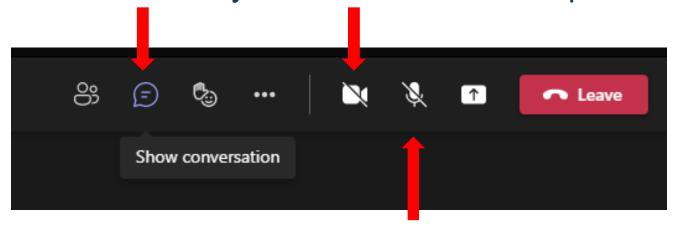


### Thank you for joining our webinar.

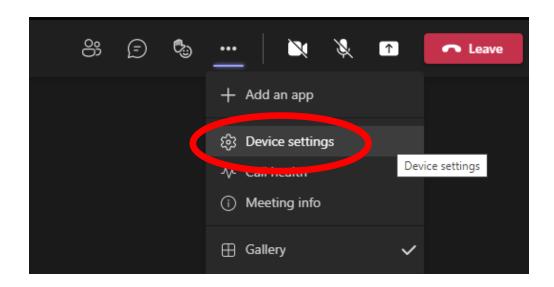
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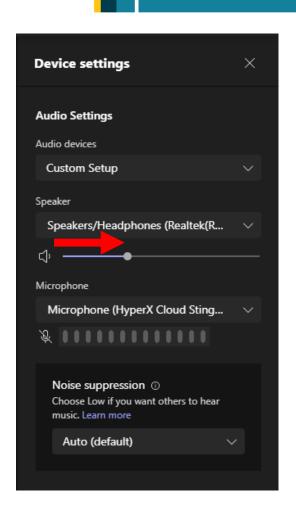
If you have any questions, please submit them in the chat window. To open the chat window, click on the *Show conversation* icon.



Please be sure the speakers on your computer are turned on and the volume is appropriate for you.



We will begin soon.





# Cigarette and Tobacco Sales



### **Overview**

We will provide general information on the following topics:

- Definitions
- Licensing Requirements
- Restrictions on Flavored Tobacco Products
- Inspections
- Invoices
- Seizures
- Citations
- Suspensions or Revocations
- Other Helpful Information



# **Get It in Writing!**



This presentation illustrates general tax concepts and does not describe every situation. Email us at <a href="https://www.cdtfa.ca.gov/email/">www.cdtfa.ca.gov/email/</a> with details specific to your business operations for legally reliable written tax guidance.



Please note: The contents of these slides as well as answers provided in the "chat" during this presentation do not constitute written tax advice under California Revenue and Taxation Code (RTC) section 30284.

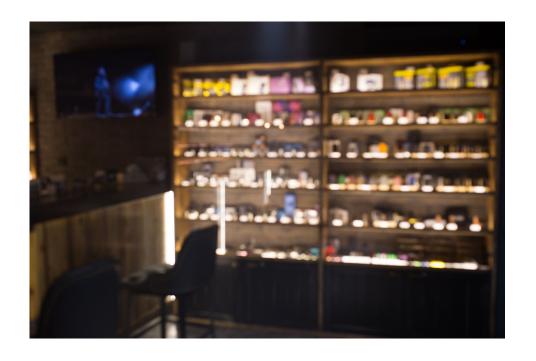


# California Cigarette and Tobacco Products Licensing Act

The California Cigarette and Tobacco Products Licensing Act (CTPLA) requires all sellers of cigarettes and tobacco products to be licensed with the California Department of Tax and Fee Administration (CDTFA).

#### Sellers include:

- Retailers
- Wholesalers
- Distributors





# **Definitions**



# **Definitions: Cigarettes**

A rolled product for smoking of any size or shape that is made wholly or in part of tobacco, flavored\* or not, and has a wrapper made of paper or another material.

(RTC section 30003)

Please note: Flavored\* cigarettes are banned in California. Products wrapped in tobacco or with a cover made mostly of tobacco (for example, cigars) are not considered cigarettes when they weigh more than three pounds per thousand sticks. Instead, these products are considered "tobacco products."





### **Definitions: Tobacco Products**

A product containing, made, or derived from **tobacco** or **nicotine** that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco, pipe tobacco, shisha, snuff, and electronic cigarettes.

