



Department of
Revenue

Tobacco Tax Manual

March 2022

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Tobacco Tax

History

Tobacco taxes were first enacted in Tennessee in 1925 as a two-year emergency measure to provide additional revenue for public schools and to make possible reductions in the state property tax. The tax was levied on the privilege of selling tobacco products at a rate of 10% of the retail sales price. In 1927, the legislature made the tobacco tax permanent and set the rate for cigarettes at 2¢ per package, while the rate for other tobacco products remained unchanged. In subsequent years, extensive legislation has both increased the tax rate and provided the responsible agencies with greater enforcement powers to allow more efficient tax administration.

In 1937, the cigarette tax rate was increased to 3¢ per package. The rate on snuff was reduced to 5% of the retail price, and cigars were taxed anywhere from \$1.00 to \$13.50, depending on the retail price. The cigarette tax was increased to 5¢ per package in 1951. The rate on manufactured tobacco and snuff was changed to 6% of wholesale cost price in 1965. The cigarette tax rate was increased to 8¢ per package in 1967 and to 13¢ per package in 1969. Effective July 1, 1972, the tax rate on all other tobacco products was changed to 6% of the wholesale cost price.

Effective July 1, 1972, the tax on cigars was changed from the 13¢ stamps to 6% of the wholesale cost price. In 1985, an additional tax of 0.05% per pack was added but did not affect the stamp tax. Effective July 15, 2002, the cigarette tax was increased to 20¢ per pack of 20, and the tax on other tobacco products was increased to 6.6% of the wholesale cost price. Effective July 1, 2007, the cigarette tax was increased to 62¢ per pack of 20, and 77 ½¢ per pack of 25. As of January 1, 2017, the 77 ½¢ stamps for 25-stick packs have been recalled and are no longer offered by the Department.

The tobacco [tax laws](#) can be found in Tenn. Code Ann. § 67-4-1001 through § 67-4-1033 and Tenn. Code Ann. § 67-4-2601 through § 67-4-2610. The [rules and regulations](#) can be found at TENN. COMP. R. & REGS. 1320-04-03-.01 through 1320-04-03-.13.

Overview

The tobacco tax is a state tax that is imposed on every dealer or distributor of tobacco products for the privilege of selling cigarettes and tobacco products in this state.¹ The tobacco tax revenue collected by the state funds public education.² All dealers or distributors making wholesale sales of cigarettes and other tobacco products in Tennessee must be licensed and remit on a monthly basis the tobacco tax due by filing the [Tennessee Tobacco Products Return](#). Although the tobacco tax is remitted by the dealer/distributor to the Department, the tax is ultimately a levy on the consumer. The tobacco dealer/distributor (the taxpayer) will recoup the taxes remitted by adding the amount of tobacco taxes levied to the price of cigarettes or other tobacco products sold.³

Generally, the tobacco tax on cigarettes (including little cigars) is remitted by purchasing Tennessee tobacco tax stamps from the Department and affixing such stamp to each pack of cigarettes, which indicates the tobacco tax has been paid. For all other tobacco products, the tax is remitted with the monthly tobacco tax return. The taxpayer will reconcile the disposition of its unstamped packs of cigarettes with the disposition of Tennessee tobacco tax stamps for the monthly reporting period on the tobacco tax return.

If the taxpayer sells, distributes, or handles cigarettes or other tobacco products at the wholesale level (i.e., not as a retailer selling to the consumer), regardless of whether the taxpayer is subject to the tobacco tax, the taxpayer must obtain the appropriate license from Tennessee. The license expires on May 31 of each year and must be renewed prior to that date. The taxpayer should register with the Department electronically through [INTAP](#) by selecting "Register a New Business," selecting "tobacco tax," then answering the related questions.

