

CHAPTER 5 **CIGARETTE TAX ACT RULES**

Authority

N.J.S.A. 54:40A-20.

Source and Effective Date

R.2004 d.146, effective March 16, 2004.
See: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 5, Cigarette Tax Act Rules, expires on September 12, 2009. See: 41 N.J.R. 1164(a).

Chapter Historical Note

Chapter 5, Cigarette Tax Act, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 5, Cigarette Tax Act, was readopted as R.1984 d.94, effective March 19, 1984. See: 16 N.J.R. 228(a), 16 N.J.R. 925(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Cigarette Tax Act, was readopted as R.1989 d.197, effective March 14, 1989. See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).

Pursuant to Executive Order No. 66(1978), Chapter 5, Cigarette Tax Act, was readopted as R.1994 d.184, effective March 14, 1994. See: 26 N.J.R. 759(a), 26 N.J.R. 1695(b).

Pursuant to Executive Order No. 66(1978), Chapter 5, Cigarette Tax Act, was readopted as R.1999 d.11, effective December 9, 1998. See: 30 N.J.R. 3609(a), 31 N.J.R. 55(b).

Chapter 5, Cigarette Tax Act Rules, was readopted as R.2004 d.146, effective March 16, 2004. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEFINITIONS

18:5-1.1 Words and phrases defined

The following words and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Carton” means the receptacle in which 10 packages of cigarettes are normally contained.

“Cigarette” means any roll for smoking made wholly or in part of tobacco, or of any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

“Consumer” means any person except a distributor or a manufacturer who acquires for consumption, storage or use in the State of New Jersey, cigarettes to which New Jersey revenue tax stamps have not been attached.

“Director” means the Director of the Division of Taxation. Wherever in these Rules and Regulations the word “Director” is used, it shall mean and include any employee or employees of the Division of Taxation, deputized or authorized, either generally or specifically, to act on behalf of the Director.

“Distributor”:

1. “Resident distributor” means and includes any person resident or located within the State of New Jersey, who brings or causes to be brought into the State of New Jersey, unstamped cigarettes purchased directly from the manufacturers thereof and stores, sells or otherwise disposes of the same, after they reach the State of New Jersey.

2. “Nonresident distributor” means and includes any person resident or located outside the State of New Jersey who purchases cigarettes directly from the manufacturer thereof and is engaged in the business of selling and shipping cigarettes into the State of New Jersey.

“Licensed consumer” means any consumer, as defined herein, licensed pursuant to the provisions of the Act.

“Licensed distributor” means any distributor, as defined herein, licensed pursuant to the provisions of the Act.

“Licensed manufacturer” means any manufacturer, as defined herein, licensed pursuant to the provisions of the Act.

“Licensed manufacturer’s representative” means any manufacturer’s representative, as defined herein, licensed pursuant to the provisions of the Act.

“Licensed retail dealer” means any retail dealer, as defined herein, licensed pursuant to the provisions of the Act.

“Licensed wholesale dealer” means any wholesale dealer, as defined herein, licensed pursuant to the provisions of the Act.

"Manufacturer" means and includes any person wherever resident or located, who manufactures or produces, or causes to be manufactured or produced cigarettes, and sells, uses, stores or distributes the same regardless of whether they are intended for sale, use or distribution within or without the State of New Jersey.

"Manufacturer's representative" means and includes any person, employed by a manufacturer, who, for promotional purposes, sells, stores, handles or distributes cigarettes, within the State of New Jersey, limited exclusively to cigarettes manufactured by the employing manufacturer.

"Package" means the smallest individual receptacle immediately surrounding the cigarettes in or from which cigarette sales are normally made or intended to be made at retail and not the carton, box, case or other covering in which such packages are contained, placed or transported.

"Person" means any individual, firm, corporation, copartnership, joint venture, association, receiver, trustee, guardian, executor, administrator, or any other person acting in a fiduciary capacity, or any estate, trust or group or combination acting as a unit, the State Government of New Jersey and any political subdivision thereof, and the plural as well as the singular, and the feminine and neuter as well as the masculine, unless the intention to give a more limited meaning is disclosed by the context.

"Place of business" means any place where cigarettes are sold or where cigarettes are brought or kept for the purpose of sale or consumption, including so far as applicable any vessel, vehicle, airplane, train, or cigarette vending machine.

