

■ Changes to the Tobacco Products Tax

TO: Illinois Distributors, Retailers, and Manufacturers of Tobacco Products

The Tobacco Products Tax Act (of 1993) has been repealed and replaced with the Tobacco Products Tax Act of 1995. Please destroy all unused forms relating to the repealed act.

Effective September 1, 1995, the Tobacco Products Tax Act of 1995 imposes tax and licensing requirements on any person engaged in business as a distributor of tobacco products (excluding cigarettes) within the state of Illinois. The tax rate is 18 percent of the wholesale price of tobacco products sold to retailers (and in some cases to consumers) or otherwise disposed of in Illinois.

How does the new Tobacco Products Tax Act of 1995 differ from the repealed act?

The Tobacco Products Tax Act of 1995 differs from the repealed act in the following areas:

- definition of distributor
- definition of wholesale price
- tax rate
- point of taxation

Who is a distributor?

A distributor is any person engaged in the business of selling tobacco products to retailers (and in some cases to consumers) in Illinois. Distributors include

- in-state manufacturers and wholesalers;
- out-of-state manufacturers and wholesalers who have nexus in Illinois; and
- retailers who purchase tobacco products directly from unlicensed out-of-state suppliers.

You have nexus in Illinois if you

- have a business site in Illinois; or
- have or maintain within Illinois directly or by subsidiary,
 - an office or an agent or other representative operating in this state, even if only occasionally, or
 - a place (*e.g.*, a warehouse) from which you deliver or produce tobacco products.

What is the wholesale price?

The wholesale price is the established list price for which a manufacturer sells tobacco products to a distributor. In the absence of an established list price, the manufacturer's invoice price at which he or she sells the tobacco product to an unaffiliated distributor will be used as the wholesale price. The wholesale price is the price established before any discount, trade allowance, rebate, or other reduction.

What is the tax rate?

The tax rate is 18 percent of the wholesale price of tobacco products sold to retailers (and in some cases to consumers) or otherwise disposed of in Illinois.

When is the sale of tobacco products taxed?

Whenever a distributor sells tobacco products to a retailer or consumer, tax is owed.

The point of taxation has been moved from the first distributor making the sale of tobacco products to the last distributor who sells tobacco products to a retailer (and in some cases to a consumer) in Illinois.

Retailers who purchase tobacco products from unlicensed out-of-state suppliers owe the tax when they sell the product to consumers. In addition, distributors who sell directly to consumers owe the tax when the product is sold to the consumer.

When is the sale of tobacco products not taxed?

Sales of tobacco products in interstate commerce, to a person other than a retailer or consumer, and to U.S. government agencies are exempt.

Did the definition of tobacco products change?

No. Tobacco products are still all kinds and forms of tobacco (excluding cigarettes as defined by the Illinois Cigarette Tax Act and tobacco purchased for the manufacture of cigarettes by cigarette distributors).

Tobacco products include, but are not limited to

- cigars;
- cheroots;
- stogies;
- periques;
- granulated, plug cut, crimp cut, ready rubbed, and other smoking tobaccos;

- snuff or snuff flour;
- cavendish;
- plug and twist tobacco;
- fine cut and other chewing tobaccos;
- shorts; and
- refuse scraps, clippings, cuttings and sweepings of tobacco.

Do I need a new license?

Yes. All licenses issued under the repealed act are invalid.

If you qualify as an Illinois distributor of tobacco products under the new act, you must be licensed.

To obtain a license, you must complete Form TP-3, Tobacco Products Tax Application for Registration. After we receive Form TP-3, we will send you Form TP-1, Tobacco Products Tax Return.

Note: If you only make, manufacture, or fabricate tobacco products as part of a Correctional Industries program for sale to residents incarcerated in Illinois penal institutions or resident-patients of Illinois-operated mental health facilities, you are not considered a tobacco products distributor and do not need to be licensed.

Am I required to file a new bond with the department?

Unless you are already bonded under the Illinois Cigarette Tax Act, you must file a new bond with us if you are required to be licensed as a tobacco products distributor. (We have returned all bonds filed under the repealed act.)

Refer to Form TP-3 for additional bonding instructions.

How and when do I pay the tax?

You must file Form TP-1, Tobacco Products Tax Return, on or before the 15th day of each month, covering the preceding calendar month. The first return under the Tobacco Products Tax Act of 1995 is due on or before October 15, 1995. Any taxes due must be paid at the time the return is filed.

You must file a return for each reporting period even if all of your tobacco products sales were nontaxable.

Questions?

If you have questions or need more information, please call or write us. Our telephone numbers and address are printed at the bottom of this bulletin.



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