(RTC section 30121(b))

Please note: Therapeutic nicotine products approved by the U.S. Food and Drug Administration to help quit smoking, for example, nicotine patches, are not considered tobacco products.





# **Definitions: Electronic Cigarettes**

- Any device or delivery system sold in combination with nicotine that can be used to deliver nicotine to a person in aerosolized or vaporized form. This includes eCigarettes, eCigars, ePipes, eHookahs, and vape pens.
- eCigarettes include any component, part, or accessory of the eCigarette device when sold in combination with any liquid or substance containing nicotine for a single price.
- eCigarettes also include any liquid or substance containing nicotine, whether sold separately or in combination with any device that could be used to deliver nicotine in aerosolized or vaporized form.

(RTC section 30121(c))





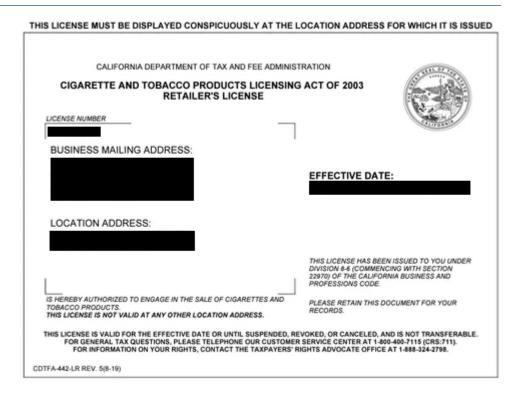
# State Licensing Requirements



# **State Licensing Requirements**

The different Cigarette and Tobacco Product Licenses are:

- Retailer
- Wholesaler
- Distributor





### **Retailer License**

- Allows you to sell tax-paid cigarettes with a California tax stamp affixed, as well as tax-paid tobacco products only to California customers who are 21 years of age or older.
- Application license fee is \$265 per location.
- Annual license renewal fee is \$265 per location.
- Valid for 12 months.
- We will send a renewal reminder 60 days prior to the license expiration date.

Please note: CTPLA license designation changed from LRQ to CRL in May 2018.



### **Wholesaler License**

- Allows you to sell tax-paid cigarettes with a California tax stamp affixed, as well as tax-paid tobacco products only to licensed retailers and other licensed wholesalers.
- Application license fee is \$1,200 per location.
- Annual license renewal fee is \$1,200 per location.
- Valid for one calendar year (January through December).
- We send renewal reminders in October.

Please note: A wholesaler may not hold a distributor's license.



### **Distributor License**

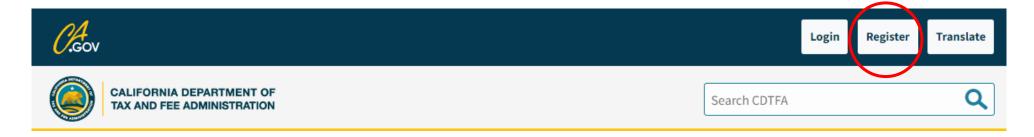
- Allows a distributor who is licensed at a California location to purchase unstamped and untaxed cigarettes and untaxed tobacco products from manufacturers, importers, or outof-state distributors.
- Allows you to sell tax-paid cigarettes with the California tax stamp affixed, as well as taxpaid tobacco products to licensed retailers, wholesalers, and other distributors.
- Application license fee is \$1,200 per location.
- Annual license renewal fee is \$1,200 per location.
- The license is valid for one calendar year (January through December).
- We send renewal reminders in October.
- Security deposit is required.

Please note: A distributor may not hold a wholesaler's license.



# Requirements for All CTPLA Licenses

Register online (<u>www.cdtfa.ca.gov</u>) for a license:



- Pay all license and renewal fees (not prorated).
- Licenses are not assignable or transferable.
- Licenses are location specific.
- Licenses can be renewed annually.



### Requirements for All CTPLA Licenses

- Expect 7-10 days business days for your application to be processed.
- License and related information will be emailed to you upon approval.
- Any new business location must be added to your seller's permit prior to activation
  of a cigarette and tobacco products license for that location.
- You must have and display the license at all times.
- A CDTFA cigarette and tobacco products license is different from a city or county tobacco license. You are responsible for obtaining any applicable city or county tobacco licenses in addition to your license from us.



