



Special Notice

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New Licensing Requirements for Manufacturers/ Importers, Distributors, and Wholesalers of Nicotine Products Beginning April 1, 2017

The definition of “tobacco products” has been amended, for excise tax purposes, with the passage of Proposition 56, to include a product containing, made of, or derived from nicotine that is intended for human consumption and electronic cigarettes sold in combination with nicotine. Electronic cigarettes include any device or delivery system, or any component, part, or accessory that is used during the operation of the device, when sold in combination with nicotine for a single price. For brevity, these products will be referred to as “nicotine products” in the remainder of this notice. The purpose of this notice is to inform manufacturers, distributors, and wholesalers of nicotine products about the new licensing requirements for sales and [distributions](#) of nicotine products. Also, manufacturers and distributors of nicotine products may be required to file monthly returns and schedules, and pay California tobacco products tax, depending on their business activities, beginning April 1, 2017.

Requirements for Manufacturers, Distributors, and Wholesalers

Beginning April 1, 2017, manufacturers/importers, distributors, and wholesalers of nicotine products are considered manufacturers/importers, distributors, and wholesalers of “tobacco products” and must obtain and maintain the appropriate cigarette and tobacco products license(s) and account(s) under the [Cigarette and Tobacco Products Licensing Act](#) and the [Cigarette and Tobacco Products Tax Law](#). If you already have the appropriate license(s) and account(s) required, you may purchase and/or sell these products under that license and account. A separate license and account is required for each location.

Manufacturers/Importers

Any California entity that manufactures or imports nicotine products into California must obtain a Tobacco Manufacturer/Importer Account and a Tobacco Products Manufacturer/Importer License from the California State Board of Equalization (BOE) for each location in order to sell these products to licensed tobacco products distributors in California. There is a one-time \$2,000 license fee for a Tobacco Products Manufacturer/Importer License for each location.

Manufacturers/Importers are responsible for reporting samples of untaxed tobacco products as a taxable distribution and paying the California tobacco products tax on Form [BOE 501-TIM](#), *Tobacco Products Manufacturer/Importer Return of Taxable Distributions of Samples in California*, and include the accompanying schedule, Form [BOE 501-MIT](#), *Schedule – Manufacturer/Importer Report of Tobacco Products Delivered or Shipped into California*. The return and schedule are due on a monthly basis. Returns and schedules for the month of April 2017 will be due by May 25, 2017, along with any California tobacco products tax due.

Distributors

Any California entity that purchases untaxed finished nicotine products from out-of-state sources for subsequent sale or distribution to customers in California must obtain a Tobacco Products Distributor Account/License (section 30140, Revenue and Taxation Code) and a Cigarette and Tobacco Products Distributor’s License (section 22975, Business and Professions Code) from the BOE for each location. There is a minimum \$1,000 security deposit required for each account. Additionally, there is a \$1,200 license application fee and an annual \$1,200 license renewal fee for the Cigarette and Tobacco Products Distributor’s License for each location. A Cigarette and Tobacco Products

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Distributor's License is valid for one calendar year, and the license fee may not be prorated.

Distributors are responsible for reporting their taxable distributions of tobacco products and paying the California tobacco products tax on Form [BOE 501-CT](#), *Tobacco Products Distributor Tax Return*. The return is due on a monthly basis. Returns for the month of April 2017, will be due by May 25, 2017, along with any California tobacco products tax due.

Wholesalers

Any California entity that purchases tax-paid finished nicotine products from licensed tobacco products distributors for subsequent resale to licensed retailers and/or other licensed wholesalers of tobacco products, must obtain a Tobacco Products Wholesaler Account/License (section 30155, Revenue and Taxation Code) and a Cigarette and Tobacco Products Wholesaler's License (section 22975, Business and Professions Code) from the BOE for each location in order to purchase and sell these products. There is a \$1,200 license application fee and an annual \$1,200 license renewal fee for the Cigarette and Tobacco Products Wholesaler's License for each location. A Cigarette and Tobacco Products Wholesaler's License is valid for one calendar year, and the license fee may not be prorated. A wholesaler that currently holds a Cigarette and Tobacco Products Distributor's License and a Tobacco Products Distributor Account/License does not need to hold a separate Cigarette and Tobacco Products Wholesaler's License and a Tobacco Products Wholesaler Account/License in order to purchase and sell nicotine products.

