

**Final Text of Amendments to California Code of Regulations, Title 18,
Sections 4022, Inventories of Cigarettes, 4027, Manufacturer's Monthly
Report, 4061, Unused Stamps and Unused Meter Settings, 4065, Unsalable
Cigarettes, 4066, Stolen Indicia, and 4091 Payment by Consumer**

Regulation 4022. Inventories of Cigarettes.

~~(a) Every distributor, importer, and wholesaler engaged in the sale of cigarettes shall file with the Department by the 25th day of each calendar month a furnish with his or her monthly-certified report and the supporting schedules required by subdivisions (c) and (d), which includes to the board, on Board of Equalization Form BOE 501-CD entitled "Cigarette Distributor's Tax Report" or Board of Equalization Form BOE 501-CW entitled "Cigarette Wholesaler's Report," a statement-reconciliation of the cigarettes on hand-in inventory at the end of the month covered by the report. ,Distributors and importers must also showingreport the number of cigarettes on hand-contained in packages to which tax stamps or meter impressions are affixed and the number of cigarettes in packages not bearing tax stamps or meter impressions. The statement shall be furnished in one of the following manners:~~

~~(ba) If the distributor, importer, or wholesaler has a cycle count inventory system and perpetual inventory system in place, the monthly statement-reconciliation shall be based on the perpetual inventory report run on the last business day of the month for which the distributor's, importer's, or wholesaler's report is filed. However, at least once every calendar year, the monthly statement reconciliation shall be based on a physical inventory of cigarettes on hand on the last business day of the month for which the distributor's, importer's, or wholesaler's report is filed.~~

A "cycle count inventory system" is a system that provides evidence that all cigarettes are counted on a regular basis, with each item being counted at least once every three-month period.

A "perpetual inventory system" is a system in which inventory records are maintained and updated continuously as items are purchased or sold.

~~(b) If the distributor or wholesaler does not have a cycle count inventory system and perpetual inventory system in place, the monthly statement shall be based on the inventory on hand at the end of the month covered by the report. However, at least once every six months, the monthly statement shall be based on a physical inventory of cigarettes on hand performed within the last five days of the month for which the distributor's or wholesaler's report is filed.~~

(c) A distributor or importer engaged in the sale of cigarettes shall submit a cigarette disbursement schedule, which must contain the name and account number of the licensee filing the schedule, the month and year covered by the schedule, the schedule code for the activity being reported, and the following information regarding each cigarette disbursement:

- (1) The buyer's name and federal employer identification number (FEIN);
- (2) The address (street, city, state, zip code, and country) where the cigarettes were delivered;
- (3) The Tax Jurisdiction Code;
- (4) The name of the manufacturer of the cigarettes disbursed;

- (5) The Master Settlement Agreement status of the manufacturer of the cigarettes disbursed;
- (6) The brand or variant name of the cigarettes disbursed, and the corresponding Universal Product Code (UPC);
- (7) The unit of measure for the UPC, for example, case, carton, pack, or sticks, and the quantity of the cigarettes disbursed as identified by the unit of measure for the UPC;
- (8) The date and number of the bill of lading or other shipping documents;
- (9) The total number of cigarettes disbursed;
- (10) The total sales price of the cigarettes disbursed reported in U.S. dollars; and
- (11) For disbursements made using a delivery service:
 - A. The name of the delivery service;
 - B. The FEIN of the delivery service;
 - C. The complete address and telephone number of the delivery service; and
 - D. The sales price, reported in U.S. dollars, of the cigarettes that were delivered.

(d) A distributor, importer, or wholesaler engaged in the sale of cigarettes shall submit a cigarette receipt schedule, which must contain the name and account number of the licensee filing the schedule, the month and year covered by the schedule, the schedule code for the activity being reported, and the following information regarding each receipt of cigarettes:

- (1) The seller's name and FEIN;
- (2) The complete address, including country, from which the product originated;
- (3) The Tax Jurisdiction Code;
- (4) The name of the manufacturer of the cigarettes received;
- (5) The Master Settlement Agreement status of the manufacturer of the cigarettes received;
- (6) The brand or variant name of the cigarettes received, and the corresponding UPC;
- (7) The unit of measure for the UPC, for example, case, carton, pack or sticks, and the quantity of the cigarettes received as identified by the unit of measure for the UPC;
- (8) The date and number of the bill of lading or other shipping document; and
- (9) The total number of cigarettes received.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; and Section 30451, Revenue and Taxation Code. Reference: Sections 30182, 30188, 30453 and 30454, Revenue and Taxation Code.

