation for, or itemized for, each of its facilities for each transaction (other than a retail transaction with a consumer) involving the sale, purchase, transfer, consignment, or receipt of cigarettes. The invoices or documentation shall show the name and address of the other party and the quantity by brand style of the cigarettes involved in the transaction.

**Section 19 – Responsibility by Agency**

MSA Reporting:	RI Attorney General
Enforcement/Collection:	RI Division of taxation
Product Seizure Authority:	RI Division of taxation

**Section 20 – New or Pending Legislation**

None noted.

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## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes for cigarettes only. Please refer to regulation 280-RICR-20-15-1. There are no separate county/city/local minimum pricing laws

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Not at the state level but some city/towns do ban flavor or menthol

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

Rhode Island issues different license for Cigarettes and Other Tobacco products. A Cigarette Distributor can apply for a Class A (Affixing Distributor) for \$1,000.00/year or a Class B (Non-Affixing Distributor) for \$100.00 a year. There is only one license for an Other Tobacco Products Distributor. Any retailer of Cigarettes or Other Tobacco Products is required cigarette permit for 25.00 a year. The application can be found at

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[http://www.tax.ri.gov/taxforms/sales\\_excise/cigarette.php](http://www.tax.ri.gov/taxforms/sales_excise/cigarette.php) and  
[http://www.tax.ri.gov/taxforms/sales\\_excise/tobacco.php](http://www.tax.ri.gov/taxforms/sales_excise/tobacco.php)

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, annually.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

A bond is required for an out of state cigarette distributor license. The bond amount is \$1,000.00.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

Yes, three letters from a manufacturer are required

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Numbered and Colored.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Each roll of 30,000 stamps

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

TP can either pick them up in person or shipped by UPS.

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**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

The payment is either due at the time of purchase or 30 days after the purchase with a bond in place. The bond amount is set at the discretion of the Distributor.

### **Section 3 - Bond Requirements**

Bond is not required unless the TP is located out of state or wishes to by the stamp orders on credit.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Yes, per Rhode Island General Law 44-20-22.

### **Section 6 – Refund Limitations**

Taxpayers have 3 years to request a refund from the date the stamp was purchased.

### **Section 7 – Credit Process for Manufacturer Returns**

TP must receive a notarized letter in order to apply for a refund with Rhode Island.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

The Refund is given by check only.

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## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

None noted.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Little cigars defined by 44-20.2-1 are required to be stamped. Rhode Island allows stamping configurations lower than 20 or 25 sticks/pack. However, stamps for lower configurations are not available for purchase, a refund can be applied for when a higher stamp is used.

## **PACT Act Reporting**

Via email or paper return.

**STATE OF SOUTH CAROLINA**  
(Last updated 3/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Name:** Michael Gilstrap, Tobacco Tax / MSA Auditor

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**Fax Number:**

**E-mail Address:** [Michael.Gilstrap@dor.sc.gov](mailto:Michael.Gilstrap@dor.sc.gov)

**Website:** [www.dor.sc.gov](http://www.dor.sc.gov)

**Contact Name:** Dona Guffey

**Agency:** SC Attorney General

**Mailing Address:** PO Box 11549

**City, State, Zip Code:** Columbia, SC 29211

**Phone Number:** (803) 734-4017

**Fax Number:** (803) 734-7208

**E-mail Address:** [dguffey@scag.gov](mailto:dguffey@scag.gov)

**Website:** [www.scag.gov/civil/tobacco](http://www.scag.gov/civil/tobacco)

**Section 2 - Statutes, Regulations and Rules**

Statutes: <http://www.scstatehouse.gov/code/t12c021.php>

Regulations: <https://www.scstatehouse.gov/coderegs/statmast.php>

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### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

**Cigarette:** Any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less; however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).

**Tobacco Products:** Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut, and other chewing tobacco, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking, but does not include cigarettes.

**Electronic Cigarettes:** Not applicable.

### **Section 4 - The Basis for the Tax**

**Cigarettes:** §12-21-620 (A) (1) levies a tax on all cigarettes.

**Other Tobacco Products:** §12-21-620 (A) (2) levies a tax on all Other Tobacco Products (OTP) as defined in §12-21-800

### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes have a tax rate of \$0.57/pack of 20 cigarettes or \$0.7125/pack of 25 cigarettes

The tax rate for tobacco products is 5% of the manufacturer's price.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No.

### **Section 6 - Rate Updates**

No rate updates for the current fiscal year at this time.



## **Section 7 - State Collection Allowance or Discount**

**Cigarettes:** When the department sells and delivers to an agent, the agent is entitled to receive as compensation for his services and expenses as an agent in affixing and accounting for the taxes represented by the stamps and to retain out of the money to be paid by the agent for the stamps a discount of four and twenty-five one hundredths percent (4.25%) of the face value of the stamps.

**Other Tobacco Products:** A distributor who files a timely report under SC Code Section §12-21-780 and who sends a timely payment may deduct from the amount due with the report a discount of three and one-half percent (3.5%) of the tax due amount.

## **Section 8 - Any Other Permissible Allowances**

**Stamping Machine Credit:** A distributor is allowed a tax credit for the purchase of one stamping machine acquired within one year of implementation by the department. The amount of the credit equals the direct costs incurred by the distributor. The credit is divided by 18 months, with the maximum cumulative credit equaling \$175,000.

## **Section 9 – The Point at Which Tax is Imposed**

**Cigarettes:** The tax is imposed on the person first receiving the untaxed cigarettes for sale, distribution or other disposition in South Carolina and upon any person first importing, receiving or acquiring untaxed cigarettes from outside South Carolina for use or consumption.

**Tobacco Products:** The tax is imposed on the person first receiving the untaxed tobacco products for sale, distribution or other disposition in South Carolina and upon any person within SC importing, receiving or acquiring tobacco products from outside South Carolina or from any source whatsoever for use or consumption.

## **Section 10 - Tax Return Due Dates**

**Monthly Cigarette Report (Form L-920)** – This is an information only report and due on or before the 20<sup>th</sup> of the following month.

**Monthly Other Tobacco Products (OTP) Tax Return (Form L-930)** – The return is due on or before the 20<sup>th</sup> of the following month.

Postmarked for paper/electronic date stamp for electronic data is considered a timely filed tax return.

## **Section 11 – Tax Return Filings**

South Carolina accepts mailed and electronically filed returns and payments. They can file on the MY DORWay Gentax system.

## **Section 12 – Tax Collection**

Cigarette stamps are sold Direct-to-Distributor, and the payment is made at the time the order is made. Orders and payment for stamps are made through our website using an account set up for each distributor. The SCDOR allows the sale of stamps on 30-day credit periods. Payment for the stamps ordered on 30-day credit is due on or before the 20<sup>th</sup> day of the following month.

Other Tobacco Products: Payment must be made when filing a return for the return to be considered timely.

## **Section 13 - Penalties for Late Filing**

Failure to File – 5% of the taxes due for each month the return is late.

Failure to Pay – 0.5% of the taxes due for each month the taxes are late.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

None noted.

## **Section 16 – Qualifying Exemptions**

Cigarettes sold to an instrumentality of the United States Government are not subject to the state tax.

## **Section 17 - Laws or Rules for Tribal Sales**

South Carolina currently has one settlement agreement with the Catawba Indian Tribe. Sales by the Catawba Indian Tribe of cigarettes and tobacco products, whether on or off the Reservation, are subject to the cigarette and tobacco products taxes.

## **Section 18 - Information Required on a Customer Invoice**

South Carolina law does not specifically require certain information be listed on invoices. The expectation, though, is that proper identifying information for the involved parties should be listed with the transaction details listed in an easy to decipher manner. If State Excise taxes are included in the price of the Tobacco Products appearing on the invoice (cigarettes and OTP) then the invoice must state All SC Tobacco Taxes Paid.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	South Carolina Attorney General’s Office and Department of Revenue
Enforcement/Collection:	Department of Revenue
Product Seizure Authority:	South Carolina Department of Revenue, South Carolina Law Enforcement Division, and any officer of law.

## **Section 20 – New or Pending Legislation**

None.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

A Tobacco Distributor's license must be obtained, at no cost, by the following person before engaging in the sale of cigarettes or tobacco products in South Carolina:

- (1) Wholesalers of cigarettes or tobacco products
- (2) Retailers that purchase untaxed cigarettes or untaxed tobacco products
- (3) Vending machine operators selling cigarettes or tobacco products through vending machines placed on another person's premises.
- (4) Sales representatives for manufacturers of cigarettes or tobacco products.

Wholesalers and retailers must obtain, at no cost, for each place of business. Vending machine operators and sales representatives; however, are only required to obtain one license. Vending machine operators, while only required to obtain one license, must maintain an up-to-date list of location of each cigarette or tobacco products vending machine in South Carolina.

<https://dor.sc.gov/tax/tobacco/forms>

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

Licenses do not need to be renewed. The license is valid as long as the distributor is in good standing with the Department.

### **Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

### **Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

South Carolina’s cigarette stamps are heat applied (20s – orange and 25s – green) with serial numbers. 20 pack and exempt stamps are sold in quantities of 30,000, and 25 pack stamps are sold in quantities of 3,000.

### **How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

### **Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

### **Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

## **Section 2 – Acquiring Stamps**

### **How are stamps delivered to the wholesaler/distributor?**

The South Carolina Department of Revenue utilizes the Direct-to-Distributor system through Meyercord/SICPA. Licensed distributors can order and pay for cigarette tax stamps using a web-based application. Meyercord ships all orders directly from its fulfillment center to a licensed stamping facility. Free standard shipping is included with each stamp order. For distributors that would like faster delivery, shipping charges can be billed directly to their FedEx or UPS account.

## **Section 3 - Bond Requirements**

The South Carolina Department of Revenue allows cigarette distributors to purchase stamps on 30-day credit. Distributors purchasing cigarette stamps on 30-day credit are required to maintain a bond in the amount of 110% of the distributor's monthly estimated tax liability. Payment for cigarette tax stamps purchased on 30-day credit is due on or before the 20<sup>th</sup> of the following month including weekends and holidays.

## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

No. Distributors may return unaffixed cigarette tax stamps for credit. They are not allowed to transfer stamps to other wholesalers/distributors.

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

1. the cigarettes are set forth in separate stock for sale to a licensed distributor of cigarettes in another state
2. if the cigarettes are not in the possession of a qualified distributor licensed pursuant to this chapter, the cigarettes must be in the possession of a person having immediate evidence of a license in business as a distributor of cigarettes in the another state, and the cigarettes must be purchased for the purpose of resale in the other state
3. the cigarettes, at the time of sale by the distributor, properly are stamped with revenue stamps authorized and issued by another state for use on the cigarettes, if the other state requires revenue stamps, or any applicable tax imposed on the cigarettes by the other state has been paid if the law of the other state permits the sale of the cigarettes to consumers in a package not bearing a stamp
4. at all times there is accompanying the cigarettes an invoice, indicating the purchase date, the name, address, and telephone number of the seller, and the name, address, and telephone number of the purchaser. A distributor shall have on file a record of each sale, the original purchase order, a copy of the invoice, and a signed receipt from the purchaser showing that the purchase was made exclusively for resale in another state

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

1. Cigarettes shipped out of the states in accordance with SC Code Section 12-21-90.
2. Damaged cigarettes in accordance with SC Code Section 12-21-110
3. Damage Tax Stamps
4. Cigarettes returned as unsellable
5. Cigarettes unrecoverable as a result of a bad debt.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

The stamps must contain a unique serial number or other mark which permits identification of the distributor that affixed the stamp to the particular package of cigarettes.

## **Section 6 – Refund Limitations**

Generally, the statute of limitation in South Carolina is 3 years from when the return was filed or due to be filed.

## **Section 7 – Credit Process for Manufacturer Returns**

Submit the Refund Application for Cigarette Tax Stamps (Form L-1020), along with the original manufacturer's affidavit showing the package was stamped with South Carolina stamps to receive credit. Ensure that this credit is reported on the Monthly Cigarette Report.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

There are schedules on the Monthly Cigarette report (L-920) to make adjustments to unaffixed stamps, stamped cigarettes and unstamped cigarettes.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

<https://www.atf.gov/alcohol-tobacco/prevent-all-cigarette-trafficking-act-pact-2009>

SC Attorney General's Office tracks and enforces all PACT Act reporting requirements

SC Code Section 11 Chapters 47 and 48.



# STATE OF SOUTH DAKOTA

(Last updated 03/2019)

## General Information

### Section 1 - Contact Information

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**Website:** <http://atg.sd.gov/>

## **Section 2 - Statutes, Regulations and Rules**

[http://dor.sd.gov/Taxes/Special\\_Taxes/Tobacco/General\\_Information.aspx](http://dor.sd.gov/Taxes/Special_Taxes/Tobacco/General_Information.aspx)

[http://www.sdlegislature.gov/Statutes/Codified\\_Laws/.aspx](http://www.sdlegislature.gov/Statutes/Codified_Laws/.aspx) 10-50 and 1050B

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

SDCL 37-10-1(2) "Cigarettes," any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover which is made of paper or any other substance or material, excepting tobacco

SDCL 10-50-1(8) "Tobacco products," cigars, snuff, chewing tobacco, and any other products made up or composed of tobacco in whole or in part, except cigarettes.

## **Section 4 - The Basis for the Tax**

SDCL 10-50-3. Tax imposed on cigarettes held for sale--Rates of tax. A tax is imposed, whether or not a sale occurs, at the following rates on all cigarettes held in this state for sale by any person:

Class A, on cigarettes weighing not more than three pounds per thousand, seventy-six and one-half mills on each cigarette.

Class B, on cigarettes weighing more than three pounds per thousand, seventy-six and one-half mills on each cigarette.

SDCL 10-50-61. Wholesale tax on tobacco products--Credit for tax paid. In addition to the tax imposed by § 10-50-3, there is imposed, whether or not a sale occurs, a tax upon all tobacco products in this state and upon any person engaged in business as a licensed distributor or licensed wholesaler thereof, at the rate of thirty-five percent of the wholesale purchase price of such tobacco products. Such tax shall be imposed at the time the distributor or wholesaler brings or causes to be brought into this state tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or ships or transports tobacco products to dealers in this state to be sold by those dealers. For the purposes of this chapter, wholesale purchase price is the price for which a manufacturer sells tobacco products to a licensed distributor or licensed wholesaler exclusive of any discount or other reduction.

### **Section 5 - Tax Rates and Miscellaneous Fees**

SDCL 10-50-3. Tax imposed on cigarettes held for sale--Rates of tax. A tax is imposed, whether or not a sale occurs, at the following rates on all cigarettes held in this state for sale by any person:

Class A, on cigarettes weighing not more than three pounds per thousand, seventy-six and one-half mills on each cigarette.

Class B, on cigarettes weighing more than three pounds per thousand, seventy-six and one-half mills on each cigarette.

SDCL 10-50-59. Recovery of cigarette stamp costs--Deposit of funds. In addition to the taxes and fees imposed by this chapter, the secretary of revenue may recover the cost of any stamps or other indicia that are required to be affixed to packages of cigarettes from those licensees affixing said stamps or indicia. The amount so recovered shall be deposited into the cigarette stamp purchasing fund and all money in the fund is continuously appropriated to the Department of Revenue to be used to purchase stamps or other indicia.

SDCL 10-50-61. Wholesale tax on tobacco products--Credit for tax paid. In addition to the tax imposed by § 10-50-3, there is imposed, whether or not a sale occurs, a tax upon all tobacco products in this state and upon any person engaged in business as a licensed distributor or licensed wholesaler thereof, at the rate of thirty-five percent of the wholesale purchase price of such tobacco products. Such tax shall be imposed at the time the distributor or wholesaler brings or causes to be brought into this state tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or ships or transports tobacco products to dealers in this state to be sold by those dealers. For the purposes of this chapter, wholesale purchase price is the price for which a manufacturer sells tobacco products to a licensed distributor or licensed wholesaler exclusive of any discount or other reduction.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**  
No.

### **Section 6 - Rate Updates**

Currently there is a proposal to put a tax increase on the ballot.

### **Section 7 - State Collection Allowance or Discount**

SDCL 10-50-18. Stamps secured and sold by secretary--Discount. The secretary of revenue shall secure stamps, of the design and denomination as the secretary prescribes, suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this chapter. The secretary shall sell the stamps to licensed distributors at a discount of one percent of their face value and to no other person.

### **Section 8 - Any Other Permissible Allowances**

None noted.

### **Section 9 – The Point at Which Tax is Imposed**

SDCL 10-50-4. Stamps affixed to evidence tax payment--Samples excepted. The payment of the tax imposed by § 10-50-3 shall be evidenced by the affixing of stamps to the packages containing the cigarettes as provided by this chapter. However, for cigarettes offered by manufacturers for gratis distribution as samples, the stamps are not required to be affixed to sample packages if the manufacturer of the cigarette reports and pays the tax directly to the state tax authority.

SDCL 10-50-61. Wholesale tax on tobacco products--Credit for tax paid. In addition to the tax imposed by § 10-50-3, there is imposed, whether or not a sale occurs, a tax upon all tobacco products in this state and upon any person engaged in business as a licensed distributor or licensed wholesaler thereof, at the rate of thirty-five percent of the wholesale purchase price of such tobacco products. Such tax shall be imposed at the time the distributor or wholesaler brings or causes to be brought into this state tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or ships or transports tobacco products to dealers in this state to be sold by those dealers.