Manufacturers/Importers, distributors, wholesalers, and retailers may be required to obtain multiple accounts and licenses, depending on their business operations. For example, an entity that purchases tobacco products, including nicotine products from an unlicensed out-of-state seller without payment of the California tobacco products tax, and subsequently sells these products at retail to consumers, is required to hold a California Cigarette and Tobacco Products Distributor's License, a Tobacco Products Distributor Account/License, and a Cigarette and Tobacco Products Retailer's License.

Manufacturers/Importers that are not engaged in business in California that sell nicotine products directly to California consumers or unlicensed distributors may apply for a Tobacco Products Distributor Account/License and a Cigarette and Tobacco Products Distributor's License, and collect the California tobacco products tax to relieve their California customers of their liability for tax. Manufacturers should include the California tobacco products tax as a separate line item on the invoices to their California customers.

Retailers that mix nicotine products purchased untaxed from out-of-state sources for resale are required to hold a Tobacco Products Distributor's License, a Tobacco Products Distributor Account/License, as well as a Cigarette and Tobacco Products Retailer's License.

Retailer Licensing Requirements

Beginning January 1, 2017, the [Cigarette and Tobacco Products Licensing Act](#) requires retail sellers of any products that fall under the expanded definition of a tobacco product to obtain a Cigarette and Tobacco Products Retailer's License from the BOE prior to purchasing tax-paid products. The expanded definition of a tobacco product, for retailer licensing purposes, includes:

- Any product containing, made of, or derived from nicotine that is intended for human consumption,
- Any electronic smoking device or vaping device that delivers nicotine or other vaporized liquids, and
- Any component, part, or accessory of a tobacco product, whether or not sold separately.

A separate Cigarette and Tobacco Products Retailer's License is required for each location. Retailers must have a valid license prior to purchasing these products from licensed wholesalers and distributors for sale to consumers.

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Tax Application for Nicotine Products

Beginning April 1, 2017, the California tobacco products tax applies on the first [distribution](#) of nicotine products in this state. The tobacco products tax rate is applied to the wholesale cost of these products to the distributor, prior to any discounts or trade allowances, which is similar to the taxation on the distribution of conventional tobacco products. Currently, the tobacco products tax rate is 27.30 percent of the wholesale cost, which is in effect through June 30, 2017. The tobacco products tax rate is determined annually by the BOE in April, and is comparable to the cigarette tax rate.

The “wholesale cost” of nicotine products is calculated on the cost of the finished nicotine product that will not be subject to any additional processing before distribution in California, which includes:

- All manufacturing costs,
- The cost of raw materials, prior to any discounts (including any adjuncts added to pure nicotine and any waste material not incorporated into the final product),
- The cost of labor,
- Any direct (including freight-in) and indirect overhead costs,
- Any federal excise and/or U.S. Customs taxes paid,
- Any freight or transportation costs associated with the shipment or transport of *unfinished* tobacco products (for example, pure nicotine, glycerin, and flavorings), and
- Any *international* freight or transportation costs associated with the shipment or transport of *finished* tobacco products.

If a distributor purchases *finished* nicotine products from a supplier, the “wholesale cost” of the product is the invoiced amount paid for the nicotine product, including any federal excise tax, but excluding any transportation charges for shipment originating within the United States. Discounts and trade allowances must be added back in when determining “wholesale cost.” For additional information, please refer to [Regulation 4076](#), *Wholesale Cost of Tobacco Products*.

How to Apply

You may register for a license, account, and any other permits using the BOE’s [online registration system](#). Online registration is the most convenient way to register and is available 24 hours a day, seven days a week. Upon registration, you will be required to submit the applicable license [application fee](#) payment in order to obtain a license.

For More Information

Additional information is available online regarding the provisions of [Proposition 56](#). You may also view the BOE’s online [Cigarette and Tobacco Products Tax Guide](#). If you have questions regarding the tax increase, licensing requirements, or any other provisions of Proposition 56, visit the BOE’s website at www.boe.ca.gov or call the Customer Service Center at 1-800-400-7115 (TTY:711). From the main menu, select the option, *Special Taxes and Fees*. Assistance is available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.