"Regulation" means those made and promulgated by the Director in the administration of the Act.

"Retail dealer" means any person who is engaged in the State of New Jersey in the business of selling cigarettes at retail. Any person placing a cigarette vending machine at, on or in, any premises is deemed to be a retail dealer for each vending machine.

"Sale" means any sale, transfer, exchange, theft, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever.

"Stamp" means any impression, device, stamp, label or print manufactured, printed or made as prescribed by the Director and includes both decalcomania tax stamps and meter impression tax stamps.

"Taxpayer" means any person required to report or to pay any taxes, interest, or penalties or license fee, imposed pursuant to the provisions of the Act, as amended and supplemented.

"Treasurer" means the State Treasurer, State of New Jersey.

"Use" means the exercise of any right or power incidental to the ownership of cigarettes.

"Vending machine" means any coin-in-the-slot operated mechanical device or contrivance used for the automatic sale, dispensation or merchandising of cigarettes in their original package.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Statutory References

As to definitions, see N.J.S.A. 54:40A-2.

Case Notes

Statutory provision for tax on sales of alcoholic beverages and including within the sales definition the theft of such beverages held not to deny due process or equal protection; cigarette tax rules cited for common scheme support. *Hoffman Import & Distributing Co. v. Director, Division of Taxation*, 146 N.J.Super. 132, 369 A.2d 29 (App. Div.1977), certification denied 75 N.J. 8, 370 A.2d 239 (1977).

SUBCHAPTER 2. IMPOSITION OF TAX

18:5-2.1 Cigarettes subject to tax; taxable status

(a) The Act imposes a tax on the sale, possession for sale, use, or consumption or storage for use of all cigarettes within the State of New Jersey.

(b) All cigarettes acquiring a taxable status in New Jersey immediately become subject to the tax. All cigarettes, not expressly exempted, are deemed to have (or to have acquired) a taxable status pursuant to the provisions of the Act, and the tax is required to be paid thereunder if they fall within any of the following categories:

1. Sold in New Jersey;
2. Possessed for sale in New Jersey;
3. Stored for sale in New Jersey;
4. Used in New Jersey;
5. Stored for use in New Jersey;
6. Consumed in New Jersey;
7. Lost, stolen or unaccounted for, in transit, storage or otherwise, in New Jersey except transit in interstate commerce.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Statutory References

As to taxes imposed, see N.J.S.A. 54:40A-8.

Case Notes

Statutory provision for tax on sales of alcoholic beverages and including within the sales definition the theft of such beverages held not to deny due process or equal protection; cigarette tax rules cited for common scheme support. *Hoffman Import & Distributing Co. v. Director, Division of Taxation*, 146 N.J.Super. 132, 369 A.2d 29 (App. Div.1977), certification denied 75 N.J. 8, 379 A.2d 239 (1977).

Rules consistent with statutory scheme regarding tax stamp requirements and refund allowances. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-2.2 Method of paying tax

(a) The tax is paid by the purchase of revenue tax stamps from the Director of the Division of Taxation. Stamps of the appropriate denomination are required to be affixed to each individual package of cigarettes by licensed distributors.

(b) The Director may, in his discretion, if more practical, collect the taxes due pursuant to the provisions of the Act otherwise than by means of tax stamps (or meter impressions), provided any other method used will adequately protect the revenue due the State of New Jersey.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Statutory References

As to the method of paying taxes with stamps, see N.J.S.A. 54:40A-11.

18:5-2.3 Computation of tax

The provisions of the Act impose a tax computed at the rate of \$0.12 for each cigarette.

Amended by R.1973 d.54, effective February 21, 1973.
See: 5 N.J.R. 21(a), 5 N.J.R. 96(a).

Amended by R.1993 d.167, effective April 19, 1993.
See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Revised (a); deleted (b).
Amended by R.1999 d.11, effective January 4, 1999.
See: 30 N.J.R. 3609(a), 31 N.J.R. 55(b).

Changed the cigarette tax rate from \$0.02 to \$0.04.
Amended by R.2004 d.146, effective April 19, 2004.
See: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a).

Changed the cigarette tax rate from \$0.04 to \$0.1025.
Amended by R.2005 d.71, effective February 22, 2005.
See: 36 N.J.R. 4698(a), 37 N.J.R. 630(a).

