

FYI – For Your Information

Cigarette Distributors - General Information

GENERAL INFORMATION

Cigarettes and tobacco products are defined and taxed differently from other products or tangible personal property purchased and sold in Colorado. Cigarette and tobacco products may require separate licenses, and are subject to different tax rates and due dates, filing requirements and Master Tobacco Settlement (MSA) reporting. See FYI Excise 18 for information regarding MSA.

The terms "wholesaler" and "distributor" are used interchangeably in this FYI and are synonymous.

Tax Rate

Wholesalers are required to collect and remit to the Colorado Department of Revenue 42 mills or 4.2 cents on each cigarette sold in Colorado. The tax is due upon the sale of the cigarettes by the wholesaler. Payment of the cigarette tax is evidenced by the affixing of stamps to cigarette packs.

All sales of cigarettes are exempt from Colorado state, local and special district sales taxes.

License Requirements

To become a licensed cigarette distributor in Colorado you must obtain a Cigarette Tax license.

A cigarette tax license will be granted to wholesalers who:

- Own or operate the place from which wholesale cigarettes sales are made. If sales are made from two or more separate locations by a wholesaler, a license for each location is required,
- Purchase tax stamps from the department and place them on the packs of cigarettes or
- Purchase stamped cigarettes from a licensed Colorado wholesaler and offer them for sale to retailers.

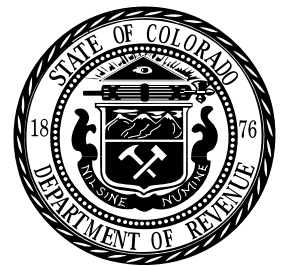
In addition to a Cigarette Tax license a distributor must also obtain:

- A state sales tax license for wholesalers if the distribution location is within Colorado, or
- A retailer's use tax license if the distribution location is outside of Colorado but the cigarettes are being sold in Colorado.

How to Apply for a Distributor's License

To apply for either a wholesale state sales tax license or a retailer's use tax license, distributors must file Form CR 0100 "Colorado Business Registration."

Distributors must also complete and submit Form DR 0222 "Cigarette Tax/Tobacco Products Distributor Application," along with a \$10 fee for the cigarette



Colorado Department of Revenue
Taxpayer Service Division
1375 Sherman St.
Denver, Colorado 80261

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)

www.taxcolorado.com

license. For tobacco products license requirements refer to FYI Excise 17 "Tobacco Products Distributors - General Information."

This license fee may be reduced at the rate of \$2.50 for each expired quarter of the license year as listed on the DR 0222 application. Therefore, the fee is based on a quarterly expiration date. Select the appropriate license fee based on the date the business actually opened.

The license will be in effect until June 30 following the date of issue and must be renewed each year at an additional cost of \$10. A renewal form will automatically be mailed to you by the Colorado Department of Revenue.

Forms CR 0100 "Colorado Business Registration" and DR 0222 "Cigarette Tax/Tobacco Products Tax Distributor's Application" are available on the Web at www.taxcolorado.com

NOTE: A Colorado retailer cannot obtain a Colorado cigarette tax license if the retailer only purchases cigarettes from a licensed Colorado wholesaler with the required Colorado cigarette stamps already affixed to the packs of cigarettes. See FYI Excise 15 Cigarette and Tobacco Product Information For Retailers."

LICENSE RENEWAL REQUIREMENTS

A cigarette tax license renewal form will automatically be mailed to each licensed distributor. The license renewal is based on the fiscal year (July 1 through June 30 of that year), not calendar year. To receive a license for each fiscal year, the licensee must submit the following information at the time of renewal along with the \$10.00 fee for each license:

- List of customers that have purchased cigarettes for resale in their business establishments including:
 - sales tax license number
 - name of customer/business
 - address of retailer including city and zip code.

The information must be provided to the Colorado Department of Revenue's Liquor Enforcement Division, Tobacco Enforcement Unit. The information may be provided by email, disk, US mail or by fax. A letter detailing requirements will be enclosed with each renewal application. Visit the Liquor Enforcement Web site for more information at:
www.taxcolorado.com/liquor_dir/liquor.html

The information provided by the distributor to meet license renewal requirements is not released to the public or other distributors.