## **Section 10 - Tax Return Due Dates**

SDCL 10-50-39. Monthly reports by distributors--Contents and time of filing. On or before the fifteenth day of each month each distributor shall render to the secretary of revenue a verified report of all sales and deliveries on forms prescribed by the secretary, showing the quantity of cigarettes sold or delivered in this state during the preceding calendar month, the number of stamps purchased and used during such period of time and the amount of stamps on hand at the end of the reporting period and such other information as the secretary shall require.

SDCL10-50-63. Deadline for reporting and remitting wholesale tobacco tax--Penalty--Credit or refund for destroyed unfit tobacco. On or before the fifteenth day of each calendar month, each person required to pay the tax imposed by § 10-50-61 shall report, on forms prescribed by the secretary, the amount and type of tobacco products manufactured or brought into this state during the month preceding the month in which the report is made, the source of those tobacco products, and the wholesale purchase price of those tobacco products. The person shall remit the tax due on those tobacco products with the filing of the form. Any person who fails to timely file the form and pay the tax in this section may be subject to penalty and interest as prescribed in § 10-59-6. Any person seeking to recover overpayment of the tax imposed in § 10-50-61, may do so in the manner prescribed in §§ 10-59-19, 10-59-20, 10-59-21, 10-59-22, 10-59-23, and 10-59-24. The secretary may secure the payment of any unpaid tax in the same manner as prescribed in chapter 10-59. If any taxpayer destroys tobacco products upon which the tax imposed by § 10-50-61 or 10-50-62 has been paid because of unfitness for sale, a credit or refund in the amount of the tax paid on those products shall be granted as prescribed in this section for the overpayment of tax.

The postmark date would indicate a timely filed return.

## **Section 11 – Tax Return Filings**

Currently all Cigarette and OTP returns are paper filed. South Dakota DOR is working on an electronic filing system.

## **Section 12 – Tax Collection**

Not at this time.

## **Section 13 - Penalties for Late Filing**

SDCL 10-50-63. ... The person shall remit the tax due on those tobacco products with the filing of the form. Any person who fails to timely file the form and pay the tax in this section may be subject to penalty and interest as prescribed in § 10-59-6... Penalty is 10% of the tax.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

Varies.

## **Section 16 – Qualifying Exemptions**

Out-of-state sales would be exempt from South Dakota tobacco taxes.

## **Section 17 - Laws or Rules for Tribal Sales**

Tribal sales are defined in the tax agreement with each tribe. The forms required to be submitted for selling to tribal retailers can be found at

[http://dor.sd.gov/Taxes/Special\\_Taxes/Forms/Cigarette\\_Tobacco.aspx](http://dor.sd.gov/Taxes/Special_Taxes/Forms/Cigarette_Tobacco.aspx)

## **Section 18 - Information Required on a Customer Invoice**

South Dakota does not have a statute requiring specific information on the customer invoice.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	South Dakota Department of Revenue and South Dakota Attorney General
Enforcement/Collection:	South Dakota Department of Revenue and South Dakota Attorney General
Product Seizure Authority:	South Dakota Department of Revenue

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18, No

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No

**Is there a minimum age for possession of cigarettes or tobacco products?**

Yes, 18

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes, 37-10-2. Sale at less than cost to prevent competition unlawful--Rebates and concessions not applicable to other merchandise. It shall be unlawful and a violation of this chapter for any retailer, wholesaler or other person with intent to injure competitors or destroy or substantially lessen competition,

(1) To advertise, offer to sell, or sell, at retail or wholesale, cigarettes at less than cost as defined in this chapter, to such a retailer or wholesaler, as the case may be, or

(2) To offer a rebate in price, to give a rebate in price, to offer a concession of any kind, or to give a concession of any kind or nature whatsoever in connection with the sale of cigarettes, if such rebate or concession offered or given in connection with the sale of cigarettes is not offered or given by the wholesaler or retailer in the same ratio with respect to all other merchandise as to which such rebate or concession may lawfully be given which is sold by such wholesaler or retailer in the ordinary course of his trade or business.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No

### **License Information**

**Do licenses need to be renewed and if so, how frequently?**

SDCL10-50-9. License required of distributors and wholesalers--Registration required of retailers--Separate license or registration for each outlet--Violation as petty offense. Each person, except a retailer, engaging in the business of selling cigarettes or tobacco products in this state, including any distributor or wholesaler, shall secure a license therefore from the secretary of revenue. A separate application and license is required for each wholesale outlet if a person owns or controls more than one place of business dealing in cigarettes or tobacco products. Each person selling cigarettes or tobacco products at retail shall register with the Department of Revenue. A separate registration is required for each retail outlet operated within the state. No fee may be charged for this registration.

SDCL 10-50-11. Fee for distributor or wholesaler license--Reduced fee for part of year. Each application for a distributor or wholesaler license shall be accompanied by a fee of one hundred fifty dollars. If the applicant for a license has not entered upon the business of selling cigarettes or tobacco products until after the first day of January in any year, then the fee for a license during the remainder of the fiscal year is one-half the amount set forth in this section.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Yes, 10-50-19. Payment for stamps after purchase--Bond or depository agreement required. The secretary of revenue may, in his discretion, permit a licensed distributor to pay for such stamps within thirty days after the date of purchase, provided a bond satisfactory to the secretary of revenue in an amount not less than the sale price of such stamps shall have been filed with the secretary conditioned upon payment for such stamps or upon a satisfactory depository agreement between the secretary of revenue and such licensed distributor, provided for a deposit of money or security in a depository to be named, such agreement conditioned upon payment for such stamps.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No



## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Stamps for 20 count packages are lilac and 25 count packages have a pink tax stamp. The stamps are numbered and heat applied.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

1 Roll ID

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

The distributor completes a Cigarette Stamp Order Form.

[http://dor.sd.gov/Taxes/Special\\_Taxes/Forms/Cigarette\\_Tobacco.aspx](http://dor.sd.gov/Taxes/Special_Taxes/Forms/Cigarette_Tobacco.aspx)

The stamps are then mailed. If the distributor wants them sent FedEx or UPS they need to pay the additional shipping charges.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

SDCL10-50-19. Payment for stamps after purchase--Bond or depository agreement required. The secretary of revenue may, in his discretion, permit a licensed distributor to pay for such stamps within thirty days after the date of purchase, provided a bond satisfactory to the secretary of revenue in an amount not less than the sale price of such stamps shall have been filed with the secretary conditioned upon payment for such stamps or upon a satisfactory depository agreement between the secretary of revenue and such licensed distributor, provided for a deposit of money

or security in a depository to be named, such agreement conditioned upon payment for such stamps.

SDCL 10-50-26. Bond or depository agreement required of authorized nonresident--Duration of bond or agreement. The secretary of revenue shall require bond of such nonresident person, satisfactory to the secretary of revenue, in an amount not to exceed ten thousand dollars, which said bond shall be filed with the secretary of revenue conditioned upon the payment of the tax in compliance with such other requirements as the secretary of revenue may specify. Such bond shall be issued by a surety company licensed to do business in this state, and shall be in full force and effect for a period of one year and a day after the expiration of the bond, and until or unless a certificate be issued by the secretary of revenue to the effect that all taxes due to the state under this chapter have been paid. In the discretion of the secretary of revenue, a depository agreement may be accepted by the secretary of revenue in lieu of such surety bond, which said depository agreement shall be upon the same conditions as the bond above referred to, and shall be in full force and effect for one year and a day and until or unless a certificate be issued by the secretary of revenue to the effect that all taxes due to the state under this chapter have been paid.

#### **Section 4 – Allowable Transfers**

##### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

SDCL 10-50-20. Resale of stamps prohibited--Redemption of unused and uncanceled stamps. No distributor shall sell or transfer any stamps issued under the provisions of this chapter. The secretary of revenue shall redeem any unused, uncanceled stamps presented by any licensed distributor at a price equal to ninety-five percent of their face value.

##### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

A distributor may not transfer any unstamped cigarettes to a wholesaler.

#### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

##### **Does the state allow a tax credit?**

SDCL 10-50-20.1. Refund for stamped cigarettes destroyed by distributor.

Whenever a distributor destroys cigarettes accidentally or intentionally because of staleness or other unfitness for sale which have been stamped as provided in this chapter, a credit or refund shall be given to the distributor at a price equal to ninety-five percent of the face value of the stamps upon proof of loss presented to the department within one year after the destruction of the stamped cigarettes if loss is established to the satisfaction of the Department of Revenue.

##### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

South Dakota has no statute requiring a percentage of an applied tax stamp to be a valid stamp.

## **Section 6 – Refund Limitations**

SDCL 10-50-20.1. Refund for stamped cigarettes destroyed by distributor.

Whenever a distributor destroys cigarettes accidentally or intentionally because of staleness or other unfitness for sale which have been stamped as provided in this chapter, a credit or refund shall be given to the distributor at a price equal to ninety-five percent of the face value of the stamps upon proof of loss presented to the department within one year after the destruction of the stamped cigarettes if loss is established to the satisfaction of the Department of Revenue.

## **Section 7 – Credit Process for Manufacturer Returns**

SDCL 10-50-20.1. Refund for stamped cigarettes destroyed by distributor. Whenever a distributor destroys cigarettes accidentally or intentionally because of staleness or other unfitness for sale which have been stamped as provided in this chapter, a credit or refund shall be given to the distributor at a price equal to ninety-five percent of the face value of the stamps upon proof of loss presented to the department within one year after the destruction of the stamped cigarettes if loss is established to the satisfaction of the Department of Revenue

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credit on the next stamp purchase.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

There is a reporting form and discrepancies of over 100 stamps require an explanation.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No

## **PACT Act Reporting**

PACT Act reporting is paper, cd or filed via email

# STATE OF TENNESSEE

(Last updated 04/2019)

## General Information

### Section 1 - Contact Information

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**E-mail Address:** [Resale.Data@tn.gov](mailto:Resale.Data@tn.gov)

**Website:** [www.TN.gov/revenue](http://www.TN.gov/revenue)

**Agency:** Miscellaneous Tax Division, Andrew Jackson Building 8th Floor

**Mailing Address:** 500 Deaderick Street

**City, State, Zip Code:** Nashville, TN 37242

**Phone Number:** (615) 253-0600 or (800) 342-1003

**E-mail Address:** [tobacco.tax@tn.gov](mailto:tobacco.tax@tn.gov)

**Website:** [www.TN.gov/revenue](http://www.TN.gov/revenue)

**Agency:** Revenue Section, Tobacco Enforcement Division, Office of the Attorney General & Reporter

**Mailing Address:** P.O. Box 20207

**City, State, Zip Code:** Nashville, TN 37202

**Phone Number:** (615) 741-3491

**Fax Number:** (615) 741-3284

Tobacco Tax Information by State v. 07.22.19

Website: <http://www.tn.gov/attorneygeneral/>

## **Section 2 - Statutes, Regulations and Rules**

Tennessee Code Annotated

<http://www.lexisnexis.com/hottopics/tncode/>

**T.C.A. § 47-25-301 et seq.** – Title 47 Commercial Instruments and Transactions, Chapter 25 Trade Practices, Part 3 Unfair Cigarette Sales

**T.C.A. § 47-31-1 et seq.** - Title 47 Commercial Instruments and Transactions, Chapter 31 Tobacco Manufacturers' Escrow Fund

**T.C.A. § 67-4-1001 et seq.** - Title 67 Taxes and Licenses, Chapter 4 Privilege and Excise Taxes, Part 10 Tobacco Tax Law

**T.C.A. § 67-4-2601 et seq.** - Title 67 Taxes and Licenses, Chapter 4 Privilege and Excise Taxes, Part 26 Tobacco Settlement Funds

Rules and Regulations of Dept. of Revenue Misc. Tax Division

<http://share.tn.gov/sos/rules/1320/1320-04/1320-04-03.pdf>

**R.R. 1320-4-3 et seq.** – Rules of Department of Revenue Miscellaneous Tax Division, Chapter 1320-4-3 Unfair Cigarette Sales Law and Tobacco Tax Rules

Tobacco Tax Important Notices

Under Tobacco Taxes on our website and at <http://tn.gov/revenue/article/tobacco-tax-important-notices>

Tobacco Tax Rulings

Under Tobacco Taxes on our website and at <http://tn.gov/revenue/article/tobacco-tax-rulings>

## **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigar – any roll of tobacco, for smoking, irrespective of the tobacco being flavored or adulterated, or mixed with other ingredients, where such a roll has a wrapper made chiefly of tobacco, except “cigar” or “cigars” does not include rolls of tobacco for smoking defined in this section as “cigarettes” – T.C.A. § 67-4-1001

Tennessee has 2 different definitions of cigarette. One is in Title 47 for use in the Tobacco Manufacturer’s Escrow Fund and the second is in Title 67 for use in the Tobacco Tax Law.

Cigarette in Title 47– any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (I) any roll of tobacco wrapped in a paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subdivision (4)(A)(I) – T.C.A. § 47-31-102

Tobacco Tax Information by State v. 07.22.19

Loose Tobacco – tobacco that is not contained in rolls or tubes and that has been removed from its original packaging – T.C.A. § 67-4-1001

Other Tobacco Products – any product containing tobacco or tobacco substitute that does not meet the definition of a “cigarette”

Roll-Your-Own - includes “roll-your-own” (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of “cigarette,” 0.09 ounces, of “roll-your-own” tobacco constitutes one (1) individual “cigarette” – T.C.A. § 47-31-102

Tobacco Products – cigars, cigarettes, manufactured tobacco and snuff, but not tobacco produced and processed by the grower for the grower’s own use and not for sale - – T.C.A. § 67-4-1001

### **Section 4 - The Basis for the Tax**

Cigarette Rate - \$0.62 per pack of 20 cigarettes or \$0.62 per pack of 20 or less little cigars that meet the definition of “cigarette” for Tobacco Tax purposes.

Effective **January 1, 2017**, the Tennessee Department of Revenue will **no** longer stock cigarette stamps for packages of 25 cigarettes or offer the ability to report transactions involving such stamps on the Tobacco Tax return.

“Cigarette” is defined as:

All rolled, shredded, or cut tobacco, or any substitute therefore, **wrapped in paper**, or substitute therefore, and

All rolled, shredded or cut tobacco, or any substitute therefore, **wrapped in homogenized tobacco wrapper**, and:

Being within customary cigarette sizes **and**  
Marketed in cigarette type packages

Other Tobacco Products (OTP) and Roll-Your-Own (RYO) Tobacco Rate – 6.6% of the wholesale cost price.

“Other Tobacco Products” means all tobacco products excluding cigarettes and little/filtered/small cigars that meet the definition of “cigarette” for tax purposes; the rate on all OTP, including, but limit to, cigars, cheroots, stogies, manufactured tobacco and snuff of all descriptions whether made of tobacco or any substitute for tobacco.

“Wholesale cost price” means that total purchase price paid by a wholesale dealer and jobber, including but not limited to federal taxes and fees for any tobacco product, delivered to Tennessee dealers, exclusive of any discounts, rebates, allowances, or the privilege tax imposed by this part.

In-State Wholesalers: Tobacco Tax is due on purchases.

Out-of-State Wholesalers: Tobacco Tax is due on sales.

Little/Filtered/Small Cigars can either 1) meet the definition of “cigarettes” and are required to have a cigarette tax stamp affixed to each package; or 2) do **NOT** meet the definition of “cigarettes” and are subject to 6.6% tax of the wholesale cost price.

### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarette Tax Rate - \$0.62 per pack of 20 cigarettes or \$0.62 per pack of 20 or less little cigars that meet the definition of “cigarette” for Tobacco Tax purposes.

Other Tobacco Product and Roll-Your-Own Tobacco Tax Rate – 6.6% of the wholesale cost price.

Enforcement and administration fee (Unfair Cigarette Sales Enforcement Fee) 0.05¢ per pack/stamp; this is reported and due when ordering stamps under the Tobacco Stamp account (-TSP) and not reported on the monthly Tennessee Tobacco Tax Return under the Tobacco Tax account (-TOB).

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Tennessee does not tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products.

### **Section 6 - Rate Updates**

No new rate updates.

### **Section 7 - State Collection Allowance or Discount**

For the purpose of compensating the dealer or distributor of tobacco products other than cigarettes in accounting for and remitting the tax and for the risk of loss and other expenses involved, the dealer shall be allowed two percent (2%) of the tax as the dealer’s compensation, if the tax is not delinquent or deficient when paid. T.C.A. § 67-4-1009 (a)

This compensation does not apply to the Unfair Cigarette Sales Enforcement Fee.



## **Section 8 - Any Other Permissible Allowances**

None noted. However, a refund may be requested for eligible bad debt credit per T.C.A. § 67-4-1030 and should be requested through TNTAP.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarettes – tax imposed at the point when the stamp is affixed and reported for that period.

OTP and RYO – 1) In-state: tax imposed on purchases made within a filing period and 2) Out-of-state: tax imposed on sales made within a filing period.

## **Section 10 - Tax Return Due Dates**

**Tobacco Tax Return** is due monthly on the 15<sup>th</sup>. For more information about Tennessee Tobacco Tax, please visit <http://tn.gov/revenue/topic/tobacco-taxes>.

**Licensed Distributor Report (LDR)** is due monthly on the 15<sup>th</sup>. For more information about the LDR, please visit <http://tn.gov/revenue/article/tobacco-taxes-licensed-distributor-report>.

**PACT Act Report** is due the 10<sup>th</sup> day of the month for previous month's shipments. For more information about e-filing the PACT Act report, please visit <http://tn.gov/revenue/article/pact-act-report-new-electronic-filing>.