# Restrictions on Flavored Tobacco Products



### Flavor Ban

- Only unflavored tobacco product brands and brand styles may be lawfully sold, offered for sale, stored, or possessed for sale in California.
- Any flavored cigarettes, flavored tobacco products, or tobacco product flavor enhancers possessed, stored, or offered for sale in California are subject to seizure.

(Health & Safety Code Section 104559.5)





### California Unflavored Tobacco List



The California Attorney General's office will post a list of unflavored tobacco products, known as the Unflavored Tobacco List (UTL) on their website by December 31, 2025.



Any product brand style not on the UTL is deemed a flavored tobacco product and cannot be sold in California.



### Penalties for the Sale of Flavored Tobacco

- First seizure: A civil penalty of \$50 per individual package of seized product.
- Second seizure: The \$50 per individual package penalty AND Cigarette and Tobacco Products License suspension.
- Third seizure: The \$50 per individual package penalty AND Cigarette and Tobacco Products License revocation.





Our Inspections Section (IS) conducts inspections of all businesses selling cigarettes and tobacco products. Upon arrival at your business, our inspectors will:

- Identify themselves, show their CDTFA identification, and give you their business card.
- Ask for the person in charge and request to see their identification.
- Explain the inspection process.





#### Further they will:

- Request access to any secured cigarettes and tobacco products storage areas.
- Ask to see your last 12 months of cigarettes and tobacco products purchase invoices.
- Check to ensure the business has the appropriate licenses and permits, and that they are properly displayed.



#### Our inspectors will verify that:

- Our information for your business is current.
- The Stop Tobacco Access to Kids Enforcement (STAKE) Act sign is posted.
- All tobacco products are tax-paid.
- Valid California tax stamps are on all cigarette packs.
- Single sticks of cigarettes are not being sold.



Additionally, our inspectors will verify that:

- All cigarettes comply with the California Cigarette Fire Safety and Firefighter Protection Act.
- All cigarettes and roll-your-own (RYO) tobacco products are listed on the Attorney General's California Tobacco Directory: <u>oag.ca.gov/tobacco/directory</u>
- You do not possess, store, own, or have sold any flavored cigarettes, flavored tobacco products, or tobacco product flavor enhancers.
- All unflavored tobacco products will be listed on the California Attorney General's Unflavored Tobacco List (UTL).



### Example of STAKE Act Sign

The Sale of Tobacco Products to Persons **Under 21** Years of Age Is Prohibited by Law and Subject to Penalties

To Report an Unlawful Tobacco Sale Call 1-800-5 ASK-4-ID

Valid Identification May Be Required

Business and Professions Code Section 22952 21 U.S.C 387f(d)
This sign must be readable by the consumer and must not be altered,
covered or obliterated in whole or in part



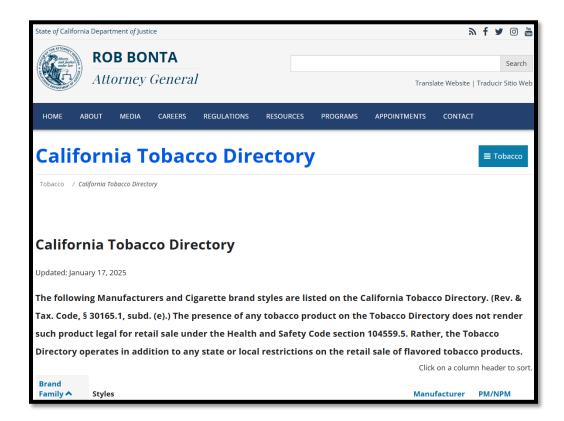
### **Example of Cigarette Tax Stamps**





# **California Tobacco Directory**

Only cigarettes and RYO tobacco brands and brand families certified by the California Attorney General's Office are listed on the California Tobacco Directory may be lawfully distributed, sold, offered for sale, or possessed for sale in California.





# **California Tobacco Directory**

When products are removed from the Tobacco Directory, the law allows retailers to possess, transport, and sell the tax-paid product for only **60 days** from the effective date of the product's removal from the directory. After the 60 days, the removed product becomes contraband and is subject to seizure.

