

TAX TIPS FOR CIGARETTE AND OTHER TOBACCO PRODUCTS

Things You Should Know

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

“Affixing agent” means any tobacco products dealer or any other person within or without this State appointed by the Department of Finance as an agent to affix the stamps to be used in paying the excise tax imposed by the chapter. The first vendor who has possession of unstamped tobacco products in this State for sale in this State is deemed to be an affixing agent.

“Cigar” means any roll for smoking which is not a cigarette and which is made wholly or in part of tobacco or any substitute therefore when the cover of the roll is made chiefly of tobacco.

“Cigarette” means any roll for smoking made wholly or in part of tobacco irrespective of the size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any substance or material except tobacco.

“Consumer” means any person who has possession of tobacco products for any purpose other than transportation or sale.

“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, manufactures or fabricates tobacco products in this State for sale in this State;
- c. Any person engaged in the business of selling tobacco products without this State who ships or transports tobacco products to retail dealers in this State to be sold by those retail dealers.

“Moist snuff” means any finely cut, ground, or powered tobacco that is not intended to be smoked but shall include any finely cut, ground, or powered tobacco that is intended to be placed in the nasal cavity.

“Package” or **“Pack”** means, as to cigars, the smallest individual container which contains more than 1 cigar in or from which retail sales are normally made or intended to be made, and means, as to other tobacco products, the smallest individual container in or from which retail sales of such products are normally made or intended to be made.

“Place of Business” means any place where tobacco products are sold, or where tobacco products are brought or kept for the purpose of sale or consumption, including, so far as practical, any vessel, airplane, train or vending machine dispensing tobacco products.

“Retail Dealer” means any person who purchases stamped tobacco products from any source whatsoever for the purpose of sale to the ultimate consumer.

“Sale” means in addition to its usual meaning, any sale, transfer, exchange, theft, barter, gift or offer for sale and distribution, in any manner or by any means whatsoever.

“Smokeless tobacco products” mean all products, other than moist snuff, made primarily of tobacco for individual consumption, not intended to be smoked.

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

“Tobacco products tax stamps” means any adhesive stamps, tax meter impression or other stamps, labels or prints authorized by the Department of Finance to evidence the payment of the tax imposed by this chapter.

“Tobacco product vending machine” means any mechanical device from which tobacco products are dispensed for a consideration.

“Unstamped tobacco products” means any pack or package of tobacco products to which the proper genuine Delaware tobacco products tax stamps has not been affixed.

“Use” means the exercise of any right or power over tobacco products including the retention for any length of time for any other purpose other than sale or transportation as allowed under the provision of this chapter.

“Vending machine operator” means any person who places 1 or more vending machines, owned, leased or operated by the person, at locations where tobacco products are sold therefrom. The owner or lessee of the premise upon which a vending machine is placed shall not be considered the operator of the machine, if the owner or lessee does not own or lease the machine and if the sole remuneration therefrom is a flat rental fee or a commission, based upon the number of tobacco products sold from the machine, or a combination of both.

“Wholesale dealer” means any person who regularly sells tobacco products within this State to others who buy for the purpose of resale.

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 (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 wholesaler dealer is only required to pay one \$200.00 license fee for 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 is 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 Products Tax

Cigarettes – 80.0 mills per cigarette (i.e. \$1.60 per pack of 20 cigarettes or \$2.00 per pack of 25 cigarettes)

Tobacco Products – (other than moist snuff) - 15% of the wholesale price of such products.

Moist Snuff - \$0.54 cents per ounce and a proportionate tax at the like rate on any fractional part of an ounce.

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 – Returns due by the 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	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2	Division of Revenue Suite 2 422 N. DuPont Highway Georgetown DE 19947

(302) 577-8205	Dover DE 19901 (302) 744-1085	(302) 856-5358
----------------	----------------------------------	----------------

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

File Gross Receipts On-line:
www.grossreceiptsfiling.delaware.gov

or

Print an Interactive Gross Receipts Coupon:
http://www.revenue.delaware.gov/services/Business_Tax/Forms_New.shtml#gr