**Retail Accountability Program (RAP) Report** may be filing monthly or quarterly and is due on the 25<sup>th</sup> of the month following the reporting period. For example, for a monthly filing, an October report would be due on November 25. For quarterly filings, a report that covers October, November, and December would be due on January 25<sup>th</sup>. For more information about RAP, please visit <http://tn.gov/revenue/article/retail-accountability-program-information-for-wholesalers>.

If the due date falls on a holiday or weekend, returns and informational reports will be due on the next following business day by 11:59 PM (Central Time). A timely return and report must be received by the Department of Revenue on or before the due date.

## **Section 11 – Tax Return Filings**

Tobacco Tax Returns, Licensed Distributor Reports (LDRs), and Retail Accountability Program (RAP) Reports must be filed on our self-service tax filing website called, Tennessee Taxpayer Access Point, or TNTAP <https://tntap.tn.gov/eservices/>/. For information about registering and using TNTAP, please visit <http://www.tntapinfo.com/>.

PACT Act Reports can now be filed on TNTAP as well. For more information on the new electronic filing layout, please visit <http://tn.gov/revenue/article/pact-act-report-new-electronic-filing>.

## **Section 12 – Tax Collection**

All payments for Tobacco Tax should be made electronically on TNTAP; payments can be made with or without logging into TNTAP. Payment is due 11:59 PM (Central Time) on the due date. For information about making payments on TNTAP, please visit <http://revenue.support.tn.gov/hc/en-us/sections/115000336146-TNTAP-Payments>.

## **Section 13 - Penalties for Late Filing**

Tobacco Tax Return and Payment – If the return is filed and/or the tax is paid after the due date, penalty charges will be assessed. The penalty rate is 5% of the tax due for each 30-day period or portion of a 30-day period the return and/or payment are delinquent. The maximum penalty amount 25% of the tax due; the minimum penalty is \$15.

Licensed Distributor Report (LDR) – If the report is filed after the due date and/or inaccurate information is submitted, penalty charges will be assess. For each untimely and/or inaccurate report, the Department may impose a penalty of no more than \$100 per day.

Retail Accountability Program Report – If the report is filed after the due date, the Department may impose a penalty \$1,000 per month and up to \$10,000.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

None noted.

## **Section 16 – Qualifying Exemptions**

After receiving authorization from the Commissioner of Revenue, tobacco products sold to armed forces installation and veterans administration hospitals, were such products are sold only to patients registered and admitted to veterans administration hospitals, are exempt from Tobacco Tax. T.C.A. § 67-4-1019(d) (1)

Tenn. Comp. R. & Reg. 1320-4-3-.04(5) <http://share.tn.gov/sos/rules/1320/1320-04/1320-04-03.pdf> clarifies the requirements of such sales.

### **Section 17 - Laws or Rules for Tribal Sales**

None noted.

### **Section 18 - Information Required on a Customer Invoice**

No requirements under statutes.

### **Section 19 – Responsibility by Agency**

MSA Reporting: Office of the Attorney General and Reporter  
Enforcement/Collection: Office of the Attorney General and Reporter, Tennessee  
Department of Revenue  
Product Seizure Authority: Tennessee Department of Revenue

### **Section 20 – New or Pending Legislation**

None noted.

### **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

Minimum age for purchasing cigarettes or tobacco products is eighteen in Tennessee. There is no county, city or local minimum age differences from the State. T.C.A. § 39-17-1505(a)

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

If person is under eighteen then person must be under supervision of another employee who is at least twenty-one years of age.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Possession by someone younger than eighteen is unlawful. T.C.A. § 39-17-1505(a)

Exceptions for a persons under eighteen to handle or transport tobacco as part of employment provided the person is under supervision of another employee who is at least twenty-one years of age; or as part of a display in an agricultural fair or other agricultural competition or event; or person's involvements in any aspect of the agricultural production or storage of tobacco, the sale

of raw tobacco at market, or the transportation of raw tobacco to a processing facility. T.C.A. § 39-17-1505(f) and (g)

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

Yes. Retailers must mark-up cigarettes currently 15% of the basic cost of the cigarettes. T.C.A. § 47-25-301 There are no county, city or local minimum pricing laws. This only applied to cigarettes and no other types of tobacco.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

There are no flavor bans at the state, county, city or local level in Tennessee.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

There are no bans on pharmacies selling cigarettes or tobacco at the state, county, city or local level in Tennessee.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Cities and Counties can regulate the use of tobacco products in owned buildings, parks, airports, schools, swimming pools, amphitheatres, hospitals, and hospital entrances including entrances and sidewalks. Owners of retailers within shopping malls can determine policy on tobacco products. State wide prohibition of smoking in child care centers, community centers when used for children's activities, group care homes, health care facilities, museums, public and private schools, residential treatment centers for children and youth, youth development centers and facilities, zoos, and school grounds.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

Tennessee does not have any language regarding Modified (Reduced) Risk Tobacco.

## **License Information**

License available in Tennessee:

**Tobacco Distributor - \$100** for each wholesale location where tobacco products are received or ordered for delivery to someone other than the ultimate consumer. If you receive, purchase, or sell tobacco products as a secondary wholesaler and acquire only pre-stamped cigarettes and/or other tobacco products on which the tax has been

previously paid, but do not sell to the ultimate consumer, you need a Tobacco Distributor's license.

**Wholesale Dealer and Jobber - \$200** for each separate warehouse.

If you maintain wholesale facilities in one or more permanent locations; if you are in the business of receiving, storing, purchasing, selling at wholesale, importing unstamped tobacco products, or otherwise handling tobacco products for resale at a wholesale price; and if you sell only to other licensed wholesalers and distributors or retailers but not to the ultimate consumer, you need a Wholesale Dealer & Jobber license. This license requires a minimum \$2,000 bond.

**Manufacturing Distributor - \$200** for each plant or processing location.

If you are engaged in the business of manufacturing or processing consumable tobacco products and you have a manufacturing plant located in this state, you need a Manufacturing Distributor license. This license requires a minimum \$2,000 bond.

**Tobacco Manufacturer's Warehouse - \$200** for each storage warehouse.

If you are a manufacturer with a warehouse, building, or structure maintained separately from your manufacturing operation where you store tobacco products for distribution, and where you retail title to and control of distribution of such tobacco products, you need a Tobacco Manufacturer's Warehouse license. This license requires a minimum \$20,000 bond.

**Cigarette Rolling Machine Operator - \$500** for each cigarette rolling machine.

If you control, possess, or maintain a cigarette rolling machine at a retail establishment that enables any person to process tobacco into a roll or a tube, you need a Cigarette Rolling Machine Operator license. "Cigarette Rolling Machine" means a machine at a retail establishment that enables any person to process at that establishment tobacco into a roll or tube. A copy of your tobacco product manufacturer's permit, issued by the TTB, must be submitted with this application.

## **Section 1 – License Renewal**

### **Do licenses need to be renewed and if so, how frequently?**

If you sell, distribute, or handle cigarettes or other tobacco products at the wholesale level (i.e., not as a retailer selling to the consumer), regardless of whether you are subject to the tobacco tax or not, you must obtain a license to do so in Tennessee.

Licenses expire on May 31 of each year and must be renewed prior to that date. Registration or renewals are made online through TNTAP.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Tobacco bonds are required for obtaining and renewal of licenses. For wholesalers, the bond is \$100 for each \$10,000 of tax liability for an average month with \$2,000 minimum. For a tobacco manufacturers warehouse bond the amount is \$20,000 per location.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No direct buy letters are required.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Tax stamps are light blue and numbered. Heat-applied tax stamps can be purchased in rolls of 7,200 and 30,000; tax stamp stickers can be purchased in packets of 1,500.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Tennessee tax stamps have 1 row of serial numbers. The numbers on the roll are the roll number ID.

**Does your state require stamping or any other identifying markings on 'other tobacco products'?**

Tennessee does not require stamping or any other identifying markings on OTP.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20's tax stamp and the difference be paid on the return?**

Tennessee stopped selling 25 pack stamps on 12/31/2016 and have taken 25s off all tax returns and reports. We are not aware of any wholesalers currently selling 25 packs in the state.

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Licensed Tennessee wholesale dealer and jobber or manufacturing distributors may be appointed as a licensed stamp affixing agent and is given a 10-digit Tobacco Stamp account ending with TSP. Tobacco tax stamps are ordered and paid through TNTAP and can either be delivered or picked up. If delivery is your preferred method, you must have a FedEx account on file with the

Department of Revenue. Tennessee tobacco tax stamps can only be purchased from the Tennessee Department of Revenue.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due the 25<sup>th</sup> of each month. Bond is required if wholesaler wants to purchase tax stamps on credit. Can only purchase up to amount of bond. Bond amount is 110% of estimated tax liability for 30 days, but not less than \$2,000.

### **Section 3 - Bond Requirements**

Purchases on Credit – Bonds approved by the Commissioner of Revenue must be on file in the Department of Revenue prior to selling stamps to purchaser on credit. Remittance must be made on or before the 25th day of each month including Sundays and holidays. Penalty at the rate of 5% for each 30 days or fraction thereof, and interest at the current annual rate will be computed on any tax not paid by the due date.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

Only licensed affixing agents may purchase Tennessee cigarette tax stamps from the Department of Revenue and stamps **must** be purchased from the DOR only; agents are not authorized to sell or transfer unaffixed cigarette tax stamps.

Transfers of unaffixed cigarette tax stamps are allowed only between agents within the same entity; multiple agents within the same agency share a single Tobacco Stamp account.

Distributors are **NOT** allowed to handle unstamped cigarettes or unaffixed cigarette tax stamps.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?  
Disallowed Unstamped Cigarette Transfers**

Transfers made between wholesalers within the state of Tennessee.

Transfers made from an out-of-state Tennessee licensed wholesaler to an in-state wholesaler who does **NOT** stamp the cigarettes immediately and intends to sell the unstamped cigarettes.

Transfers made from an in-state wholesaler to an out-of-state wholesaler, whether Tennessee licensed or not, who does **NOT** stamp the cigarettes immediately and intends to resale the unstamped cigarettes.

**Allowed Unstamped Cigarette Transfers**

Transfers made from an out-of-state wholesaler, whether Tennessee licensed or not, to an in-state wholesaler who stamps the cigarettes immediately.

Transfers made from an in-state wholesaler to an out-of-state wholesaler, whether Tennessee licensed or not, who stamps the cigarettes immediately.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

Tax credit may be received for damaged cigarette tax stamps as long as at least 50% of the stamp is showing.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Credits can only be obtained by the company or individual who purchased the stamps. This tax credit is not reported on the Tobacco Tax return.

## **Section 6 – Refund Limitations**

Must submit a written claim with the number cigarette tax stamps being returned to the Department, the cigarette tax stamps must be unused or mutilated but identifiable, and stamps must have been purchased within a two (2) year period. R.R. 1320-4-3-.08. Once credit and/or refund are received, the number of credited/refunded stamps is reported on Schedule C, Line 4, and Authorized stamp adjustment within that monthly period.

## **Section 7 – Credit Process for Manufacturer Returns**

A credit for affixed stamps, any unused or unsalable packs to which stamps were affixed and returned to manufacturer, can be requested only when an affidavit is received from the manufacturer and then the affidavit and a written claim are submitted to the Department.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

See above.

## **Section 8 – Other Allowed Credits**

A credit for tax-paid OTP and/or RYO returned to the manufacturer can be requested only when an affidavit is received from the manufacturer and then the affidavit and a written claim are submitted to the Department.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Both cigarette and little cigar pack inventory and tax stamp inventory are required to be reported on the Tobacco Tax return; tobacco tax due on cigarettes is calculated for each schedule and reconciled on Lines 1-3 of the return.

Tobacco Tax Information by State v. 07.22.19



If a discrepancy results between the inventories and stamp usage (Schedule C) is greater than the amount of packs stamped (Schedule A or B), then no tobacco tax is due or credited. Zero is reported on Line 3. \*Please note that refunds/credits for cigarette tax stamps are requested through TNTAP differently and not reported on the Tobacco Tax return.

If a discrepancy results between the inventories and stamp usage (Schedule C) is less than the amount of packs stamped (Schedule A or B), then the difference of tobacco tax is due – the 2% compensation cannot be applied.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Little cigars that fall in the definition of Cigarette under T.C.A. § 67-4-1001(2)(A) which includes being within customary cigarette sizes and marketed in cigarette type packages must be stamped as cigarettes. TDOR only sells 20 pack stamps. If the little cigars are in configurations less than 20 sticks per pack, a 20 pack stamp must be applied. No credit or adjustment is given for the difference in the amount of sticks in pack and the 20 pack stamp. We are not aware of any little cigar packs with more than 20 sticks.

## **PACT Act Reporting**

Registration and reporting is required of any person who advertises, offers for sale, sells, transfers, or ships for profit cigarettes, roll-your-own, or smokeless tobacco into Tennessee through interstate commerce. PACT Act Report is due the 10th day of the month for previous month's shipments.

PACT Act Report may be submitted electronically through TNTAP or via email to the Tennessee Department of Revenue and Tobacco Enforcement Division, Office of Attorney General and Reporter. Electronic filing will be a requirement in the near future.

**STATE OF TEXAS**  
(Last updated 04/2019)

**General Information**

**Section 1 - Contact Information**

**Contact:** Josh Thigpen, Supervisor Tobacco Tax, Amusement & AG/Timber Exemptions

**Mailing Address:** 111 E 17th St.

**City, State, Zip Code:** Austin, TX 78774

**Phone Number:** (800) 531-5441 ext. 3-8206 / (512) 463-8206

**Fax Number:** (512) 936-0019

**Section 2 - Statutes, Regulations and Rules**

Statutes:

Texas Tax Code

Chapter 154 – cigarette tax

<http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.154.htm>

Chapter 155 – cigars and tobacco tax

<http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.155.htm>

Texas Health and Safety Code

Chapter 161

<http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.161.htm>

Subchapter H-Distribution of Cigarettes, E-Cigarette or Tobacco Products

Subchapter K-Prohibition of Certain Cigarette or Tobacco Product Advertising Fee

Subchapter N-E-Cigarette and Tobacco Use By Minors

Subchapter O-Prevention of Tobacco and E-Cigarette Use By Minors

Subchapter P-Disclosure of Ingredients In Cigarettes and Tobacco Products

Subchapter R-Delivery Sales of Cigarettes and E-Cigarettes

Subchapter V-Fee on Cigarettes and Cigarette Tobacco Products Manufactured By  
Certain Companies

Chapter 796-Cigarette Fire Safety Standards

<http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.796.htm>

Rules:

Texas Administrative Code

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=34&pt=1&ch=3](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=34&pt=1&ch=3)

Subchapter G Cigarette Tax

§3.101-Cigarette Tax and Stamping Activities

§3.102-Applications, Definitions, Permits, and Reports

Subchapter H Cigar and Tobacco Tax

§3.121-Definitions, Imposition of Tax, Permits, and Reports

Subchapter FF Special Fee on Certain Cigarettes and Cigarette Tobacco Products

§3.751 Special Fee on Certain Cigarettes and Cigarette Tobacco Products; Definitions, Imposition of Fee, and Reports

Subchapter JJ Cigarette, E-Cigarette, and Tobacco Products Regulation

§3.1201 Fee for Outdoor Advertising of Cigarettes or Tobacco Products

§3.1202 Warning Notice Signs

§3.1203 Approved Seller Training Programs

§3.1204 Administrative Remedies for Violations of Health and Safety Code, Chapter 161, Subchapter H or K

§3.1205 Delivery Sales of Cigarettes (Health and Safety Code, Chapter 161, Subchapter R)

§3.1206 Delivery Sales of E-Cigarettes (Health and Safety Code, Chapter 161, Subchapter R)

Tax Policy News

<https://comptroller.texas.gov/taxes/tax-policy-news/>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

CIGARETTES: means a roll for smoking:

(A) that is made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; and

(B) that is not a cigar.

CIGARS: means a roll of fermented tobacco that is wrapped in tobacco and the main stream of smoke from which produces an alkaline reaction to litmus paper

## **Section 4 - The Basis for the Tax**

### **CIGARETTES:**

The tax rate is \$70.50 per thousand on cigarettes weighing three pounds or less per thousand plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand

For a conventional package of 20 cigarettes, the tax is \$1.41 per pack.

For a package of 25 cigarettes, the tax is \$1.7625 per pack. (\$70.50 per 1,000 cigarettes weighing three pounds or less per 1,000. \$72.60 per 1,000 cigarettes weighing more than three pounds per 1,000.)

A person who pays the tax shall securely affix a stamp to each individual package of cigarettes to show payment of the tax

### **CIGARS:**

Class B One cent per 10 or fraction of 10 on cigars weighing three pounds or less per thousand; (\$0.00100)

Class C \$7.50 per thousand on cigars that weigh more than three pounds per thousand, sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each; (\$0.00750)

Class D \$11 per thousand on cigars that weigh more than three pounds per thousand, sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each and contain no substantial amount of non-tobacco ingredients; (\$0.01100)

Class F \$15 per thousand on cigars that weigh more than three pounds per thousand, sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each and contain a substantial amount of non-tobacco ingredients. (\$0.01500)

### **Other Tobacco Products (smoking and chewing tobacco, snuff):**

The tax imposed on a unit that contains multiple individual cans or packages is the sum of the taxes imposed on each individual can or package intended for sale or distribution at retail

The rate applies to each ounce of net product weight and all fractional parts of an ounce.

