

CHAPTER 5
CIGARETTE TAX ACT RULES

Authority

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

Source and Effective Date

R.2009 d.352, effective December 7, 2009.
See: 41 N.J.R. 1164(a), 41 N.J.R. 4462(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Cigarette Tax Act Rules, expires June 5, 2017. See: 49 N.J.R. 186(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: 35 N.J.R. 5367(a), 36 N.J.R. 1954(a). Chapter 5, Cigarette Tax Act Rules, expired on September 12, 2009.

Chapter 5, Cigarette Tax Act Rules, was adopted as new rules by R.2009 d.352, effective December 7, 2009. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 5, Cigarette Tax Act Rules, was scheduled to expire on December 7, 2016. See: 43 N.J.R. 1203(a).

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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 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 \$0.12875 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.
Amended by R. 2009 d. 352, effective December 7, 2009.
See: 41 N.J.R. 1164(a), 41 N.J.R. 4462(b).
Substituted "\$0.12875" for "\$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 \$2.575 are sold only in multiples of 30,000 stamps.

(b) Heat decalcomania tax stamps applied by machine in denominations of \$3.21875 are sold only in multiples of 7,200 stamps.

(c) Heat decalcomania tax stamps applied by hand in denominations of \$2.575 and \$3.21875 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.

Amended by R.2009 d.352, effective December 7, 2009.

See: 41 N.J.R. 1164(a), 41 N.J.R. 4462(b).

In (a), substituted "\$2.575" for "\$2.05"; in (b), substituted "\$3.21875" for "\$2.5625"; and in (c), substituted "\$2.575" for "\$1.025, \$2.05," and "\$3.21875" for "\$2.5625".

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 this chapter:

1. A discount of .00174757 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$2.575 when the number purchased is 1,000 stamps or more, or in multiples of 30,000 stamps for machine applied stamps.

2. A discount of .00139806 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$3.21875 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.

Amended by R.2009 d.352, effective December 7, 2009.

See: 41 N.J.R. 1164(a), 41 N.J.R. 4462(b).

In the introductory paragraph of (a), substituted "this chapter" for "these rules"; deleted (a)1; recodified former (a)2 and (a)3 as (a)1 and (a)2; in (a)1, substituted ".00174757" for ".0021951" and "\$2.575" for "\$2.05"; and in (a)2, substituted ".00139806" for ".0017561" and "\$3.21875" for "\$2.5625".

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.

Amended by emergency adoption R.1972 d.108, effective June 1, 1972.

See: 4 N.J.R. 169(a).

Amended by R.1987 d.326, effective August 17, 1987.

See: 19 N.J.R. 511(a), 19 N.J.R. 1568(a).

Authorizes both resident and nonresident distributors to purchase tax stamps on a credit basis by the issuance of an irrevocable letter of credit.

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.

18:5-3.7 (Reserved)

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.1987 d.326, effective August 17, 1987.

See: 19 N.J.R. 511(a), 19 N.J.R. 1568(a).

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

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

Section was "Decalcomania tax stamps purchased on credit".

18:5-3.8 (Reserved)

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.1987 d.326, effective August 17, 1987.
 See: 19 N.J.R. 511(a), 19 N.J.R. 1568(a).
 Amended by R.1993 d.167, effective April 19, 1993.
 See: 24 N.J.R. 2415(a), 25 N.J.R. 1776(b).
 Section was "Meter impression tax stamps purchased on credit".

Historical Note

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

18:5-3.9 Purchase of stamps; credit basis payments

Payment for all revenue tax stamps purchased on a credit basis must be received by the Director at the Division of Taxation in Trenton, New Jersey, within 30 days (including Saturdays, Sundays, and holidays) of the date of purchase.

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)-(f).

Historical Note

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

18:5-3.10 Decalcomania revenue tax stamps

(a) Decalcomania revenue tax stamps of the proper denomination shall be affixed to each individual package of cigarettes in such manner as to adhere securely in accordance with the instructions of the manufacturer.

(b) If packages of cigarettes are wrapped in or covered by some substance to which the stamps do not readily adhere, such wrapper or covering must be roughened or treated so that the stamps will adhere securely thereto.

(c) Decalcomania revenue tax stamps of the proper denomination are to be affixed to the bottom end of each standard package of 20 cigarettes.

(d) Decalcomania revenue stamps of the proper denomination are to be affixed to the side, lid or top of flat, round or other nonstandard packages of cigarettes, in such manner as not to obscure the United States Surgeon General's health warning. Nothing provided for herein shall be construed to nullify N.J.A.C. 18:5-10.2 concerning cigarettes displayed in vending machines.

(e) Decalcomania revenue tax stamps are not to be affixed to the carton, case, or container of cigarettes, other than the individual package.

Amended by Emergency Adoption R.1975 d.28, effective February 10, 1975.
 See: 7 N.J.R. 122(b).
 Adopted Concurrent Proposal, R.1975 d.28, effective February 10, 1975.
 See: 7 N.J.R. 122(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 (a); redesignated (a)2 as (b); deleted (b).

Historical Note

Formerly Reg. CT-2, Filed April 15, 1949.

18:5-3.11 Stamping machines; authorization to use

(a) The Director may, at his or her discretion, approve the use of stamping machines to affix, print or impress revenue tax stamps upon individual packages of cigarettes.

(b) Authorization for the use of stamping machines may be granted only to duly licensed distributors.

(c) The Director reserves the right to rescind all authorization to use stamping machines upon 30 days notice, should such action appear to be in the best interest of the State of New Jersey.

(d) The Director shall be informed immediately by the seller of all sales of stamping machines delivered to New Jersey or for use in applying New Jersey tax decalcomania, including the name and address of the buyer.

Public Notice: To revoke the use of stamp metering machines as proof of purchase of cigarette tax.

See: 23 N.J.R. 3536(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 section.

Historical Note

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

18:5-3.12 Stamping machines; conditions of use

(a) Application by licensed distributors for authorization to use a stamping machine is to be made to the Director, who shall apply the following terms and conditions to such authorization:

1. Only stamping machines of a type approved by the Director are to be used to affix stamps;
2. Only stamping machines registered with the Director are to be used to affix stamps;
3. Stamping machines registered with the Director are to be used to affix stamps only on packages of cigarettes owned by the distributor affixing same;
4. Each stamping machine and stamps are to be kept in a safe place when not in use, and are to be safeguarded when being transported;
5. No stamping machine is to be transferred or otherwise disposed of without prior written permission of the Director;

6. All stamping machines must be regularly serviced and cleaned in accordance with the instructions issued by the manufacturer of the equipment.

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.

18:5-3.13 Stamping machine inspection

(a) All stamping machines and related equipment are subject to inspection and examination regularly by the Director.

(b) If the Director finds that any machine or equipment is not being used either in accordance with the instructions of the manufacturer, or these rules, the Director may suspend or revoke a licensed distributor's privilege to use a stamping machine.

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.

18:5-3.14 Stamping of cigarettes done in one continuous operation

When a duly licensed resident distributor opens an original, sealed, manufacturers' shipping container or case of cigarettes in order to affix New Jersey revenue tax stamps, or revenue tax stamps of any other state, all packages of cigarettes in the container or case are to be stamped in one continuous operation.

