

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

The purpose of this information release is to alert Tobacco Tax licensees of a possible increase in the tobacco tax rate and expansion of the tax to include all tobacco products. If you have any questions about this law change or the Department's interpretation, please call 1-603-271-3701.

COLLECTION OF TOBACCO TAX INCREASE AT RETAIL AND WHOLESALE LEVEL

Any dates expressed in this release are for illustrative purposes only; no effective date has been established.

You will be promptly advised of any actual change in the tax rate or the structure of the Tobacco Tax law.

The department is preparing to implement both a possible increase in the tobacco tax and expansion of the tobacco tax to include all tobacco products. To assist tobacco product licensees, this information release explains the department's plans and requests comments and suggestions to make the process administratively easier for everyone responsible for collecting the additional tax.

IF the legislature increases the rate of tax, all tobacco licensees, manufacturers, wholesalers, retailers, sub-jobbers, samplers and vending machine operators will be responsible for inventorying all previously taxed tobacco product in their possession at the close of business on the day preceding the effective date of the increase. Licensees will also be responsible for inventorying all other tobacco products not previously taxed, in their possession and applying the appropriate amount of tax (see examples below) .

"Possession," for purposes of determining who is responsible for accounting for and remitting the increased tax, shall be determined by who has title on the effective date of the increase. Therefore, the following will apply to tobacco products in transit on the effective date:

Product, on which title is to pass upon receipt, shipped from the wholesaler prior to the effective date, but not received by the manufacturer, retailer, sub-jobber, sampler or vending machine operator prior to the effective date shall be accounted for by the wholesaler.

Product shipped from the wholesaler on or after the effective date of the increase will be accounted for by the wholesaler.

Product received by the manufacturer, retailer, sub-jobber, sampler or vending machine operator prior to the close of business the day preceding the effective date

will be accounted for by the manufacturer, retailer, sub-jobber, sampler or vending machine operator.

NOTE: Wholesalers and retailers may enter into written agreements as to which party is responsible for paying the increased tax as long as a copy of the agreement is maintained with the required floor inventory.

EXAMPLES An effective date of April 1 will be used for example purposes only .

Example 1. A wholesaler has stamped 100 cartons of cigarettes using the old rate and prepared a shipment, but has not shipped the product as of the morning of April 1. It is the wholesaler's responsibility to account for the product and remit the increased tax to the department.

Example 2. A wholesaler ships 100 cartons of cigarettes on March 31 to a retailer with title to the product passing upon receipt by the retailer. The retailer receives the product April 1. The wholesaler is responsible for accounting for the product and remitting the increased tax.

Example 3. A wholesaler delivers a shipment of 100 cartons of cigarettes on March 31 to a retailer. The retailer is responsible for accounting for the product and remitting the increased tax.

As soon as any law change is known, the department will provide a special tax return to be used for reporting and remitting the increase in tax. This return will be due 30 days from the effective date of the increase. The return will have two sections. The first section will be used to report the number of packages of cigarettes on hand as of the start of business on the effective date of the increase. Packages of "A" and "B" stamp size will be accounted for separately.

The second section will be used to report the amount of "other tobacco products" on hand. The department will include both the percentage rate of tax applied to the wholesale price under the \$.37 rate and the new percentage rate to be applied under the new rate. The industry practice is to include the amount of tax in the price invoiced to the tobacco licensee. The return is designed to use the "tax included" format.

Product, such as cigars and pipe tobacco not previously taxed, shall have the new percentage rate applied to the wholesale price. For product, such as snuff and chewing tobacco, the net rate shall be applied to the wholesale price.

EXAMPLES: The current rate of 17.9% and a hypothetical rate of 30.1% is used for example purposes only .

Example 1. A retailer has 100 cans of chewing tobacco with a wholesale price of \$3 per can and 100 boxes of cigars with a wholesale price of \$20 per box, on hand on March 31. The amount of tax would be computed as follows:

Wholesale price of chewing tobacco (100x\$3)....\$300

Net percent to be applied (30.1%-17.9%) 12.2

Tax on chewing tobacco (\$300x.122)	\$ 36.60
Wholesale price of cigars (100x\$20).....	\$2,000
Percent to be applied	30.1
Tax on cigars (\$2000x.301).....	602.00
TOTAL TAX TO BE REMITTED TO DRA	\$638.60