The current rate: \$1.22 per ounce\*

\*Plus the proportionate rate on all fractional parts of an ounce.

The following table is provided as a guide and shows the actual tax rates and proportionate rates for fractional parts of an ounce, up to two ounces

Total Ounces in Can or Package	Tax For An Individual Can or Package
1.2 ounces or less	\$1.46
1.3 ounces	\$1.59
1.4 ounces	\$1.71
1.5 ounces	\$1.83
1.6 ounces	\$1.95
1.7 ounces	\$2.07
1.8 ounces	\$2.20
1.9 ounces	\$2.32
2.0 ounces	\$2.44

### **Section 5 - Tax Rates and Miscellaneous Fees**

#### Cigarette/Roll Your Own (RYO) Cigarette Tobacco Product Special Fee

Distributors must pay a fee on the sale, use, consumption or distribution in Texas of the following:

Non-settling manufacturer (NSM) or subsequent participating manufacturer (SPM) cigarette tobacco products (RYO) if taxed under Texas Tax Code Section 155.0211, or

NSM or SPM cigarettes if a stamp is required to be affixed to a package of those cigarettes under Texas Tax Code Section 154.041.

This fee is in addition to any other privilege, license, fee or tax required or imposed by state law.

Texas law requires detailed reporting of SPM and NSM sales with respect to the fee (see Health and Safety Code Section 161.605)

Every January, the Comptroller will set new fee rates by increasing the previous year's rate by the greater of 3 percent or the rate of inflation as calculated using the Consumer Price Index for All Urban Consumers (CPI-U). The new computed rates will take effect on February 1 of each year and are valid for 12 consecutive months.

Current rate:

NSM or SPM (with credit amendment) – 3.0952 cents per cigarette stick or 0.09 ounces of cigarette tobacco product.

SPM – 0.8442 cents per cigarette stick or 0.09 ounces of cigarette tobacco product.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Yes, a seller engaged in business in Texas is required to collect and remit to the comptroller's office sales and use tax on all e-cigarette sales made in Texas.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

There is currently no collection allowance or discount for the collection and remittance of excise taxes.

### **Section 8 - Any Other Permissible Allowances**

CIGARETTE: sec. 154.052. CIGARETTE DISTRIBUTORS are entitled to a 2.5% of the face value of stamps purchased as a stamping allowance for providing the service of affixing stamps to cigarette packages.

Current value: \$1.41 or \$1.7625

An additional 0.5 percent cigarette stamping allowance when cigarette distributors report and remit the Cigarette/Roll Your Own (RYO) Cigarette Tobacco Product Special Fee (3 percent total when the standard 2.5 percent stamping allowance is included)

There are no allowances or credit for bad debit credit or theft.

### **Section 9 – The Point at Which Tax is Imposed**

CIGARETTE – Excise tax is imposed upon a person who uses or disposes of cigarettes in this state. The distributor must affix a stamp to each package within 96 hours of receipt of product. The stamp serves as evidence that state excise tax has been paid.

CIGAR AND OTP – The excise tax is imposed upon the distributor who receives product for the purpose of making a first sale into Texas.

## **Section 10 - Tax Return Due Dates**

Currently, distributors report monthly on the last day of the month for the preceding month's activity. Reports are deemed timely if postmarked by the due date. If due date falls on a holiday or weekend, the return will be due the next business day.

## **Section 11 – Tax Return Filings**

To date, a paper return is the only method available to file.

## **Section 12 – Tax Collection**

Electronic Funds Transfer (EFT) is mandatory for any tax due of more than \$100,000.00 with TexNet being the only acceptable payment method. For taxes less than \$100,000.00, EFT, Web-file by credit card or check. EFT payments must be transmitted by 8pm CST of the business day BEFORE the due date.

## **Section 13 - Penalties for Late Filing**

PENALTTIES - A \$50 penalty is assessed on each report filed after the due date.

If tax is paid 1-30 days after the due date, a 5 percent penalty is assessed.

If tax is paid over 30 days after the due date, a 10 percent penalty is assessed

INTEREST - Past due taxes are charged interest beginning 61 days after the due date.

## **Section 14 – Local Jurisdictional Tax**

There is no local jurisdictional tax. Excise taxes for both cigarettes, cigars & OTP are imposed only at the state level.

## **Section 15 - Floor Stock Tax**

Texas imposes a floor stock tax, when there is a change in the tax rate.

## **Section 16 – Qualifying Exemptions**

Product sold to federal or military establishments, Native American reservations, cigarettes purchased exclusively for research purpose are exempt.

## **Section 17 - Laws or Rules for Tribal Sales**

There are currently no laws or rules for tribal sales.

Before a federally recognized tribe can sell cigarettes and/or tobacco products to the general public, the tribe must first apply for and obtain a cigarette and or tobacco products retailer permit and a sales and use tax permit for each location where products are sold. Local and state sales taxes are due on cigarettes and tobacco products sold to the general public. As long as the tribe maintains proper documentation of each sale, tobacco products sold to tribal members on tribal lands are exempt from state taxes.

## **Section 18 - Information Required on a Customer Invoice**

Required records include:

- The total gross receipts from sales of items subject to sales tax, including receipts, invoices and shipping manifests;
- Name and address of the shipper or carrier and the mode of transportation; shipping records (or copies), including invoices, bills of lading, waybills, freight bills and express receipts;
- Date and name of the place of origin of the cigarette and tobacco product shipment;
- Date and name of the place of arrival of the cigarette and tobacco product shipment; statement of the number, kind and price paid for cigarettes and tobacco products, including cigarettes in stamped and unstamped packages;
- Name, address, permit number and tax identification number of the seller;
- The net weight as listed by the manufacturer for each individual can or package of tobacco products (other than cigars);
- Resale and exemption certificates for sales tax purposes; and any other information required by the Comptroller's office.

Each retailer must keep all suppliers' purchase invoices. These must include all information listed under required records. Records must be kept open for inspection for at least four years. Invoices must contain both the non-retailer's (distributor or wholesaler) and retailers Texas issued 11-digit taxpayer ID number.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Texas Attorney General, Texas Department of Health & Human Services, and Texas State Comptroller
Enforcement/Collection:	Texas State Comptroller
Product Seizure Authority:	Texas State Comptroller



## **Section 20 – New or Pending Legislation**

There is no new or pending legislation.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

18. Effective Oct. 1, 2018, the City of San Antonio implemented a local ordinance prohibiting the sale or providing of tobacco products to a person under 21 years of age within the boundaries of the City of San Antonio.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No. However, individuals younger than 18 years of age who possess cigarettes, e-cigarettes, or tobacco products in the presence of an employer of the individual, if possession or receipt of the e-cigarette or tobacco product is required in the performance of the employee's duties as an employee.

**Is there a minimum age for possession of cigarettes or tobacco products?**

18.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No.

## **License Information**

Distributors, manufacturers with representation in Texas, and bonded agents – \$300 per annual permit year from March 1 through last day of February of following year. Distributors who sell cigarettes and tobacco products must obtain a permit for each vehicle used – \$15 per annual licensing period.

Wholesalers – \$200 per annual permit year from March 1 through last day of February of following year. Wholesalers who sell cigarettes and tobacco products must obtain a permit for each vehicle used – \$15 per annual licensing period.

Importers – no fee.

Manufacturers with no representation in Texas – no fee.

Retailers – \$180 for permits issued or renewed. Retailer permits are issued for a two-year period of June 1 through May 31 of even-numbered years.

### **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, annually.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No.

**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

Not applicable.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

It is a two-colored stamp that is heat transferred.

**How many rows of serial numbers are on your state's tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Two rows – the first is the roll ID and the second is the unique Identifier.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes.

## **Section 2 – Acquiring Stamps**

The stamps may be sold only in quantities made available by the comptroller. The purchaser shall place the order for stamps directly with the comptroller. Only Texas DISTRIBUTORS are permitted to purchase and then affix the tax stamps to packs of cigarettes. Stamps are shipped via USPS, UPS, FDX or any other common carrier that can provide a method of tracking and insurability. Shipping cost are the responsibility of the permitted distributor. Tax stamps can only be shipped to the distributor’s permitted address.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Prepaid for Cash customers, 21 days for Draft customers and 30 days for Trust customers. No bond is required.

## **Section 3 - Bond Requirements**

No bond requirements at this time.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

Rarely used, on an individual basis. If a distributor does not possess sufficient unused stamps to cover the distributor's inventory of unstamped cigarettes, the comptroller may allow the distributor to purchase the required stamps from any distributor through a requisition from the comptroller so that the unstamped cigarettes may be stamped immediately under the direction of the comptroller.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Rarely, between properly permitted locations within the same entity.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

Sec. 154.306. EXCHANGE OF STAMPS. The comptroller may exchange or replace, without cost, stamps affixed to a package of cigarettes if the cigarettes have become unfit for sale, use, or consumption and have been returned to the comptroller or to the manufacturer.

Rule 3.101 There is no stamping allowance for re-stamped cigarettes; or (E) stamps that have been torn or otherwise damaged by a stamping machine. The distributor must submit the damaged stamps to the comptroller in order to obtain credit. The comptroller will notify the distributor of the amount of stamp credit authorized.

## **Section 6 – Refund Limitations**

None noted.

## **Section 7 – Credit Process for Manufacturer Returns**

Sec. 154.305. REFUND FOR STAMPS. The comptroller may provide credit or a refund on stamps that are unfit for sale or use because of damage and on unused stamps in broken or unbroken sheets or rolls if the stamps were properly purchased and paid for by the person requesting the refund.

Evidence of return of cigarettes unfit for use. A distributor who requests replacement of cigarette tax stamps affixed to cigarettes that have been returned to the manufacturer must submit the following documentation to the comptroller:

- (1) a credit memorandum from the manufacturer to whom the cigarettes were returned, verifying the number of cigarettes returned for credit;
- (2) an affidavit from the manufacturer confirming that the tax stamps affixed to the cigarettes listed in the memorandum have been destroyed and listing the number, denomination, and the value of such stamps; and
- (3) an affidavit from the distributor stating that the distributor returned the number of cigarettes listed in the manufacturer's credit memorandum and that the number, denomination, and the value of state cigarette tax stamps shown in the manufacturer's affidavit were affixed to the cigarettes returned.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Active distributors may receive credit towards their next stamp purchase. Inactive Distributors may be awarded a refund after a close out audit is completed.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Reconciliation is required by chapter 154 of the Tax Code which provides that each distributor must submit to the Comptroller of Public Accounts, on or before the 25th day of each month, a report which records purchases, cigarette and stamp activity for the preceding month via the submittal of the Texas Distributor Monthly Report of Cigarettes and Stamps (form# 69-100)

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Each distributor in this state shall affix the required stamps within 96 hours after receiving the cigarettes, excluding Saturdays, Sundays, and legal holidays.

Sec. 154.152. INTERSTATE STOCK.

(a) A distributor shall set aside unstamped cigarette packages for interstate sale and for which no tax is due under federal law in a separate part of the building from the stamped packages. If the unstamped packages for interstate sale or for which no tax is due under federal law are not stored separately, the cigarettes are subject to the same requirements as cigarettes possessed for the purpose of a first sale in this state.

(b) A distributor who possesses unstamped cigarette packages for interstate sale must possess a number of unused stamps from the appropriate state sufficient to stamp the distributor's inventory of unstamped interstate cigarettes, except for cigarette packages for which no tax is due under federal law. Any unstamped packages of cigarettes that exceed the number of out-of-state stamps on hand shall be presumed to be held for sale in this state, except for cigarette packages for which no tax is due under federal law.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No.

## **PACT Act Reporting**

Federal requirements are applied; there are no restrictions on how to file.

# STATE OF UTAH

(Last updated 04/2019)

## General Information

### Section 1 - Contact Information

**Contact Name:** John Manning

**Agency:** Utah State Tax Commission

**Mailing Address:** 210 N 1950 W

**City, State, Zip Code:** Salt Lake City, Utah 84134

**Phone Number:** (801) 297-4678

**Fax Number:** (801) 297-4799

**E-mail Address:** [jmanning@utah.gov](mailto:jmanning@utah.gov)

**Website:** <http://tax.utah.gov/>

### Section 2 - Statutes, Regulations and Rules

<http://le.utah.gov/xcode/Title59/Chapter14/59-14.html>

[http://le.utah.gov/xcode/Title59/Chapter22/59-22.html?v=C59-22\\_1800010118000101](http://le.utah.gov/xcode/Title59/Chapter22/59-22.html?v=C59-22_1800010118000101)

<http://tax.utah.gov/tobacco>

See Publication 65 for Cigarettes, Tobacco Products, and Electronic Cigarette Tax Information. The Pub 65 is in PDF format and may be downloaded from [tax.utah.gov/tobacco](http://tax.utah.gov/tobacco).

### Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions

Cigarette: "Cigarette" means a roll for smoking made wholly or in part of tobacco:

- (1) Regardless of:
  - (a) the size of the roll;
  - (b) The shape of the roll; or
  - (c) Whether the tobacco is:
    - (i) Flavored;
    - (ii) Adulterated; or

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- (iii) Mixed with any other ingredient; and
- (iii) If the wrapper or cover of the roll is made of paper or any other substance or material except tobacco.

Little Cigar: "Little cigar" means a roll for smoking:

- (1) Made wholly or in part of tobacco;
- (2) That uses an integrated cellulose acetate filter or other similar filter; and
- (3) that is wrapped in a substance:
  - (a) containing tobacco; and
  - (b) that is not exclusively natural leaf tobacco.

Moist Snuff: "Moist snuff" means tobacco that:

- (1) Is finely:
  - (a) cut;
  - (b) Ground; or
  - (c) Powdered;
- (2) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (3) Is not intended to be:
  - (a) smoked; or
  - (b) Placed in the nasal cavity; and
- (4) Except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:
  - (a) tablets;
  - (b) Lozenges;
  - (c) Strips;
  - (d) Sticks; or
  - (e) Packages containing multiple single-use units.

OTP: "OTP" mean a tobacco product that does not fit the definition of a cigarette, little cigar, or moist snuff it is considered OTP.

#### **Section 4 - The Basis for the Tax**

Cigarettes: 1.70 per 20-Pack; 2.125 per 25-Pack

Little Cigar: \$0.085 per stick

Moist Snuff: \$1.83 per ounce.

OTP: 86% of Manufacture's price plus shipping.

#### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes: 1.70 per 20-Pack; 2.125 per 25-Pack

Little Cigar: \$0.085 per stick

Tobacco Tax Information by State v. 07.22.19

Moist Snuff: \$1.83 per ounce.  
OTP: 86% of Manufacture's price plus shipping.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**  
Currently not taxed.

### **Section 6 - Rate Updates**

No anticipated rate changes in the near future (based on legislation).

### **Section 7 - State Collection Allowance or Discount**

There are no discounts given to distributors/wholesalers; however, stampers receive a discount when purchasing stamps.

The stamper receives a 4% discount on every purchase of cigarette tax stamps.

### **Section 8 - Any Other Permissible Allowances**

There is not an allowance for bad debts or theft; however, damaged, destroyed, or returned stamps are eligible for a refund.

### **Section 9 – The Point at Which Tax is Imposed**

Tax is imposed on the Utah-licensed distributor responsible for any products it causes to be shipped into Utah. The tax is due quarterly, and stamps must be applied within 72 hours of receiving cigarettes into Utah.

### **Section 10 - Tax Return Due Dates**

Tax Return due dates are on the last day one month after the end of the quarter. If the due date falls on a holiday or weekend, the return is due on the next business day.



## **Section 11 – Tax Return Filings**

Returns are filed electronically. The return consists of several schedules that allow for the purchase of all tobacco products. In addition, an information schedule is completed for all cigarettes stamped by brand, family, and stick count.

## **Section 12 – Tax Collection**

Electronic payment is optional. Payment is due before midnight the due date of the return.

## **Section 13 - Penalties for Late Filing**

10% late filing penalty and 10% late payment penalty.

## **Section 14 – Local Jurisdictional Tax**

No local jurisdictions impose additional excise tax.

## **Section 15 - Floor Stock Tax**

Utah has imposed a transitional tax to account for inventory during rate changes based on legislation.

## **Section 16 – Qualifying Exemptions**

Duty free sales, exports, and government sales.

## **Section 17 - Laws or Rules for Tribal Sales**

See Utah Code Section 59-14-204.5.

## **Section 18 - Information Required on a Customer Invoice**

Excise tax charged, number of units (sticks/ounces), manufacturers price, and freight charges.

## **Section 19 – Responsibility by Agency**

MSA Reporting: Utah State Tax Commission and Attorney General’s office  
Enforcement/Collection: Utah State Tax Commission  
Product Seizure Authority: Utah State Tax Commission

## **Section 20 – New or Pending Legislation**

No new or pending legislation.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

Minimum age requirements: The Utah Legislature passed HB 324 in 2019 raising the minimum age to purchase e-cigarettes or tobacco products from 19 to 21. Currently an individual must be at least 19 years old to purchase these products. HB 324 prohibits the sale, giving away, or furnishing of tobacco or e-cigarette products to an individual younger than 20 years old beginning July 1, 2020; and 21 years old beginning July 1, 2021. There is an exemption for individuals who are at least 18 and serve in the military. Various cities have already passed ordinances restricting the sale of these products to any individual younger than 21. As of March 31, 2019 these cities include Lehi and Cedar Hills.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

There are no state laws for minimum age requirements for retail clerks to sell cigarettes or tobacco products. However, Tooele County passed an ordinance that requires an employee to be at least 19 years old to sell cigarettes or tobacco products.