Changed the cigarette tax rate from \$0.1025 to \$0.12.

Statutory References

As to the tax rate imposed, see N.J.S.A. 54:40A-8.

18:5-2.4 Cigarettes exempt from taxation

(a) Cigarettes exempt from taxation imposed by the provisions of the Act include:

1. Cigarettes or the sale of cigarettes which the State of New Jersey is prohibited from taxing under the Constitution or the statutes of the United States.¹

2. Cigarettes stored, warehoused, or transported under United States Internal Revenue Bond or United States Customs Control.

3. Cigarettes purchased by an authorized agent of the United States Veterans Administration from donations for free distribution to, and for consumption by, hospitalized veterans housed in State Institutions.

4. Cigarettes in possession of licensed manufacturers prior to delivery or sale to duly licensed distributors.

¹ United States Constitution, Article I, Section VIII, paragraph 3.

Statutory References

As to the taxability of sales to the licensed distributors, see N.J.S.A. 54:40A-9.1; as to the exempt sales, see N.J.S.A. 54:40A-10.

18:5-2.5 Cigarettes ceasing to be subject to tax

Unstamped cigarettes possessed subject to tax may cease to be subject to such tax provided the cigarettes are:

(a) Sold to the United States Government or Agencies thereof.

Sales of unstamped cigarettes may be made by licensed distributors only to such agencies as are duly authorized by the Director to receive the same.

1. Unstamped cigarettes sold to authorized agencies must be physically delivered by the distributors' conveyance or by an authorized common carrier directly to the situs where the installation of the governmental agency is located;

2. A duly receipted invoice or a copy thereof must be obtained from the governmental agent designated to accept delivery, which duly receipted invoice must be appended to Cigarette Tax Form CR-5, Schedule D, of the distributors monthly report upon which every sale must be reported in complete detail. (Historical Note: Formerly Reg. CT-9, Filed on May 31, 1967.)

(b) Sold to out-of-State jobbers or dealers. Such sales of unstamped cigarettes may be made by licensed distributors within the State of New Jersey only to such out-of-State persons who can properly identify themselves as registered or licensed cigarette jobbers or dealers in the state into which the cigarettes are to be transported.

1. The true identity of the purchaser of the unstamped cigarettes must be ascertained by the licensed distributor before the sale is consummated;

2. The out-of-State jobber or dealer must make a declaration of the ultimate destination of the unstamped cigarettes, and a duly receipted invoice or a copy thereof must be obtained by the licensed distributor from the out-of-State jobber or dealer, which invoice must also indicate the ultimate destination of the cigarettes;

3. All cigarettes so sold must be reported on the licensed distributor's monthly report in the complete detail required by Cigarette Tax Form CR-4, Schedule C;

4. Under no circumstances may a licensed distributor sell unstamped cigarettes at his place of business in New Jersey to a purchaser who identifies himself as a jobber or dealer in a state which does not have a cigarette tax and who declares the immediate destination of the cigarettes to be to a state not having a cigarette tax. (Historical Note: Formerly Reg. CT-12, Filed August 17, 1953.)

(c) Exported to points outside of New Jersey by common carrier. Duly licensed distributors may ship unstamped cigarettes by common carrier to themselves or to customers outside of New Jersey, provided there is obtained from the carrier a manifestation or other memorandum indicating that the cigarettes were consigned to the distributor's place of business or a customer, outside of New Jersey.

1. Such manifests, invoices, bills of lading or other evidence covering such shipments must be properly completed and preserved for examination and audit;

2. All such shipments must be listed by the distributor on its monthly tax report on Cigarette Tax Form CR-4, Schedule C, Sales, Deliveries, and Transfers of Unstamped Cigarettes from New Jersey.

(d) Exported to points outside of New Jersey not by common carrier. Duly licensed distributors may ship unstamped cigarettes by personally controlled conveyance, or transportation other than a common carrier, to themselves or to customers outside of New Jersey, provided prior notice of such shipments is received, in writing, by the Director.

1. Invoices, bills of lading or other evidence covering such shipments must be properly completed and preserved for examination and audit;

2. All such shipments must be listed by the distributor on its monthly tax report on Cigarette Tax Form CR-4, Schedule C, Sales, Deliveries, and Transfers of Unstamped Cigarettes from New Jersey. (Historical Note: Formerly CT-9, Filed May 31, 1967.)

