



# CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION



## Cigarette and Tobacco Products Taxes

It is important that we help you understand how the cigarette and tobacco products excise taxes apply to your business operations. This publication provides a general overview. For more in-depth information, definitions, industry topics, etc., please visit our *Tax Guide for Cigarettes and Tobacco Products* to help you understand and comply with your tax obligations: [www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm](http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm).

### Definitions

*Distribution* includes the sale, use, or consumption of untaxed cigarettes or tobacco products in this state, or the placing in this state of untaxed cigarettes or tobacco products in a vending machine or in retail stock for the purpose of selling the tobacco products to consumers.

*Distributor* includes every person who distributes cigarettes or tobacco products; or who sells or accepts orders for cigarettes or tobacco products, which are to be transported from a point outside this state to a consumer within this state.

*Wholesaler* includes any person, other than a licensed distributor, who engages in this state in making sales for resale of tax-paid cigarettes or tobacco products.

*Importer* includes any purchaser for resale in the United States of cigarettes or tobacco products manufactured outside the United States for the purpose of making a first sale or distribution within the United States.

*Manufacturer* includes a manufacturer of cigarettes or tobacco products sold in this state.

*Delivery Seller* is a person who makes a delivery sale.

*Delivery Sale* means the sale of cigarettes or tobacco products to a consumer into and in this state in any of the following ways:

1. The consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the consumer when the request for purchase or order is made; or
2. The cigarettes or tobacco products are delivered to the consumer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the consumer when the consumer obtains possession of the cigarettes or tobacco products.

*Wholesale Cost* means the cost of tobacco products to the distributor prior to any discounts or trade allowances.

*Retail Stock* includes all cigarettes and tobacco products:

1. intended and available for sale to consumers by a person who holds a retailer license; and
2. displayed for sale to consumers by a person who holds both a distributor license and a retailer license at the same location; and
3. stored in an area where retail sales are made and includes walk-in humidors.

Retail stock does not include:

1. cigarettes and tobacco products that are securely stored away from the area where retail sales are made; and
2. products inside a walk-in humidor with the original manufacturer packaging with an unbroken seal, secured, segregated and separated from retail stock, and not displayed for sale to consumers.

All cigarettes and tobacco products placed in retail stock, or are no longer in a distributor's possession, or have been lost or unexplainably disappeared, are presumed to have been distributed.

### Excise taxes

Excise taxes are imposed upon the distribution of cigarettes and tobacco products in California. Distributors must be licensed to conduct these transactions and have an account to pay the excise taxes owed.

The following excise taxes are collected on cigarettes and tobacco products distributed in California:

1. The cigarette tax,
2. The cigarette and tobacco products surtaxes, and
3. The cigarette distribution tax.

Each tax is described below, according to the type of product sold.



### Cigarettes

Cigarettes are subject to both the cigarette tax and the cigarette and tobacco products surtaxes, collectively referred to as taxes. The taxes are assessed on each cigarette distributed in California.

Effective April 1, 2017<sup>1</sup>, the tax rate is \$0.1435 cents per cigarette, which is two dollars and eighty-seven cents (\$2.87) per pack of twenty (20) cigarettes. Distributors pay the taxes by purchasing cigarette tax stamps from the California Department of Tax and Fee Administration (CDTFA). Distributors are required to affix the tax stamp to each package of cigarettes before distribution. Distributors pass the excise taxes on to their customers, and the taxes become part of the retail selling price of the cigarettes.

The cost of the cigarette tax stamp includes all of the foregoing taxes. A list of the current and historical cigarette tax rates is available at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

Distributors receive a purchase discount of 0.85 percent, up to one dollar (\$1.00) of the denominated tax value of the stamps at the time of purchase to help offset the cost of affixing cigarette tax stamps.

Effective April 1, 2017<sup>1</sup>, products labeled as little or small cigars are no longer considered cigarettes and no longer require a cigarette tax stamp. Little or small cigars fall under the definition of tobacco products and their distributions are to be reported as tobacco products on the CDTFA-501-CT, *Tobacco Products Distributor Tax Return*, by the tobacco products distributor.

### Tobacco products

Starting April 1, 2017<sup>1</sup>, tobacco products include cigars, including little cigars, smoking tobacco (including shisha), chewing tobacco, snuff, and any products containing, made of, or derived from any amount of tobacco or nicotine that is intended for human consumption.

“Tobacco products” do not include cigarettes or any products that have been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes (for example, nicotine patches) when that product is marketed and sold solely for that approved use.

