

Internet Enforcement

K.S.A. 79-3333 requires each person engaged in the business of selling cigarettes to persons who reside in Kansas to obtain a license as provided by the Kansas cigarette and tobacco products act. It requires all retail cigarette dealers, whether located in or outside the state of Kansas, to have a certificate of registration.

The department started its efforts to collect the cigarette and consumers use tax on cigarettes purchased via the internet, telephone and mail orders in July of 2006 by a press release advising of the tax requirements and to complete the Voluntary Remittance of Cigarette Tax form and submit it to the department. In March 2007, KDOR mailed 766 bills to Kansans who purchased cigarettes in 2006 over the internet, by telephone or mail order. KDOR will continue to bill Kansas consumers quarterly. These internet sales have a major impact on our Kansas retailers who lose sales to the internet retailers and costs the state thousands of dollars in lost tax revenue.

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CIGARETTE AND TOBACCO PRODUCTS

Tax Information and Common Terminology



WHOLESALER/DISTRIBUTOR TAX INFORMATION

Cigarette Tax Paid by Cigarette Wholesaler

Pursuant to K.S.A. 79-3310, cigarette tax is:

(a) a tax imposed upon all cigarettes sold, distributed or given away within the state of Kansas. The tax is paid by the wholesale dealer first receiving the cigarettes. The wholesale dealer purchases stamps and pays the tax at that time.

The tax rate paid by the distributor is:

- \$0.79 on each package of 20 cigarettes; or,
- \$0.99 on each package of 25 cigarettes.

Tobacco Tax Paid by Tobacco Distributor

Pursuant to K.S.A 79-3371, tobacco tax is imposed upon the privilege of selling or dealing in tobacco products in this state by any person engaged in business as a distributor.

The tax rate for tobacco tax is calculated **at the rate of ten percent (10%) of the wholesale sales price of such tobacco products.**

The tobacco tax is imposed at the time the tobacco distributor:
(a) brings or causes to be brought into this state from without the state tobacco products for sale;

(b) makes, manufactures or fabricates tobacco products in this state for sale in this state; or,
(c) ships or transports tobacco products to retailers in this state to be sold by those retailers.

RETAILER TAX INFORMATION

Retail Cigarette Dealers

For the privilege of selling tangible personal property at retail in this state, retailers shall collect and remit the state tax and any applicable local tax. The state tax rate is 5.3%.

Vending Machine Information

For the privilege of selling tangible personal property at retail in this state, vending machine operators shall collect and remit the state tax and any applicable local tax. The state tax rate is 5.3%.

ADDITIONAL INFORMATION

Please visit our website for additional information and to obtain the following:

- Cigarette License Application and Registration Forms
- Cigarette Monthly Reporting Forms
- Tobacco License Application and Registration Forms
- Tobacco Monthly Reporting Forms

<http://www.ksrevenue.org/abc.htm>

COMMON TERMINOLOGY

Cigarette Wholesaler or Tobacco Distributors

Pursuant to K.S.A. 79-3301(h), a Tobacco Distributor is any person who:

1. Is engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale;
2. Makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or,
3. Is engaged in the business of selling tobacco products without this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.

Pursuant to K.S.A. 79-3301(z), a Cigarette Wholesaler is:

Any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

Stamps

Tax indicia applied to packs of cigarettes by means of a heat process.

Tax Indicia

Visible evidence of tax payment in the form of stamps applied to packs of cigarettes.

Synar

This is the law known as the Synar Amendment that was named after Mike Synar who was once a Congressman from Oklahoma. Its implementing regulations require states and U.S. territories to enact and enforce youth tobacco access laws; conduct annual random, unannounced inspections of tobacco outlets; achieve negotiated annual retailer violation targets; and, attain a final goal of 20 percent (20%) or below for retailer non-compliance.

Synar Inspections

Synar Inspections are the random controlled buys performed by the ABC Enforcement Agents and Underage Cooperating Individuals (UCIs) based upon the random selections received from Greenbush.

The Synar inspections are used to measure the State's compliance rate.

It is important for the cigarette and tobacco licensees not to sell cigarette and tobacco products to minors. When these illegal sales are made, it decreases our compliance rates and it may reduce the amount of funding received by the State SRS for substance abuse and prevention programs.

Underage Cooperating Individual (UCI)

UCIs are minors that are utilized in the execution of enforcement visits.

Master Settlement Agreement (MSA)

This settlement agreement was entered into with the leading United States tobacco product manufacturers in 1998. The master settlement agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the state (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

It is important for cigarette and tobacco retailers to ensure that they have only received cigarettes from their distributor that have a Kansas cigarette tax stamp affixed to the package *and* that the brands families received from distributors are listed on the Kansas Attorney General's website at <http://www.ksag.org> under M.S.A. Participating Manufacturers or Non-Participating manufacturers. **Any cigarettes or roll-your-own tobacco that are stamped or unstamped that are not on these two lists are deemed to be contraband and will be seized and forfeited.** Roll your own tobacco does not have a tax stamp but it must be listed on the Attorney General's website if it is to be sold in Kansas. Wholesalers and Distributors can have these products as long as they are **not** stamped for Kansas. You may view the lists at <http://www.ksag.org>

Participating Manufacturer

A participating manufacturer is:

1. Any entity that manufactures cigarettes, including roll-your-own, anywhere that such manufacturer intends to be sold in the United States including cigarettes that are intended to be sold in the United States through an importer;
2. The first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or,
3. A successor of any entity described above.

Original Participating Manufacturer (OPM)

OPMs are the four manufacturers that first signed the MSA. They are RJ Reynolds, Philip Morris, Lorillard and Brown & Williamson. Lorillard & Brown & Williamson have since merged.

Subsequent Participating Manufacturer (SPM)

SPMs are all participating manufacturers excluding the four (4) original manufacturers (OPMs).

Non-Participating Manufacturer (NPM)

A Non-Participating Manufacturer is a manufacturer who has not signed onto the MSA.

Safe Harbor List

The list maintained by the Kansas Attorney General's office of Non-Participating Manufacturer brands which are approved to sell in Kansas.

Participating Manufacturer List

The list maintained by the National Association of Attorneys General of Participating Manufacturer brands which are approved to sell in all states.

Qualified Escrow Fund

An escrow arrangement between a non-participating manufacturer and a U.S. Federal or U.S. State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000.00.

Certificate of Compliance

Annual reporting to the Kansas Attorney General which any tobacco product manufacturer that (1) sells cigarettes within the state of Kansas (whether directly or through any distributor, retailer, or similar intermediary) and (2) has not become a participating manufacturer in the MSA must submit by April 30th of the year following the sales year.

Patriot Act Amendment of the CCTA (Contraband Cigarette Trafficking Act)

The extension of the Patriot Act signed into law on March 9, 2006 contained a section amending the federal Contraband Cigarette Trafficking Act, 18 U.S.C.A. §2341, et seq., under which it is a crime to ship, sell or receive "contraband cigarettes" defined in the Act essentially as a quantity of cigarettes in excess of 60,000 for which state cigarette tax had not been paid. The amendment made several changes to the CCTA including reducing the threshold from 60,000 to 10,000.

Jenkins Act

This Act requires cigarette retailers shipping cigarettes to file with the appropriate state tobacco tax administrator a monthly report of cigarettes delivered within a state. Kansas requires all retailers who are shipping cigarettes to report their Kansas sales on a monthly basis and submit a memorandum or copy of the invoice covering each and every shipment of cigarettes made during the previous calendar month into Kansas. The reports are due by the 10th of the following month. The memorandum or invoice shall include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof. Electronic copies are desired.