The following is a list of licenses, along with accompanying fees, that are available in Tennessee:⁴

- **Manufacturing Distributor** - \$200 per plant or processing location
- **Tobacco Manufacturer's Warehouse** - \$200 per storage warehouse
- **Wholesale Dealer & Jobber** - \$200 per separate sale warehouse
- **Tobacco Distributor** - \$100 per secondary wholesale location
- **Cigarette Rolling Machine Operator** - \$500 per machine

Tobacco Tax Administration

1. Tobacco Products Tax

If the taxpayer purchases unstamped cigarettes, little cigars or untaxed tobacco products including, but not limited to, cigars, manufactured tobacco, or snuff, then the taxpayer is subject to Tennessee's tobacco products tax. The tax is most often paid by the wholesaler. Some manufacturers may choose to pay the tax instead, but generally they do not.

This tax does **not** apply to tobacco that is produced and processed by the grower for the grower's own use and not held for sale. E-cigarettes are also excluded from this tax.

Retailers

Retailers are the only entities permitted to sell tobacco products directly to the consumer. Retailers may only sell cigarettes (including little cigars and roll-your-own cigarettes) on which the tobacco tax has been paid by a licensed Tennessee wholesaler. In addition, retailers may only sell tobacco products that are listed on [Tennessee's Directory of Approved Tobacco Product Manufacturers](#) and have been certified as fire-safe compliant. Retailers selling tobacco products in this state must register for sales and use tax and submit monthly returns to the Department.⁵

Retailers and consumers purchasing untaxed tobacco products from out-of-state are required to pay the tax on such products. Retailers are allowed to purchase other tobacco products ("OTP"), which include smokeless tobacco, pipe tobacco, and cigars, and remit the tax on such products themselves; this *excludes* cigarettes, little cigars, and roll-your-own cigarettes ("RYO"). Retailers must purchase cigarettes, little cigars, and RYO from a Tennessee licensed wholesaler that has paid the tax on these products.⁶

Retailers who are in possession of unstamped tobacco products that are required to have Tennessee tobacco tax stamps affixed, such as cigarettes and little cigars, are considered to be in possession of contraband goods that may be seized by the Department.⁷ Retailers who are unlawfully in possession of cigarettes or other tobacco products are liable, at the Commissioner's discretion, for a penalty of \$25 for each individual box or carton of cigarettes and \$50 for each individual box or carton of other tobacco products unlawfully possessed by the retailer.⁸

⚠ Generally, wholesalers/distributors will note on a purchase invoice whether Tennessee tobacco tax has been paid on the tobacco products purchased by a retailer. If the invoice does not specify this, it is the responsibility of the retailer to ask its vendor if Tennessee tobacco tax has been remitted before purchasing the products from the vendor.

Retailers pay the tobacco tax on untaxed OTP they have purchased by doing the following:

- Register in [TNTAP](#) for a tobacco tax account;
- Maintain books and records accounting for all untaxed tobacco products (other than cigarettes) they purchase or receive; and
- Report monthly the receipt of untaxed tobacco products (other than cigarettes) by completing Schedule D of the [Tennessee Tobacco Products Return](#) and remitting the tax to the Department based on the purchase price of such products.

2. Licensed Distributor Report (“LDR”)

State law requires the Department maintain a directory listing all tobacco product manufacturers and respective brands that are eligible to be sold in the state. This directory is called the Licensed Distributor Report (“LDR”).

The LDR reflects the total number of cigarettes, roll-your-own tobacco, and little cigars in each brand family sold in Tennessee to which state tobacco tax stamps have been affixed and/or tobacco tax has been remitted during the month. Each wholesaler is required to file the report by the 15th day of each month. All invoices and documentation of sales of cigarettes and/or any other information used to complete the LDR are required to be maintained by the wholesaler for a period of seven years.⁹ Additional information and resources for filing this report can be found on the Department’s [website](#).

Due to the states being held to higher standards for diligent enforcement of the Master Settlement Agreement, licensed agents are subject to increased reporting requirements on the LDR, including stamping activity, inventory, and purchases and sales.¹⁰

In-State Wholesaler Reporting Requirements

In-state wholesalers must report the following:¹¹

- The number of cigarettes and little cigars that were stamped during the month, including Tennessee stamps and any other tax stamps.