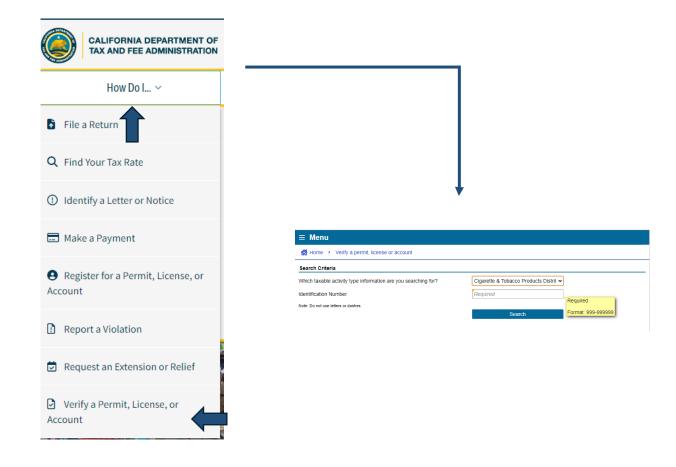




- Invoices are used to show that the excise tax has been paid on all cigarettes and tobacco products.
- A valid invoice from a CDTFA licensed distributor or wholesaler is required for all purchased cigarettes and tobacco products.
- Any product on the premises not supported by a valid purchase invoice is subject to seizure, which we will discuss later in this presentation.



If you are buying products from a distributor or wholesaler to resell, you are responsible for verifying that the seller possesses a valid CTPLA distributor or wholesaler license. To verify, go to our website, click *How Do I*, then click on *Verify a Permit, License, or Account*, and type in the Identification Number.





A valid cigarette or tobacco products purchase invoice must be legible and include:

- The date of purchase.
- An itemized list of products purchased.
- The amount of California excise taxes paid. Alternatively, a distributer may simply use the statement:

"All California cigarette and tobacco products taxes are included in the total amount of this invoice."

- The name, address, telephone number, and CTPLA license number of the wholesaler or distributor from whom the cigarettes and tobacco products were purchased.
- The purchaser's name, address, and CTPLA license number.



You must keep purchase invoices for four years. The most recent 12 months of invoices must be kept on the premises of the sale or risk receiving a citation. The remaining three years of invoices may be kept either on or off premises.

Please note: The requirement to retain purchase invoices also applies to electronic cigarettes and other nicotine delivery devices, their component parts, or accessories when sold in combination with nicotine.



# **Product Transfers Between Multiple Locations**

A licensed retailer who owns multiple retail stores is allowed to transfer cigarette or tobacco products between retail stores if:

- The retailer's licenses for the transferring and receiving locations are held by the same legal entity and,
- They keep and maintain a transfer log or similar document as described in Regulation 4801 and the next slide.

Store Transferring Product	Store Receiving Product	Is It Allowed?
John Smith – sole proprietor	John Smith – sole proprietor	Yes
John Smith – sole proprietor	John Smith – corporate officer	No
John Smith – sole proprietor	John Smith – partner	No



### **Product Transfer Guidelines**

Legible transfer logs must be prepared at the time of transfer. Transfer logs and copies of purchase invoices must be kept at both locations. Transfer logs must include:

- The date of the transfer.
- The transferring retailer's name, address, and CTPLA license number where the original purchase was made.
- The receiving retailer's name, address, and CTPLA license number where the product was transferred.
- The supplier's name, CTPLA license number, purchase invoice number, and date of original purchase.
- A legible itemized list, with detailed description and quantities of products transferred (such as brands, types of packaging, styles, milligrams, etc.).



# **Example of Transfer Log Entry**

Date of Transfer	Transferring Location, Address & License No.	Receiving Location, Address & License No.	Items Transferred (Complete Description from Original Invoice)	Supplier's Name and License No., Invoice No., & Purchase Date
3/2/21	A Street Market 123 A Street Anywhere, CA 91-0XXXXX	B Street Market 456 B Street Anywhere, CA 91-1XXXXX	50 packs Bear cigarettes Red Label, 100 5 boxes Clark y Lois Reserve Metropolis Cigars (25ea)	LD Tobacco Distributors 90-2XXXXX #123456 February 14, 2021



# Seizures



#### **Reasons for Seizure**

- Cigarettes have counterfeit, out-of-state, or reused stamps on them.
- Cigarettes do not have a valid California tax stamp on them.
- Cigarettes or tobacco products are counterfeit.
- Cigarettes are labeled "Not for Sale in U.S."
- Stamped cigarettes or RYO tobacco products are not listed on the California Tobacco Directory.