Historical Note

Formerly Reg. CT-16, Filed April 27, 1950.

18:5-3.15 Possession of cigarettes by licensed resident distributors

Duly licensed resident distributors may not have in their possession packages of cigarettes, other than those in the original, sealed, manufacturers' shipping container or case, to which New Jersey revenue tax stamps or revenue tax stamps of any other state have not been affixed.

Historical Note

Formerly Reg. CT-16, Filed April 27, 1950.

18:5-3.16 Registration of tax stamping equipment

(a) All duly licensed distributors using mechanical cigarette revenue tax stamping equipment are to register with the Director all serial numbers appearing on the equipment owned or operated.

(b) Any person who may acquire or have in his possession any mechanical cigarette revenue tax stamping equipment is to register with the Director all serial numbers appearing on the equipment.

Historical Note

Formerly Reg. CT-19, Filed May 8, 1952.

18:5-3.17 Transfer of tax stamping equipment

Any person who may acquire or have in his possession any mechanical cigarette revenue tax stamping equipment may not transfer, sell or otherwise dispose of same without the prior authorization and approval of the Director.

Historical Note

Formerly Reg. CT-19, Filed May 8, 1952.

18:5-3.18 Suspension or revocation of discount privilege

The Director, may, at his discretion, suspend or revoke the discount privilege of any licensed distributor who fails to observe the provisions of the Act or of any of these regulations.

Historical Note

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

18:5-3.19 Suspension or revocation of credit privilege

The Director may, at his discretion, suspend or revoke the credit privilege of any licensed distributor who is delinquent in the payment of outstanding credits, abuses his credit privilege, or for other good and sufficient reasons.

Historical Note

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

18:5-3.20 Suspension or revocation of stamping machine privilege

The Director may, at his or her discretion, suspend or revoke the stamping machine privilege of any licensed distributor who fails to use a machine in accordance with either the instructions of the manufacturer or with these rules.

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.

Historical Note

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

18:5-3.21 Notice of suspension or revocation of discount, credit, or stamping machine privilege

The Director, before suspending or revoking the discount, credit, or stamping machine privilege of any licensed distributor, shall give 10 days notice to the licensee personally, or by mail addressed to his last known address, which notice shall recite in detail the reasons and basis for the suspension or revocation, and shall specify the date, time and place for the hearing.

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.

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 purchase of any cigarette decalcomania tax stamps, the payment of any floor tax, original or additional tax assessed against him or her 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.

(c) The four-year statute of limitations for filing a refund applies to the refund of any purchase of any cigarette decalcomania tax stamps under this chapter.

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).
Amended by R.2009 d.352, effective December 7, 2009.
See: 41 N.J.R. 1164(a), 41 N.J.R. 4462(b).

In (a), inserted "purchase of any cigarette decalcomania tax stamps, the", "floor tax," and "or her"; and added (c).

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 by electronic methods in accordance with instructions published by the Director, subject to such exceptions as the Director determines are reasonable. As a result of changes in technology, the Director shall determine which electronic methods of filing returns satisfies the requirements imposed in this section.

(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.

Amended by R.2009 d.352, effective December 7, 2009.
See: 41 N.J.R. 1164(a), 41 N.J.R. 4462(b).
Rewrote (a).

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.

18:5-5.13 Manufacturer reports

(a) Every manufacturer who consigns or delivers shipments of cigarettes into New Jersey which it intends to distribute without affixing the Cigarette Tax Revenue Stamp, is required to file a monthly report on Form MSS-1 (Manufacturer's Report of Special Shipments of Taxable Cigarettes into New Jersey).

(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.

18:5-5.14 Time for filing reports

(a) All tax reports required must be filed with the Division of Taxation, together with all supporting schedules, on or before the 20th day of each calendar month following the month being reported upon.

(b) All reports (including supporting schedules) must be submitted in duplicate.

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

18:5-5.15 Consolidated reports

(a) The filing of consolidated tax reports is not permitted.

(b) When one person (or other legal entity) operates more than one licensed activity from whom reports are required, separate reports must be submitted from each separately licensed activity.

18:5-5.16 Number of reports required

(a) An original and two copies of all required tax reports and all required schedules are to be prepared.

(b) The original and one copy of all required reports and all required schedules are to be filed with the Division of Taxation, Trenton, New Jersey.

(c) One copy of all required reports and all required schedules is to be retained by the licensee on the licensed premises and be preserved with all other records.

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

18:5-5.17 Reports to be executed

(a) All required tax reports are to be signed in the following manner:

1. If the licensee is an individual, by the licensee;
2. If the licensee is a partnership, by one of the partners;
3. If the licensee is a corporation, by one of the officers of the corporation, or by its duly authorized agent.

(b) A report signed by an agent of a licensee will be accepted for filing only where a written authorization for such agent to sign has been filed with the Director.

SUBCHAPTER 6. LICENSES**18:5-6.1 Licenses required**

No person is permitted to engage in, or conduct the business of manufacturing, purchasing, selling, consigning or distributing cigarettes in the State of New Jersey, nor is any person permitted to acquire unstamped cigarettes for consumption, storage or use in the State of New Jersey without having first obtained the appropriate license for that purpose pursuant to the provisions of the Cigarette Tax Act and these rules.

Amended by R.1980 d.194, effective May 6, 1980.
See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

18:5-6.2 Issuance of license; Director's powers

(a) All licenses are to be issued by the Director.

(b) The following individuals related to distributors, wholesale dealers, retail dealers operating more than nine cigarette vending machines, and retail dealers who sell cigarettes at retail at more than nine premises, except retail grocery stores and supermarkets primarily engaged in the self-service sale of foods and household supplies for off-premises consumption or to restaurants, hotels and motels operated by national corporations with such premises in six or more states and primarily engaged in the sale of foods for retail consumption or in the rental of rooms for lodging shall submit with applications for a license fingerprints, which shall be processed through the Federal Bureau of Investigation and the New Jersey State Police, and such other information as the director may require:

1. Individuals having any interest whatsoever in a proprietorship or company;
2. Partners of a partnership, regardless of percentage;
3. Joint venturers in a joint venture;
4. Officers, directors, and all stockholders holding directly or indirectly a beneficial interest in more than five percent of the outstanding shares of a corporation;
5. Employees receiving in excess of \$30,000 per annum compensation whether as salary, commission, bonus or otherwise and persons who, in the judgment of the Director are employed in a supervisory capacity or have the power to make or substantially affect discretionary business judgments of the applicant entity with regard to the cigarette business;
6. Other persons who the director establishes have the ability to control the applicant entity through any means

including but not limited to, contracts, loans, mortgages or pledges of securities where such control is inimical to the policies of this act because such person is a career offender or a member of a career offender cartel as defined in subsection (e) of this section. Individuals licensed pursuant to the Casino Control Act shall only be required to produce evidence of said licensure in satisfaction of the foregoing.