- The ounces of roll-your-own tobacco on which tax was paid during the month, including Tennessee tax and tax for other jurisdictions.
- Inventory adjustments that may have occurred during the month.
- Beginning and ending inventory, purchases, and sales of:
 - Tennessee tax stamped Participating Manufacturer (“PM”)¹² cigarettes and tax paid on PM roll-your-own tobacco.
 - Tax stamped or tax paid on little cigars for all tax jurisdictions.
 - Tax stamped Non-participating Manufacturer (“NPM”) cigarettes and tax paid on NPM roll-your-own tobacco for all tax jurisdictions.
 - Unstamped cigarettes, little cigars, and roll-your-own tobacco on which tax has not been paid.

Out-of-State Wholesaler Reporting Requirements

Out-of-state wholesalers must report the following:¹³

- The number of cigarettes and little cigars that were stamped during the month, including PM cigarettes and little cigars with Tennessee stamps and NPM cigarettes with any tax stamps.
- The ounces of roll-your-own tobacco on which tax was paid during the month, including PM roll-your-own tobacco in Tennessee and NPM roll-your-own tobacco in all tax jurisdictions.
- Inventory adjustments that may have occurred during the month.
- Beginning and ending inventory, purchases, and sales of:
 - Tennessee tax stamped cigarettes and little cigars and Tennessee tax paid on roll-your-own tobacco.
 - Unstamped NPM cigarettes and roll-your-own tobacco on which tax has not been paid in all tax jurisdictions.

⚠ For out-of-state wholesalers, NPM cigarettes and NPM roll-your-own products stamped, purchased, sold, or inventoried for use outside Tennessee and not on the [Tennessee Directory](#) are not required to be reported on the LDR.

3. Prevent All Cigarette Trafficking (PACT) Act

Federal law requires that anyone who ships or transfers cigarettes, roll-your-own tobacco, smokeless tobacco, or electronic nicotine delivery systems from another state into Tennessee must report those products to Tennessee. The taxpayer must complete the [Prevent All Cigarette Trafficking \(PACT\) Act Tennessee Registration](#) form either online through TNTAP or by completing the paper form and mailing the completed form to the Tennessee Department of Revenue. Note that if the taxpayer is a Tennessee dealer that ships any of the aforementioned products into another state, the taxpayer is required to register the products with that state.

Additional information and resources for filing the Tennessee PACT Act Report can be found on the Department's [website](#).

Electronic Nicotine Delivery Systems (ENDS)

In December of 2020, the federal PACT Act was amended to include reporting requirements for electronic nicotine delivery systems (“ENDS”). ENDS is defined as “any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device.” ENDS include:

- E-cigarettes;
- E-hookahs;
- E-cigars;
- Vape pens;
- Advanced refillable personal vaporizers;
- Electronic pipes; and
- Any component, liquid, part, or accessory of a device described above, without regard to whether the component, liquid, part, or accessory is sold separately from the device.¹⁴

Any person who sells, transfers, or ships for profit ENDS in interstate commerce, or who advertises such products for sale, must register with the Department for PACT Act reporting

purposes and file monthly PACT Act reports with the Department if the person ships ENDS into the state.¹⁵

⚠ Anyone located in Tennessee who only ships ENDS within state lines is not required to file PACT Act reports with the Department regarding these shipments.

4. Retail Accountability Program (RAP)

Anyone who sells tobacco (including cigarettes and other tobacco products) to Tennessee retailers for resale must report such sales electronically to the Department through the Retail Accountability Program (RAP). The purpose of RAP is to ensure that sales tax is collected from consumers and remitted to the state. RAP requires wholesalers of beer and tobacco products to file information reports electronically with the Department detailing their sales of such products to Tennessee retailers.

For additional information about RAP and the specific reporting requirements of this program, please see the [RAP section on the Department's website](#). You may also find additional information about RAP by clicking [here](#).

