

Wyoming Administrative Rules

Revenue Dept.

Excise Tax

Chapter 4: Cigarette, Moist Snuff and Other Tobacco Taxes

Effective Date: 07/24/2014 to Current

Rule Type: Current Rules & Regulations

Reference Number: 011.0004.4.07242014

CHAPTER 4

CIGARETTE, MOIST SNUFF AND OTHER TOBACCO TAXES

Section 1. **Authority.** This chapter is adopted pursuant to W.S. 39-11-102.

Section 2. **Definitions.**

(a) “Cigarette” means:

(i) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(ii) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by, consumers as a cigarette.

(b) “Cigar” means cured tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than a cigarette).

(c) “Indian Reservation” means all lands, notwithstanding the issuance of any patent within the exterior boundaries of the Wind River Reservation, meeting at least one of the following criteria:

(i) The land is owned by the United States in trust for the Shoshone or Arapaho Tribes;

(ii) The land is owned by one or both of the Shoshone and Arapaho Tribes; or

(iii) The land is owned in full by enrolled members of the Shoshone or Arapaho Tribes, excluding lands within the Riverton Reclamation withdrawal and the City of Riverton.

(d) “Indian Tribe” means the Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation.

(e) “Master Settlement Agreement (MSA)” is an agreement, originally between the four largest US tobacco companies and the Attorneys General of 46 states, that provides for restrictions on practices by the companies and payments by them to the states to compensate for the cost of providing health care for persons with smoking-related illnesses. In exchange, the states settled existing litigation on these matters, and the companies are protected from most forms of future litigation regarding harm caused by tobacco use.

(f) “Native American” means any enrolled member of the Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation.

(g) “Other tobacco products” means any tobacco product intended for human ingestion, consumption, or inhalation, other than cigarettes, cigars, and moist snuff. Other tobacco products includes, but is not limited to: dry snuff, pipe tobacco, loose tobacco, plug tobacco, or twist tobacco; tobacco pressed into tablets, strips, or sticks; and any other product manufactured from tobacco.

(h) “Tribal Vendor” means an Indian Tribe or Native American engaged in selling cigarettes.

Section 3. **Administrative Functions.**

(a) Payment of Stamp Orders. Payment in certified funds shall be received by the Department before any stamp order will be filled. Stamps shall only be mailed if the wholesalers are current with their Wyoming monthly tax returns.

(b) Cigarette tax stamps shall be disbursed in multiples of one roll (30,000 stamps).

(c) Affixing Stamps.

(i) Authorized cigarette stamps of the proper denomination shall be affixed to each individual package of cigarettes by the wholesaler in a manner to ensure the stamp is adhered to the package securely. The cigarette stamp shall be complete and readable.

(ii) Cigarette stamps of the proper denomination shall be affixed only to the bottom end of each package of twenty (20) cigarettes.

(iii) Cigarettes sold in packages containing more than twenty (20) cigarettes shall be stamped with a cigarette stamp and the additional tax due on these packages reported and paid with the wholesalers’ next cigarette tax return.

Section 4. **Licensing.**

(a) The Wyoming cigarette wholesaler’s/other tobacco wholesaler license shall be renewed each year on or before June 30th.

(b) The Wyoming cigarette wholesaler’s/other tobacco wholesaler license is transferable between locations by the licensee provided that written consent of the Department is obtained prior to any transfer. A change in ownership shall require the issuance of a new license.

Section 5. Refunds/Credits.

The Department shall refund, credit, or deny all refund claims within ninety (90) days of the date all required supporting documentation is received.

Section 6. Taxable Sales of Cigarettes on Indian Reservations.

(a) Sales of cigarettes made on the Wind River Indian Reservation to non-Indians are subject to the cigarette tax. All Indian, Tribal Vendors or non-Indian wholesalers shall keep complete and accurate records in this state of all cigarettes purchased and sold for three years. Such records shall consist of purchase invoices, freight bills, and sales invoices.

(b) The Native American or Tribal Vendor may purchase cigarettes without the Wyoming Tax stamp and remit the taxes due on sales to non-Indian customers in the following manner:

(i) The Department may enter into an agreement annually with the Tribal Vendor which allows the tax to be paid on a percentage basis.

(A) The Native American vendor shall provide the Department with information which justifies a proposed percentage and upon acceptance by the Department said percentage shall represent a rebuttable presumption as to the volume of sales to non-Indians and nonexempt Native American.

(ii) The Native American or Tribal Vendor shall report total sales of cigarettes for each month less the exempt sales as defined by these rules, which will equal total cigarettes subject to the tax.

(iii) The tax shall be remitted to the Department pursuant to the terms and conditions of the agreement.

(c) Sales of cigarettes to Native American outside of the Wind River Indian Reservation are subject to the tax and cigarette stamp indicating payment of tax shall be affixed to each package sold.

(d) Sales of cigarettes made on the Wind River Indian Reservation to Native American customers are exempt from Wyoming cigarette tax.

Section 7. Jenkins Act/use tax assessments.

(a) Federal law requires cigarette vendors who sell and ship cigarettes into another state to anyone other than a licensed wholesaler to report to each state where shipments are made (1) the name and address of the purchaser, (2) the brands of ciga-

rettes shipped and, (3) the quantities of cigarettes shipped. (Jenkins Act 15 U.S.C. 357-378). The Department shall assess tax due on these purchases based on the information received.

(i) Cigarette Tax and Use Tax: Transactions subject to use tax: The purchase of cigarettes from outside the state for use, storage or consumption within the state shall be subject to use tax under W.S. 39-16-103(a)(i) and cigarette tax under W.S. 39-18-103(a)(ii).

(ii) Use tax is calculated based on the purchase price multiplied by the current tax rate in effect in the county where the taxpayer takes receipt of the product for storage and consumption.

(iii) Cigarette tax is calculated based on the number of packages (20 sticks per package) multiplied by the current cigarette tax rate as stated in W.S. 39-18-104.

Section 8. Hearing Procedures.

(a) Upon an appropriate showing of a violation(s) of W.S. 39-18-101 through -111 or the Department's rules, the Department may commence proceedings to revoke the license of the wholesaler.

(b) The proceedings to revoke the license of the wholesaler shall be subject to the Department's rules, chapter 2, section 14.