4027. Cigarette Manufacturer's and Tobacco Products Manufacturer or Importer Monthly Report Return and Schedules.

(a) Each cigarette manufacturer and each ~~or~~ tobacco products manufacturer or importer shall file with the ~~board~~ Department by the 20th-25th day of each calendar month a certified ~~report~~ return and supporting schedules, for the preceding calendar month, with respect to:

- (1) All of its distributions of unstamped (untaxed) cigarettes and untaxed tobacco products as samples;
- (2) All of its nontaxable sales ~~all releases~~ and deliveries of cigarettes or tobacco products in interstate or foreign commerce or to a licensed distributor, common carrier engaged in interstate or foreign passenger service, U.S. military exchange or commissary, or the U.S. Veterans Administration; ~~this state and~~
- (3) All of its ~~all~~ shipments of cigarettes or tobacco products from a point outside this state to a point within this state made or authorized by the manufacturer during the preceding calendar month.

The releases, deliveries and shipments for each purchaser shall be grouped together in the report.

(b) A cigarette manufacturer's return shall contain the total number of cigarettes distributed subject to tax, including the giving away of unstamped cigarettes as samples. A cigarette manufacturer shall also file a cigarette disbursement schedule with its return that satisfies the requirements of Regulation 4022, subdivision (c), and contains all its nontaxable cigarette disbursements.

(c) A tobacco products manufacturer's or importer's return must contain the following information:

- (1) The wholesale cost of tobacco products given away as samples; and
- (2) The total wholesale cost of tobacco products included in all its nontaxable disbursements.

(d) A tobacco products manufacturer or importer shall also file a tobacco products disbursement schedule with its return, which must contain the manufacturer's or importer's name and account number, the month and year covered by the schedule, and the following information regarding each nontaxable tobacco products disbursement:

- (1) The date of the delivery or shipment of the nontaxable tobacco products;
- (2) The name of the purchaser;
- (3) The tobacco products distributor's California License Number required under section 22975 of the Business and Professions Code, or exemption code;
- (4) The invoice or document number for the delivery or shipment;
- (5) The type of tobacco product delivered or shipped;
- (6) The tobacco product brand name and, in the case of "roll your own" tobacco, the Universal Product Code (UPC);
- (7) The ounces of "Roll your own" tobacco delivered or shipped; and

(8) The wholesale cost of the nontaxable tobacco products.

~~The report shall be on Board of Equalization Form BOE-501-MC entitled "Manufacturer's Report of Cigarettes Released from Storage in California or Shipped into California" or Board of Equalization Form BOE-501-MT entitled "Manufacturer's Report of Tobacco Products Released from Storage in California or Shipped into California" and shall show the following information with respect to each release, delivery or shipment:~~

- ~~(1) the date of the release, delivery or shipment;~~
- ~~(2) the location from which the release, delivery or shipment was made;~~
- ~~(3) the name and address of the purchaser;~~
- ~~(4) the address of the place to which the cigarettes or tobacco products were shipped, released or consigned;~~
- ~~(5) the number of cigarettes or type, quantity and wholesale cost of tobacco products released, delivered or shipped;~~
- ~~(6) the invoice or document number and date thereof representing the release, delivery or shipment;~~
- ~~(7) if released to a licensed distributor, the license number of such distributor; and~~
- ~~(8) in the case of a cancellation of any release, delivery or shipment, information indicating the transaction was cancelled.~~

The above information need not be supplied with respect to ~~cigarettes or~~ tobacco products which are non-tax-paid under the provisions of Chapter 52 of the Internal Revenue Act of 1954, as amended, and are released, delivered or shipped in internal revenue bond or customs control.

~~(b)~~ (e) In lieu of the monthly ~~reports~~ certified return and supporting schedules required by subdivision paragraph (a) of this section, a manufacturer or importer may arrange with the ~~board~~ Department to supply the required information by supplying data processing media or other data in such manner and in such format as is satisfactory to the ~~board~~ Department.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; and Section 30451, Revenue and Taxation Code. Reference: Sections 30102, 30103, 30105, 30453 and 30454, Revenue and Taxation Code.