5. Licensing

Tobacco distributors, wholesale dealers & jobbers, manufacturing distributors, tobacco manufacturer warehouses, and cigarette rolling machine operators each must obtain a Tennessee [license](#). A taxpayer must determine its business classification to obtain the appropriate license. In Tennessee, a taxpayer **cannot** be *both* a wholesaler/distributor *and* a retailer of tobacco products.¹⁶ However, a manufacturer can also be a wholesaler/distributor in this state by applying for a manufacturing distributor license and remitting the \$200 license fee. Licenses expire on May 31 of each year. Taxpayers may apply for a license through [TNTAP](#).

⚠ If a taxpayer obtains a distributor or wholesaler license, it cannot also sell to consumers as a retailer.

Any person who engages in any business or activity for which a tobacco license is required and fails to obtain the appropriate license, or who fails to file an application for renewal of a license before expiration of the current license, is subject to a specific penalty in the amount of the license fee for each month or part of a month during which the activity or failure continues. In addition to this specific penalty, the Commissioner of Revenue may impose a penalty of no more than \$250 a day for each day during which the activity or failure occurs

or continues. This discretionary penalty may also be imposed upon a person to whom a license has been issued, if the person continues to engage in the business or activity after receiving notice the license is revoked or suspended by the Commissioner.¹⁷

Manufacturing Distributor License

If the taxpayer has a plant located in this state and is engaged in the business of manufacturing or processing consumable tobacco products that are subject to the tobacco tax, the taxpayer must obtain a manufacturing distributor license.¹⁸ The fee for this license is \$200 per plant or processing location. This license also requires a minimum \$2,000 bond.¹⁹

Tobacco Manufacturer's Warehouse License

If the taxpayer maintains a warehouse, building, or structure or space therein, whether publicly or privately owned, leased or rented, where any tobacco products are stored as a function of the distribution of such products, but are maintained separate from the manufacturer's operation, and where title to and control of distribution of the tobacco products stored therein remain with the manufacturer or processor, the taxpayer must have a tobacco manufacturer's warehouse license.²⁰ The fee for this license is \$200 per storage warehouse. This license also requires a minimum \$20,000 bond.²¹

Wholesale Dealer and Jobber License

If the taxpayer maintains wholesale facilities in one or more permanent locations, is in the business of receiving, storing, purchasing, selling at wholesale, importing unstamped tobacco products (i.e., cigarettes or little cigars), or otherwise handling tobacco products for resale at a wholesale price, and if the taxpayer sells only to other licensed wholesalers and distributors or retailers, but not to the ultimate consumer, the taxpayer must obtain a wholesale dealer and jobber license.²² The fee for this license is \$200 per separate sale warehouse. This license also requires a minimum \$2,000 bond.²³

Tobacco Distributor License

If the taxpayer receives, purchases, or sells tobacco products as a secondary wholesaler and acquires only pre-stamped cigarettes and/or other tobacco products on which the tax has been previously paid, but not sold to the ultimate consumer, the taxpayer must have a tobacco distributor license.²⁴ The fee for this license is \$100 per secondary wholesale location.

Cigarette Rolling Machine Operator License

If a taxpayer purchases or leases for use, or controls, possesses, or maintains, a cigarette rolling machine at a retail establishment that enables any person to process at that establishment tobacco or any product that is made or derived from tobacco into a roll or tube, the taxpayer must have a cigarette rolling machine operator license. The fee for this license is \$500 per machine. A cigarette rolling machine operator is deemed to be a tobacco distributor for tobacco tax purposes.²⁵

6. Minimum Cigarette Selling Price

If the taxpayer sells cigarettes at retail, it must advertise, offer for sale, and sell the cigarettes for at least cost plus a minimum markup amount, which is set by the Unfair Retailer's Cigarette Sales Law.²⁶ Violation of this law is a Class C misdemeanor. As of July 1, 2017, the minimum markup amount is 15% of the basic cost of cigarettes to the retailer.²⁷ *Basic cost of cigarettes* is defined as the invoice cost of the cigarettes to the retailer before any discounts are applied, plus any taxes, fees, or stamp values that were not included by the manufacturer or wholesaler in the invoice amount.²⁸ If the taxpayer receives tobacco buydown payments from the manufacturer, it may reduce the selling price by the amount of the tobacco buydown payment; this is the only reduction in price that can be made.²⁹

7. Tobacco Substitutes

The Tennessee tobacco tax is imposed on the privilege of selling cigarettes and *other tobacco products*, which are defined as "cigars . . . manufactured tobacco, and snuff of all descriptions made of tobacco or any *substitute for tobacco*."³⁰ Other tobacco products are taxed at the rate of 6.6% of the wholesale cost price.