### Nicotine products

Starting April 1, 2017<sup>1</sup>, the definition of “tobacco products” was amended to include:

- Any product containing, made of, or derived from any amount of nicotine that is intended for human consumption and sold with or without a delivery device or system, and
- Electronic cigarettes or any device or delivery system sold in combination with nicotine, and
- Any component, part, or accessory of an electronic cigarette that is used during the operation of the device when sold in combination with nicotine (for example, a battery used in the operation of the device sold with nicotine for a single price).

Tobacco products do not include delivery devices sold without liquid or substance containing nicotine. For example, electronic cigarettes or vape pens sold without nicotine, and “eJuice” sold without nicotine are not considered tobacco products for excise tax purposes, but are subject to tobacco products retail licensing requirements. For more information on retail licensing requirements, see publication 78, *Sales of Cigarettes and Tobacco Products in California—License Requirements for Retailers*, available at [www.cdtfa.ca.gov/formspubs/pub78.pdf](http://www.cdtfa.ca.gov/formspubs/pub78.pdf).

<sup>1</sup> See Article 2.5 of the Cigarette and Tobacco Products Tax Law (added by Proposition 56).



### Tobacco products tax application

The tax that is paid by tobacco products distributors is a component of the cigarette and tobacco products surtax and is called the tobacco products tax.

The tobacco products tax is imposed upon the first distribution of tobacco products at a rate determined annually by the CDTFA, which is equivalent to the combined rate of the taxes applied to cigarettes. The rate is applied to the wholesale cost of the tobacco products. Wholesale cost means the cost of the tobacco products to the distributor prior to any discounts or trade allowances. If a manufacturer or importer is also the distributor, the wholesale cost of tobacco includes all manufacturing costs, the cost of raw materials (including waste materials not incorporated into the final product), the cost of labor, any direct and indirect overhead costs, and any federal excise and/or U.S. Customs taxes paid. Wholesale cost includes all freight or transportation charges for shipment of materials and/or unfinished product from the supplier to the manufacturer, who is also the distributor. Wholesale cost does not include domestic freight or transportation charges for shipment of a finished product from the supplier to the distributor. In most cases, the wholesale cost will be the invoiced price of the tobacco products without any allowance for discounts.

For additional information on how to calculate or estimate the wholesale cost, please refer to [Regulation 4076, Wholesale Cost of Tobacco Products](#). A list of the current and historical tobacco products rates is available at [www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm](http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm).

### How are the revenues used?

Of the total two dollars and eighty-seven cents (\$2.87) tax per package of twenty cigarettes, ten cents (\$0.10) is deposited into the Cigarette Tax Fund, and two cents (\$0.02) goes into the Breast Cancer Fund. Money deposited in the Cigarette Tax Fund is transferred to the General Fund.

Twenty-five cents (\$0.25) is deposited into the Cigarette and Tobacco Products Surtax Fund and may only be used for these purposes:

- Tobacco-related health education programs and disease research.
- Medical and hospital care and treatment of patients who cannot afford those services, and for whom payment will not be made by any private coverage or federal program.
- Programs for fire prevention; environmental conservation; protection, restoration, enhancement, and maintenance of fish, waterfowl, and wildlife habitat areas; and enhancement of state and local parks and recreation.

Fifty cents (\$0.50) is deposited into the California Children and Families Trust Fund and is used for programs that encourage proper childhood development, including:

- Development of professional and parental education and training,
- Informed selection of childcare,
- Development and education of childcare providers, and
- Research into the best practices and standards for all programs and services relating to early childhood development.

Two dollars (\$2.00) is deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund (Proposition 56), which is a trust fund used only for these purposes:

- Increase funding for existing healthcare programs and services including programs that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions.

- Provide funding for implementation, evaluation, and dissemination of health promotion and activities in order to monitor, evaluate, and reduce tobacco and nicotine use and tobacco-related disease rates.
- Provide funding for school programs to prevent and reduce the use of tobacco and nicotine products by young people.
- Provide funding to the University of California for medical research of cancer, heart, and lung tobacco-related diseases.

### Who is required to register?

You are required to register if you are a distributor, wholesaler, manufacturer, or importer of cigarettes or tobacco products in California. Definitions of the above terms are provided under the heading *What are my reporting requirements?*

Retailers are also required to register. For retail license requirements, see publication 78, *Sales of Cigarettes and Tobacco Products in California—License Requirements for Retailers*, available at [www.cdtfa.ca.gov/formspubs/pub78.pdf](http://www.cdtfa.ca.gov/formspubs/pub78.pdf).

