

RETAILERS OF TOBACCO PRODUCTS OTHER THAN CIGARETTES

Notice #10-03

Tobacco Tax

October 2010



Highlights

- *This notice rescinds and replaces a similar notice issued in December, 1998.*
- *Retailers that purchase tobacco products other than cigarettes from wholesalers or manufacturers not licensed in Tennessee must follow these procedures.*
- *Retailers are not permitted to report the receipt of untaxed "RYO" and remit tax to the Department.*
- *Violators are subject to sanctions including product confiscation and monetary penalties.*



References:

T.C.A. § 67-4-1005;
T.C.A. § 47-37-101,
et seq.; T.C.A. § 67-4-2604.

INTRODUCTION

This notice is intended to provide taxpayers and the general public with updated information concerning retailers of tobacco products other than cigarettes. This notice rescinds and replaces the tobacco tax notice published in December, 1998.

DISCUSSION

Tennessee law imposes a 6.6% tax on the wholesale cost price of tobacco products (other than cigarettes) sold in Tennessee. This includes cigars, snuff, and roll-your-own cigarettes ("RYO").

The tax is generally collected and remitted by wholesalers licensed to sell tobacco products in Tennessee. However, any person or business receiving and/or selling such products on which the applicable tax is not properly paid, including Tennessee retailers, violates the Tennessee Tobacco Tax Law. Lawful penalties for violation include confiscation of untaxed products by the Department of Revenue as contraband as well as monetary penalties.

Except as noted below with respect to RYO, retailers that purchase any tobacco products (other than cigarettes) from wholesalers and/or manufacturers not licensed in Tennessee are required to:

- (1) Register with the Department of Revenue;
- (2) Maintain books and records accounting for all untaxed tobacco products (other than cigarettes) they receive; and
- (3) Report monthly the receipt of untaxed tobacco products (other than cigarettes) by completing Schedule C of the Tennessee Tobacco Products Return and remitting tax to the department based on the purchase price of such products. The return is due on the 15th day of the month following the month of purchase, not sale, of the products.

With respect to RYO, however, retailers are not permitted to report the receipt of untaxed RYO and remit tax to the department on the wholesale cost price of RYO. RYO is treated differently from other forms of tobacco products because RYO is considered a cigarette for the purposes of the Escrow Fund Act, T.C.A. § 47-37-101, et seq. and must be accounted for on licensed distributor reports pursuant to T.C.A. § 67-4-2604.

Retailers are not permitted to receive and/or sell RYO on which the applicable tax has not been properly paid. Such product constitutes contraband. Retailers will be subject to the sanctions mentioned above, including product confiscation and monetary penalties, if they have not complied with the terms of this notice. Retailers should work with their suppliers to ensure they purchase RYO upon which the applicable tax has been paid.

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.