NOTE: Failure to comply with these reporting requirements may result in the revocation of the distributor's license for a period of two years.

BUSINESS CHANGES

If a distributor moves and/or changes the name of the business with no change in ownership, the Department of Revenue must be notified of such change. Distributors must send written notification or make the change on the front of the "Colorado Cigarette Tax Return" Form DR 0221. A new license will be issued without charge upon request.

However, if there is a change in ownership or in the type of ownership such as: sole proprietorship, limited liability company, partnership or corporation, the distributor must close the existing account and open a new account by applying for a new license with applicable license fees.

The cigarette tax license fee or portion thereof may be transferable only at the discretion of the Department of Revenue.

FILING REQUIREMENTS

A "Colorado Cigarette Tax Return" (DR 0221) must be filed monthly along with payment of tax on or before the 10th day of the month following the reporting month. Distributors must file a return even if no tax is due for that month.

Distributors should list their gross purchases on the cigarette return and will be allowed a 3 percent discount beginning July 1, 2003 through June 30, 2005, of the total gross purchases if the return and payment are remitted on time.

The Department of Revenue will mail pre-printed returns each month that include the name of business or trade name, licensee name, address and account number. **Failure to receive a filing form does not relieve distributors from their legal responsibility to file by the due date.** If a distributor does not receive the DR 0221 return they should notify the department.

Be sure to write the account number and the words "Cigarette Tax" on all checks and correspondence sent to the department.

Filing through EFT

Payments may also be made through Electronic Funds Transfer (EFT). To make payments through EFT file Form DR 5785 "Authorization For Electronic Funds Transfer (EFT) for Tax Payments" to arrange EFT filing. Form DR 5785 may be obtained on the Web at www.taxcolorado.com

PENALTIES AND INTEREST

Willful evasion or defeat of tax is punishable as provided by Section 39-21-118 C.R.S. Monetary penalties are \$100,000 for an individual or \$500,000 for a corporation.

Distributors who neglect or refuse to file a cigarette tax return will incur a penalty of \$100. Distributors who fail to pay the cigarette tax by the due date will **not** be allowed to retain the four percent discount on the face value of the cigarette stamps.

Additionally, a penalty equal to 10 percent of the tax due and penalty-interest equal to one-half of one percent per month from the date when the payment is due, not to exceed 18 percent of the tax amount, will be assessed.

Interest is due on missing and late payments of cigarette tax in addition to the penalties and penalty-interest indicated above. Interest is charged based on the prime rate as of the preceding July 1 plus three percent.

Cigarette tax paid within 30 days after the due date will not carry the additional three percent charge unless the department determines that there has been a willful neglect or failure to pay the tax.

RECORDKEEPING REQUIREMENTS

Colorado law requires that distributors keep true and complete records of their distributor activities for at least three years after filing of the returns.

For Master Tobacco Settlement (MSA) reporting, records must be kept for at least four years.

CREDITS/REFUNDS

Credit will be given by the department for cigarette taxes on unsalable merchandise when the cigarettes have been returned to the manufacturer. Cigarette tax credits may be taken on the DR 0221.

A manufacturers' credit invoice must be attached to the return to substantiate the credits claimed. If the credits are greater than the amount of cigarette tax due, a "Claim For Refund" Form DR 0137 will need to be submitted to issue the refund. Additionally, a refund will be issued for any unused or damaged stamps returned by the wholesaler within **one year** after the date of issue. The unused or damaged stamps for which a refund is being claimed must be submitted with a separate DR 0137 "Claim For Refund" form.

EXEMPTIONS

The sale of cigarettes to the United States government or any of its agencies, or sales within interstate commerce are exempt from Colorado's cigarette tax.

CIGARETTE STAMPS

Cigarette stamps are available to licensed wholesalers from the Department of Revenue in 20 count rolls, wide 20 count rolls, 20 count sheets and 25 count rolls. The stamps may be obtained from the Department of Revenue's Cashier's Section at 1375 Sherman St., Room 186, by:

- completing a Form DR 5225 "Cigarette Tax Order Form" and delivering the order form to the above address in person;
- mail the DR 5225 form to the department, or
- telephone DOR's Cashier Section at (303) 866-2570 and place the order.