Delivery sellers (see “Requirements for Delivery Sellers”) are required to have a distributor license. Delivery sellers having a physical presence, such as a warehouse, in California must also apply for a retailer’s license.

### How do I register?

You can register with us online at [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov). If you have questions or need help, contact our Customer Service Center at 1-800-400-7115 (CRS:711). Customer service representatives are available Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

### If I am required to register, what are the requirements?

You must have both a cigarette and tobacco products license and associated account with us to sell cigarettes and tobacco products in California. The license is issued under the California Cigarette & Tobacco Products Licensing Act of 2003 (Licensing Act). The Licensing Act is available at [www.cdtfa.ca.gov/lawguides/vol3/ctplal/cigarette-and-tobacco-products-licensing-act-law.html](http://www.cdtfa.ca.gov/lawguides/vol3/ctplal/cigarette-and-tobacco-products-licensing-act-law.html).

#### Licensing

You must first register with us for a distributor, wholesaler, manufacturer, or importer license and pay the applicable licensing fee. Current licensing fees can be found at [www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm](http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm). All licenses must be renewed annually. If you are applying for a distributor’s license, you must also post a minimum \$1,000 security deposit before the license can be issued. There are no security deposit requirements for wholesalers, manufacturers, or importers.

#### Cigarette Stamp Account

A separate stamp account is required to purchase cigarette tax stamps. For information on purchasing cigarette tax stamps, please see publication 63, *Cigarette Distributor Licensing and Tax Stamp Guide*, available at [www.cdtfa.ca.gov/formspubs/pub63.pdf](http://www.cdtfa.ca.gov/formspubs/pub63.pdf).

#### Cigarette and Tobacco Products Account

You must also have a separate account with us to sell cigarettes and tobacco products in California.

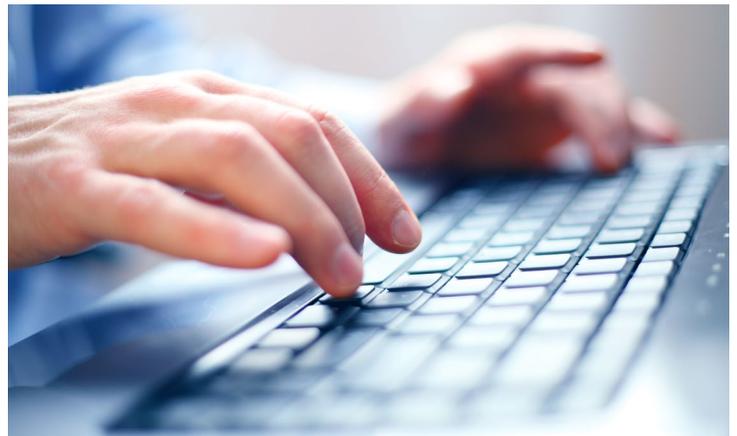
#### Filing

All licensed distributors, wholesalers, manufacturers, and importers (with the exception of tobacco products wholesalers) are required to file tax returns, reports, and/or schedules, which are due on or before the 25<sup>th</sup> of the month following the reporting period. The reporting period is monthly. The reporting period for tobacco products distributors is either monthly or quarterly. Tax returns, reports, and schedules must be filed even if no transactions were made during the reporting period. **Online filing** is available for all tax returns, reports, and schedules for cigarette and tobacco products manufacturers, importers, distributors, and wholesalers. Cigarette and tobacco products tax forms are available online at: [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov). Additional information can be found at [www.cdtfa.ca.gov/taxes-and-fees/cigarette-tax-filing.htm](http://www.cdtfa.ca.gov/taxes-and-fees/cigarette-tax-filing.htm). All records must be kept and maintained at the taxpayer’s licensed premises in California, unless another location has been approved by the CDTEFA.

### What are my reporting requirements?

#### Cigarette Distributor

A cigarette distributor is a person who purchases untaxed (unstamped) cigarettes and makes the first distribution of the cigarettes in this state. Distribution includes the sale, use, or consumption of untaxed cigarettes, or the placing of untaxed cigarettes in a vending machine or in retail stock. Retail stock includes all cigarettes on the premises of a retail site, whether on display or not. A cigarette distributor is required to affix the California cigarette tax stamp to each package of cigarettes prior to distribution to indicate that taxes have been paid. All licensed distributors are required to file monthly returns or reports along with any accompanying schedules.