(e) Distributed to hospitalized veterans in State hospitals. Such distribution of unstamped cigarettes may be made by approved representatives of the United States Veterans Administration to veterans hospitalized in any hospital owned and operated by the State of New Jersey when such cigarettes are acquired directly through donations from the manufacturer, or others bonded to handle unstamped cigarettes through donations made therefor.

1. All such acquisitions must be reported by the approved representative of the United States Veterans Administration on or before the 20th day of the month following receipt of such cigarettes;

2. In addition, there must be maintained a record of distribution and a file of all purchase invoices and bills of lading covering all purchases of unstamped cigarettes.

(f) All of the records required by this Section must be preserved for a period of three years, unless authorization to

destroy them in a lesser period of time is received from the Director.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Historical Note

Formerly Reg. CT-21, Filed on May 24, 1955.

Case Notes

Rules consistent with statutory scheme regarding tax stamp requirements and refund allowances. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-2.6 Sales of cigarettes for use on airplanes and vessels

(a) Every package of cigarettes sold within the State of New Jersey for use aboard airplanes or vessels which do not leave the continental limits of the United States, must have affixed thereon a valid New Jersey cigarette revenue tax stamp.

(b) This requirement does not apply to sales of packages of cigarettes to airplanes or vessels of the United States Government and which are intended for use and consumption exclusively by military personnel.

Historical Note

Formerly CT-26, Filed December 10, 1965.

18:5-2.7 Lost or stolen cigarettes

(a) Any person, including manufacturers, warehousemen, carriers, manufacturers' representatives, distributors, wholesale dealers, retail dealers, and consumers, having possession of unstamped cigarettes within the State of New Jersey, are liable for the tax on such cigarettes imposed pursuant to the provision of the Act.

(b) If unstamped cigarettes are lost, stolen, or otherwise unaccounted for, in transit, storage, or otherwise, a presumption is deemed to exist for the purpose of taxation that such cigarettes were used and consumed in New Jersey.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Case Notes

Statutory provision for tax on sales of alcoholic beverages and including within the sales definition the theft of such beverages held not to deny due process or equal protection: cigarette tax rules cited for common scheme support. *Hoffman Import & Distributing Co. v. Director, Division of Taxation*, 146 N.J.Super. 132, 369 A.2d 29 (App. Div.1977), certification denied 75 N.J. 8, 379 A.2d 239 (1977).

SUBCHAPTER 3. REVENUE TAX STAMPS

18:5-3.1 Purchase of stamps

(a) Only duly licensed distributors may purchase and affix Cigarette Revenue Tax Stamps of the proper denomination to packages of cigarettes.

(b) Licensed distributors are not permitted to sell, borrow, loan, buy, or exchange cigarette revenue tax stamps to, from, or with other licensed distributors.

Statutory References

As to the power of the Director to sell stamps, see N.J.S.A. 54:40A-11.

18:5-3.2 Types of stamps available; denominations

(a) Heat decalcomania tax stamps applied by machine in denominations of \$2.05 are sold only in multiples of 30,000 stamps.

(b) Heat decalcomania tax stamps applied by machine in denominations of \$2.5625 are sold only in multiples of 7,200 stamps.

(c) Heat decalcomania tax stamps applied by hand in denominations of \$1.025, \$2.05, and \$2.5625 are sold in blocks of individual sheets of 100 stamps and only multiples of 1,000 stamps.

Amended by R.1973 d.54, effective February 21, 1973.

See: 5 N.J.R. 21(a), 5 N.J.R. 96(a).

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Deleted text and added new.

Amended by R.2004 d.146, effective April 19, 2004.

See: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a).

Increased the stamp denominations throughout.

Statutory References

As to the power of the Director to set rates for the sale of stamps, see N.J.S.A. 54:40A-11.

18:5-3.3 Purchase of stamps; location

Decalomania tax stamps are available and may be purchased only at the Division of Taxation, Trenton, New Jersey.

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Deleted (b) and (c).

Historical Note

Formerly Reg. CT-3, filed May 31, 1967.

18:5-3.4 Purchase of stamps; discount allowed

(a) The following discounts shall be allowed on all sales of cigarette revenue tax stamps to licensed distributors provided the distributor is in compliance with all of the provisions of the Act and these rules:

1. A discount of .0023707 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$1.025 when the number purchased is 1,000 stamps or more.

