



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

BUSINESS TAXES COMMITTEE

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GAVIN NEWSOM  
Governor

YOLANDA RICHARDSON  
Secretary, Government Operations Agency

NICOLAS MADUROS  
Director

January 25, 2022

VIA INTERNET

Dear Interested Party:

Attached is a copy of Current Legal Digest (CLD) Number 1091 for your information and review. The CLD includes adding a notation to two existing Cigarette and Tobacco Products Tax annotations to clarify that the annotations are valid through March 31, 2017. After review, please submit any questions, comments, or suggestions for changes by **February 25, 2022**. You may complete the electronic CLD Comments Form at <http://www.cdtfa.ca.gov/taxes-and-fees/cldmail.aspx> or mail your written comments to:

California Department of Tax and Fee Administration  
(CDTFA)  
Annotation Coordinator, MIC: 50  
P. O. Box 942879  
Sacramento, CA 94279-0050

CLDs are circulated for 30 days, at which time any questions are addressed, and/or suggested modifications taken into consideration. After review of the final version by the CDTFA's Legal Division, they are published in the Business Taxes Law Guide. At that time, the CLD becomes obsolete.

Sincerely,

Pamela Bergin  
Assistant Chief Counsel

Attachment: Current Legal Digest 1091

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

CURRENT LEGAL DIGEST NO. 1091

January 25, 2022

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**CIGARETTE AND TOBACCO PRODUCTS TAX**

**Add Note to Existing Annotation:**

**TOBACCO PRODUCTS—Section 30121(b)**

**Tobacco Products—Tobacco Content.** The Cigarette and Tobacco Products Tax applies to all forms of cigars, smoking tobacco, chewing tobacco, and snuff, regardless of the amount of tobacco they contain. In addition, the tax applies to any other articles or products which are made entirely of tobacco or contain at least 50 percent tobacco, excluding cigarettes. 9/27/96.

NOTE: For the purposes of defining “Tobacco Products” under Part 13, Division, 2, Chapter 2, Article 2 of the Revenue and Taxation Code, this Cigarette and Tobacco Products Tax annotation is valid and applicable through March 31, 2017. Effective April 1, 2017, Proposition 56 amended section 30121(b) of the Revenue and Taxation Code to change the definition of *tobacco products* to:

“Tobacco products” includes, but is not limited to, a product containing, made, or derived from tobacco that is intended for consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but no limited to, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff, but does not include cigarettes. Tobacco Products shall also include electronic cigarettes. Tobacco products shall not include any product that has been approved by the United States Food and Drug Administration for a sale as a tobacco cessation product or for other therapeutic purposes where that product is market and sold solely for such approved use. Tobacco products does not include any food products as that term is defined pursuant to Section 6359.

**Add Note to Existing Annotation:**

**Package of Cigar Wraps.** A distributor sells three cigar wraps together in a single package. The package contains one natural leaf cigar wrap, composed entirely of tobacco, which meets the statutory definition of a tobacco product. The package also contains two homogenized tobacco leaf wraps that contain less than 50 percent tobacco and do not meet the statutory definition of

tobacco products. If the distributor can establish through documentary evidence, such as purchase invoices, the actual wholesale cost of the natural leaf wrap, the Board would accept that the tax could be reported on the actual wholesale cost of the natural leaf wrap (the tobacco product). Because it is assumed that the cost of the natural leaf wrap is much higher than the wraps that are not tobacco products, if the distributor is unable to establish through documentary evidence the actual wholesale cost of the leaf wrap, the Board assumes the wholesale cost of the package is subject to tax. 10/22/09.

NOTE: For the purposes of defining “Tobacco Products” under Part 13, Division, 2, Chapter 2, Article 2 of the Revenue and Taxation Code, this Cigarette and Tobacco Products Tax, this Cigarette and Tobacco Products Tax annotation is valid and applicable through March 31, 2017. Effective April 1, 2017, Proposition 56 amended section 30121(b) of the Revenue and Taxation Code to change the definition of *tobacco products* to:

“Tobacco products” includes, but is not limited to, a product containing, made, or derived from tobacco that is intended for consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but no limited to, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff, but does not include cigarettes. Tobacco Products shall also include electronic cigarettes. Tobacco products shall not include any product that has been approved by the United States Food and Drug Administration for a sale as a tobacco cessation product or for other therapeutic purposes where that product is market and sold solely for such approved use. Tobacco products does not include any food products as that term is defined pursuant to Section 6359.