A wide variety of new products that do not contain tobacco are being introduced in Tennessee. Some of these products contain nicotine, while others do not. Some of these products are packaged to look like tobacco products, while others are packaged in new and unique ways. In light of these various new products, it is sometimes unclear what constitutes a *tobacco substitute* for purposes of the tobacco tax.

Products Not Subject to Tobacco Tax

The Department will not apply the tobacco tax to non-tobacco products without statutory clarification as to what is considered a tobacco substitute. The Department has clarified that the following products are not subject to the tobacco tax: hemp cigarettes and herbal cigarettes that do not contain tobacco, e-cigarettes, vape devices, smokeless oral nicotine

pouches, and nicotine gum.³¹ The Department has also clarified that *smokeless nicotine products*, which are defined as “nicotine that is in the form of a solid, gel, gum, or paste that is intended for human consumption,” are not subject to the tobacco tax.³²

8. Tobacco Tax Stamp Affixing Agent

The tobacco tax on cigarettes, except for reconciliation payments of taxes on cigarettes made by cigarette rolling machine operators,³³ is paid by purchasing stamps from the Department. The Department is authorized to appoint agents to sell unaffixed stamps, as well as manufacturing distributors and wholesale dealers and jobbers as agents to affix and sell tax stamps. Stamp affixing agents are not authorized to sell stamps not affixed to tobacco products.³⁴

The process for becoming a stamping agent is as follows:

- When registering for tobacco tax in [TNTAP](#), the taxpayer will be prompted to answer a question asking whether they will be stamping tobacco products.
- Answering “yes” will initiate a tobacco stamp account to be set up.
- Once the taxpayer’s stamp account is set up, the taxpayer may purchase stamps through TNTAP.

The process for ordering stamps is as follows:

- The taxpayer will need to obtain a FedEx account number (the Department only uses FedEx to ship tobacco tax stamps).
- The taxpayer will need to provide an address to which the stamps will be delivered, as well as the amount and type of stamps requested.
- Stamps must be paid for at the time the order is placed.
- If the taxpayer wishes to defer payment for the stamps, the taxpayer must have a [Tobacco Stamp Credit Bond](#) on file with the Department.
- If the taxpayer defers payment for the stamps, the balance is due on the 25th of the month, regardless of weekends or holidays.

9. Credit for Damaged Tobacco Stamps

The Department may issue a credit or refund for tobacco tax stamps that were purchased from the Department but subsequently returned to the Department unused due to the stamps being damaged. The refund must be requested within two years of the date on which the stamps were purchased from the Department.³⁵

To receive a credit for damaged tobacco stamps, the taxpayer should complete the [Cigarette Stamps Worksheet \(Form TOB 551\)](#). The number of stamps the taxpayer is returning should be listed in Column B of the worksheet. The taxpayer can receive credit for the stamps if at least 50% of the stamp is showing. The taxpayer can also receive a credit by returning the tobacco back to the manufacturer. If returned to the manufacturer, the taxpayer must complete TOB 551 and provide a copy of the credit memo from the manufacturer, a notarized affidavit, the bill of lading, and a copy of the shipping label. Credits can only be obtained by the company or individual who purchased the stamps.

Tobacco Tax Return

The [Tennessee Tobacco Products Return \(Form TOB 552\)](#) is used to report the purchases, stamping activity, and inventories of cigarettes, little cigars, and other tobacco products for the month indicated on the return. Note, although the paper return is available for reference, the taxpayer must file this tax return electronically through [TNTAP](#). The return is due on the 15th day of the month following the reporting period, regardless of whether any transactions have occurred. Returns for prior reporting periods can be found on the Department's [website](#).

