

Miscellaneous Tax
Division of Taxation
915 SW Harrison St
Topeka KS 66612-1588
Samuel M Williams, Secretary of Revenue
Steve Stotts, Director of Taxation



Phone: 785-368-8222
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www.ksrevenue.org

Sam Brownback, Governor

NOTICE 16-06

CONSUMABLE MATERIAL TAX

The 2015 Legislature passed House Bill 2109 which amended K.S.A. 79-3399 by imposing a tax “upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of \$.20 per milliliter of consumable material for electronic cigarettes and a proportionate tax at the like rate on all fractional parts thereof.” The effective date of this consumable material tax was to be July 1, 2016.

The 2016 Legislature passed Senate Bill 149 which amended the effective date of the consumable material tax to January 1, 2017.

REGISTRATION REQUIREMENTS:

Each distributor of consumable material must apply for a certificate of registration from the Kansas Department of Revenue. To register, complete form EC-1, Application for Consumable Material Tax Registration (enclosed with this notice.) The EC-1 can be found on our web site: www.ksrevenue.org. Submit the registration application to Division of Taxation, Miscellaneous Tax, 915 SW Harrison St., Topeka, KS 66612-1588. If you prefer, you may fax the completed application to 785-296-4993 or email to: KDOR_Miscellaneous.Tax@ks.gov. NOTE: There is no fee charged to register.

CONSUMABLE MATERIAL DEFINITIONS:

“Consumable Material” is defined as any liquid nicotine or other solution containing nicotine. For purposes of this definition, consumable material is the final product sold to consumers that is depleted as an electronic cigarette is used.

“Consumer” is defined as person purchasing or receiving consumable material for final use.

“Distributor” is defined as (1) any person engaged in the business of selling consumable material in Kansas who brings, or causes to be brought, into Kansas consumable material for sale, unless that person is a retail dealer who has purchased the consumable material on a tax-paid basis from a distributor; (2) any person who makes, manufactures, or fabricates consumable material for sale in Kansas; (3) any person engaged in the business of selling consumable material outside of Kansas who ships or transports consumable material to any person in the business of selling electronic cigarettes or consumable material in Kansas; or (4) any person who has one or more retail dealer establishments that (a) bring or cause to be brought into Kansas consumable material for sale by any of those retail dealer establishments, or (b) make, manufacture, or fabricate consumable material in Kansas for sale in Kansas; however, each person who has a retail dealer establishment from which the consumable material is sold to the consumer shall be deemed a retail dealer.

“Retail Dealer” is defined as a person engaged in the business of selling consumable material to the consumer in Kansas.

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REPORTING REQUIREMENTS:

A monthly consumable material tax report (form EC-2) and accompanying schedules (forms EC-3, EC-4 and EC-5) must be filed and the consumable material tax paid by the 20th of the month following the report month by any person deemed to be a distributor, by definition, of consumable material.

Schedule A (form EC-3) – List all consumable material purchased within Kansas, including consumable material purchased on which the tax has already been paid.

Schedule B (form EC-4) – List all consumable material manufactured within Kansas and sold, including consumable material sold to out-of-state customers.

- NOTE: For consumable material manufactured and sold to the consumer (end-user), only complete the number milliliters sold on Schedule B.

Schedule C (form EC-5) – List all consumable material (1) purchased, on which the consumable material tax has already been paid, and (2) sold to out-of-state customers. A separate Schedule C must be completed for each option.

Please complete additional pages of each schedule, if necessary. The totals from the three schedules are to be entered on the appropriate lines of form EC-2, Consumable Material Tax Report. Copies of the report and schedules are enclosed with this notice. These forms can be found on our web site.

Electronic filing of the reports will be available in the future.

The consumable material tax is effective January 1, 2017. The first consumable material tax report for the January 2017 period will be due February 20, 2017.

TAXATION ON CONSUMABLE MATERIAL:

The consumable material tax is imposed on the consumable material contained in a pre-packaged electronic cigarette or the consumable material sold separately.

At the distributor level, the tax on consumable material is \$0.20 per milliliter. A retail dealer who manufactures consumable material or who purchases consumable material from a distributor who has not paid the consumable material tax is deemed to be a distributor.

The retail sale of consumable material to the consumer (end user), whether wholly or in conjunction with the sale of an electronic device containing consumable material, is subject to the Kansas retailer's sales tax and any associated local sales taxes.

Frequently asked questions (FAQs) are enclosed and will be available on our web site (www.ksrevenue.org).

If you have questions, please contact the Division of Taxation, Miscellaneous Tax, at 785-368-8222, option 5, then option 4, from 8:00 a.m. to 4:45 p.m., Monday through Friday; or, email to: KDOR_Miscellaneous.Tax@ks.gov.