

Cigarette Tax and Sales Practices

Tobacco
taxes
notice

The Department of Revenue recently discovered that some Tennessee retailers are selling cigarettes in violation with Tennessee Law. This notice is to clarify certain cigarette tax and sales laws.

Tenn. Code Ann. Section 67-4-1001(2) defines "Cigarette" as:

"... all rolled, shredded, or cut tobacco, or any substitute therefor, wrapped in paper, or substitute therefor, and all rolled, shredded or cut tobacco, or any substitute therefor, wrapped in homogenized tobacco wrapper, and being within customary cigarette sizes and marketed in cigarette type packages."

This definition includes the product known as "little cigars" which are "shredded or cut tobacco wrapped in homogenized tobacco wrapper, and being within customary cigarette sizes and marketed in cigarette type packages." As such, this product must bear the Tennessee cigarette tax stamp or be considered contraband untaxed tobacco products and subject to confiscation. Any untaxed tobacco product should be returned immediately to your wholesale distributor to affix the proper tax stamp.

We have observed individual cigarettes for sale. This practice is a violation of Tenn. Code Ann. Section 39-17-1508(a) which states "It is unlawful for any person to sell cigarettes or smokeless tobacco products except in the original, sealed package in which they were placed by the manufacturer that bears the health warning required by federal law."

We have also observed packages of less than 20 cigarettes for sale. This is a violation of Tenn. Code Ann. Section 47-18-2003 which states, in part, "No tobacco product manufacturer or cigarette retailer may directly or indirectly, manufacture, sell or distribute in Tennessee any pack or other container of cigarettes containing fewer than 20 cigarettes."

The Tennessee Unfair Cigarette Sales Law (Tenn. Code Ann. Section 47-25-301 et seq.) sets the minimum retail cigarette sales price at 8% above the retailer's cost. Retailers selling below this price would be in violation of this statute. An initial violation of this provision by a retail dealer is a \$250 penalty, \$500 for a second violation and \$1,000 for any subsequent violation.

Have questions or comments? Please let us know. [Contact us.](#)

Publication Date: May 2000