Regulation 4061. Unused Stamps and Unused Meter Settings.

(a) ~~The board~~Department will refund or credit to a distributor the denominated value, less the purchase discount, of any identifiable unused stamps which are returned to the ~~board~~Department.

~~The board will refund or credit to a distributor the denominated value, less the purchase discount, of any verifiable meter setting remaining on a meter when the meter is returned to the bank for cancellation of the meter setting. A claim for refund or credit must be made on Board of Equalization Form BOE-1024 entitled "Claim For Refund For California Cigarette Tax Stamps" and filed with the board. The distributor must file a claim for refund or credit with the Department. The claim must be signed by the claimant or the claimant's representative and include providing the following information:~~

- (1) The distributor's name, account number, address, and telephone number;
- (2) The date of the claim;
- (3) The specific grounds upon which the claim is based;
- (4) distributor's name, account number, address, telephone number, The date, district office, number, and type of unused cigarette tax stamps being claimed for refund;;
- (5) The amount of claim for each type of unused cigarette tax stamp being claimed for refund;;
- (6) The total amount of the claim less the discount of .0085, and reason for claim allowed under Revenue and Taxation Code section 30166; and
- (7) Documentation required to support the claim.

~~The form further requires acknowledgement by a board representative and his or her supervisor of receipt of the cigarette tax stamps being claimed for refund and certification by a board representative of the receipt and destruction of the cigarette tax stamps being claimed for refund~~The Department will verify the amount of unused stamps being claimed for refund and provide a certification to the distributor of the amount of unused stamps that have been verified by the Department. A claim shall only be granted with respect to the verified amount of unused stamps included in the claim.

(b) "Unused stamp" means a cigarette tax stamp on a tax stamp roll that has not been affixed to a package of cigarettes. ~~Or on a package of cigarettes which is not yet distributed and includes only those stamps on which 4 of the 5 characters of the stamp's serial number can be identified. If fewer than 4 characters in the stamp's serial number can be identified, the distributor shall provide evidence concerning the remainder of the tax stamp to show that the remainder of the stamp is not affixed to a package of cigarettes that has been distributed. Such proof may include, but is not limited to, the paper from the stamp roll or package of cigarettes to which the remainder of the stamp is affixed. If the stamp is of a design generated by a technology capable of being read by a scanning or similar device, a majority of the stamp must be present and should be able to be read by a scanning or similar device in accordance with Section Revenue and~~

~~Taxation Code section 30162. Alternatively, as evidence of unused stamps, a distributor may return damaged stamps in such a form that a board representative is otherwise able to verify authenticity and that the stamps have not been used.~~

~~(e) If the refund or credit is for tax stamps that are affixed to packages of cigarettes, an authorized board employee, upon verification that the refund or credit is due, shall ensure that the distributor obliterated the stamp with the use of a permanent marker.~~

~~(e) If the refund or credit is for tax stamps remaining on a roll, u~~Upon verification that the refund or credit is due, the tax stamp roll containing the unused stamps shall be returned to the ~~board~~ Department for destruction.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; and Section 30451, Revenue and Taxation Code. Reference: Sections 30162 and 30176, Revenue and Taxation Code.

Regulation 4065. Unsalable Cigarettes.

(a) The ~~board~~ Department will refund or credit to a distributor the denominated value, less the purchase discount, of identifiable cigarette tax stamps or meter impressions affixed to packages of cigarettes which have become unfit for use or unsalable before distribution, or after distribution if the cigarettes have been returned for credit or have been replaced and proof is submitted to the ~~board~~ Department showing that the cigarettes have not been used for smoking in California. The distributor must file a claim for refund or credit with the Department. If the distributor is claiming refunds or credits for cigarette tax stamps affixed to packages of cigarettes from different manufacturers, the distributor must file separate claims by manufacturer. A claim must be signed by the claimant or the claimant's representative and contain the following information:

- (1) The date of the claim;
- (2) The specific grounds upon which the claim is based;
- (3) Documentation to support the claim;
- (4) The distributor's name, account number, address, and telephone number;
- (5) The number and type of cigarette tax stamps being claimed for refund;
- (6) The name of the manufacturer of the packages of cigarettes to which the cigarette tax stamps are affixed; and
- (7) The total amount of the claim, less the discount allowed under Revenue and Taxation Code section 30166.