(c) No license shall be issued where the director has reasonable cause to believe that anyone required to submit information requested of him for the purpose of determining the eligibility of the applicant to receive a license, or where the director has reasonable cause to believe that information submitted in the application is false and misleading and is not made in good faith.

(d) The director shall not issue any license under the Cigarette Tax Act, or these rules, where he has reasonable cause to believe that anyone required to be licensed or anyone required to submit information under said act, or these rules, has been convicted of any offense in any jurisdiction in this State or pursuant to the laws of another state or of the United States or any of the United States' territories or possessions which would be at the time of conviction a crime of moral turpitude. Any applicant or person required to submit information who has a charge pending, pursuant to any of the foregoing, shall disclose that fact to the director. The director may then withhold action on new applications or, in the application for the renewal of a license, issue a temporary license until there has been a disposition of the charge. The director shall have the discretion to waive the prohibition against licensure herein provided upon presentation of proof that a period of not less than five (5) years has elapsed since the last conviction or the expiration of any period of incarceration imposed with respect thereto.

(e) The director shall not issue any license where the applicant, or anyone required to submit information has been identified as a career offender or a member of a career offender cartel in such a manner as to create a reasonable belief that the association is of such a nature as to be inimical to the policies of the Cigarette Tax Act, or this chapter, or to the taxation, distribution and sale of cigarettes within New Jersey. The director may request the Attorney General for advice respecting whether a person is a "career offender" within the meaning of this subsection or is a "contumacious defiant" within the meaning of subsection (f) of this section.

1. As used in this subsection "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of the State of New Jersey; and

2. "Career offender cartel" means any group of persons who operate together as career offenders.

(f) The director shall not issue any license where the applicant or anyone required to submit information has been found to be contumaciously defiant before any legislative investigative body or other official investigative body of the State of New Jersey or of the United States when such body is engaged in the investigation of organized crime, official corruption or the cigarette industry itself.

(g) Each such license shall lapse on March 31 of the period for which it is issued, and each such license shall be continued annually upon the conditions that the license shall have paid the required fee and complied with all the provisions of the Cigarette Tax Act and this chapter.

(h) No person shall be issued a license or a license renewal to act as a distributor or stamping agent, unless that person certifies in writing, under penalty of perjury that the person will comply fully with N.J.S.A. 52:4D-4 et seq.

Amended by R.1980 d.194, effective May 6, 1980.

See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

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).

Added (h).

Statutory References

As to the issuance of licenses, see N.J.S.A. 54:40A-4.

18:5-6.3 Display of license

(a) Each license, or certificate thereof, and such other evidence of license issued to every distributor, wholesale dealer, over-the-counter retail dealer, and vending machine retail dealer is to be exhibited in the place of business for which it is issued, in a conspicuous manner at all times so as to be readily discernible to the public and to the director or to his duly appointed agent, representative or employee.

(b) Each license, or certificate thereof, and such other evidence of license issued to every consumer, manufacturer and manufacturer's representative is to be kept by the person to whom it is issued so as to be readily available for examination and inspection by the director or by his duly appointed agents, representatives or employees.

Statutory References

As to the requirement that licenses be displayed, see N.J.S.A. 54:40A-4.

18:5-6.4 Expiration of license; renewable

(a) Each license expires on the last day of March of the period for which it is issued.

(b) Licenses are renewable annually on condition that the licensee pay the required fee and comply with all the provisions of the Cigarette Tax Act and chapter.

Amended by R.1980 d.194, effective May 6, 1980.

See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Statutory References

As to the expiration of licenses and manner of renewing, see N.J.S.A. 54:40A-4.

18:5-6.5 Distributor's license

(a) Each distributor is to apply for a distributor's license on Cigarette Tax Form CD-1.

(b) For each license issued to a distributor, there must be paid to the director a fee of \$350.00.

(c) If a distributor sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license is required for each place of business.

Emergency new rule, R.1977 d.468, effective December 14, 1977.
See: 10 N.J.R. 45(b).

Amended by emergency adoption, R.1977 d.473, effective December 15, 1977.

See: 10 N.J.R. 44(c).

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.1980 d.194, effective May 6, 1980.

See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Statutory References

As to the fee for distributor's licenses, see N.J.S.A. 54:40A-4.

18:5-6.6 Licensed distributor files bond

(a) Each licensed distributor is required to file with the director a bond in an amount not less than \$6,000 to guarantee the proper performance of his duties and the discharge of his liabilities pursuant to the provisions of the Act.

(b) The bond is to be executed by such licensed distributor as principal, and by a corporation approved by the director and duly authorized to engage in business as a surety company in the State of New Jersey as surety.

(c) The bond is to run concurrently with the distributor's license and be filed on Cigarette Tax Form CD-3.

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 requirement that bonds be filed by licensed distributors, see N.J.S.A. 54:40A-4.

18:5-6.7 Wholesale dealer's license

(a) Each wholesale dealer is to apply for a wholesale dealer's license on cigarette tax form CWD-1.

(b) For each license issued to a wholesale dealer, and for each continuance thereof, there must be paid to the director a fee of \$250.00.

(c) If a wholesale dealer sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license is required for each place of business.

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

Statutory References

As to fee for wholesale dealer's licenses, see N.J.S.A. 54:40A-4.

18:5-6.8 Wholesale dealer files bond

(a) Each nonresident licensed wholesale dealer is required to file with the director a bond in an amount not less than \$2,000 to guarantee the proper performance of his duties and the discharge of his liabilities pursuant to the provisions of the Cigarette Tax Act and these rules.

(b) The bond is to be executed by such licensed wholesale dealer as principal, and by a corporation approved by the director and duly authorized to engage in business as a surety company in the State of New Jersey as surety.

(c) The bond is to run concurrently with the wholesale dealer's license and be filed on Cigarette Tax Form CWD-3.

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.1980 d.194, effective May 6, 1980.
See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Statutory References

As to the requirement that bonds be filed by wholesale dealers, see N.J.S.A. 54:40A-4.

18:5-6.9 Retail dealer's over-the-counter license

(a) Each retail dealer is to apply for an "over-the-counter" retail dealer's license on Cigarette Tax Form CRD-1-A (Initial) or CRD-1 (Renewal), if the applicant is applying for one license.

(b) If the applicant is applying for more than one retail dealer's license, Cigarette Tax Form CRD-3, Chain Store and Multiple Outlets, is to be used.

(c) For each license issued to an "over-the-counter" retail dealer, and for each continuance thereof, there must be paid to the Director a fee of \$50.00.

(d) If an "over-the-counter" retail dealer sells or intends to sell cigarettes at two or more places of business, whether established or temporary, or whether in the same building or not, a separate license is required for each place of business.

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.1999 d.11, effective January 4, 1999.
See: 30 N.J.R. 3609(a), 31 N.J.R. 55(b).
In (c), changed the fee from \$5.00 to \$50.00.

Statutory References

As to retail dealer's licenses, see N.J.S.A. 54:40A-4.

18:5-6.10 Retail dealer's vending machine license

(a) Each retail dealer is required to apply for a vending machine retail dealer's license on Cigarette Tax Form CRDV-1A (Initial) or CRDV-1B (Renewal) if the applicant is applying for one license.