2. A discount of .0021951 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$2.05 when the number purchased is 1,000 stamps or more, or in multiples of 30,000 stamps for machine applied stamps.

3. A discount of .0017561 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$2.5625 when the number purchased is 1,000 stamps or more, or in multiples of 7,200 stamps for machine applied stamps.

Amended by R.1973 d.54, effective February 21, 1973.

See: 5 N.J.R. 21(a), 5 N.J.R. 96(a).

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Deleted old text and added new.

Amended by R.1994 d.184, effective April 18, 1994.

See: 26 N.J.R. 759(a), 26 N.J.R. 1695(b).

Amended by R.2004 d.146, effective April 19, 2004.

See: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a).

Decreased the discount percentage and increased the denominations of tax stamps throughout.

Statutory References

As to the allowance of discounts, see N.J.S.A. 54:40A-11.

18:5-3.5 Purchase of stamps; noncredit basis

Licensed distributors may make noncredit purchases of heat applied tax stamps by telephoning their order to the Division of Taxation, Revenue Accounting, 609-984-2029 or 984-3723 and mailing a money order or check to the Division of Taxation, Revenue Accounting, CN 250, Trenton, New Jersey 08646. Once ordered, the stamps will be mailed to the purchaser.

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Deleted text and added new.

Historical Note

Formerly Reg. CT-1, filed May 31, 1967.

18:5-3.6 Purchase of stamps on a credit basis

All purchases of heat applied tax stamps shall be made through telephone order to the Division of Taxation, Revenue Accounting, Trenton, New Jersey, 609-984-2029 or 984-3723. Once ordered these stamps will either be mailed out or picked up at the Division of Taxation, Trenton, New Jersey.

Statutory References

As to the method of giving notice, see N.J.S.A. 54:50-6.

18:5-3.22 Hearing of suspension or revocation of discount, credit, or stamping machine privilege

The Director shall afford any person who has received a notice of a hearing to suspend or revoke the discount, credit, or stamping machine privilege, the right to be heard in person or by attorney, to offer evidence pertinent to the subject of the hearing, and to invoke the powers of the Director with respect to the compulsory attendance of witnesses and the production of books, accounts, papers, records and documents by subpoena.

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Revised section.

18:5-3.23 Basis of order suspending or revoking the discount, credit, or stamping machine privilege

After a hearing, the Director, in issuing any Order which suspends or revokes the discount, credit, or stamping machine privilege of any licensed distributor shall include in the Order the findings of fact upon which such Order is based.

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Revised section.

18:5-3.24 Service of order suspending or revoking the discount, credit, or stamping machine privilege

The Director shall serve any Order suspending or revoking the discount, credit, or stamping machine privilege of any licensed distributor by personal delivery of a certified copy, or by mailing a copy thereof to him at his last known address.

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Revised section.

18:5-3.25 Appeal of order suspending or revoking the discount, credit, or stamping machine privilege

Any licensed distributor may within 45 days from the date of any Order of the Director suspending or revoking the discount, credit, or stamping machine privilege of such distributor appeal to the Appellate Division of the Superior Court of New Jersey by filing a notice of appeal.

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Revised section.

SUBCHAPTER 4. REFUNDS AND REDEMPTION OF STAMPS**18:5-4.1 Refunds—in general**

(a) A taxpayer may within four years after the payment of any original or additional tax assessed against him under the

Act, file a claim for refund (Form A-3730) with the Director setting forth, in detail, the grounds therefor and outlining, in detail, all pertinent circumstances relating thereto.

(b) No claim for refund is required or permitted to be filed with respect to a tax paid, after protest has been filed with the Director or after proceedings on appeal have been commenced, until such protest or appeal has been finally determined.

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Amended by R.1994 d.184, effective April 18, 1994.

See: 26 N.J.R. 759(a), 26 N.J.R. 1695(b).

18:5-4.2 Payment of refunds; rejection of claims

(a) If upon examination of any claim for refund, it is determined by the Director that there has been an overpayment of the New Jersey Cigarette Tax, the amount of such overpayment shall be refunded by the Division of Taxation which when approved will be paid by the State Treasurer.