**Is there a minimum age for possession of cigarettes or tobacco products?**

Any person under the age of 18 who is in possession of cigarettes or tobacco products is in violation of 78A-6-117 and may be subject to a fine or penalty, and participation in a court-approved tobacco education program. See Utah Code §76-10-105.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No minimum pricing laws in Utah.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

There are no flavor bans in Utah.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

There are no laws banning pharmacies from selling cigarettes or tobacco products in Utah.

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**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

There are no public bans.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

There are no laws regarding MRTP in Utah. But Utah Code §59-14-22(4) defines cigarette to mean, “any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (a) any roll of tobacco...; or (b) tobacco, in any form, that is functional in the product...; or (c) any roll of tobacco wrapped in any substance containing tobacco...”.

## **License Information**

Refer to Utah State Tax Commission form TC-69.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Licenses are renewed every three years. The cost of the original license is \$30 and a renewal is \$20.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

Bonding Requirements: A cigarette (tobacco) license may not be issued until the applicant files a bond with the Tax Commission. The commission shall determine the form and the amount of the bond, the minimum amount of which shall be \$500 for cigarettes and \$500 for other tobacco products (OTP). An applicant is not required to post a bond if the applicant agrees to purchase tax-paid, stamped cigarettes; and, files an affidavit attesting to this fact. If a bond is required under Section 59-14-201 (Cigarettes) and 59-14-301 (OTP), the bond may be a combination, the minimum of which shall be \$1,000. See Utah Code §59-14-201 and §59-14-301.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

# **Cigarette and Tax Stamp Information**

## **Section 1 – Tax Stamp Attributes**

Colored, numbered, and applied by heat transfer.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

Each roll of 30,000 stamps has a unique five digit roll ID number where each stamp has the unique five digit roll ID number on top and a five digit stamp ID number on the bottom beginning with 00001 to 30000.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

Other Tobacco Products (OTP): No stamping or other identifying markings on OTP, little cigars, or moist snuff.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Utah offers both a 20 and 25s tax stamp.

## **Section 2 – Acquiring Stamps**

Stamps are purchased from the Utah State Tax Commission using form TC-79.

**How are stamps delivered to the wholesaler/distributor?**

Stamps can be picked up at the Utah State Tax Commission, or delivered by FedEx/UPS with a DOR.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase. However, if you have a sufficient bond, you may buy stamps on credit for a period of up to 60 days. The face value of stamps bought on credit may not exceed 90 percent of your bond. Requests to buy stamps on credit must be signed by the licensee in the case of individual ownership, a partner in the case of a partnership, or an authorized officer of the corporation in the case of a corporation. The bond value must equal your estimated quarterly tobacco products tax. The Tax Commission may require you to increase your bond if your actual tax is greater than originally estimated.

### **Section 3 - Bond Requirements**

Stampers are required to carry a minimum bond of \$500.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

See Utah Code Section 59-14-206 (4).

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Utah does not distinguish between wholesalers and distributors.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

A notarized affidavit attesting to misapplied stamps included with Utah State Tax Commission form TC-564.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

### **Section 6 – Refund Limitations**

Utah enforces a 3-year limit on stamp refunds.

### **Section 7 – Credit Process for Manufacturer Returns**

Distributor/Wholesaler submits a TC-564 and includes the manufacturer's affidavit for destroyed stamps.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Refunds are first applied to an unpaid tax, then the net balance is refunded by issuing a paper check.

### **Section 8 – Other Allowed Credits**

Credit on Moist Snuff when returned to manufacturer for expired shelf life.

Tobacco Tax Information by State v. 07.22.19

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

In audit situations the stamper is assessed for discrepancies.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Utah does not require little cigars to be stamped.

## **PACT Act Reporting**

PACT Act reporting requirements are defined by the PACT Act, Utah does not require anything more or less. Utah accepts all forms of PACT reporting including CD's, memos, emails, and electronic filing. Utah recently added an option for electronic flat files.

# STATE OF VERMONT

(Last updated 07/2018)

## General Information

### Section 1 - Contact Information

**Contact Name:** Joan Stefaniak, Tax Examiner

**Agency:** VT Department of Taxes, Miscellaneous Tax Division

**Mailing Address:** 133 State Street

**City, State, Zip Code:** Montpelier, VT 05602

**Phone Number:** (802) 828-6839

**Fax Number:** (802) 828-5787

**E-mail Address:** [Joan.stefaniak@vermont.gov](mailto:Joan.stefaniak@vermont.gov)

**Website:** [www.tax.vermont.gov](http://www.tax.vermont.gov)

**Contact Name:** Helen Wagner, Esq.

**Agency:** Office of the Attorney General

**Mailing Address:** 109 State Street

**City, State, Zip Code:** Montpelier, VT 05602

**Phone Number:** (802) 828-2508

**E-mail Address:** [Helen.wagner@vermont.gov](mailto:Helen.wagner@vermont.gov)

**Website:** [www.ago.vermont.gov](http://www.ago.vermont.gov)

### Section 2 - Statutes, Regulations and Rules

<http://legislature.vermont.gov/statutes/chapter/32/205>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

<http://legislature.vermont.gov/statutes/section/32/205/07702>

### **Section 4 - The Basis for the Tax**

<http://tax.vermont.gov/business-and-corp/miscellaneous-taxes/cigarette-and-tobacco-tax/rates>

### **Section 5 - Tax Rates and Miscellaneous Fees**

<http://tax.vermont.gov/business-and-corp/miscellaneous-taxes/cigarette-and-tobacco-tax/rates>

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

### **Section 6 - Rate Updates**

House Bill 178 proposes to tax electronic cigarettes as “other tobacco products”

House Bill 179 proposes to increase the cigarette and tobacco taxes

It does not appear, at this time that either bill will pass.

### **Section 7 - State Collection Allowance or Discount**

Cigarette Tax – Wholesale dealers who affix cigarette tax stamps to packs of cigarettes and little cigars can deduct a 2.3% prepayment discount from the purchase price of cigarette tax stamps.

Tobacco Tax – If tobacco tax returns are filed with payment by the 15<sup>th</sup> day of the month following the month for which reporting is made, the wholesale dealer can deduct a 2% discount from the total tax due on the return.

### **Section 8 - Any Other Permissible Allowances**

No allowances are given for either bad debt credits or for theft.



## **Section 9 – The Point at Which Tax is Imposed**

Cigarette Tax: (1) Payment is due on cigarette tax stamps at the time the licensed wholesale dealer purchases the stamps. (2) Cigarette tax is due on sales of roll-your-own tobacco and individual non-stamped little cigars by the 15th day of the month following the month in which the sales were made.

Tobacco Tax: Tobacco Tax is due on the 15th day of the month following the month in which product is sold.

## **Section 10 - Tax Return Due Dates**

Cigarette and tobacco tax returns are due monthly, fifteen (15) days following the close of the month in which sales are made. If the due date falls on a federal holiday or on a weekend, the due date is extended to the next business day. A return is considered timely filed if it is received by the due date.

## **Section 11 – Tax Return Filings**

Currently, cigarette and tobacco taxes are filed on paper returns or thorough myVTax.

## **Section 12 – Tax Collection**

Currently, there is no option for cigarette and tobacco taxes to be paid via electronic payment, with the exception of payments made for the purchase of cigarette tax stamps. Cigarette tax stamps can be purchased using electronic payment, which the purchaser must make when the stamps are ordered, or through myVTax.

## **Section 13 - Penalties for Late Filing**

Under Title 32 V.S.A., Chapter 103, Subchapter 002, Section 3202(a) and (b), when a taxpayer fails to pay a tax liability, the Commissioner may assess interest, which is computed at the rate per annum established by the Commissioner on the unpaid amount of that tax liability from the prescribed date, and the Commissioner may also assess a penalty of 5% per month of the unpaid tax liability, not to exceed 25%. The underpayment interest rate for 2017 is 5.6% per annum.

## **Section 14 – Local Jurisdictional Tax**

None noted.

## **Section 15 - Floor Stock Tax**

Yes, if authorized by the legislature.

## **Section 16 – Qualifying Exemptions**

Under Title 32 V.S.A., Chapter 205, Section 7771(1) (C), the cigarette tax does not apply to products purchased outside the state by an individual in quantities of 400 or fewer cigarettes, little cigars, and 0.0325 ounce units of roll-your-own tobacco, and brought into the state for that individual’s own use or consumption.

## **Section 17 - Laws or Rules for Tribal Sales**

None noted.

## **Section 18 - Information Required on a Customer Invoice**

There is no statutory requirement regarding customer invoicing.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Office of the Attorney General
Enforcement/Collection:	Vermont Department of Taxes
Product Seizure Authority:	Vermont Department of Taxes – Title 32 V.S.A., Chapter 205, Section 7779

## **Section 20 – New or Pending Legislation**

House Bill 178 – proposes to tax electronic cigarettes as “other tobacco products”

House Bill 179 – proposes to increase the cigarette and tobacco taxes.

At this time it does not appear that either bill will pass.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

Applicants must complete an application for a wholesale cigarette and tobacco dealer license, providing basic information, such as the business entity type (corporations, partnerships, etc.), owner of the business, trade name, mailing address, business location, federal identification or social security number(s) of the owner(s), business activity (manufacturer, wholesale dealer, retailer), a description of the product that will be sold (cigarettes, roll-your-own tobacco, snuff, etc.),

The application for a wholesale dealer license is in the process of being revised and is not currently available on our website but can be obtained by calling 802 828-6839 or requested by e-mail at:

<http://tax.vermontgov/help-and-resources/contact>

There is no fee to obtain a wholesale cigarette and tobacco dealer license in Vermont.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

No.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Stamps are printed in rolls of 30,000 stamps per roll for the 20 count cigarette packs and in rolls of 7,200 stamps per roll for the 25 count cigarette packs. All stamps in each roll bear the same five digit number. Currently, tax stamps are yellow in color, with a green border around the stamp. In all capital letters, the word VERMONT is written in green and appears at the top of the stamp. In the middle of the stamp, in slightly larger black type, the five digit roll number appears. Directly under the roll number appears the number 20 or 25, in green, to signify the stamp is to be affixed on a package containing 20 cigarettes or 25 cigarettes, respectively. Directly under that appear the words Cigarette Tax, also in capital letters and in green ink. Cigarette tax stamps are layer-built decal stamps, consisting of not less than five impressions, including safety tint lettering and are produced by lithographic and or intaglio process. Machines are used to apply stamps to the bottoms of individual packs of cigarettes using heat to fuse them to the cellophane, paper, or foil.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

Tobacco Tax Information by State v. 07.22.19

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

## **Section 2 – Acquiring Stamps**

Cigarette tax stamps can only be obtained from the Tax Department. Licensed wholesale dealers place orders for stamps by faxing a completed order form, through myVTax, or by bringing one into the office with payment. For those who come into the office, the tax stamps are given to the wholesale dealer at that time. For those who fax in orders, the stamps are shipped via UPS the same day the order is received.

**How are stamps delivered to the wholesaler/distributor?**

The Tax Department ships stamps for delivery via UPS. The Tax Department assumes the cost of shipping stamps via UPS Ground delivery. Those dealers who want another type of service, such as Next Day Air, must assume the cost and, therefore, must provide their UPS account number.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

## **Section 3 - Bond Requirements**

Under Title 32 V.S.A., Chapter 205, Section 7737, when the commissioner deems it necessary to protect the revenues to be obtained under this chapter, he or she may require any wholesale dealer to file with him or her a bond, issued by a surety company authorized to transact business in this state, and approved by the commissioner of banking, insurance, securities, and health care administration of this state as to its solvency and responsibility, in an amount fixed by the commissioner to secure the payment of any tax or penalties or interest due or which may become due from that wholesale dealer.

## **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

None noted.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**  
None - Title 32 V.S.A., Chapter 205, Section 7773.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes, tax credit or refund Title 32 V.S.A., Chapter 205, and Section 7819

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

### **Section 6 – Refund Limitations**

Title 32 V.S.A., Chapter 205, Section 7819 does not provide for a time limit in which to request a refund.

### **Section 7 – Credit Process for Manufacturer Returns**

The licensed wholesale dealer completes an application for a refund, attaching all necessary documentation.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

### **Section 8 – Other Allowed Credits**

Wholesale dealers can request a refund for tobacco products returned to the manufacturer on which tobacco taxes were paid to the Tax Department.

### **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

We do not generally find discrepancies.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

Cigarettes: sales must be identified by providing the customer's name, address, sales price, brand family, invoice date, invoice number and total cigarettes sold, delivery service name, address and phone number

Tobacco: sales must be identified by providing customer's name, address, type, brand family, Invoice date, invoice number, quantity, RYO total weight, OTP total weight, retail sales price, manufacturer's/wholesaler's list price, delivery service name, address and phone number

PACT Act reports are filed via paper, on discs, via e-mail, or through myVTax.

**STATE OF VIRGINIA**  
(Last updated 02/2019)

**General Information**

**Section 1 - Contact Information**

**Agency:** Virginia Department of Taxation

**Mailing Address:** 600 E. Main Street

**City, State, Zip Code:** Richmond VA 23219

**Phone Number:** (804) 371.0730

**Fax Number:** (804) 786-2800

**Website:** [www.tax.virginia.gov](http://www.tax.virginia.gov)

**Section 2 - Statutes, Regulations and Rules**

[www.tax.virginia.gov](http://www.tax.virginia.gov)

**Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarette is any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use. See Code of Virginia 58.1-1000. Other Tobacco Products definitions see Code of Virginia 58.1-1021.01

**Section 4 - The Basis for the Tax**

Chewing Tobacco, Cigar, Dry Snuff, pipe tobacco, Roll your own tobacco is taxed at 10% of the manufacturer's selling price. Moist Snuff and Loose Leaf tobacco is taxed by weight.

**Section 5 - Tax Rates and Miscellaneous Fees**

Cigarette tax \$.30 per pack

OTP other than moist snuff and loose leaf tobacco is taxed at 10% of the manufacturer's selling price.

Tobacco Tax Information by State v. 07.22.19



Moist snuff is taxed at \$.18 per oz.

Loose leaf tobacco is taxed by weight- units less than 4 oz. \$.21 per oz. Units 4-8oz \$.40 per oz. units more than 24 oz. \$.21 plus \$.21 for each increment of 4 oz. that the unit exceeds 16 oz.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Virginia does not impose an e-cigarette or vapor tax.

### **Section 6 - Rate Updates**

None noted.

### **Section 7 - State Collection Allowance or Discount**

Cigarette stamping discounts 2% of stamp purchase. OTP discount 2% of tax due.

### **Section 8 - Any Other Permissible Allowances**

There is an allowance for bad debt.

### **Section 9 – The Point at Which Tax is Imposed**

OTP tax is due at the time of sale. Cigarette tax is a pre paid tax due when a roll of stamps is purchased.

### **Section 10 - Tax Return Due Dates**

Forms TT-13, TT-14, TT-18 are due on the 20th of the following month. If the 20th falls on a weekend or holiday, the due date is the next business day. Timely filed is determined by postmark.

### **Section 11 – Tax Return Filings**

Cigarette forms are filed on paper. OTP returns are filed electronically.

### **Section 12 – Tax Collection**

OTP payments are required to be made electronically.

Tobacco Tax Information by State v. 07.22.19

### **Section 13 - Penalties for Late Filing**

Cigarette returns are subject to a penalty of \$250. OTP returns are subject to a penalty of 5% per month max 20%.

### **Section 14 – Local Jurisdictional Tax**

Yes independent cities and towns may impose a local cigarette tax.

### **Section 15 - Floor Stock Tax**

Virginia imposed a floor tax during the last tax increase- 2005.

### **Section 16 – Qualifying Exemptions**

The US Government and Veterans Canteen Service of the VA.

### **Section 17 - Laws or Rules for Tribal Sales**

None noted.

### **Section 18 - Information Required on a Customer Invoice**

Virginia Other Tobacco Products Tax Paid.

### **Section 19 – Responsibility by Agency**

MSA Reporting:	Office of the Attorney General
Enforcement/Collection:	Office of the Attorney General
Product Seizure Authority:	Office of the Attorney General

### **Section 20 – New or Pending Legislation**

Virginia will require a new resale certificate of exemption beginning January 1, 2018.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

21

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

21

**Is there a minimum age for possession of cigarettes or tobacco products?**

21

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Yes. No local bans

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No

## **License Information**

Virginia requires a stamping agent permit which authorizes a stamping agent to purchase and affix cigarette revenue stamps. The fee is \$600 for a three year permit. Virginia requires an OTP distributor's license for any business bringing untaxed tobacco into the state. The fee is \$600 for a three year license.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Every three years.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

The cigarette revenue stamp contains a serial number and is heat affixed.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

One- roll ID

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

Invoices must contain the wording “Virginia Other Tobacco Products Tax” paid.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

Yes

### **Section 2 – Acquiring Stamps**

**How are stamps delivered to the wholesaler/distributor?**

Tax office, local Commissioner of the Revenue Office or delivered by common carrier.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment is due at the time of purchase, unless stamps are purchased on credit. A bond is required to purchase on credit.

### **Section 3 - Bond Requirements**

A bond is required when purchasing on credit.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

None noted.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

None noted.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Yes.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

None noted.

### **Section 6 – Refund Limitations**

None noted.

### **Section 7 – Credit Process for Manufacturer Returns**

A credit memo is attached to a tax stamp purchase order.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Credit against next stamp purchase

### **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

An attachment to the monthly cigarette tax form.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No

## **PACT Act Reporting**

PACT Act reports are received via mail or email for any person shipping cigarettes into Virginia.