(b) If the applicant is applying for more than one vending machine retail dealer's license, Cigarette Tax Form CRDV-1, Multiple Vending Machine Operator, together with Form CRDV-4, Vending Machine Informational Report, are to be used.

(c) For each license issued to a retail dealer operating a vending machine for the sale of cigarettes, and for each continuance thereof, there must be paid to the Director a fee of \$50.00.

(d) Each vending machine, for the sale of cigarettes, is deemed a separate place of business, and must be separately licensed.

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.1999 d.11, effective January 4, 1999.
See: 30 N.J.R. 3609(a), 31 N.J.R. 55(b).
In (c), changed the fee from \$5.00 to \$50.00.

Statutory References

As to retail dealer's vending machine licenses, see N.J.S.A. 54:40A-4.

18:5-6.11 Consumer's license

(a) Each consumer is required to apply for a consumer's license on Cigarette Tax Bureau Form CC-2.

(b) For each license issued to a consumer and for each continuance thereof, there must be paid to the Director a fee of \$1.00.

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 consumer's licenses, see N.J.S.A. 54:40A-4.

18:5-6.12 Manufacturer's license

(a) Each manufacturer is required to apply for a manufacturer's license on Cigarette Tax Form CM-1, together with Form CM-2, Manufacturer's Informational Report.

(b) For each license issued to a manufacturer, and for each continuance thereof, there must be paid to the Director a fee of \$10.00.

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 manufacturer's licenses, see N.J.S.A. 54:40A-4.

18:5-6.13 Manufacturer's representative license

(a) Each manufacturer's representative is required to apply for a manufacturer's license on Cigarette Tax Form CMR-1A.

(b) For each license issued to a manufacturer's representative and for each continuance thereof, there must be paid to the Director a fee of \$5.00.

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 manufacturer's representative licenses, see N.J.S.A. 54:40A-4.

18:5-6.14 Additional and separate licenses required

(a) Any license required under the Act shall be in addition to any and all other licenses which may be required by any other law. No license may be issued to any person except upon the payment of the full fee therefore, any statute or exemption to the contrary notwithstanding.

(b) Any person licensed only as a distributor, manufacturer, manufacturer's representative, wholesale dealer, or retail dealer, is not permitted to operate in any other capacity except under that for which he is licensed, unless the appropriate additional license or licenses therefore are first secured.

Statutory References

As to additional licenses required, see N.J.S.A. 54:40A-4, -6.

18:5-6.15 Assignment or transfer of license

(a) Any license issued under the Act may be assigned or transferred under the following circumstances:

1. In the case of the death, bankruptcy, receivership, or incompetency of the licensee, or if for any other reason whatsoever the business of the licensee shall devolve upon another by operation of law, the Director, may, in his discretion, extend the said license for a limited time to the executor, administrator, trustee, receiver, or person upon whom the license has devolved.

2. A purchaser or assignee of a licensed wholesale or licensed distributor, or any other person upon whom the business of a licensed wholesale or licensed distributor shall devolve by operation of law, shall, upon application to the Director, be entitled to an assignment or transfer of the wholesale or distributor license for the balance of the existing license period upon payment of a transfer fee of \$5.00 and subject to his qualification to be a licensed wholesaler or licensed distributor under the provisions of the Act.

3. The license issued for each vending machine for the sale of cigarettes may be transferred from machine to machine by the same owner.

Statutory References

As to the method of assigning or transferring licenses, see N.J.S.A. 54:40A-4.

18:5-6.16 Refund of license fee; paid in error

No refund of any license fee, paid pursuant to the Cigarette Tax Act, may be made to any person upon the surrender or revocation of any license, except a license fee paid or collected in error.

Amended by R.1980 d.194, effective May 6, 1980.
See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Statutory References

As to refunds, see N.J.S.A. 54:40A-4.

18:5-6.17 Duplicate and amended license

(a) Any person licensed pursuant to the Act upon payment of a \$1.00 fee may obtain:

i. A duplicate license, or certificate thereof, in the event the original is lost, destroyed or defaced;

ii. An amended license, or certificate thereof, upon:

i. A change in the location of the place of business of the licensee; or

ii. A change in the trade name of either an individual or partnership; or

iii. The adoption of a new name by a corporation by amendment of a corporate charter; or

iv. The addition of a partner to an existing partnership or the formation of a partnership which includes a former licensed individual proprietor; or

v. The dissolution of a partnership, through death or otherwise, in which the remaining single proprietor carries on the business of the former partnership.

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

Historical Note

Formerly Law-Sec. 4.

Statutory References

As to the issuance of duplicate or amended licenses, see N.J.S.A. 54:40A-4.

18:5-6.18 Sale of cigarettes to persons improperly licensed

All persons duly and properly licensed to sell cigarettes in the State of New Jersey pursuant to the Cigarette Tax Act, may not sell, loan or exchange cigarettes to, with or from any person required to be licensed under the New Jersey Cigarette Tax Act, who is not so licensed or is improperly licensed.

Amended by R.1980 d.194, effective May 6, 1980.
See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Historical Note

Formerly Reg. CT-5, Filed April 27, 1950.

18:5-6.19 Suspension or revocation of license

(a) The director may suspend or revoke the license, or all licenses issued to any person under the Cigarette Tax Act or these rules who:

1. Violates any of the provisions of the Cigarette Tax Act; or
2. Violates any of these rules; or
3. Ceases to act in the capacity for which the license was issued; or
4. For other good and sufficient causes; or
5. If it is found that:
 - i. Any applicant has been convicted of a crime as set forth in N.J.A.C. 18:5-6.2(b);
 - ii. Any applicant has made any misrepresentation on the license application.

Amended by emergency adoption, R.1977 d.473, effective December 15, 1977.

See: 10 N.J.R. 44(c).

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.1980 d.194, effective May 6, 1980.
See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Statutory References

As to the power of the director to suspend or revoke licenses, see N.J.S.A. 54:40A-5.

18:5-6.20 Notice of suspension or revocation of license

(a) The director, before suspending or revoking any license issued pursuant to the provisions of the Act, shall give 10 days' notice to the licensee personally, or by mail addressed to his last known address.

(b) The notice shall recite in detail the reasons and basis for the suspension or revocation, and that the licensee has the right to a hearing.

Amended by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

In (b), substituted "that the licensee has the right to a hearing" for "specify the date, time, and place for the hearing".

18:5-6.21 Hearing of suspension or revocation of license

The director shall afford any person who has received notice of hearing to suspend or revoke any license, the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

In former (a), added "to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1"; deleted (a) through 3 and (b) and (c).

Statutory References

As to power of the director to conduct hearings, see N.J.S.A. 54:40-3.

18:5-6.22 Service of order of suspension or revocation of license

The director shall serve any order suspending or revoking the license of any person licensed pursuant to the provisions of the Act by personal delivery of a copy, or by mailing a copy to the last known address of the licensee.

Recodified from N.J.A.C. 18:5-6.23 by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

Former N.J.A.C. 18:5-6.22, Basis of order of suspension or revocation of license, repealed.