#### **Additional Reasons for Seizure**

- Products are purchased from an unlicensed supplier.
- Products are not supported by valid purchase invoices.
- Cigarettes or tobacco products are sold or gifted by a seller, supplier, or distributor with a suspended or revoked cigarette and tobacco products license.
- The cigarettes or tobacco products seller is unlicensed.
- Stock contains flavored cigarettes, tobacco products, or tobacco product flavor enhancers in violation of the flavored tobacco products ban or are not listed on the Attorney General's Unflavored Tobacco List (UTL).
- Cannabis or cannabis products are being sold by the cigarette and tobacco retailer.



# Seizures...what's next?

We will take a physical inventory of all items to be seized and make a detailed list on CDTFA-1317, *Receipt for Property Seized*. A copy of the receipt will be given to you at the time of seizure.

		G-IZH G-I	NIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
		CERTIFICATION	
	by mail a CDTFA-1238-IB, Not		I hereby certify that the items described in this document have which will provide information about the seizure related to this
ATE OF SEIZURE	TIME OF SEIZURE	ACCOUNT NUMBER(S)	AMENDED RECEIPT  □ YES □ NO  DATE:
DTFA REPRESENTATIVE NAME AN	DTITLE		CDTFA REPRESENTATIVE SIGNATURE
WNER OF ITEMS SEIZED (name an	d address)		
ERSON IN CONTROL OF PROPERT	Y (name and address)		
IGNATURE OF PERSON IN CONTR	OL OF PROPERTY		CITATION ISSUED?
USINESS NAME AND ADDRESS OF	PLACE OF SEIZURE		THE PROPERTY OF THE PROPERTY O
		ITEMS SEIZED	
QUANTITY	DESCRI	PTION	REASON (check all boses that apply; explain OTHER)
			UNITAMED TOBACCO PRODUCTIS:  UNITAMPED  UNIT
			FLAGR BAN TOBACCO PRODUCT[3]   NOR-MSA   FLAGR BAN CIGARETTE    AFFIXED WITH COUNTERFEIT STAMP   FLAGR BAN CIGARETTE    UNITAMED TOBACCO PRODUCT[3]   UNITAMPED   UNITAMED TOBACCO PRODUCT[3]   UNITAMPED   UNITAMED TOBACCO PRODUCT[3]   UNITAMPED   UNITAMED TOBACCO PRODUCT[3]   UNITAMPED   UNIT
			FLAVOR BAN FLAVOR ENHANCER(S) FLAVOR BAN CIGARETTE:  AFFIXED WITH COUNTERFEIT STAMP  OTHER:
			UNITAXED TOBACCO PRODUCT(S) UNISTRAMPED PLAYOR BAN TOBACCO PRODUCT(S) NON-MEA PLAYOR BAN FOR BAN CHARLETTE: APPLICE WITH COUNTERPET STAMP OTHER
			UNITAXED TOBACCO PRODUCT(S)  PLAVOR BAN TOBACCO PRODUCT(S)  PLAVOR BAN FLAVOR ENHANCER(S)  AFFIXED WITH COUNTERFEIT STAMP  OTHER
			UNTAXED TOBACCO PRODUCT(S)  I LAVOR BAN TOBACCO PRODUCT(S)  PLAVOR BAN FLAVOR ENHANCER(S)  AFFIXED WITH COUNTERFEIT STAMP  OTHER
			☐ UNTAXED TOBACCO PRODUCT(S) ☐ UNSTAMPED ☐ FLAVOR BAN TOBACCO PRODUCT(S) ☐ NON-MSA ☐ FLAVOR BAN FLAVOR EN-HANCER(S) ☐ FLAVOR BAN CIGARETTE: ☐ AFFIXED WITH COUNTERFEIT STAMP
			☐ OTHER:



# Seizures ...what's next?

We will mail CDTFA-1238, *Notice of Seizure and Forfeiture*, to the business owner stating:

- What was seized and why,
- When and where the seizure occurred,
- The apparent or approximate value of the property seized, and
- How to file a petition requesting the release or recovery of the property. A petition form will be enclosed.



# Seizures...what's next?

We will also post a public legal notice to our website which includes a description of the seized property, reason for the seizure, and the time and place of the seizure.

We will post this information only if the wholesale cost, combined value, or actual seizure is equal to 61 cartons of 200 cigarettes or more.





