

TAX TIPS FOR CIGARETTE AND OTHER TOBACCO PRODUCTS

Things You Should Know

Definitions *30 Del. C., Chs 29 and . 53*

Affixing Agent - Every person, firm, corporation or association in Delaware who sells, stores, or receives tobacco products for the purpose of distributing them to any person, firm, corporation, or association within the state must pay a state excise tax on such tobacco products. The first vendor who has possession of unstamped tobacco products excluding 'other tobacco products', in this State for sale in this State is deemed to be an affixing agent and must obtain a license from the Division of Revenue. The tax is paid through the purchase of stamps provided by the Division of Revenue. Stamps denominations of the amount of the tax must be affixed to each pack.

Tobacco Products – Means all products including but not limited to, cigarettes, cigars and pipe tobacco, made primarily from tobacco for individual consumption.

Moist snuff -- Means 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.

Other Tobacco Products - Means tobacco products other than cigarettes.

Smokeless Tobacco products – Means all products including but not limited to chewing tobacco, made primarily from tobacco for individual consumption, not intended to be smoked.

Tobacco Products Wholesaler - Any person who regularly sells tobacco products within this State to others who buy for the purpose of resale

Cigarette Retailer - Any person who purchases or receives stamped cigarettes from any source whatsoever for the purpose of sale to the ultimate consumer.

Tobacco Products Vending Machine Operator – Any person, who places one or more vending machines, owned, leased or operated by him, at locations where tobacco products are sold there from. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine if he does not own or lease the machine and if his sole remuneration there from is a flat rental fee or commission based upon the number or value of tobacco products sold from the machine, or a combination of both.

Possession of Untaxed Tobacco Products – No person, not being an affixing agent or not holding an unexpired exemption certificate, shall have in his possession within this State 10 or more packs or packages (or an equivalent amount unpackaged) of tobacco products upon which the Delaware tobacco product tax has not been paid, or to which Delaware tobacco product tax stamps are not affixed in the amount required.

Gross Receipts

Gross Receipts includes sums received for **all** tobacco products sold, but shall not include tobacco products taxes paid or payable to the State. The tobacco products taxes shall be deductible from the gross receipts only one time, by the person who pays the tax directly to the State of Delaware

License Requirements

Persons selling cigarettes, other tobacco products or who are cigarette affixing agents are required to obtain a business license according to the following:

Cigarette Affixing Agent \$200 annually for each location (Ch. 53) and \$ 75 annually for each location (Ch.29)

Cigarette Retailer \$15 each location – 3 year renewal (\$5 per year) (Ch. 53) and \$ 75 annually (Ch. 29)

Cigarette Vending Machines \$3 decal annually for each machine (Ch 53) and \$ 75 annually (Ch. 29)

Tobacco Wholesaler \$200 annually for each location (Ch. 53) and \$ 75 annually for each location (Ch.29)

Note: An affixing agent who is also a tobacco wholesaler is only required to obtain one license as a cigarette affixing agent and one license as a tobacco wholesaler.

To register with the Division of Revenue and obtain a business license, please complete a Combined Registration Application, available on the Internet, and mail to the Division of Revenue with the appropriate fee.

For Cigarette Affixing Agents only, the following additional requirements must be satisfied:

1. Application for Appointment (Form 1069)
2. Current Financial Statement reflecting firm's assets and liabilities
3. Certificate of Registration with the Delaware Secretary of State
4. List of states for which firm is currently an authorized affixing agent and the period of time of such authorization.

Once approved, every Delaware Cigarette Affixing Agent will be able to purchase Cigarette Tax Stamps and will be required to submit a monthly report of all Delaware cigarette activity on or before the 20th day of each month. This report is comprised of a summary form (1074 - Resident or 1075 - Nonresident) and a number of accompanying Schedules (1074 A – E or 1075 A – C).

Tax Rates

Effective 8-01-2007

HB249 of the 144th General Assembly increased the cigarette tax to \$1.15 a pack.

Cigarettes - 57.5 mills per cigarette (i.e. \$1.15 per pack of 20 cigarettes or \$1.44 per pack of 25 cigarettes)

Other Tobacco Products except moist snuff - 15% of the wholesale price

Moist Snuff-- \$0.54 an ounce (Effective January 1, 2008)

Exempt Sales

If the seller and purchaser have registered with the Division of Revenue and obtained exemption certificates, the following sales are exempt:

1. Sales to veterans' organizations if the tobacco products are being purchased by the organization for gratuitous issue to veteran patients in federal, state, or state-aided hospitals.
2. Sales to patients in Veterans' Administration Hospitals by retail dealers located in such hospitals.

Due Dates of Returns

Cigarette Affixing Agents and Other Tobacco Products Dealers must file on a monthly basis.
Monthly Filers 20th day of the following month

Regulatory and Local Requirements

The Business License issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license.

Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

General

If you have any questions, please contact one of the following offices:

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801 (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901 (302) 744-1085	Division of Revenue Suite 2 422 N. DuPont Highway Georgetown DE 19947 (302) 856-5358

or by e-mail at: raymond.benton@state.de.us (302) 577-8268