**STATE OF WASHINGTON**  
(Last updated 04/2017)

**General Information**

**Section 1 - Contact Information**

**Agency:** Washington State Department of Revenue, Special Programs Division, Miscellaneous Tax Section

**Mailing Address:** PO BOX 47477

**City, State, Zip Code:** Olympia WA 98504-7477

**Phone Number:** (360) 534-1503

**Fax Number:** (360) 534-1499

**E-mail Address:** [DORCigarettes@dor.wa.gov](mailto:DORCigarettes@dor.wa.gov)

**Website:** Dor.wa.gov

**Agency:** Office of the Attorney General

**Mailing Address:** PO BOX 40100

**City, State, Zip Code:** Olympia WA 98504-0100

**Phone Number:** (206) 464-6684

**Fax Number:** (360) 664-2023

**Website:** Atg.wa.gov

**Section 2 - Statutes, Regulations and Rules**

<http://dor.wa.gov/content/FindALawOrRule/>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

"Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

"Cigarette" includes a roll-your-own cigarette.

"Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco. "Cigar" does not include a cigarette.

"Little cigar" means a cigar that has a cellulose acetate integrated filter.

"Moist snuff" means tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity. "Tobacco products" means cigars, cheroots, stogies, perique's, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and any other product, regardless of form, that contains tobacco and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, but does not include cigarettes as defined in RCW 82.24.010. "Taxable Sales Price" means the actual price for which the taxpayer (wholesaler) purchased the tobacco products. If purchasing from an affiliate, not the purchase price, but the price that the affiliate would sell to a non-affiliate. See Chapter RCW 82.26.

### **Section 4 - The Basis for the Tax**

Cigarettes - \$3.025 per package of 20, plus applicable sales or use tax.

Tobacco Products: The "Other Tobacco Products" tax rate is 95% of the taxable sales price.

For cigars, except little cigars, 95% of the taxable sales price of cigars not to exceed \$0.65 per cigar.

"Little cigars" are taxed at the same rate per unit as cigarettes - \$0.15125 per stick or \$3.025 per pack of twenty.

Moist snuff is taxed based on the net weight listed by the manufacturer at the rate of \$2.526 per single unit of 1.2 ounces or less and at a proportionate rate for larger single units.



## **Section 5 - Tax Rates and Miscellaneous Fees**

Tobacco Products/Cigars (less than \$0.69) rate at 95% of the first possessors (for resale) purchase price.

Cigar Tax (\$0.69 or more) \$0.65 per cigar.

Little Cigar tax (acetate integrated filters) \$0.15125 per stick.

Moist snuff (1.2 oz. or less) \$2.526 per unit.

Moist snuff (more than 1.2 oz.) \$2.105 per ounce.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

## **Section 6 - Rate Updates**

Unknown at this time.

## **Section 7 - State Collection Allowance or Discount**

Cigarette stamping compensation - \$6 per 1,000 stamps sold (reduced from tax stamp roll purchase price).

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

Other tobacco products tax is due on first possessor in WA.

Cigarette tax is considered paid when the tax stamp is affixed. The stamps must be affixed within 72 hours of receipt of the inventory. The stamps are required to be affixed unless the wholesaler has provided an “unstamped” inventory bond.

## **Section 10 - Tax Return Due Dates**

The monthly tax returns are due the 25th day of the month following the close of the period. Quarterly returns are due the end of the month following the tax quarter. If the due date falls on a weekend or holiday the returns are due on the following business day. Monthly and quarterly filers are required to E-file. If they have received an exemption from the E-file requirement, the postmark determines timely filing.

## **Section 11 – Tax Return Filings**

Paper or electronic filings are available at dor.wa.gov.

## **Section 12 – Tax Collection**

The electronic payment options are E-check, ACH Credit, ACH Debit, or credit card. If a taxpayer is required to electronically file their tax Return, they typically are also required to pay their taxes electronically.

Electronic payments must be completed no later than 11:59PM on the due date to be considered timely.

The tobacco products tax is reported on the business tax filings. Washington consumers who purchase cigarettes outside Washington State, or from some other source without paying Washington taxes, must pay both the cigarette tax and the use tax directly to the department of revenue within seventy-two hours of first possessing them in this state using a "Tax Declaration for Cigarettes" form, which may be obtained from the department. This form/return is a separate tax filing from the business tax filing.

## **Section 13 - Penalties for Late Filing**

9% the day after the due date.

19% the 1st day of the month following the due date.

29% the 1st day of the 2nd month following the due date.

## **Section 14 – Local Jurisdictional Tax**

Yes.

## **Section 15 - Floor Stock Tax**

Yes, for cigarette tax.

## **Section 16 – Qualifying Exemptions**

Tribal, out of state, and sales to the US government are considered qualifying exemptions.

## **Section 17 - Laws or Rules for Tribal Sales**

Tribes are allocated an annual amount of tax-exempt stamps (packs) of cigarettes— couple of tribes utilizes their exempt allocation and exempt stamps are affixed. Other tribes have a cigarette compact agreement with WA (have incorporated a tribal cigarette tax equal to the state cigarette tax) and they affix the generic compact stamp or their own unique tribal stamp.

## **Section 18 - Information Required on a Customer Invoice**

Name and address of seller and buyer, delivery date, product type, product brand, and indication if the tax has been paid by the seller (type of tax stamp applied).

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Department of Revenue
Enforcement/Collection:	Liquor and Cannabis Board
Product Seizure Authority:	Revenue and Liquor and Cannabis Board

## **Section 20 – New or Pending Legislation**

None known, potential vapor products bills, none passed at this time.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

Tobacco Tax Information by State v. 07.22.19

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

Licenses can be applied for online via [bls.dor.wa.gov](http://bls.dor.wa.gov)

Here is the link for the requirements to become a Washington State licensed Cigarette Wholesaler: <http://bls.dor.wa.gov/cigarette wholesaler.aspx>.

Here is the link for the requirements to become a Washington State licensed Cigarette Retailer: <http://bls.dor.wa.gov/cigarette retailer.aspx>.

Here is the link for the requirements to become a Washington State licensed Tobacco Products Wholesaler: <http://bls.dor.wa.gov/tobacco distributor.aspx>.

Here is the link for the requirement to become a Washington State licensed Tobacco Products Retailer: <http://bls.dor.wa.gov/tobacco retailer.aspx>

<a href="#">Cigarette making machine</a>	\$93 per location
<a href="#">Cigarette retailer</a> See also: <a href="#">Tobacco products retailer</a>	\$175 per location
<a href="#">Cigarette vending machine</a>	\$30 per machine
<a href="#">Cigarette wholesaler</a>	<ul style="list-style-type: none"> <li>• \$650 main location</li> <li>• \$115 each branch location</li> </ul>
<a href="#">Tobacco distributor</a> See also: <a href="#">Cigarette retailer</a>	<ul style="list-style-type: none"> <li>• \$650 main location</li> <li>• \$115 each branch location</li> </ul> (Fee waived if you are also applying for or already have cigarette wholesaler endorsement.)
<a href="#">Tobacco products retailer</a> See also: <a href="#">Cigarette retailer</a>	\$175 per location (Fee waived if you are also applying for or already have cigarette retailer endorsement at same business location.)
<a href="#">Vapor product delivery</a>	\$250
<a href="#">Vapor product distributor</a>	<ul style="list-style-type: none"> <li>• \$150 main location</li> <li>• \$100 each branch location</li> </ul>
<a href="#">Vapor product retailer</a>	\$175

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No transfers of un-affixed stamps.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Yes, as long as the receiving distributor is appropriately licensed or if the product is sold to an out of state distributor.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Destruction of stamps must be witnessed by a DOR authorized agent. Refunds of verified misapplied stamps may be requested.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

WAC 458-20-186 states, in order to be considered taxed, more than 50% of the stamp must be on a pack.

## **Section 6 – Refund Limitations**

Refunds of tax stamps are subject to the statute of limitations, which is current plus four years.

## **Section 7 – Credit Process for Manufacturer Returns**

Manufacturer's certification is required, see cigarette tax claim form:  
[http://dor.wa.gov/Docs/Forms/CigTx/CigTxClaimRefund\\_E.pdf](http://dor.wa.gov/Docs/Forms/CigTx/CigTxClaimRefund_E.pdf)

## **Section 8 – Other Allowed Credits**

Credit is allowed for returned Tobacco Product taxes, see tobacco tax credit worksheet:  
[http://dor.wa.gov/Docs/forms/CigTx/TobProdCigTxCrWsht\\_E.pdf](http://dor.wa.gov/Docs/forms/CigTx/TobProdCigTxCrWsht_E.pdf)

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Verified via field audit, undocumented inventory is treated as unpaid tax and assessed.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

All unstamped stock must be kept separate and apart from stamped stock.

A bond is required for the tax value of any unstamped inventory kept over 72 hours.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

Paper or electronic via email. See schedule C forms.

# STATE OF WEST VIRGINIA

(Last updated 06/2019)

## General Information

### Section 1 - Contact Information

**Contact Name:** Mary K Stiles

**Agency:** Department of Revenue

**Mailing Address:** 1001 Lee Street E

**City, State, Zip Code:** Charleston WV 25301

**Phone Number:** (304) 558-8626

**Fax Number:** (304) 558-1989

**E-mail Address:** [mary.k.stiles@wv.gov](mailto:mary.k.stiles@wv.gov)

**Contact Name:** Cassandra Means

**Agency:** Attorney General's Office

**Mailing Address:** 1900 Kanawha Blvd Bldg. 1

**City, State, Zip Code:** Charleston WV 25305

**Phone Number:** (304) 558-2522

**E-mail Address:** [Cassandra.l.means@wvago.gov](mailto:Cassandra.l.means@wvago.gov)

### Section 2 - Statutes, Regulations and Rules

WV Tax Code at <http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=11&art=1>

Tax information and returns at

<http://tax.wv.gov/Business/ExciseTax/TobaccoTax/Pages/TobaccoTaxForms.aspx>

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

Cigarette-any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether tobacco flavored, adulterated or mixed with any ingredient, the wrapping or cover of which is made of paper or any substance or material, except tobacco. Any roll of tobacco wrapped in any substance containing tobacco which because of its appearance, the type of tobacco used in the filler, or it's packing and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

Other tobacco products or tobacco products other than cigarettes-snuff and chewing tobacco and any other tobacco product that is intended by the seller to be consumed by means other than smoking and any cigar, pipe tobacco or other tobacco product other than cigarettes.

E-cigarette liquid-any of the liquids or liquid mixtures used in e-cigarettes and is also known as e-juice, e-fluid, e-liquid or e-liquid product. E-cigarette liquid includes e-cigarette liquid mixing kits and e-cigarette liquid mixing kit components. When used in, or an e-cigarette, e-cigarette, e-cigarette liquid is vaporized or otherwise converted into an inhalable product. E-cigarette liquid may or may not include, without limitation, propylene glycol, vegetable glycerin nicotine from any source or flavorings.

### **Section 4 - The Basis for the Tax**

Per WV Tax Code §11-17, tax is imposed on sales of packages of twenty cigarettes or in like ratio on any part thereof. A tax stamp must be affixed or impressed upon each package of cigarettes.

On "tobacco products other than cigarettes" the tax is imposed on wholesale price of each item sold or used.

On the sale of e-cigarette liquids there is a tax levied per milliliter or fraction thereof, or if not sold, then at the same rate upon the use by the wholesaler or dealer.

Only one sale of the same article shall be used in computing the amount of tax due.

"Wholesale price" means the gross invoice price including federal excise taxes, at which the manufacturer of the tobacco product sells the product to unaffiliated distributors.

"Wholesaler" or "wholesale dealer" is any person within this state who purchases tax-not-paid tobacco products directly from the manufacturer or other seller as approved by the tax commissioner.

"Stamp" means any cigarette stamp or any meter or ink impression or other indicia authorized by the tax commissioner to serve as a stamp and shall be of the design and color as prescribed by the tax commissioner.



## **Section 5 - Tax Rates and Miscellaneous Fees**

Effective July 1, 2016, the excise tax rate on the sale of cigarettes is \$1.20 on each package of twenty (20) cigarettes and \$1.50 on each package of twenty-five (25) cigarettes. A 12% tax rate is levied on the wholesale price of each article or item of tobacco products other than cigarettes.

A tax rate of 7.5 cents per milliliter is imposed on the sale of e-cigarette liquids.

## **Section 6 - Rate Updates**

None noted.

## **Section 7 - State Collection Allowance or Discount**

There is a dealer discount of 4% on the amount tax due for affixing cigarette tax stamps, collecting and paying of tax as required. This discount does not apply to tax levied on the sale of e-cigarette liquids.

## **Section 8 - Any Other Permissible Allowances**

There are no allowances for bad debt or for theft.

## **Section 9 – The Point at Which Tax is Imposed**

Excise tax is imposed on sales from a wholesaler to another wholesaler, retail dealers and/or sub jobber.

Any distributor, dealer, sub jobber, retail dealer, or any person(s) that imports or transports tax-not-paid tobacco products into this state, or causes the import or transport of tax-not-paid tobacco products into this state is liable for the excise tax.

## **Section 10 - Tax Return Due Dates**

Tobacco products tax returns are due on or before the fifteen (15th) of each month for the preceding month. If the due date falls on the weekend or on a holiday, then the due date will fall on the next business day.

## **Section 11 – Tax Return Filings**

Tax returns can be filed by mail or electronically through MyTaxes at <https://mytaxes.wvtax.gov>

## **Section 12 – Tax Collection**

Tax on cigarettes shall be paid by the purchase of stamps.

On “tobacco products other than cigarettes” the tax shall be paid using an invoice method.

Payment shall be made by cash, money order, bank draft, certified check or by noncertified check.

Electronic payments must be submitted on or before the due date of the return.

## **Section 13 - Penalties for Late Filing**

Failure to make or file a report when no tax is due, as required on the due date for this filing, there shall be collected a penalty of \$25.00 for each month of the failure or fraction of a month.

Late file penalty of five percent (5%) of the tax due for the first month and five percent for each month thereafter or fraction of a month not to exceed 25%.

Late pay penalty of .5% for the first month and .5% for each month thereafter or fraction thereof not to exceed 25%.

The current interest rate on late payment is 8%.

## **Section 14 – Local Jurisdictional Tax**

Per WV Code §11-17-4a, no municipality or government subdivision shall levy any excise or other tax on any tobacco product, or require cigarettes or other tobacco products to be stamped.

## **Section 15 - Floor Stock Tax**

Every wholesaler, sub jobber, sub jobber dealer, retail dealer and vending machine operator must pay a floor stock tax when there is a rate change.

## **Section 16 – Qualifying Exemptions**

Only exemptions are sales from manufacturers to wholesalers.

## **Section 17 - Laws or Rules for Tribal Sales**

No special laws or rules regarding tribal sales.

## **Section 18 - Information Required on a Customer Invoice**

Each delivery ticket or invoice for each purchase or sale must be recorded upon a serially numbered invoice which includes the following:

The name and address of the seller and the purchaser

The point of delivery

The date, quantity and price of each tobacco product delivered in this state

The amount of tax imposed, which must be set out separately or the invoice must indicate that the West Virginia tobacco products excise tax is included in the total price

## **Section 19 – Responsibility by Agency**

MSA Reporting:	West Virginia Attorney General
Enforcement/Collection:	West Virginia State Tax Department
Product Seizure Authority:	West Virginia State Tax Department, West Virginia State Police, and Local Police Departments

## **Section 20 – New or Pending Legislation**

None noted.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

The statewide minimum age for selling, purchasing, or possessing cigarettes and/or tobacco products is 18 years old.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

WV Code §47-11A prevents unfair trade practices in WV. Wholesalers are allowed a four percent (4%) markup to their replacement cost of the product. Retailers are allowed a seven percent (7%) markup to their replacement cost of the product.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

Flavored cigarettes, other than menthol, are banned statewide (nationwide). No flavor bans for other tobacco products.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

WV pharmacies may sell cigarettes and/or tobacco products.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

Mass transit vehicles, most public access buildings, and some city parks ban smoking.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No current WV statute language regarding modified (reduced) risk tobacco.

## **License Information**

For a West Virginia Business License Certificate there is a \$30.00 fee.

Application for permission to stamp

Distributor Information Sheet

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Licenses do not need to be renewed.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

WV has no bond and or direct-buy letter requirements for cigarette and/or tobacco licenses.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Stamps are colored and numbered.

Hand applied stamps are one-half inch by five-eighths inch.

Heat applied stamps are one-half inch by one-half inch.

Contain the words “State of West Virginia” and “Cigarette Tax Stamp”.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

WV has no tax stamps for other tobacco products. Tax due is derived from invoices.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

WV cigarette tax stamps are available for packages of 20 (\$1.20) and packages of 25 (\$1.50). Each stamp contains one row of serial numbers for the roll or sheet from which it came.

## **Section 2 – Acquiring Stamps**

Cigarette Tax Stamps can be obtained by filing form WV/TPT-703 Requisition for West Virginia Cigarette Stamps. This form can be filed electronically on <https://mytaxes.wvtax.gov> the amount due must be paid at the time of purchase unless a bond is on file with the tax commissioner.

### **How are stamps delivered to the wholesaler/distributor?**

The Tax Department uses FedEx Ground to deliver stamps unless otherwise specified by the taxpayer. Taxpayer must provide a FedEx account number for billing if requesting a shipping service other than ground.