Statutory References

As to how notice is given, see N.J.S.A. 54:50-6.

18:5-6.23 Appeal of order of suspension or revocation of license

Any person aggrieved by the final order of the Director suspending or revoking the license of such person may appeal therefrom within 45 days from the date of the order

to the New Jersey Superior Court, Appellate Division in the manner and form, and subject to such terms and conditions, as said court shall by rules prescribe.

Amended by R.1980 d.194, effective May 6, 1980.

See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Recodified from N.J.A.C. 18:5-6.24 and amended by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

Former N.J.A.C. 18:5-6.23, Service of order of suspension or revocation of license, recodified to N.J.A.C. 18:54-6.22.

18:5-6.24 Sales during suspension or revocation of license

No person whose license has been suspended or revoked is permitted to sell cigarettes or to allow cigarettes to be sold on the premises occupied by him or others in any manner or form whatever during the period of such suspension or revocation.

Recodified from N.J.A.C. 18:5-6.25 by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

Former N.J.A.C. 18:5-6.24, Appeal of order of suspension or revocation of license, recodified to N.J.A.C. 18:5-6.23.

18:5-6.25 Abatement of proceedings

No disciplinary proceedings or action by the director is barred or abated by the expiration, transfer, surrender, renewal, continuance or extension of any license issued pursuant to the provisions of the Cigarette Tax Act or these rules.

Amended by R.1980 d.194, effective May 6, 1980.

See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Recodified from N.J.A.C. 18:5-6.26 by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

Former N.J.A.C. 18:5-6.25, Sales during suspension or revocation of license, recodified to N.J.A.C. 18:5-6.24.

18:5-6.26 Applicability of these rules

The provisions of P.L. 1979, c.481 took effect on February 28, 1980, and are included in N.J.A.C. 18:5-6.1, et seq., but they shall be applicable only to license periods commencing on or after April 1, 1981.

Amended by R.1980 d.194, effective May 6, 1980.

See: 12 N.J.R. 217(a), 12 N.J.R. 354(b).

Recodified from N.J.A.C. 18:5-6.27 by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

Former N.J.A.C. 18:5-6.26, Abatement of proceedings, recodified to N.J.A.C. 18:5-6.25.

18:5-6.27 Penalties for sales in violation of N.J.S.A. 52:4D-8

(a) Pursuant to procedures set forth in N.J.S.A. 54:40A-5, the Director may revoke or suspend the holder's certificate of authority or suspend or revoke the license of any person that violates N.J.S.A. 52:4D-8. Each offer to sell cigarettes in violation of N.J.S.A. 52:4D-8 and each stamp or metered impression affixed shall be a separate violation. For each violation the Director may also impose a civil penalty in an amount not to exceed the greater of 500 percent of the retail value of the cigarettes sold or \$5,000 upon a determination of violation of N.J.S.A. 52:4D-8 or any regulations adopted pursuant thereto.

(b) Cigarettes shall be deemed contraband when they have been sold, offered for sale or possessed for sale in this State in violation of N.J.S.A. 52:4D-8 regardless of whether the violation was knowing under N.J.S.A. 54:40A-30, and those cigarettes shall be subject to forfeiture and seizure as provided in N.J.S.A. 54:40A-30. All cigarettes so forfeited and seized shall be destroyed and not resold.

(c) The Attorney General on behalf of the Director, may seek an injunction to restrain a threatened or actual violation of N.J.S.A. 52:4D-8, or subsection a or subsection b of N.J.S.A. 52:4D-10 by a licensed distributor and to compel the licensed distributor to comply with the requirements therein. The State shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

(d) It shall be unlawful for any person to sell or distribute cigarettes or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the State in violation of P.L. 2003, c.25, § 5 (N.J.S.A. 52:4D-8). A violation of this subsection shall be a crime of the third degree.

Recodified to N.J.A.C. 18:5-6.26 by R.2001 d.74, effective March 5, 2001.

See: 32 N.J.R. 4396(a), 33 N.J.R. 841(a).

New Rule, R.2004 d.146, effective April 19, 2004.

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

SUBCHAPTER 7. RECORDS

18:5-7.1 Resident distributor records

(a) Resident licensed distributors must maintain and preserve for a period of three years, and make accessible for inspection at all reasonable times, the following records:

1. The monthly inventory taken at the beginning of business on the first business day of each month, or the close of business on the last business day of each month, of all cigarettes not bearing New Jersey cigarette revenue tax stamps;
2. The invoices and bills of lading covering all purchases of cigarettes whether stamped or unstamped;
3. The receiving record, currently posted, of all cigarettes received, whether stamped or unstamped, indicating invoice number, date, quantity, brand, and from whom received;
4. The invoices, bills of lading and other records covering all sales of cigarettes, whether stamped or unstamped;
5. All other pertinent papers and documents relating to the purchase, sale, storage, or disposition of cigarettes, whether stamped or unstamped;

6. The daily inventory of all New Jersey cigarette revenue tax stamps and meter impressions;

7. The invoices covering all purchases of New Jersey cigarette revenue tax stamps and meter impressions;

8. The daily record of all revenue tax stamps and meter impressions affixed to cigarettes;

9. The record of the names, addresses, and current license numbers of all retail customers.

(b) Each sale of cigarettes at wholesale, including cash and credit transactions, and regardless of whether the sale is made to another licensed distributor, licensed wholesale dealer, licensed retail dealer, or is a transfer to a self-owned outlet or an agency or agent, must be accompanied by a complete invoice indicating among other things:

1. The person to whom the cigarettes were sold;

2. The address of the purchaser;

3. The date of the sale;

4. The quantity sold;

5. The brand name; and

6. The price charged.

(c) If a licensed distributor is also the holder of a retail dealer's license and sells cigarettes directly to consumers, an invoice or a memorandum must be prepared showing the transfer of all cigarettes from the distributor to the retail activity.

Historical Note

Formerly Reg. CT-7. Filed August 2, 1963.

18:5-7.2 Nonresident distributor records

(a) Nonresident licensed distributors must maintain and preserve for a period of three years, and make accessible for inspection at all reasonable times, the following records:

1. The monthly inventory, taken at the beginning of business on the first business day of each month, or the close of business on the last business day of each month, of all cigarettes stamped with New Jersey revenue tax stamps;
2. The invoices or bills of lading covering all purchases of cigarettes stamped with New Jersey revenue tax stamps;
3. The receiving record, currently posted, of all cigarettes stamped with New Jersey revenue tax stamps received, indicating invoice number, date, quantity, brand, and from whom received;
4. The invoices, bills of lading and other records covering all sales of cigarettes stamped with New Jersey revenue tax stamps;
5. All other pertinent papers and documents relating to the sales of cigarettes in New Jersey;
6. The daily inventory of all New Jersey cigarette revenue tax stamps and meter impressions;
7. The invoices covering all purchases of New Jersey cigarette revenue tax stamps and meter impressions;
8. The daily record of New Jersey cigarette revenue tax stamps affixed to cigarettes;
9. The record of the names, addresses, and current license numbers of all retail customers.