### ***Tobacco Products Distributor***

A tobacco products distributor is a person who makes the first distribution of tobacco products in this state. Distribution includes the sale, use or consumption of untaxed tobacco products, or the placing of untaxed tobacco products in a vending machine or in retail stock. Retail stock includes all tobacco products on the premises of a retail site, whether on display or not. A tobacco products distributor is required to calculate the tobacco products tax due based on the wholesale cost of the tobacco products distributed and pay the amounts owed each month on tax return forms provided by the CDTFA.

### ***Cigarette Wholesaler***

A cigarette wholesaler is a person, other than a licensed distributor, who sells taxed (stamped) cigarettes obtained from a distributor or another wholesaler, for resale. Cigarette wholesalers cannot purchase their products directly from an importer or manufacturer. Every licensed cigarette wholesaler is required to file a monthly report following the monthly reporting period showing the cigarette inventory activity. Reports must be made even if no transactions were made during the reporting period.

### ***Tobacco Products Wholesaler***

A tobacco products wholesaler is a person, other than a licensed distributor, who sells tax-paid tobacco products for resale. Tobacco products wholesalers cannot purchase their products directly from an importer or manufacturer. There are no reporting requirements for tobacco products wholesalers.

### ***Manufacturer/Importer***

A manufacturer is a person who manufactures cigarettes and/or tobacco products sold in this state. An importer is any purchaser who purchases for resale in the United States, cigarettes and/or tobacco products manufactured outside the United States for the purpose of making a first sale or distribution within the United States.

All licensed manufacturers and importers are required to file monthly tax returns and report and pay for any sample sales as set forth in [Regulation 4081](#), reports and/or schedules.

## **Are any transactions not subject to taxes?**

Yes. The following sales and distributions of cigarettes and tobacco products are generally not subject to the taxes, although these transactions may be subject to reporting requirements.

- Sales of cigarettes or tobacco products by the original importer to a licensed distributor if the cigarettes or tobacco products are manufactured outside the United States ([Revenue and Taxation Code. \[R&TC\] § 30105](#)).
- Sales or gifts of federally tax-free cigarettes or tobacco products when the cigarettes or tobacco products are delivered directly from the manufacturer under Internal Revenue bond to a veteran's home of the State of California or a hospital or domiciliary facility of the United States Veterans' Administration for gratuitous issue to veterans receiving hospitalization or domiciliary care. The tax shall not apply to the use or consumption of such cigarettes or tobacco products by the institution or by the veteran patients or domiciliaries ([R&TC § 30105.5](#)).
- Sales of cigarettes or tobacco products by the manufacturer to a licensed distributor ([R&TC § 30103](#)).
- Sales by a distributor to a common carrier engaged in interstate or foreign passenger service ([R&TC § 30104](#)).
- Sales to United States military exchanges, commissaries, ship stores, or the U.S. Department of Veterans Affairs ([R&TC § 30102](#)).
- Distributions of federally untaxed cigarettes or tobacco products that are under Internal Revenue bond or U.S. Customs control ([R&TC § 30102.5](#)).
- An individual shipment of not more than 400 cigarettes (typically 20 packs or 2 cartons) personally transported into California ([R&TC § 30106](#)).
- Sales and distributions of cigarettes and tobacco products that cannot be taxed by the state under the U.S. Constitution or federal law, or under the California Constitution or state law, such as shipments to purchasers in other states, territories, or foreign countries when the cigarette and tobacco products are not to be returned to California before use.

The list above may not be all-inclusive.

## **What if consumers purchase cigarettes or tobacco products from outside of California?**

If consumers purchase cigarettes or tobacco products for their own use from outside the state, or from an unlicensed vendor without paying California excise tax or use tax, they are required to file a *Cigarette and Tobacco Products Excise and Use Tax Return* and pay the tax directly to the CDTFA. The return is due at the end of the month following the quarter in which the purchases were made. This includes products purchased through the mail, by telephone, or via the Internet that are shipped into California. Consumers also owe the taxes if they physically bring more than 400 cigarettes into California.

These purchases are also subject to California use taxes. For information regarding California use tax, please visit [www.cdtfa.ca.gov/taxes-and-fees/use-tax.htm](http://www.cdtfa.ca.gov/taxes-and-fees/use-tax.htm).

### Do distributors need to contact the CDTFA before destroying cigarettes or tobacco products?

Yes, please contact us before you destroy cigarettes or tobacco products because we should be present to prevent possible tax liability issues. To make arrangements for a CDTFA employee to be present for the destruction, call 1-916-323-6361 or send an email to: [adab@cdtfa.ca.gov](mailto:adab@cdtfa.ca.gov). If you do not have an authorized CDTFA representative witness the destruction of the cigarettes or untaxed tobacco products, you may be liable for any unpaid cigarette and tobacco products taxes. It is presumed that all cigarettes or tobacco products acquired by a distributor are untaxed. It is also presumed that all cigarettes or tobacco products manufactured in this state or transported to this state and no longer in the possession of the distributor have been distributed (**R&TC § 30109**).