### **When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

Payment for WV cigarette tax stamps is due before stamps are issued. A WV Cigarette Tax Credit Purchase Bond may be acquired, but is not required. The minimum amount of the bond is \$1,000, but should be high enough to cover two WV cigarette tax stamps orders (requisitions) at any given time. A maximum of two requisitions can be held against the bond at any time. Payment for the oldest requisition must be made within 30 days and before a third requisition is completed.

## **Section 3 - Bond Requirements**

Wholesalers may obtain a Cigarette Tax Credit Purchase Bond to allow them to purchase cigarette tax stamps on credit. This is a continuous bond. The only requirement is that annual notice of renewal is filed with the tax commissioner. The WV Attorney General's Office approves the bonds.

## **Section 4 – Allowable Transfers**

### **Does the state allow the transfer of unaffixed cigarette tax stamps?**

West Virginia does not allow for the transfer of unaffixed cigarette tax stamps.

### **Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

Wholesalers may not transfer unstamped cigarettes or other tobacco products upon which the excise tax has not been paid or stamp any cigarettes that they do not own.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

Any unused or mutilated, but identifiable, stamps purchased by a wholesaler or retail dealer may be presented for tax credit or refund of ninety-five percent of the face value of said stamps, less any discounts. Request for credit/refund must be filed by the purchaser and be in writing.

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

At least 75% of the stamp must be visible to claim for tax credit

Must be able to identify the name of the state and the serial number.

## **Section 6 – Refund Limitations**

Claim for credit or refund must be filed within three years from the date the cigarette stamps were issued.

## **Section 7 – Credit Process for Manufacturer Returns**

Stamped cigarettes returned to the manufacturer can be claimed for a credit or refund upon the filing of an application and affidavit in duplicate issued by the manufacturer as evidence of the destruction of stamps. The amount of refund shall be ninety-five percent of face value of the stamps, less any discounts.

### **How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

Verified returns to manufacturers can be credited to the next WV cigarette tax stamps requisition or issued as a refund.

## **Section 8 – Other Allowed Credits**

A credit or refund can be claimed for tobacco products other than cigarettes that have been returned to the manufacturer. Must file an application and affidavit when claiming a credit or refund of ninety-five percent of face value of tax that was paid less any discounts.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Taxpayers are contacted if there are any discrepancies between cigarette inventory and tax stamp inventory

Tobacco Tax Information by State v. 07.22.19

If the taxpayer does not provide an explanation the following may occur:  
Report is adjusted based on information that has been provided and a return change letter is mailed.

Any overages that result in a tax credit that cannot be explained are denied.

### **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

Must maintain a daily stamping record which shall be made available for inspection by the Tax Commissioner.

Inventory must be reported to the Tax Commissioner monthly.

### **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

Little cigars are taxed as other tobacco products in WV.

### **PACT Act Reporting**

Reporting can be submitted by email or by mail.

Reports must list following items:

- Invoice number
- Name and address of the seller and the purchaser
- Point of delivery
- The product brand name
- Date, quantity, and price



**STATE OF WISCONSIN**  
(Last updated 07/2019)

**General Information**

**Section 1 - Contact Information**

**Contact Name:** Sue Ann Nelson

**Agency:** Department of Revenue

**Mailing Address:** P.O. Box 8900

**City, State, Zip Code:** Madison, WI 53708

**Phone Number:** (608) 266-6701

**Fax Number:** (608) 261-7049

**E-mail Address:** [sue.nelson@wisconsin.gov](mailto:sue.nelson@wisconsin.gov)

**E-mail Address:** [DORExciseTaxpayerAssistance@wisconsin.gov](mailto:DORExciseTaxpayerAssistance@wisconsin.gov)

**Website:** <https://www.revenue.wi.gov/Pages/Businesses/Tobacco.aspx>

**Section 2 - Statutes, Regulations and Rules**

<https://docs.legis.wisconsin.gov/statutes/statutes/139.pdf>

<https://docs.legis.wisconsin.gov/statutes/statutes/995.pdf>

[https://docs.legis.wisconsin.gov/code/admin\\_code/tax/9.pdf](https://docs.legis.wisconsin.gov/code/admin_code/tax/9.pdf)

<https://www.revenue.wi.gov/Pages/FAQS/ise-cigar.aspx>

<https://www.revenue.wi.gov/Pages/FAQS/ise-tobacco.aspx>

**Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

All definitions under: <https://docs.legis.wisconsin.gov/statutes/statutes/139/II/30>  
<https://docs.legis.wisconsin.gov/statutes/statutes/139/III/75>

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## **Section 4 - The Basis for the Tax**

**Cigarettes:** Per stick. "On cigarettes weighing not more than 3 pounds per thousand, 126 mills on each cigarette." [sec. 139.31(1)(a), Wis. Stats.]

### **Tobacco Products:**

"Manufacturer's established list price to distributors without diminution by volume or other discounts on domestic products." [sec. 139.76(1), Wis. Stats.]

## **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarette tax \$0.126 per stick.

Tobacco Products 71% of manufacturer's established list price to distributors.

Moist Snuff 100% of manufacturer's established list price to distributors.

Cigars Lesser of 71% of manufacturer's established list price to distributors or \$0.50 per cigar.

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

Effective October 1, 2019, \$0.05 per milliliter of the liquid or other substance based on volume listed by manufacturer and at a proportionate rate for any other quantity or fractional part thereof.

## **Section 6 - Rate Updates**

No recent tax rate increases. Cigarette tax – last increase 09/01/2009. Moist snuff and other tobacco products (OTP) – last rate change 09/01/2009.

## **Section 7 - State Collection Allowance or Discount**

As a distributor, you receive a 0.8% tax discount when you purchase stamps to help offset the costs you incur when you apply the stamps to packs of cigarettes [sec. 139.32(5), Wis. Stats.].

## **Section 8 - Any Other Permissible Allowances**

None.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarettes – tax is paid when manufacturer or distributor purchases tax stamps from Wisconsin Department of Revenue. Stamp must be affixed to each pack of cigarettes prior to its first sale in the state. [sec.139.32(1), Wis. Stats.]

Tobacco and Vapor Products – The following permittees pay DOR the tobacco and/or vapor products tax [sec. 139.76(1) and (1m), Wis. Stats.]:

- Any person in Wisconsin who acquires tobacco or vapor products for sale or resale from sources that do not hold a valid distributor or sub-jobber permit with us
- Any person who manufactures tobacco or vapor products in Wisconsin for sale in Wisconsin
- Any person outside Wisconsin who ships tobacco or vapor products to persons in Wisconsin who do not hold a valid tobacco and vapor products distributor permit with DOR

## **Section 10 - Tax Return Due Dates**

All returns are due by the 15th day of the month following the month or quarter covered by the return [sec. 139.82(2), Wis. Stats.]. Example: a return for October is due November 15.

## **Section 11 – Tax Return Filings**

Electronic filing is required. Returns can be submitted via xml files or through My Tax Account, [https://tap.revenue.wi.gov/mta/\\_/](https://tap.revenue.wi.gov/mta/_/). [ Wis.Adm. Code Tax 9.001(2)b] No waivers are accepted as of January 2019.

## **Section 12 – Tax Collection**

### **Cigarette tax stamps:**

A cigarette distributor can purchase stamps on credit or COD. To purchase stamps on credit a distributor must have enough security on file to cover their stamp purchase amount and must submit payment along with their monthly cigarette tax returns on or before the 15th day after the month they receive the stamps. A cigarette distributor who purchases stamps on COD must pay for the stamps prior to being issued the stamps by DOR [sec.139.32(6), Wis. Stats.].

### **Tobacco and Vapor Products:**

Tax payment options due by the due date of the return:

- Include direct debit information along with your electronic return. You may warehouse this payment until the due date of the return
- Credit card payments through our vendor site
- Debit payments at our website through My Tax Account
- ACH credit

[sec. 139.82, Wis. Stats.]

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### **Section 13 - Penalties for Late Filing**

- Late-filing fee - \$10 [sec. 139.82(5), Wis. Stats.]
- Delinquent interest - 1.5% of the amount of tax due with the return per month until paid [sec. 139.85(1), Wis. Stats.]
- Late-filing penalty - 5% of the amount of tax due with the return per month until paid, maximum of 25% [sec. 139.85(2), Wis. Stats.]

### **Section 14 – Local Jurisdictional Tax**

Wisconsin statutes provide a preemption for local jurisdictional tax on cigarettes. [sec.139.43, Wis. Stats.]No local cigarette taxes in Wisconsin.

### **Section 15 - Floor Stock Tax**

- When the cigarette tax rate increases, an inventory tax is charged to all permittees and retailers who possess stamped cigarettes held for resale on which the cigarette tax was paid at the prior rate and upon un-affixed stamps in the possession of distributors.
- The inventory tax is the amount by which the cigarette tax rate increases.
- The inventory tax return is due 30 days after the effective date of the tax increase. [sec. 139.315, Wis. Stats.]

### **Section 16 – Qualifying Exemptions**

#### **Cigarettes:**

Cigarettes sold to post exchanges of the armed forces of the United States and to federally operated veterans hospitals in this state and cigarettes sold to an interstate carrier of passengers for hire to be resold to bona fide passengers actually being transported and cigarettes sold for shipment outside this state in interstate commerce are not subject to the tax. [sec. 139.31(3), Wis. Stats.]

#### **Tobacco and Vapor Products:**

Tobacco and vapor products sold to or by post exchanges of the U.S. armed forces, to or by federally operated veterans hospitals in this state, and tobacco and vapor products sold to an interstate carrier of passengers for hire to be resold to bona fide passengers actually being transported and tobacco and vapor products sold for shipment outside this state in interstate commerce are not subject to the tax. [sec. 139.79(2), Wis. Stats.]

## **Section 17 - Laws or Rules for Tribal Sales**

### **Cigarettes:**

The department shall refund 70 percent of the taxes collected under s. 139.31 (1) in respect to sales on reservations or trust lands of an Indian tribe to the tribal council of the tribe having jurisdiction over the reservation or trust land on which the sale is made if all the following conditions are fulfilled:

- (1) The tribal council has filed a claim for the refund with the department.
- (2) The tribal council has approved the retailer.
- (3) The land on which the sale occurred was designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.
- (4) The cigarettes were not delivered by the retailer to the buyer by means of a common carrier, a contract carrier or the U.S. postal service.
- (5) The retailer has not sold the cigarettes to another retailer or to a jobber.

[sec. 139.323, Wis. Stats.]

### **Tobacco:**

The department may refund the taxes collected under s. 139.76 (1) in respect to sales on reservations or trust lands of an Indian tribe to the tribal council of the tribe having jurisdiction over the reservation or trust land on which the sale is made only if all of the following conditions are fulfilled:

- (1) The tribal council has filed a claim for the refund with the department.
- (2) The tribal council has approved the retailer.
- (3) The land on which the sale occurred was designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.
- (4) The tobacco products were not delivered by the retailer to the buyer by means of a common carrier, a contract carrier or the U.S. postal service.
- (5) The retailer has not sold the tobacco products to another retailer or to a subjobber.

[sec. 139.803, Wis. Stats.]

## **Section 18 - Information Required on a Customer Invoice**

All sales/transfers of tobacco and vapor products require a wholesale invoice showing the seller's legal name, "doing business as name", and business address as permitted, as well as the purchaser's legal name, "doing business as name", and business address as permitted or licensed. [Wis. Adm. Code Tax 9.47].

## **Section 19 – Responsibility by Agency**

Name the agency that is responsible for MSA reporting in your state

Name the agency that has enforcement/collection authority in your state

Name the agency that has product seizure authority in your state

MSA Reporting: Wisconsin Department of Revenue

Enforcement/Collection: Wisconsin Department of Revenue

Product Seizure Authority: Wisconsin Department of Revenue and law enforcement

## **Section 20 – New or Pending Legislation**

Nothing with regard to cigarettes or tobacco products. Excise tax on "vapor products" five cents per milliliter. [sec. 139.76(1m), Wis. Stats.] Effective October 1, 2019 as enacted in 2019 Wis. Act 9. "Vapor products" means a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid or other substance contains nicotine.

## **Section 21 – Other Laws, Rules, or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute

No response received from State.

## **License Information**

Cigarette and Tobacco products retail licenses required. No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as herein provided or a permit under ss. [139.30](#) to [139.41](#) or [139.79](#) without first obtaining a license from the clerk of the city, village town wherein such privilege is sought to be exercised[sec. 134.65(1), Wis. Stats.]

### **Cigarettes:**

If you handle cigarettes at the wholesale level in Wisconsin, you must have a [cigarette permit](#) issued by the Department of Revenue (DOR). If you apply for a cigarette permit, you must hold a Business Tax Registration (BTR) Certificate [sec. 73.03(50), Wis. Stats.].

DOR issues these *wholesale cigarette permits*:

<b>Types of Wholesale Permits/(Account Prefix)</b>	<b>Statute</b>	<b>Fee</b>	<b>Term of Permit</b>
Wisconsin distributor (400)	sec. 139.34	none	2 years
Wisconsin jobber (401)	sec. 139.34	none	2 years
Wisconsin multiple retailer (402)	sec. 139.34	none	2 years
Wisconsin vendor (403)	sec. 139.34	none	2 years
Wisconsin cigarette warehouse (404)	sec. 139.34	none	2 years
Out-of-state distributor (407)	sec. 139.34	none	2 years
Out-of-state jobber (408)	sec. 139.34	none	2 years
Out-of-state multiple retailer (409)	sec. 139.34	none	2 years

Types of Wholesale Permits/(Account Prefix)	Statute	Fee	Term of Permit
Out-of-state vendor (410)	sec. 139.34	none	2 years
Manufacturer (412)	sec. 139.34	none	2 years
Importer (413)	sec. 139.34	none	2 years
Wisconsin and out-of-state cigarette salespersons	sec. 139.37	none	2 years

**Tobacco and Vapor Products:** Permits required if:

- a. You handle tobacco products at the wholesale level in Wisconsin as a distributor or subjobber, or
- b. You are a retailer who purchases tobacco products from sources outside Wisconsin that do not hold a Wisconsin distributor permit

If you apply for a tobacco and vapor products permit, you must hold a Business Tax Registration (BTR) Certificate [sec. 73.03(50), Wis. Stats.].

DOR issues these *wholesale tobacco and vapor products permits*:

Types of Wholesale Permits / (Account Prefix)	Statute	Fee	Term of Permit
Wisconsin distributor (405)	sec. 139.79	none	2 years
Wisconsin subjobber (406)	sec. 139.79	none	2 years
Out-of-state distributor (411)	sec. 139.79	none	2 years
Wisconsin and out-of-state tobacco products salespersons	sec. 139.81	none	2 years

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

No response received from state.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.



**Are manufacturers' 'direct-buy letters' required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Colors; Violet, Yellow, White, and Black

Tribal stamp colors: Blue, Red, Black, and White

Design Elements; Violet borders, State outline, Semi-rounded edges, Microprint ("THE BADGER STATE")

Text: State abbreviation, "20" or "25"

Text on Tribal stamp; State abbreviation, "TRIBAL", "20" or "25"

### **Section 2 – Acquiring Stamps**

A cigarette distributor can purchase stamps on credit or COD. To purchase stamps on credit a distributor must have enough security on file to cover their stamp purchase amount and must submit payment along with their monthly cigarette tax returns on or before the 15th day after the month they receive the stamps. A cigarette distributor who purchases stamps on COD must pay for the stamps prior to being issued the stamps by DOR. [Wis. Adm. Code Tax 9.67(1)].

### **Section 3 - Bond Requirements**

#### **Cigarettes:**

(1) The secretary may require any person who has not paid the tax under s. 139.31 (1) or who has failed timely to file a report for that tax to place with the department security in the amount that the secretary determines. That security may be a surety bond that is payable to this state and that is in the form prescribed by the secretary.

(2) The secretary may refuse to issue a permit to, and may revoke the permit of, any person who is required to place security with the department under sub. (1) and fails to do so.

(3) The department may not pay interest on security placed with the department under sub. (1).

(4) After giving 10 days' notice, the secretary may recover any tax, interest, penalties and other charges due the department from the security of any person who is delinquent under this subchapter.

[sec. 139.322, Wis. Stats.]

### **Tobacco Products:**

- If you are responsible for paying the tobacco products tax, you must have security (e.g., cash, surety bond) on file with DOR
- The amount of security cannot exceed three times a permittee's average monthly liability for tobacco products tax [sec. 139.84, Wis. Stats.]

## **Section 4 – Allowable Transfers**

### **Cigarettes:**

Only the Department of Revenue may sell or transfer stamps to distributors holding a valid Wisconsin Distributor's Permit.

- Distributors are not authorized to sell or transfer stamps to another entity or transfer stamps to another location of the same entity.
- No person/distributor may accept, purchase, transfer, or borrow any stamps from another person/distributor.
- A distributor must immediately notify DOR, in writing, if their business has a change in their name, address, or ownership.

[secs.139.34, 139.34(4), Wis. Stats., and Wis. Adm. Code Tax 9.68]

### **Tobacco and Vapor Products:**

You may not sell/transfer tobacco or vapor products to another retailer, wholesaler or location, even if owned by the same person, unless you hold a valid tobacco and vapor products wholesale (distributor or sub-jobber) permit with the department. All sales/transfers of tobacco and vapor products require a wholesale invoice showing the seller's legal name, "doing business as name", and business address as permitted, as well as the purchaser's legal name, "doing business as name", and business address as permitted or licensed.