(b) Each sale of cigarettes at wholesale made in New Jersey including cash and credit transactions regardless of whether the sale is made to a New Jersey resident licensed distributor, a New Jersey licensed wholesale dealer, a New Jersey licensed retail dealer, or is a transfer to a self-owned outlet or an agency or agent, must be accompanied by a complete invoice indicating:

1. The person to whom the cigarettes were sold;
2. The address of the purchaser;
3. The date of sale;
4. The quantity sold;
5. The brand names; and
6. The price charged.

Historical Note

Formerly Reg. CT-7, Filed August 2, 1963.

18:5-7.3 Wholesale dealer records

(a) Licensed wholesale dealers must maintain and preserve for a period of three years, and make accessible for inspection at all reasonable times, the following records:

1. The invoices and bills of lading covering all purchases of cigarettes;
2. The invoices and bills of lading together with an accurate record of all sales of cigarettes;
3. The record of the names, addresses, and current license numbers of all retail customers.

(b) Each sale of cigarettes at wholesale must be accompanied by a completed invoice indicating among other things:

1. The person to whom the cigarettes were sold;
2. The address of the purchaser;
3. The date of sale;
4. The quantity sold;
5. The brand name; and
6. The price charged.

(c) If a licensed wholesale dealer is also the holder of a retail dealer's license and sells cigarettes directly to consumers, there must be prepared an invoice or a memorandum showing the transfer of cigarettes from the wholesale to the retail activity.

Historical Note

Formerly Reg. CT-8, Filed May 26, 1969.

18:5-7.4 Retail dealer records

(a) Licensed retail dealers must maintain and preserve for a period of three years, and make accessible for inspection at all reasonable times, the following records, invoices and bills of lading covering all purchases of cigarettes, whether on a cash or credit basis which must indicate among other things:

1. The person from whom the cigarettes were acquired;
2. The date of purchase;
3. The quantity of cigarettes acquired;
4. The brand name; and
5. The price paid.

Historical Note

Formerly Reg. CT-8, Filed May 26, 1969.

18:5-7.5 Manufacturers representatives' records

New Jersey manufacturer's representatives must maintain and preserve for a period of three years and make accessible for inspection at all reasonable times, the following records:

(a) Separate invoices and bills of lading covering each purchase of cigarettes which invoices are to contain:

1. The name and address of the manufacturer's representative;
2. The manufacturer represented;
3. The date of the purchase;
4. The brand name and the quantity of cigarettes purchased;
5. The name and address of the licensee from whom the cigarettes were purchased; and
6. The price charged.

(b) Separate invoices for each sale of cigarettes by the manufacturer's representative which invoices are to contain:

1. The name and address of the manufacturer's representative;
2. The manufacturer represented;
3. The date of the sale;
4. The brand name and quantity of cigarettes handled;
5. The name and address of the licensee to whom the cigarettes were sold, transferred or exchanged; and
6. The price charged.

Historical Note

Formerly Reg. CT-8, Filed May 26, 1969.

18:5-7.6 Director may adjust records

The Director, in his discretion, and in such manner as he may determine, adjust any taxpayers' records, tax reports or tax returns to make a fair and reasonable determination of any taxes, fees, penalties and interest due under the Act whenever it appears that:

(a) Any taxpayer fails to maintain its books, records, papers, vouchers, accounts, invoices, or other documents in accordance with sound accounting principles and the requirements of the Act and these regulations; or

(b) Any taxpayer conducts his business or maintains his records in such a manner as to directly or indirectly distort his true tax liability; or

(c) Any taxpayer has an agreement with any other taxpayer or any other person for the purpose of evading any taxes due under the Act; or

(d) Any taxpayer's activities, business, or transactions are improperly or inaccurately reflected.

SUBCHAPTER 8. ASSESSMENTS**18:5-8.1 Deficiency assessment**

(a) After a report or return is filed with the Director, he shall cause the same to be examined and he may make such further audits or investigations as he may deem necessary.

(b) If therefrom he determines that there is a deficiency with respect to the payment of any tax due, he shall:

1. Assess the additional taxes, penalties and interest due from the taxpayer;
2. Give notice of such assessment to the taxpayer; and
3. Make demand upon him for payment.

Statutory References

As to the power of the Director to make deficiency assessments, see N.J.S.A. 54:49-6.

18:5-8.2 Arbitrary assessment for withheld reports

(a) If any taxpayer fails to make any report or return required by the Act, the Director may make an estimate of the taxable liability of such taxpayer from any information he may obtain, and according to such estimate so made by him:

1. Assess the taxes, fees, penalties and interest due from such taxpayer;
2. Give notice of such assessment to the taxpayer; and
3. Make demand upon him for payment.

Statutory References

As to the power of the Director to make arbitrary assessments, see N.J.S.A. 54:49-5.

18:5-8.3 Arbitrary assessment for fleeing, concealment, or removing appropriate

(a) The Director may immediately make an arbitrary assessment whether or not any report is due by law and may proceed under the arbitrary assessment to collect the tax, or compel posting of security, and give notice of the finding to the taxpayer with a demand for an immediate report or return an immediate payment of such tax if it appears that:

1. The taxpayer intends to flee the State of New Jersey; or
2. The taxpayer intends to remove his property, or any property subject to the Act; or

3. The taxpayer intends to discontinue business; or
4. The taxpayer intends to do any other act tending to prejudice or render wholly or partly ineffectual proceedings to assess or collect tax.

Cross References

N.J.S.A. 54:49-7.

Statutory References

As to the power of the Director to make arbitrary assessments for concealment, see N.J.S.A. 54:49-7.

18:5-8.4 Penalties

Any taxpayer which shall fail to file its return when due or fail to pay any tax when due shall be subject to penalties and interest as provided for in the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq. and N.J.A.C. 18:2-2.

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.1989 d.197, effective April 17, 1989.

See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).

Deleted original language of section concerning "Interest on delinquent taxes".

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

As to interest on delinquent taxes, see N.J.S.A. 54:49-3.

18:5-8.5 Payment of assessments

All taxes, penalties and interest assessed against a taxpayer are to be paid within 15 days after notice and demand has been mailed to the taxpayer by the Director.

Statutory References

As to the time for paying assessments, see N.J.S.A. 54:49-8.

18:5-8.6 Penalty for non-payment of assessments

If the taxes, penalties and interest assessed against a taxpayer are not paid within 15 days, there shall be added to the amount of assessment, in addition to any interest and penalties, a sum equivalent to five per cent of the tax.

Statutory References

As to the penalty for non-payment of assessments, see N.J.S.A. 54:49-9.

18:5-8.7 Interest and penalties as tax

All penalties and interest imposed under the provisions of the Act as well as the fee imposed for the cost of collection under N.J.S.A. 54:49-13 are payable to and recoverable by the Director in the same manner as if they were a part of the tax imposed.

Amended by R.1989 d.197, effective April 17, 1989.

See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).

Added fee penalty imposed under N.J.S.A. 54:49-13.

Statutory References

As to the regarding of penalties and interest as tax, see N.J.S.A. 54:49-10.