Shipping of the cigarette tax stamps must be paid by the distributor. The distributor's carrier of choice and the distributor's account number for the carrier is required.

Distributors should retain their copy of the DR 5225, as the information on it will be required when completing the monthly tax return.

The cost of the stamps is equivalent to the tax rate of 4.2 cents per cigarette. The department encourages paying for cigarette stamps at the time a distributor files their monthly tax return, not at the time they obtain the stamps from the department. If payment for the stamps is made before the 10th day of the month following the month in which the stamp purchase is made, the 3 percent discount of the stamps' face value is allowed. This discount is provided to cover the licensed wholesaler's expense in the collection and remittance of the cigarette tax.

Licensed wholesalers are required to affix the cigarette stamps to each individual pack of cigarettes sold or distributed. The stamps may be affixed by the wholesaler at any time before the cigarettes are transferred out of the wholesalers possession to retailers. Stamped and unstamped **cigarettes** may be transferred between instate wholesalers. Cigarette **stamps** may not be transferred or sold between wholesalers.

MASTER TOBACCO SETTLEMENT REPORTING (MSA)

Each licensed cigarette distributor is required to file monthly a Form DR 1285 "Licensed Distributor Reporting Form for Cigarette Sales of Non-Participating Manufacturer Brands" if cigarette brands manufactured by non-participating manufacturers are stamped and distributed for sale in Colorado.

A distributor may qualify for a Form DR 1286 "Tobacco Distributor's Certificate for Exemption MSA/Non-Participating Manufacturer Brands" if:

- Only cigarette brands manufactured by participating manufacturers are stamped and distributed in Colorado.
- Cigarette distributor purchases stamped cigarettes from another Colorado cigarette distributor to sell to Colorado retailers.

The exemption is valid for a period of 12 calendar months. The DR 1286 is effective the month the exemption certificate is signed and received by the department. The exemption becomes void when a distributor stamps and distributes cigarettes manufactured by a non-participating manufacturer under the MSA. For roll your own tobacco for cigarettes see FYI Excise 17 "Tobacco Products Distributor's - General Information." The DR 1286 is an exemption from MSA reporting, **not** for remittance of tax.

The DR 1285 is required beginning with the first month the NPM brands are stamped for Colorado. A new exemption period will begin when the distributor files another certification.

Failure to comply with these reporting requirements may result in the revocation of a distributor's license for a period of two years.

See FYI Excise 18 "Master Tobacco Settlement (MSA)" for additional information.

Injunctions

Non-participating manufacturers are required to establish an escrow account and make an annual deposit based on the distribution of their cigarettes in Colorado. If a non-participating manufacturer does not comply, a lawsuit initiated by the attorney general can result in the issuance of an injunction prohibiting the distribution of certain brands of cigarettes. Notification of current injunctions are posted on the Web at www.taxcolorado.com

Prohibited Products

Cigarette products prohibited for distribution in Colorado are:

- Cigarettes "for distribution outside the USA" also known as "grey" market cigarettes.
- Single cigarettes (sticks).
- Cigarettes in packs containing less than 20 sticks.

Certified Products

The department is required to post on their Web site a list of cigarette and roll-your-own tobacco brands that can be sold in Colorado. Manufacturers are required to certify their compliance with the department to be listed on the Web site. The department maintains the list of brand names and their manufacturer and will provide the distributors a 3 business day notice before a brand is removed or "delisted." If a product is NOT listed or is removed from the list, it cannot be sold in Colorado and will be considered contraband and subject to confiscation.

In order to provide the notice to each distributor, a contact name and email address must be submitted to the department on Form DR 1285 or DR 1286. It is the distributor's responsibility to update the name and email address with the department.

FURTHER INFORMATION

FYIs and commonly used forms are available on the Web at www.taxcolorado.com

The Department also provides automated sales tax information for and about businesses at www.taxview.state.co.us This system includes:

- Colorado Sales Tax Rates - finds specific city, county, and special district rates
- Verification of Sales Tax License Exemption Numbers - determines whether a Colorado sales tax license or exemption certificate is valid.
- Tax Rates by Account Number - finds sales tax rates and locations for specific sales tax accounts.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.