# Notice of Cannabis and Cigarette & Tobacco Product Seizures

Pursuant to Revenue and Taxation Code section 30437(b)(1), the California Department of Tax and Fee Administration herein gives notice of seizure and forfeiture of property seized from the following California businesses. This list includes notices posted within the last six months.



# Seizures—Recovery of Seized Products

- You must file CDTFA-1238-IB-2, Verified Petition for Release or Recovery of Property, within 20 days from the date of the mailing of the Notice of Seizure and Forfeiture.
- If you file a petition timely, we will store the seized product until your petition is resolved.
- If you do not file the petition in a timely manner, you will forfeit the seized product, and it will be destroyed.
- If you establish that we erroneously or illegally seized the product and it is lawful to possess, we will release the product to you.



# **Citations**



#### **Citations**



We may issue a civil or criminal misdemeanor citation depending on the violations we find during a cigarette and tobacco products inspection.



Our inspectors will explain why a citation is being issued, the specific law sections violated, and your appeal rights.



# **Civil Citations—Penalties and Fines**

The level of penalty imposed following a citation will depend on whether the violation was civil or criminal, and the frequency of the offense.

In the case of a civil citation and depending on the violations cited, penalties may include, but are not limited to:

- Receiving a Warning Notice.
- Suspension or revocation of your CTPLA license.
- Fines of up to \$50,000 per offense or \$50 per individual package, whichever is greater.
- Imprisonment generally not to exceed one year in county jail, per violation.



# **Criminal Citations—Penalties and Fines**

In the case of a criminal citation, we may assess civil penalties in addition to the penalties imposed by the Court, including but not limited to:

- Suspension or revocation of your CTPLA license.
- Civil fines, which may be reduced by any court fines imposed.



# Suspension or Revocation of a CTPLA License



# Suspension

We may suspend your CTPLA license for violations of the cigarette and tobacco products licensing and tax laws.

- Suspensions may range in duration.
- If you are subject to a suspension, you:
  - Will receive notification in the mail.
  - Are required to post the Notice of Suspension at the location that is subject to the suspension for the entire suspension period.
  - Are prohibited from selling, gifting, or displaying for sale cigarettes or tobacco products for the entire suspension period.



# Suspension

We will impose a \$1,000 penalty per offense if you:

- Continue to display cigarettes or tobacco products for sale during the suspension period.
- Alter the suspension notice.
- Do not post the *Notice of Suspension* for the duration of the suspension at each public entrance, each cash register, and any other point of retail sale.

Businesses with suspended licenses are listed on the *Listing of Cigarette* and *Tobacco Products License Suspensions*, which can be found at www.cdtfa.ca.gov/taxes-and-fees/cigtoblic-suspen.xlsx.



#### Revocation

We may revoke your CTPLA license for violations of the cigarette and tobacco products licensing and tax laws. The violations may include, but are not limited to:

- Continued sales or gifting of cigarettes or tobacco products during a suspension period.
- Operating with a revoked seller's permit or any revoked permit or license under any provision of the Revenue and Taxation Code.
- Possessing, storing, owning, or selling flavored cigarettes, tobacco products, or tobacco product flavor enhancers.
- Being subject to a cigarette or tobacco products-related felony conviction.



# Revocation

#### A license revocation:

- Is specific to each location and requires you to post the revocation notice at the location that is subject to the revocation for **30 days** starting on the effective date of the revocation.
- Will result in a \$1,000 penalty per offense if you alter, remove, or do not post the revocation notice; or continue to display cigarettes or tobacco products for sale.
- Does not allow you to apply for a new license for a minimum of six months. If you do apply for a license after six months, a new license may be issued at the discretion of CDTFA.



# **Appeals**



# **Appeals**

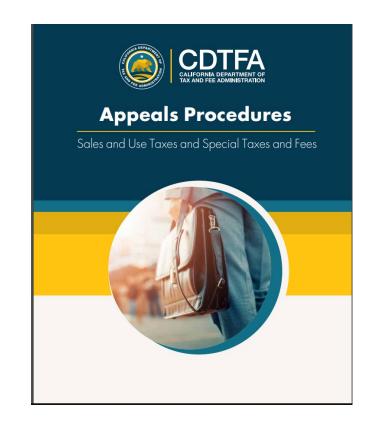
- To appeal a Warning Notice or Notice of Violation received as a result
  of a civil citation, you must file a written request for conference within
  30 days from the issue date of the notice and it must state the specific
  grounds for contesting the cited violation(s).
- To file an appeal, please log in to our website at
   <u>https://onlineservices.cdtfa.ca.gov</u> and select your cigarette and tobacco license account. Under the *I Want To* section, select the *More* hyperlink, then select *Appeal a Notice of Violation*.