## **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

### **Does the state allow a tax credit?**

The secretary shall refund to any purchaser the money paid for any stamps returned unfit for use or otherwise unused or which have been affixed to packages which are unsalable. The secretary shall prescribe by rule the proof required to obtain such refund. The permittee shall pay the expenses of determining the amount of such refund. [sec. 139.36, Wis. Stats.]

### **Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

Policy is 50% or less to qualify for a refund of the taxes paid.

## **Section 6 – Refund Limitations**

Refunds may be made if the claim therefor is filed within 4 years of the unextended date under this section on which the tax return was due. [sec. 71.75, Wis. Stats.]

## **Section 7 – Credit Process for Manufacturer Returns**

### **Cigarettes:**

If you are a cigarette distributor and return packs of unsaleable cigarettes to the manufacturer, you can receive a refund of the Wisconsin stamps tax you paid for the Wisconsin stamps affixed to those packs. You must complete a Wisconsin Form CT-624 and include verification from the manufacturer of the returned cigarettes. [sec. 139.36, Wis. Stats., and Wis. Adm. Code Tax 9.11(1)].

### **Tobacco Products:**

A licensed tobacco products distributor can receive a refund or credit on the tobacco products upon which the Wisconsin tobacco products tax has been paid and returned to the manufacturer and/or short shipments. [sec. 139.80, Wis. Stats.]. Refund claim filed on Form TT-100.

## **Section 8 – Other Allowed Credits**

None.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Every tobacco product manufacturer that elects to sell cigarettes to Wisconsin consumers (i.e., direct consumer, distributor, retailer, or intermediary similar to a distributor or a retailer) is required to submit monthly reconciliations reporting the number of Wisconsin state cigarette excise tax stamps affixed to packages of cigarettes sold to Wisconsin consumers and the amount of "roll-your-own" cigarette tobacco sold to Wisconsin consumers in the previous month. Detailed records are required to be maintained on premises for a period of 5 years from the date of sale into Wisconsin. [sec. 139.38, and Wis. Adm. Code Tax 9.47]

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp's value adjusted? How is the adjustment accounted for?**

No response received from State.

## **PACT Act Reporting**

The PACT Act requires any person who sells, transfers, or ships for profit cigarettes or smokeless tobacco or advertises such in interstate commerce whereby such cigarettes or smokeless tobacco are shipped into a State, locality, or Indian country of an Indian tribe taxing the sale or use of cigarettes or smokeless tobacco—or who advertises or offers cigarettes or smokeless tobacco for such a sale, transfer, or shipment—must comply with certain procedural requirements:

Any person engaged in activities described above must register with ATF and with the tobacco tax administrators of the State and place into which such shipment is made or in which such advertisement or offer is disseminated. The Law requires registration with both entities. The person registering must provide the following information:

1. Individual's full name.
2. Trade name (if any).
3. Address of any principal place of business and of any other place of business.
4. Telephone numbers for each place of business.
5. Principal e-mail address (if any).
6. Website addresses (if any).
7. Name, address, and telephone number of any agent in the State authorized to accept service on behalf of the person registering.

Electronically file required manufacturer/importer shipment reports (PACT Act) with the Wisconsin Department of Revenue (DOR). This is in addition to monthly or quarterly cigarette and tobacco product returns.

# STATE OF WYOMING

(Last updated 07/2018)

## General Information

### Section 1 - Contact Information

**Contact:** Donna G Campbell, Vendor Operations Manager

**Agency:** Wyoming Department of Revenue, Excise Tax Division

**Mailing Address:** 122 West 25th Street, 2nd Floor West

**City, State, Zip Code:** Cheyenne, WY 82001

**Phone Number:** (307) 777-5203

**Fax Number:** (307) 777-3632

**E-mail Address:** [donna.campbell@wyo.gov](mailto:donna.campbell@wyo.gov)

**Website:** [www.revenue.wyo.gov](http://www.revenue.wyo.gov)

**Contact:** Sharon Rehm, Supervisor, Cigarette/Other Tobacco Products

**Agency:** Wyoming Department of Revenue, Excise Tax Division

**Mailing Address:** 122 West 25th Street, 2nd Floor West

**City, State, Zip Code:** Cheyenne, WY 82001

**Phone Number:** (307) 777-7255

**Fax Number:** (307) 777-3632

**E-mail Address:** [sharon.rehm@wyo.gov](mailto:sharon.rehm@wyo.gov)

**Website:** [www.revenue.wyo.gov](http://www.revenue.wyo.gov)

**Contact:** Emily Soli, Lead Tobacco Unit Attorney

**Mailing Address:** 2320 Capitol Avenue

**City, State, Zip Code:** Cheyenne, WY 82002

**Phone Number:** (307) 777-8974

**Fax Number:** (307) 777-3435

**E-mail Address:** [emily.soli@wyo.gov](mailto:emily.soli@wyo.gov)

**Website:** [www.ag.wyo.gov/tobacco-settlement-unit](http://www.ag.wyo.gov/tobacco-settlement-unit)

**Contact:** Amanda Baumhover, Tobacco Administrator

**Mailing Address:** 2320 Capitol Avenue

**City, State, Zip Code:** Cheyenne, WY 82002

**Phone Number:** (307) 777-6397

**Fax Number:** (307) 777-3435

**E-mail Address:** [amanda.baumhover1@wyo.gov](mailto:amanda.baumhover1@wyo.gov)

**Website:** [www.ag.wyo.gov/tobacco-settlement-unit](http://www.ag.wyo.gov/tobacco-settlement-unit)

## **Section 2 - Statutes, Regulations and Rules**

<http://legisweb.state.wy.us/LSOWEB/StatutesDownload.aspx>, Click on Title 39 Taxation and Revenue, go to W.S. 39-18-101-through 39-18-111 Cigarette Taxes.

<https://sites.google.com/a/wyo.gov/wy-dor/home/rules-and-regulations-by-chapter>  
Click on Chapter 4-Cigarette, Moist Snuff and Other Tobacco Taxes Tax-effective 7/24/2014  
SOS Doc 9585

### **Section 3 - Cigarette and Other Tobacco Products Taxed and Definitions**

“Cigarette” means:

Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or  
Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by, consumers as a cigarette.

“Cigar” means cured tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than a cigarette).

“Other tobacco products” means any tobacco product intended for human ingestion, consumption, or inhalation, other than cigarettes, cigars, and moist snuff. Other tobacco products includes, but is not limited to: dry snuff, pipe tobacco, loose tobacco, plug tobacco, or twist tobacco; tobacco pressed into tablets, strips, or sticks; and any other product manufactured from tobacco.

“Moist Snuff” means any moist finely cut ground or powdered tobacco intended to be placed in the oral cavity, other than dry snuff.

### **Section 4 - The Basis for the Tax**

Cigarettes - Unit/per cigarette stick

OTP - Wholesale purchase price

Moist Snuff - Weight

### **Section 5 - Tax Rates and Miscellaneous Fees**

Cigarettes - \$.03/cigarette stick (\$.60 per pack of 20)

OTP - 20% of Wholesale purchase price

Moist Snuff - \$.60 up to one ounce plus a proportionate tax at the like rate on greater than an ounce

**Does your state tax e-Cigarettes, electronic nicotine delivery systems (ENDS) or other vapor products? If so, please indicate how and at what rate the product is taxed.**

No response received from state.

## **Section 6 - Rate Updates**

Not at this time.

## **Section 7 - State Collection Allowance or Discount**

Cigarettes - Wholesaler receives 6% discount upon purchase of stamps

OTP - Wholesaler retains 4% of tax collected

## **Section 8 - Any Other Permissible Allowances**

None noted.

## **Section 9 – The Point at Which Tax is Imposed**

Cigarette tax is imposed upon the wholesaler when purchasing cigarette stamps from Department of Revenue and payment of the tax is evidenced by the affixing of stamps on each package of cigarettes sold or distributed by the wholesaler.

## **Section 10 - Tax Return Due Dates**

Cigarette:

Monthly return must be filed no later than the 20th of the month following the month of sale.

OTP:

Quarterly return must be filed no later than the 20th of the month following calendar quarter.

The due date is the next business day following the holiday or weekend.

## **Section 11 – Tax Return Filings**

Wyoming accepts paper and electronic returns.

## **Section 12 – Tax Collection**

A cigarette and or OTP wholesaler has the option to make an electronic payment but it is never mandated. Electronic payment must be made no later than the tax return due date to be considered timely.

Tobacco Tax Information by State v. 07.22.19



### **Section 13 - Penalties for Late Filing**

Cigarette - N/A

OTP and Moist Snuff - Five percent (5%) of the tax due, plus one percent (1%) of the tax for each month of delinquency or fraction thereof.

### **Section 14 – Local Jurisdictional Tax**

There are no local jurisdiction taxes.

### **Section 15 - Floor Stock Tax**

The current statute does not impose a floor stock tax.

### **Section 16 – Qualifying Exemptions**

Sales of cigarettes to any agency of the US government, sales in interstate commerce or the taxation of any transaction prohibited by the US Constitution.

### **Section 17 - Laws or Rules for Tribal Sales**

Chapter 4 Rules, Section 6. Taxable Sales of Cigarettes on Indian Reservations

Sales of cigarettes made on the Wind River Indian Reservation to non-Indians are subject to the cigarette tax. All Indian, Tribal Vendors or non-Indian wholesalers shall keep complete and accurate records in this state of all cigarettes purchased and sold for three years. Such records shall consist of purchase invoices, freight bills, and sales invoices.

The Native American or Tribal Vendor may purchase cigarettes without the Wyoming tax stamp and remit the taxes due on sales to non-Indian customers in the following manner:

The Department may enter into an agreement annually with the Tribal Vendor which allows the tax to be paid on a percentage basis.

The Native American vendor shall provide the Department with information which justifies a proposed percentage and upon acceptance by the Department said percentage shall represent a rebuttable presumption as to the volume of sales to non-Indians and nonexempt Native American.

(ii) The Native American or Tribal Vendor shall report total sales of cigarettes for each month less the exempt sales as defined by these rules, which will equal total cigarettes subject to the tax.

(iii) The tax shall be remitted to the Department pursuant to the terms and conditions of the agreement.

Sales of cigarettes to Native American outside of the Wind River Indian Reservation are subject to the tax and cigarette stamp indicating payment of tax shall be affixed to each package sold.

Sales of cigarettes made on the Wind River Indian Reservation to Native American customers are exempt from Wyoming cigarette tax.

Definitions:

“Indian Tribe” means the Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation.

“Indian Reservation” means all lands, notwithstanding the issuance of any patent within the exterior boundaries of the Wind River Reservation, meeting at least one of the following criteria:  
The land is owned by the US in trust for the Shoshone or Arapaho Tribes;

(ii) The land is owned by one or both of the Shoshone and Arapaho Tribes; or

(iii) The land is owned in full by enrolled members of the Shoshone or Arapaho Tribes, excluding land within the Riverton Reclamation withdrawal and the city of Riverton.

“Native American” means any enrolled member of the Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation.

“Tribal Vendor” means an Indian Tribe or Native American engaged in selling cigarettes.

## **Section 18 - Information Required on a Customer Invoice**

Wyoming has no specific statute, rule or policy that requires specific information on a customer invoice.

## **Section 19 – Responsibility by Agency**

MSA Reporting:	Wyoming Attorney General’s Office
Enforcement/Collection:	Wyoming Department of Revenue
Product Seizure Authority:	Wyoming Department of Revenue with SBOE approval, or any peace officer of this state when so directed by the department.

## **Section 20 – New or Pending Legislation**

There is no new legislation or pending legislation at this time. The 2018 Legislature begins February 12, 2018.

## **Section 21 – Other Laws, Rules or Regulations**

**What is the minimum age for purchasing cigarettes or tobacco products? Is there a different county/city/local minimum age for purchasing?**

No response received from state.

**Is there a minimum age for retail clerks to sell cigarettes or tobacco products?**

No response received from state.

**Is there a minimum age for possession of cigarettes or tobacco products?**

No response received from state.

**Are there minimum pricing laws in your state? Please explain. Are there separate county/city/local minimum pricing laws?**

No response received from state.

**Does your state impose any flavor bans? Menthol bans? Are there any county/city/local flavor or menthol bans in your state?**

No response received from state.

**Are pharmacies banned from selling cigarettes or tobacco products in your state?**

No response received from state.

**Does your state have any public, (parks, beaches, sidewalks, etc.), smoking bans? Are there any county/city/local smoking bans?**

No response received from state.

## **Section 22 – Modified (Reduced) Risk Tobacco**

**Does your state have language in the statute regarding Modified (Reduced) Risk Tobacco? If so, please describe how the tax is imposed and provide a link to the statute.**

No response received from state.

## **License Information**

Every wholesaler, cigarette importer and cigarette manufacturer who sells or offers to sell cigarettes, cigars, snuff or other tobacco products in Wyoming must have a license issued by the department of revenue. No license or license renewal shall be granted unless the wholesaler states in writing, under penalty for false swearing, that he shall comply with the statutes regarding the MSA. The license is granted only to wholesalers who own or operate the place from which sales are made and additional licenses must be obtained for each separate location. The license fee is \$10.00.

Tobacco Tax Information by State v. 07.22.19

At present, there is no imposition of tobacco tax on any electronic nicotine delivery systems.

## **Section 1 – License Renewal**

**Do licenses need to be renewed and if so, how frequently?**

Yes, annually on June 30.

**Is a bond required to obtain/renew a license? If so, please provide bond requirements for cigarette and tobacco licensing.**

No response received from state.

**Are manufacturers’ ‘direct-buy letters’ required to obtain/renew a license? If so, how many? Please explain.**

No response received from state.

## **Cigarette and Tax Stamp Information**

### **Section 1 – Tax Stamp Attributes**

Yellow in color, numbered and heat adhesive.

**How many rows of serial numbers are on your state’s tax stamp and what do they signify? (i.e. roll ID, unique stamp ID, etc.)?**

No response received from state.

**Does your state require stamping or any other identifying markings on ‘other tobacco products’?**

No response received from state.

**Does your state have a 25s tax stamp? If not, how is the stick differential accounted for? For example, can a 25-stick pack be stamped with a 20’s tax stamp and the difference be paid on the return?**

No response received from state.

### **Section 2 – Acquiring Stamps**

Licensed wholesalers remit to the department a stamp purchase order form either electronically or by mail. The stamp order is not processed until payment is received in cash or certified funds.

If payment is made by check, a bond is required and must be on file. See below for bond requirements.

**How are stamps delivered to the wholesaler/distributor?**

Stamps can be picked up at the DOR office or can be shipped FedEX or UPS if the wholesalers Wyoming monthly tax returns are current. A wholesaler/distributor must have a FedEx and/or UPS account on file with DOR.

**When is payment due for the tax stamps? Is a bond required? Include information regarding how the bond amount is calculated.**

No response received from state.

### **Section 3 - Bond Requirements**

Wholesalers purchasing stamps with other than cash shall furnish the department a bond of not less than ten thousand dollars (\$10,000) or such other amount as specified by the department.

### **Section 4 – Allowable Transfers**

**Does the state allow the transfer of unaffixed cigarette tax stamps?**

No wholesaler shall sell or transfer any stamps issued.

**Does the state allow the transfer of unstamped cigarettes between wholesalers/distributors?**

No, unless it is between the same ownership.

Wyoming's policy is the misapplied stamp must be recognizable as a Wyoming stamp otherwise it will be confiscated.

### **Section 5 - Laws, Rules or Policies Governing Misapplied Cigarette Tax Stamps**

**Does the state allow a tax credit?**

Credit is given for taxes paid on unsalable merchandise when the department is satisfied the merchandise has been returned to the manufacturer and when evidenced by a statement signed by the wholesaler and a manufacturer's representative certifying the number of packages returned.

**Are there any laws, rules, or policies governing what percentage of the misapplied cigarette tax stamp must be present to qualify for a tax credit, (i.e. 50% or 75%)?**

The only instance of a tax credit is described above and therefore the department does not see the product when returned to the manufacturer. The condition of the stamp is unverifiable.

## **Section 6 – Refund Limitations**

There are no time limits. However, credit for unaffixed stamps is only allowed upon cancellation of the cigarette wholesaler license and receipt of all outstanding cigarette monthly returns and/or OTP returns.

## **Section 7 – Credit Process for Manufacturer Returns**

A “Request for Cigarette Tax Credit” form must be completed and remitted to the Department along with the following support documentation:

Manufacturers affidavit of unsalable or returned cigarettes.

Manufacturers affidavit must identify the number of cigarettes packs with yellow stamps (60 cents) tax paid.

**How is the refund given for manufacturer returns, (i.e., check, credit against next stamp purchase, credit on next tax return, or another means)?**

No response received from state.

## **Section 8 – Other Allowed Credits**

None noted.

## **Section 9 – Requirements for Reporting Discrepancies between Cigarette and Tax Stamp Inventory**

Cigarette stamp inventory and cigarette inventory is reported monthly on the tax return and must reconcile or the return is rejected for correction.

## **Section 10 - Additional Tax Stamp Inventory Restrictions or Requirements**

None noted.

## **Section 11 – Stamping Little Cigars**

**Does your state require little cigars to be stamped? If so, what are the guidelines? Do you allow stamping in configurations other than 20 or 25 sticks/pack? If so, is the tax stamp’s value adjusted? How is the adjustment accounted for?**

No response received from state.

## **PACT Act Reporting**

Licensed manufacturers report PACT Act monthly. Reports can be filed via email, electronically or mail.