(b) If the Director rejects the claim for refund in whole or in part, he shall make an order accordingly and serve a notice upon the taxpayer.

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

18:5-4.3 Redemption of unused or mutilated tax stamps

(a) A refund equal to the face value, less the discount allowed, is made to licensed distributors on returned, unused or mutilated but identifiable cigarette decalcomania tax stamps when accompanied by a properly executed claim for refund (Form A-3730).

(b) Unused or mutilated but identifiable tax stamps held by wholesale or retail dealers must be returned for credit to a licensed distributor, unless the Director permits otherwise.

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Amended by R.1993 d.167, effective April 19, 1993.

See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Deleted text from (a).

Case Notes

Cigarettes in distributor's warehouse held subject to tax despite their destruction by fire; cigarette tax refund denied. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-4.4 Redemption of tax stamps affixed to spoiled packages of cigarettes

(a) A refund equal to the face value, less the discount allowed, on identifiable cigarette decalcomania tax stamps affixed to spoiled packages of cigarettes may be obtained by licensed distributors when an agent of the Director has witnessed the destruction of the spoiled packages of cigarettes and the stamps thereon, and a properly executed claim for refund (Form A-3730) is filed.

(b) Identifiable stamps affixed to spoiled packages of cigarettes held by wholesale or retail dealers must be returned for credit to a licensed distributor, unless the Director permits otherwise.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).
Amended by R.1993 d.167, effective April 19, 1993.
See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).
Revised text in (a).

Case Notes

Cigarettes in distributor's warehouse held subject to tax despite their destruction by fire; cigarette tax refund denied. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-4.5 Redemption of tax stamps affixed to packages of cigarettes returned to manufacturers

(a) A refund equal to the face value, less the discount allowed, on identifiable cigarette decalcomania tax stamps affixed to packages of cigarettes returned to manufacturers may be obtained by licensed distributors when a properly executed claim for refund (Form A-3730) is filed.

(b) In addition to the statement of the licensed distributor, the claim must include a statement from the manufacturer indicating receipt of the returned stamped cigarettes.

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).
Amended by R.1993 d.167, effective April 19, 1993.
See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).
Revised text in (a).

Case Notes

Cigarettes in distributor's warehouse held subject to tax despite their destruction by fire; cigarette tax refund denied. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-4.6 Redemption of tax stamps affixed to packages of cigarettes sold to the United States Government or its agencies

(a) A refund equal to the face value, less the discount allowed, on cigarette decalcomania revenue tax stamps affixed to packages of cigarettes sold to the United States Government or its agencies may be obtained by licensed distributors when a properly executed claim for refund is made on Form A-3730. The claim must be accompanied by:

1. A satisfactory invoice or copy of any invoice covering the quantity of stamped cigarettes sold, duly receipted by the accredited agent designated by the United States Government or its agencies to receive the cigarettes; and

2. A supplementary signed statement by the licensed distributor claiming the refund, that the packages of cigarettes sold were restamped with the legend "New Jersey Tax Free Cigarettes".

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).
Amended by R.1993 d.167, effective April 19, 1993.
See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).
Revised text in (a).

Case Notes

Cigarettes in distributor's warehouse held subject to tax despite their destruction by fire; cigarette tax refund denied. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-4.7 Redemption of tax stamps affixed to packages of cigarettes exported

(a) A refund equal to the face value, less the discount allowed, on cigarette decalcomania revenue tax stamps affixed to packages of cigarettes exported to points outside of New Jersey may be obtained by licensed distributors when a properly executed claim for refund is made on Form A-3730. The claim must be accompanied by:

1. A satisfactory invoice or copy of an invoice covering the quantity of stamped cigarettes shipped, duly receipted by the receiver or purchaser at the point of destination; and
2. A supplementary signed statement, by the licensed distributor claiming the redemption, that the stamps affixed to the cigarettes so exported have been removed or defaced in such manner as to make the cigarettes unsaleable in New Jersey as stamped cigarettes; or the stamped packages of cigarettes so exported were restamped by the licensed distributor with the legend "New Jersey Tax Free Cigarettes."

Amended by R.1979 d.92, effective March 8, 1979.
See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).
Amended by R.1993 d.167, effective April 19, 1993.
See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).
Revised text in (a).