18:5-8.8 Waiver of penalty and interest

If the failure by any taxpayer to pay any tax when due is explained to the satisfaction of the Director, he or she may remit or waive in whole or part the payment of any penalty or interest in accordance with the terms of the State Uniform Tax Procedure Law (see also N.J.A.C. 18:2-2.7).

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.1989 d.197, effective April 17, 1989.

See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).

Deleted language on waiver of interest charge in excess of 1½ percent; added tax law authority and N.J.A.C. reference.

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

As to the power of the Director to waive penalties and interest, see N.J.S.A. 54:49-11.

18:5-8.9 Certificate of debt, judgment

(a) Whenever any person is indebted to the State of New Jersey by reason of the tax due under the Act, the Director shall state the amount of the debt in a certificate issued to the Clerk of the Superior Court or to the Clerk of the Law Division of the County Court.

(b) The Clerk to whom such certificate is issued shall immediately enter upon his record of docketed judgments the following information:

1. The name of the person;
2. The name of the State of New Jersey;
3. The name of the Act;
4. The amount of the debt so certified;
5. The address of the place of business where such tax liability was incurred, if shown on the certificate; and
6. The date of making such entries.

(c) Such entries shall have the same force and effect as the entry of a docketed judgment in the office of such clerk, and the Director shall have all the remedies and may avail himself of any proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in any court of law in this State, but without prejudice to the taxpayer's right of appeal.

Statutory References

As to the issuance of certificates of debt, see N.J.S.A. 54:49-12.

18:5-8.10 Protest against assessments

(a) If any taxpayer is aggrieved by any finding or assessment of the Director, within 90 days of the giving of the notice of assessment or finding, the taxpayer may file a protest in writing in the form and manner described in N.J.A.C. 18:1-1.8 and, if desired, request an informal or formal hearing.

(b) Thereafter, the Director if so requested may grant a formal or informal hearing to the taxpayer, and upon such hearing make an order confirming, modifying or vacating any such finding or assessment.

Amended by R.1991 d.23, effective January 22, 1991.

See: 22 N.J.R. 1995(a), 23 N.J.R. 219(a).

Reference to N.J.A.C. 18:1-1.8 added; (c) and (d) deleted.

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

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

Statutory References

As to the method of protesting assessments, see N.J.S.A. 54:49-18.

18:5-8.11 Informal hearing

An informal hearing granted by the Director pursuant to N.J.A.C. 18:5-8.10 before the Division of Taxation may be conducted in the manner of a conference, with or without representation on behalf of a taxpayer or other party in interest.

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 right of an informal hearing, see N.J.S.A. 54:49-18.

18:5-8.12 Formal hearings

(a) All evidence at a formal hearing shall be taken before a court recorder and the parties shall not be bound by common law or statutory rules of evidence; all testimony having reasonable probative value shall be admitted, but immaterial, irrelevant or unduly cumulative testimony may be excluded.

(b) Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full, true disclosure of the facts.

(c) After all parties have been given the opportunity of presenting all the evidence in support of the issues, the Division of Taxation shall take the matter under advisement and reach a determination on the record and facts disclosed.

(d) Upon reaching a determination, the Division of Taxation shall notify a taxpayer or other party in interest or his representative by mail of the determination made.

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 right to a formal hearing, see N.J.S.A. 54:49-18.

18:5-8.13 Service of notice on taxpayer

(a) Any notice required to be given by the Director may be served personally, or by mailing the same at any of his places of business in this State or elsewhere, or at the address given in the last report or return filed by the taxpayer, or if no report or return has been filed, then to such address as may be obtainable.

(b) The mailing of such notice is presumptive evidence of the receipt of the same by the taxpayer to whom it was addressed.

Statutory References

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

18:5-8.14 Written agreements final for tax liability

(a) The Director is authorized to enter into a written agreement with any taxpayer relating to the liability of such taxpayer in respect of any tax, fee, penalty or interest heretofore or hereafter imposed by the Act.

(b) The agreement shall be final and conclusive, and except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

1. Shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the State of New Jersey; and

2. Shall not be annulled, modified, set aside or disregarded in any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, refund, cancellation or credit made in accordance therewith.

18:5-8.15 Appeals; Tax Court

Any person aggrieved by any action, determination, decision, order, finding or assessment of the Director of the Division of Taxation or by a certification of debt to the Clerk of a Court, may appeal therefrom, within 90 days after the date of the action sought to be reviewed, by filing a complaint with the New Jersey Tax Court in accordance with the terms of N.J.S.A. 54:51A-13 et seq., and with the applicable rules of court, R. 8:1 et seq. including the furnishing of proper security for the tax to the Director.

Amended by R.1989 d.197, effective April 17, 1989.

See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).

Section revised to reflect Tax Court jurisdiction; (b)-(f) deleted.

Statutory References

As to the right and method of making appeals, see N.J.S.A. 54:51-1.

18:5-8.16 (Reserved)

Amended by R.1989 d.197, effective April 17, 1989.

See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).
Section was "Refunds upon appeal".

Statutory References

As to the right of refunds pursuant to appeals, see N.J.S.A. 54:51-2.

SUBCHAPTER 9. TAX A LIEN

18:5-9.1 Tax a debt and lien

(a) The taxes, fees, interest and penalties imposed by the Act, from the time the same are due, constitute a personal debt of the taxpayer to the State of New Jersey, recoverable in any court of competent jurisdiction in an action in debt in the name of the State.

(b) Such debt, whether sued upon or not, constitutes a lien on all the property of the taxpayer except as against an innocent purchaser for value in the usual course of business and without notice thereof.

(c) The lien has preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise.

(d) Such lien is not affected by any extension of time which may be granted for filing any tax report or tax return, and continues and remains on all of the taxpayer's property until all the taxes, interest, penalties or costs heretofore or hereafter imposed or incurred, whether levied or assessed or not, are paid, or a release is obtained from the Director.

18:5-9.2 Release of property from lien

(a) The Director, upon the written application of a taxpayer and the payment of an amount equal to the cost of collection, may release any property from the lien of any tax, interest, fee, penalty, certificate, judgment or levy imposed in accordance with the Act, provided, either:

1. Payment is made to the Director in such sum as he deems adequate consideration for such release; or
2. A deposit is made of such sum as the Director deems adequate consideration for such release; or
3. Deposit be made of security; or
4. A bond is filed as the Director deems proper to secure the payment of any debt evidenced by any such tax, interest, penalty, judgment, certificate or levy, the lien of which is sought to be released; or
5. Provided the Director is satisfied that payment of the sum due is otherwise provided for.

(b) The application for such release is to be in such form as shall be prescribed by the Director and is to contain an accurate description of the property to be released together with such information as the Director may require.

(c) Such release is to be given under the seal of the Director, and may be recorded in any office in which conveyances of real estate may be recorded.

Amended by R.1989 d.197, effective April 17, 1989.
See: 21 N.J.R. 123(a), 21 N.J.R. 1018(b).

In (a), \$1.00 fee replaced by "cost of collection".