~~made on a form prescribed by the board and shall be accompanied by a properly executed receipt and a copy of the credit memorandum of the manufacturer for returned stock, or by proof of destruction of the cigarettes with the tax stamps or meter impressions thereon in the presence of an employee of the board authorized to witness the destruction.~~

(b) An authorized Department employee, upon verification of the affixed cigarette tax stamps, shall ensure that the distributor has used a permanent marker or another method authorized by the Department to darken each affixed cigarette tax stamp so that it is no longer recognizable. Once this has been verified, the Department employee will provide a certification to the distributor with the number of affixed cigarette tax stamps that have been verified by the Department. A claim shall only be granted with respect to the verified amount of affixed cigarette tax stamps included in the claim.

(c) Before a claim is granted, the distributor shall provide a copy of the credit memorandum or affidavit from the manufacturer certifying that the distributor returned the packages of unfit or unsalable cigarettes and indicating the number of cigarette tax stamps that were affixed to the packages of cigarettes.

(d) If the packages of unfit or unsalable cigarettes affixed with cigarette tax stamps were not returned to the manufacturer, the distributor shall provide proof that the cigarettes in the packages with the tax stamps affixed were destroyed in the presence of a Department employee authorized to witness their destruction.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; and Section 30451, Revenue and Taxation Code. Reference: Section 30177, Revenue and Taxation Code.

Regulation 4066. Stolen Indicia.

Refund or credit will not be given for unaffixed stamps, meter settings or meter impressions ~~which are lost through theft or mysterious disappearance of any unaffixed stamps, any meter, or any packages of cigarettes to which stamps or meter impressions have been affixed, which are lost through theft or unexplained disappearance.~~ If identifiable stamps, ~~meter settings or meter impressions~~ meter settings or meter impressions which have been lost through theft or ~~mysterious~~ unexplained disappearance, are later recovered, credit or refund may be given under Regulations 4061 or 4065.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; and Section 30451, Revenue and Taxation Code. Reference: Sections 30176 and 30177, Revenue and Taxation Code.

Regulation 4091. Payment by Consumer.

(a) Each consumer or user of cigarettes or tobacco products subject to the cigarette and tobacco products taxes is liable for the taxes, resulting from the consumer having:

- (1) Purchased cigarettes or tobacco products in any quantity, when such cigarettes or tobacco products are shipped to the consumer from out of state;
- (2) Personally transported or brought into the state untaxed tobacco products in any quantity or untaxed cigarettes in quantities of more than 400 cigarettes in a single lot for his or her own use or consumption; or
- (3) Obtained more than 400 untaxed cigarettes at one time from a federal instrumentality listed in Revenue and Taxation Code section 30102.

(b) A consumer must pay the cigarette and tobacco products taxes either to the licensed or registered distributor under the Cigarette and Tobacco Products Tax Law from whom the cigarettes or tobacco products were purchased, or directly to the Board-Department if the person from whom the cigarettes or tobacco products were purchased is not a licensed or registered distributor. A person who pays the taxes directly to the Board-Department must file a certified Board of Equalization Form BOE-501-CI entitled "Cigarette and Tobacco Products Excise Tax Return," return with the Department that contains the following information regarding each purchase:

- (1) and report ~~the~~ The brand name of each product purchased;
- (2) The type of each product purchased (i.e., cigarettes, cigars, pipe tobacco, e-cigarettes or e-liquid containing nicotine);
- (3) Seller's name, and seller's internet-email address or phone number;
- (4) Invoice date for the purchase;
- (5) date received, and Total number of cartons or type and cost of tobacco products received cigarette sticks purchased and;
- (6) Cost of tobacco products purchased.

(c) ~~A~~ Consumers or users will be liable for payment of the cigarette and tobacco products taxes ~~tax~~ to the Board-Department, unless a receipts ~~is~~ as provided by Regulation 4092 are obtained for payment of the taxes to the licensed or registered distributor from whom the cigarettes or tobacco products were purchased that satisfies the requirements of Regulation 4092.

Note: Authority cited: Sections 15570.22 and 15570.24, Government Code; and Section 30451, Revenue and Taxation Code. Reference: Sections 30005, 30005.5, 30106, 30107, and 30108 and 30187, Revenue and Taxation Code.