

# KANSAS ADMINISTRATIVE REGULATIONS

## Agency 92: KANSAS DEPARTMENT OF REVENUE

### Article 17.--TOBACCO TAX

**92-17-1. Terms; distributor, retailer.** (a)(1) Each person 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 shall be deemed a distributor unless that person is a retailer who has purchased tobacco products on a tax-paid basis from a licensed distributor.

(2) Each person who has one or more retail outlets and who brings or causes to be brought into this state from without the state tobacco products for sale by one of the retail outlets shall be deemed a distributor; however, the retail outlet from which the tobacco products are sold to the ultimate consumer shall be a retailer.

(b) Each person within the state, including a retailer, who purchases tobacco products upon which the tax has been unpaid from sources out of the state and brings those products into the state for resale shall be required to purchase a distributor's license and shall be responsible for the tax due on the products.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3373; effective, E-74-37, July 2, 1974; effective May 1, 1975; amended March 22, 2002)

**92-17-2. Imposition of tax.** (a) The tax imposed by the cigarette and tobacco products law shall be paid by the distributor who first performs any of the following:

(1) Brings or causes to be brought into this state from outside the state tobacco products for sale;

(2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

(3) ships or transports tobacco products to retailers in this state to be sold by those retailers.

(b) Liability for the tax shall accrue at the time tobacco products are first brought into the state from outside the state for sale within the state. Each person causing tobacco products to be brought into this state upon which the tax has been unpaid shall be responsible for the payment of the tax on those products.

(c) A transfer from one distributor to another shall not relieve the distributor who first brought or caused the tobacco products to be brought into this state from the tax liability. Therefore, a tax credit shall not be taken on tobacco tax returns for any transfers made within this state.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3371; effective, E-74-37, July 2, 1974; effective May 1, 1975; amended March 22, 2002)

**92-17-3. Applications; forms.** Each person required by the cigarette and tobacco products act to be licensed as a distributor shall make application for a license on a form furnished by the director.

All questions on the application shall be answered completely. Answers shall be printed legibly in ink or typed. The application shall be signed and acknowledged by the applicant or an officer of the applicant.

Each license shall be granted with the understanding that the license is a grant from the state to one particular individual, partnership, or corporation and is not transferable from one owner to another. If any member of a partnership dies, sells, or transfers the member's interest in the partnership, the license shall become null and void.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3373, 79-3375; effective, E-74-37, July 2, 1974; effective May 1, 1975; amended March 22, 2002)

**92-17-4. Distributor's bond.** Each application for a "tobacco products" distributor's license shall be accompanied by a corporate surety bond submitted on forms prescribed by the director and issued by a surety licensed to do business in the state of Kansas. The bond shall list each place of business at which the distributor proposes to engage in business under the cigarette and tobacco products act. The minimum amount of the required bond shall be \$1,000.00 for each place of business and shall be conditioned upon compliance with the provisions of K.S.A. 79-3301 *et seq.* and amendments thereto, and the payment of all taxes, penalties, and accrued interest due the state of Kansas. The bond shall be kept in effect during the entire period of the license. Whenever it is the opinion of the director that the bond is inadequate in amount to fully protect the state, an additional bond shall be required by the director in an amount that the director deems sufficient.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3374; effective, E-74-37, July 2, 1974; effective May 1, 1975; amended March 22, 2002)

**92-17-5. Bond; cancellations.** The surety on a bond furnished by a tobacco products distributor as required by the cigarette and tobacco products act shall be released and discharged from any liability to the state accruing on that bond after the expiration of 60 days from the date upon which the surety has submitted to the director a written request to be

released and discharged, but this requirement shall not operate to relieve, release, or discharge the surety from any liability that has already accrued or that will accrue before the expiration of the 60-day period.

The tobacco products distributor who furnished the bond shall be promptly notified by the director upon receipt of the request. If the distributor, on or before the expiration of the 60-day period, fails to file with the director a new bond fully complying with the provisions of the tobacco products law, the license or licenses of the distributor shall be revoked and canceled by the director.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3374, 79-3375; effective, E-74-37, July 2, 1974; effective May 1, 1975; amended March 22, 2002)

**92-17-6. Refund or credit of tax-exempt tobacco products.** A Kansas tobacco products distributor may present a claim for refund of or claim for credit for the tobacco products tax paid on tobacco products sold to the United States government or an instrumentality of it that is exempt from the Kansas tobacco products tax on a form approved by the director.

Each Kansas tobacco products distributor shall present evidence acceptable to the director certifying that the sale of tobacco products for which a claim for refund or claim for credit is filed was made by the Kansas distributor to the United States government or an instrumentality of it that is exempt from the Kansas tobacco products tax.

Each distributor selling tobacco products to the United States government or an instrumentality of it that is exempt from the Kansas tobacco products tax shall submit a report to the division of taxation for refund or credit of tobacco products sold in the preceding calendar month. The report shall provide the sales slips in serial number order signed by the receiving officer. The sales slips shall designate the club, armed forces exchange, or other instrumentality of the United States government buying exempt tobacco products.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3379; effective, E-74-37, July 2, 1974; effective May 1, 1975; amended March 22, 2002)