Case Notes

Cigarettes in distributor's warehouse held subject to tax despite their destruction by fire; cigarette tax refund denied. *Supermarkets General Corp. v. Taxation Div. Director*, 4 N.J.Tax 431 (Tax Ct.1982), affirmed per curiam 6 N.J.Tax 252 (App.Div.1983).

18:5-4.8 Refund for erroneous payments

Where no question of fact or law is involved and it appears from the records of the Director that any monies have been illegally or erroneously collected under the Act from any taxpayer or have been paid by any taxpayer under a mistake of fact or law, the Director may at any time within two years of payment, upon making a record in writing of his reasons therefor, certify to the State Treasurer that the taxpayer is entitled to a refund and thereupon the Treasurer shall authorize the payment thereof from the appropriation for such purpose.

SUBCHAPTER 5. REPORTS

18:5-5.1 Reports required

(a) The Act requires monthly reports to be filed with the Director by:

1. Every licensed distributor;
2. Every licensed manufacturer;
3. Every licensed consumer who has acquired cigarettes subject to the tax.

(b) The Act also empowers the Director to prescribe, upon notice, reports from:

1. Every licensed manufacturer's representative;
2. Every licensed wholesale or retail dealer;
3. Every person who transports unstamped cigarettes upon the public highways, roads or streets of New Jersey or who stores unstamped cigarettes in New Jersey.

Statutory References

As to reports required, see N.J.S.A. 54:40A-7.

18:5-5.2 Forms of reports

(a) All tax reports are required to be made on return forms prescribed by the Director.

(b) The Director may require any taxpayer to file such other reports and submit such further information as he may require in the administration of the provisions of the Act.

18:5-5.3 Penalty for delinquent filing

(a) Any person who fails to file any report required by the Act or these regulations on the day when it is due, is subject to a penalty in an amount as provided in the State Uniform Tax Procedure Law until the report is received by the Division of Taxation.

(b) The Director, if satisfied that the failure to file any report was excusable, may remit the whole or any part of said penalty.

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

Amended by R.2004 d.146, effective April 19, 2004.

See: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a).

Statutory References

N.J.S.A. 54:49-4.

18:5-5.4 Place for filing reports; remittance payable

(a) All required tax reports must be forwarded to the New Jersey Division of Taxation, Trenton, New Jersey 08646.

(b) Any remittance required to be made should be made payable to "State of New Jersey".

Amended by R.1979 d.92, effective March 8, 1979.

See: 11 N.J.R. 98(a), 11 N.J.R. 211(b).

18:5-5.5 Secrecy of reports

(a) All required tax reports are deemed secret and confidential. The State Uniform Tax Procedure Law prohibits the unauthorized disclosure of information obtained from the reports or the records pertaining thereto.

(b) The Attorney General or other legal representative of the State of New Jersey shall be permitted to inspect the reports, records, and files of any tobacco product manufacturer, as defined in N.J.S.A. 52:4D-2, for any period in which the tobacco product manufacturer was not or is not in compliance with N.J.S.A. 52:4D-3, or of any licensed distributor as defined herein, for the purpose of facilitating the administration of the provisions of N.J.S.A. 52:4D-1 et seq.

(c) The Director is authorized to disclose to the Attorney General any information received under N.J.S.A. 52:4D-4 et seq., or requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of N.J.S.A. 52:4D-4 et seq. The Director and the Attorney General shall share with each other the information received under N.J.S.A. 52:4D-4 et seq., and may share such information with other Federal, State or local agencies only for the purposes of enforcement of N.J.S.A. 52:4D-1 et seq., 52:4D-4 et seq., or the corresponding laws of other states.

Amended by R.2004 d.146, effective April 19, 2004.

See: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a).

Designated existing text as (a); added (b) and (c).

Statutory References

As to the secrecy of reports, see N.J.S.A. 54:50-8; as to the privilege of certain officers to see reports, see N.J.S.A. 54:50-9.