# **Appeals**

For additional information regarding our appeals process, please refer to the section *Filing Your Petition* on page 5 of—Publication 17, *Appeals Procedures*.

To access this publication, visit our website at <a href="https://www.cdtfa.ca.gov">www.cdtfa.ca.gov</a> and enter "publication 17" into the search box.





#### **Educational Materials**

The following publications on cigarette and tobacco products are available on our webpage <a href="https://www.cdtfa.ca.gov/formspubs">www.cdtfa.ca.gov/formspubs</a>.

Publication 63, Cigarette Distributor Licensing and Tax Stamp Guide

Publication 70, Understanding Your Rights as a California Taxpayer

Publication 78, Sales of Cigarettes and Tobacco Products in California

Publication 93, Cigarette and Tobacco Products Taxes

Publication 152, Cigarette and Tobacco Product Inspections

Publication 161, Criminal Citations Include a Civil Administrative Process

Publication 403, California's Counterfeit-Resistant Cigarette Tax Stamp

Publication 407, Master Settlement Agreement

Publication 429, Flavored Cigarettes Banned in the United States

Publication 473, Things to Know Before You Buy Cigarette and Tobacco Products



#### Other Educational Materials

The California Department of Public Health (CDPH) Tobacco Control Program also produces educational materials. These include frequently asked questions (FAQs) for tobacco retailers related to California laws on:

- Flavored tobacco products ban
- Tobacco 21, and
- The Stop Tobacco Access to Kids Enforcement (STAKE) Act

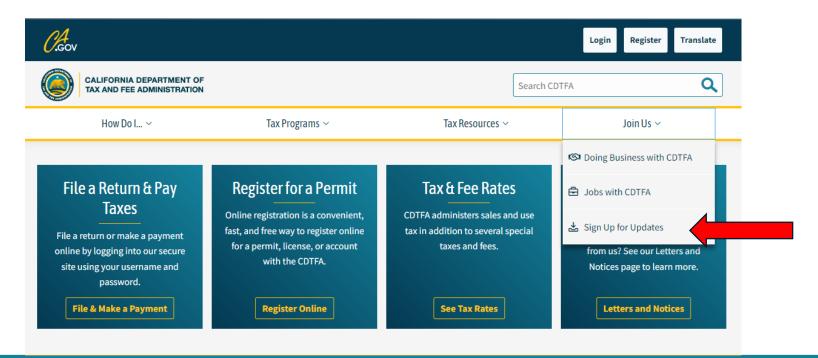
These materials are available on CDPH's website at:

www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/Pages/Tobacco21.aspx



#### **Email Notices**

To receive the latest information about changes in the law, or other updates related to the sales of cigarettes and tobacco products, register for automatic email notices from our Business Tax and Fee Division.





#### **CDTFA Contact Information**

For information regarding licenses, civil citations, petitions, or appeals:

Business Tax and Fee Division, MIC:88

CA Department of Tax and Fee Administration

PO Box 942879

Sacramento, CA 94279-0088

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

Fax: 1-916-323-9297

For information regarding inspections, seizures, or criminal citations:

Inspections Section, MIC:42

CA Department of Tax and Fee Administration

PO Box 942879

Sacramento, CA 94279-0042

Telephone: 1-916-324-0105

Fax: 1-916-324-1578



#### Connect with Us on Social Media

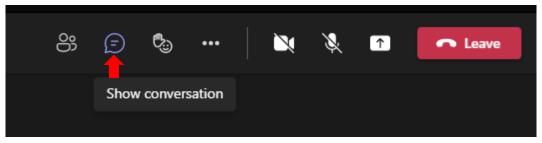
Connect with us on Facebook, X, YouTube, LinkedIn, and Instagram





# **Questions?**





Questions can be asked using the chat window. Click on the *Show conversation* icon to open the chat window.



# We wish you success in your business venture!