If you have stamped cigarettes which need to be returned to the manufacturer or destroyed because they are unfit for sale or have become unfit for use or sale, you must file a claim for refund by using our [online services system](#). You must sign in using your Cigarette Stamp account and select *Submit a Cigarette Stamp Refund Claim*. If the claim includes a cigarette tax stamp affixed to unsalable cigarettes, you must file a separate claim for each cigarette manufacturer.

### What are the PACT Act requirements?

The **Prevent All Cigarette Trafficking (PACT)** Act is federal law that amends the federal **Jenkins Act**. It revises provisions governing the collection of taxes and trafficking by requiring Internet or online and other remote sellers of cigarettes and smokeless tobacco products to comply with the same laws that apply to local cigarette and tobacco products sellers.

#### Registration

If you operate a business for profit that sells, transfers, ships, advertises, or offers for sale cigarettes or smokeless tobacco products through interstate commerce into California, or into Indian Country located within California's borders, you must register [online](#) with the CDTFA at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

#### Monthly Report Filing

You must also file monthly reports with us using uniform PACT Act forms. To report cigarettes, use CDTFA-5204-PA-1: *State CIGARETTE PACT Act Report*. To report smokeless tobacco products, use CDTFA-5204-PA-2: *State TOBACCO PACT Act Report*.

- You may file both reports using our online services system at [onlineservices.cdtfa.ca.gov](http://onlineservices.cdtfa.ca.gov). Copies of the forms are available at [www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm](http://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm).
- The monthly report forms contain detailed information on each shipment of cigarettes and smokeless tobacco products into California or Indian Country during the previous calendar month.

- The reports are due before the tenth day of the month following each calendar month.
- You must file a report regardless of whether you have transactions to report for the month.

### Requirements for delivery sellers (direct sales to consumers)

A delivery sale is defined, in part, as any sale of cigarettes or smokeless tobacco products (such as chew or snuff), sold by an out-of-state vendor to an in-state consumer. If you are a delivery seller and plan to make delivery sales of cigarettes or tobacco products, including e-cigarettes or vape products containing nicotine in California, you must apply for a California Cigarette and Tobacco Products Distributor license. If you are a delivery seller with a physical presence, such as a warehouse, in California, you must also apply for a California Cigarette and Tobacco Products Retailer's license. A delivery seller must comply with all California laws regarding the sale of cigarettes and tobacco products in the state as if they were located in California.

### Additional resources

Helpful guides, [regulations](#), [forms](#), [publications](#), [video tutorials](#), [online seminars](#), and other resources are available at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov). The most popular resources are listed below:

#### Industry Guide

[Tax Guide for Cigarettes and Tobacco Products](#)

#### Publications

- 63 Cigarette Distributor Licensing and Tax Stamp Guide
- 78 Sales of Cigarettes and Tobacco Products in California—License Requirements for Retailers
- 152 Cigarette and Tobacco Products Inspections
- 201 Special Taxes and Fees Newsletter
- 403 California Counterfeit-Resistant Cigarette Tax Stamp



### For More Information

If you have any questions regarding this program, you may contact the CDTFA by telephone, email, or mail.

### Customer Service Center

**1-800-400-7115 (CRS:711)**

Customer service representatives are available Monday through Friday from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. Select the option for *Special Taxes and Fees*.

[www.cdtfa.ca.gov/email](http://www.cdtfa.ca.gov/email)

Special Taxes and Fees, MIC:88  
California Department of  
Tax and Fee Administration  
PO Box 942879  
Sacramento, CA 94279-0088

### Taxpayers' Rights Advocate

If you are unable to resolve any tax issues with us or if you would like more information regarding your rights, contact the Taxpayers' Rights Advocate Office for help:

**1-888-324-2798** (toll-free telephone)

**1-916-323-3319** (fax)

[www.cdtfa.ca.gov/tra](http://www.cdtfa.ca.gov/tra)

Taxpayers' Rights Advocate Office, MIC:70  
California Department of  
Tax and Fee Administration  
PO Box 942879  
Sacramento, CA 94279-0070

*Please note:* This publication summarizes the law and applicable regulations in effect when the publication was written. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.

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