18:5-5.6 Reproduction of forms

(a) The Director will accept, for filing purposes, reproductions of the New Jersey Cigarette Tax report forms in lieu of the official forms printed and furnished by the Director. In order to be acceptable for filing purposes, reproductions of report forms must meet the following conditions and requirements which may vary from the regulations of Federal agencies:

1. Reproductions must be facsimiles of the complete official form, produced by photo offset, photo engraving, photo copying, or other similar reproduction processes;
2. Reproductions must be on paper substantially the same color, weight and texture, and of a quality at least as good as that used in the official form;
3. Reproductions must be of the same size as that of the official form, both as to overall dimensions of the paper and the image produced thereon;

4. All reproductions must result in the same page arrangement as that of the official form and the spacing of the printed matter on each individual page must be the same as on the official form;

5. The color and quality of the reproduction of the printed matter must be substantially the same as that of the official form, and the filled-in information must be entirely legible, either typed or printed;

6. Reproductions of forms may be made after insertion of the tax computations and the other required information. However, all signatures on forms to be filed must be original signatures, affixed subsequent to the reproduction process;

7. The Director does not approve or disapprove the specific equipment or process used in reproducing official forms, but requires only that the reproduced forms satisfy the stated conditions. It should be noted, however, that photostats do not meet all of the above conditions;

8. The Director does not approve or disapprove the specific writing medium or style of writing to be used, but requires that the filled-in information of the reproduced form be of good quality black-on-white, with satisfactory legibility, either typed or printed.

18:5-5.7 Resident distributors' report

(a) Every licensed resident distributor is required to file a monthly report on Form CR-1 (Resident Distributors Cigarette Tax Return). The following schedules must accompany the return, when applicable:

1. Schedule A (Form CR-2) Unstamped cigarettes imported, New Jersey Revenue Stamps not affixed;
2. Schedule C (Form CR-4) Sales, deliveries, and transfers of unstamped cigarettes from New Jersey;
3. Schedule D (Form CR-5) Sales of unstamped cigarettes to the United States Government;
4. Schedule F (Form CR-7) Purchase of Revenue Stamps and Meter Units during the report month.

18:5-5.8 Nonresident distributors' report

(a) Every licensed nonresident distributor is required to file a monthly report on Form CNR-1 (Nonresident Distributors Cigarette Tax Return). The following schedules must accompany the return, when applicable:

1. Schedule A (Form CNR-2) Receipts of all stamped cigarettes during the month;
2. Schedule B (Form CNR-3) Number of stamped cigarettes sold in New Jersey during the month;
3. Schedule D (Form CNR-5) Purchases of Revenue Stamps and Meter Units during the report month.

Amended by R.1993 d.167, effective April 19, 1993.
See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).

Revised (a)3.

18:5-5.9 Resident wholesale and retail dealers' report

(a) Every licensed resident wholesale and retail dealer, other than licensed distributors, that deals in stamped cigarettes of states other than New Jersey, is required to file a monthly report on Form CR-1 (Alt.) (Resident Foreign State Sales Return), unless the Director permits otherwise. The following schedules must accompany the return, when applicable:

1. Schedule B (Form CR-3) Unstamped cigarettes purchased in New Jersey; Revenue Stamps not affixed;
2. Schedule C (Form CR-4) Sales, deliveries and transfers of unstamped cigarettes from New Jersey.

18:5-5.10 Nonresident wholesale and retail dealers' report

(a) Every licensed nonresident wholesale and retail dealer, other than licensed distributors, is required to file a monthly report on Form CNR-1 (Alt.) (Nonresident Foreign State Sales Return), unless the Director permits otherwise. The following schedules must accompany the return, when applicable:

1. Schedule A (Form CNR-2) Receipts of all stamped cigarettes during the report month;
2. Schedule B (Form CNR-3) Number of stamped cigarettes sold in New Jersey during the report month.

18:5-5.11 Carrier reports

(a) Every railroad and steamship company, including the Pullman Company, that sells unstamped cigarettes in its cars or on its boats in the State of New Jersey is required to file a monthly report on Form CM-1 (Report of Cigarette Sales or Disposition by Railroad and Steamship Companies).

(b) This report must be accompanied by a remittance for the full amount of all taxes due computed at the rate specified in Section 2.3 (Computation of tax) of this Chapter.

18:5-5.12 Consumer reports

(a) Every licensed consumer who acquires unstamped cigarettes for consumption, storage or use subject to the New Jersey Cigarette Tax, is required to file a monthly report on Form CC-1 (Consumer's Report of Cigarette Purchases), together with Schedule A (Unstamped Cigarette Purchases).

(b) This report must be accompanied by a remittance for the full amount of all taxes due computed at the rate specified in Section 2.3 (Computation of tax) of this Chapter.