1. Schedules A and B

The taxpayer is to reconcile the tobacco stamps used during the month with the disposition of packs of cigarettes during the month. Schedules A and B of the return are used to report the disposition of cigarette packs during the month. In-state wholesalers complete Schedule A and out-of-state wholesalers complete Schedule B.

2. Schedule C

The disposition of Tennessee cigarette stamps is entered on Schedule C. Both in-state and out-of-state wholesalers complete Schedule C.

3. Schedule D

Schedule D of the tax return is used to report tax due on other tobacco products. In-state wholesalers will report and pay tobacco tax on the cost price of other tobacco products less the cost of out-of-state sales of other tobacco products. Out-of-state wholesalers will report and pay tobacco tax on the cost of other tobacco products sold into the state.

4. Schedule E

Schedule E is used to report and pay the cigarette tax on roll-your-own machines ("RYO"). Anyone who uses a RYO machine is required to report and pay the tax based on the number of cigarettes rolled/sold during the month. Credit is allowed for the tobacco tax paid on the tobacco used to produce the RYO cigarettes.

¹ Tenn. Code Ann. § 67-4-1002.

² See Tenn. Code Ann. § 67-4-1025 for the distribution of tobacco tax revenue.

³ Tenn. Code Ann. § 67-4-1003.

⁴ Tenn. Code Ann. § 67-4-1015(c).

⁵ See [Important Notice #12-08](#).

⁶ See Important Notices #[10-03](#) and [12-08](#).

⁷ There is an exception to this provision, if the retailer possesses no more than 20 packages of 20 cigarettes each, or cigars in an amount not exceeding 50 cigars, or other tobacco products with a retail value of not more than \$2.00 that have been brought into the state by the retailer.

⁸ Tenn. Code Ann. § 67-4-1019.

⁹ Tenn. Code Ann. § 67-4-2604.

¹⁰ See [Important Notice #15-23](#).

¹¹ *Id.*

¹² On November 23, 1998, Tennessee and 51 other state and jurisdictions entered a multi-state settlement with major tobacco companies, the “Master Settlement Agreement.” Since its creation, more than 50 tobacco companies have joined the MSA. These companies are referred to as “participating manufacturers.” Manufacturers that have not joined the agreement are “non-participating manufacturers.”

¹³ *Id.*

¹⁴ See [Important Notice #21-01](#).

¹⁵ *Id.*

¹⁶ See Important Notices #[13-07](#) and [13-10](#).

¹⁷ Tenn. Code Ann. § 67-4-1015(d).

¹⁸ Tenn. Code Ann. §§ 67-4-1001(13) and 67-4-1015.

¹⁹ TENN. COMP. R. & REGS. 1320-04-03-.01(3).

²⁰ Tenn. Code Ann. §§ 67-4-1001(23) and 67-4-1015.

²¹ TENN. COMP. R. & REGS. 1320-04-03-.01(3).

²² Tenn. Code Ann. §§ 67-4-1001(27) and 67-4-1015.

²³ TENN. COMP. R. & REGS. 1320-04-03-.01(3).

²⁴ Tenn. Code Ann. §§ 67-4-1001(22) and 67-4-1015.

²⁵ Tenn. Code Ann. §§ 67-4-1001(4) and 67-4-1015.

²⁶ See Tenn. Code Ann. § 47-25-301 *et seq.*

²⁷ See [Important Notice #15-10](#).

²⁸ Tenn. Code Ann. § 47-25-302(1).

²⁹ See [Important Notice #15-03](#).

³⁰ Tenn. Code Ann. § 67-4-1005(a).

³¹ See [Important Notice #20-21](#).

³² See [Important Notice #21-05](#) and Tenn. Code Ann. § 67-4-1005(b).

³³ See Tenn. Code Ann. § 67-4-1031.

³⁴ Tenn. Code Ann. § 67-4-1006.

³⁵ Tenn. Code Ann. § 67-4-1008. TENN. COMP. R. & REGS. 1320-04-03-.08.