SUBCHAPTER 10. VENDING MACHINES

18:5-10.1 Approval of types of cigarette vending machines

(a) In order to protect the collection of any tax imposed by the Act, the Director reserves the right to approve or to disapprove, in his discretion, the type of cigarette vending machine that may be used for the sale of packages of cigarettes in the State of New Jersey.

(b) No cigarette vending machine whose use has been disapproved by the Director may be licensed under the Act.

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

18:5-10.2 Display of cigarettes in vending machines

All packages of cigarettes are to be packed in cigarette vending machines in such manner that if any packages are visible while in the machine, the revenue tax stamps affixed must be clearly visible to the public and to the investigators of the Division of Taxation.

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-6, Filed July 1, 1948.

18:5-10.3 Identification of cigarette vending machines

(a) There is to be affixed to all cigarette vending machines, in addition to the license issued pursuant to the provisions of the Cigarette Tax Act, and before such machines are placed in operation on location, an identification which reveals the full name, the complete business address, and the business telephone number of the licensee.

(b) The identification may be of any type or size, provided the lettering appearing thereon is completely legible and provided the identification is affixed to the machines in a conspicuous manner and is readily discernible to the public and to the investigators of the Division of Taxation.

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-18, Filed March 29, 1951.

18:5-10.4 Sealing and seizure of cigarette vending machines

(a) Any cigarette vending machine not properly licensed or not properly identified pursuant to Section 10.3 (Identification of machines) of this Chapter, or which is found to contain packages of cigarettes to which New Jersey revenue tax stamps have not been properly affixed or which is operated contrary to, and in violation of, any other provisions of the Act or these regulations, may be seized or sealed by the Director, or his authorized delegate, agents or employees or by any peace officer of the State of New Jersey in such manner as to prevent its further operation.

(b) No person may unseal any such sealed vending machine, except the Director or his authorized delegate, unless or until the licensee of such vending machine is in compliance with all of the provisions of the Act and these regulations.

Statutory References

As to the sealing of improperly operated machines, see N.J.S.A. 54:40A-32.1.

18:5-10.5 Interior inspection of vending machines

(a) Any person who owns or operates a licensed cigarette vending machine which is so constructed that any packages of cigarettes it contains are not visible to the public, upon oral request of the Director or his delegate, and without any additional notice, is required to unlock and open any and all such machines owned or operated for a complete interior examination and inspection.

(b) If any such cigarette vending machine is located on premises not owned or controlled by the owner or operator of the vending machine, access to such premises and any and all cigarette vending machines located thereon, must be provided at all reasonable times to the Director or his duly appointed delegate.

SUBCHAPTER 11. TRANSPORTATION OF UNSTAMPED CIGARETTES**18:5-11.1 Transportation of unstamped cigarettes; permit required**

(a) Any person who transports cigarettes not stamped under the Act, upon the public highways, roads, streets, or waterways of the State of New Jersey, other than a common carrier or person licensed pursuant to the Act, is required to have in his actual possession, in addition to the documents required by the Law (N.J.S.A. 54:40A-32), a permit from the Director authorizing the transportation of such unstamped cigarettes in, to, or through the State of New Jersey.

(b) Such permit is to be obtained for each and every separate load or shipment and for each vehicle or vessel. No particular form is required in applying for such permit, however, any such application must contain the following information:

1. The true name and the complete, exact address of the transporter;
2. The true name and the complete, exact address of the owner of the cigarettes, if other than the transporter;
3. The exact quantity and brands of the cigarettes that are to be transported;
4. The complete and exact description of the vehicle or vessel in which the cigarettes are to be transported, including the license and registration numbers;
5. The date on which the cigarettes are to be transported;
6. The complete and exact route to be used by the transporter in, to, or through the State of New Jersey.

(c) Such permit is issued by the Director without charge or fee.

(d) On the date authorized in the permit for the transportation of the unstamped cigarettes, the transporter is required to stop at the first State Police post or station on his authorized route and make available for inspection his permit, documents required by the Law (N.J.S.A. 54:40A-32), and the cigarettes being transported.

SUBCHAPTER 12. PENALTIES**18:5-12.1 General provisions**

In addition to the suspension or revocation of a license, the Act provides for penalties in the form of money fines, prison terms, and forfeitures for specified violations.

18:5-12.2 Third degree crimes

(a) The following crimes are considered third degree crimes for purposes of the Act:

1. The forging or counterfeiting cigarette revenue tax stamps;
2. The securing or possessing any counterfeit stamping device; or
3. The possession of 2,000 or more counterfeit stamped cigarettes by any person.

Amended by R.1988 d.407, effective September 6, 1988.
See: 19 N.J.R. 2255(b), 20 N.J.R. 2310(c).

Title changed from "high misdemeanors"; subsection (a) deleted text and inserted new.

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

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

Statutory References

As to the penalty for forging revenue stamps, see N.J.S.A. 54:40A-29.

18:5-12.3 Misdemeanors

(a) The following misdemeanors are subject to a penalty of not more than a \$1,000 fine, or imprisonment of not more than one year, or both:

1. The sale of cigarettes to which the stamp required by the Act has not been affixed;
2. The failure to file a required report, or the filing of a fraudulent report, with the intent to evade payment of any tax; or
3. The false swearing with the intent to evade payment of any tax.

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

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

Statutory References

As to penalties for violating the Act, see N.J.S.A. 54:40A-28, 29, 33, 34.

18:5-12.4 Disorderly persons violations

(a) The following are considered disorderly person violations subject to a penalty of not more than a \$500.00 fine, or imprisonment of not more than six months, or both:

1. The possession of less than 2,000 counterfeit stamped cigarettes by any person; or
2. The transportation of cigarettes not stamped as required by the Cigarette Tax Act, without proper invoices.

Statutory References

As to penalties for violating the Act, see N.J.S.A. 54:40A-29, 32.

18:5-12.5 Civil penalties

(a) The following civil violations are subject to a penalty of not more than \$250.00:

1. Transacting business when not licensed;
2. Refusal or failure to produce records;

3. Interfering with the administration of the Act;

4. Making false entries with intent to evade payment of tax;

5. The sale or exchange by a manufacturer's representative of brands of cigarettes other than those of his employer's manufacture; or

6. The violation of the Act for which no other penalty is prescribed.

(b) The possession of unstamped cigarettes by any wholesale or retail dealer or the failure of any consumer to remit the tax due, is subject to a penalty of not more than \$25.00 per carton.

(c) As stated in N.J.S.A. 54:40A-32 (P.L. 1981 c.361), every transporter who violates the provisions of this act is a disorderly person and shall, in addition to such penalties as attached thereto, be liable to a penalty equal to the amount of tax due on any unstamped cigarettes transported by him, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section 601 of the act (N.J.S.A. 54:40A-24).

Amended by R.1982 d.256, effective August 16, 1982.

See: 14 N.J.R. 331(a), 14 N.J.R. 920(e).

Added (c).

Statutory References

As to penalties for violation of the Act, see N.J.S.A. 54:40A-24, 25, 26, 27, 31, 36.

18:5-12.6 Forfeitures

(a) The following property may be seized and forfeited for the violations specified:

1. Cigarettes to which revenue tax stamps have not been affixed as required by the Act, found anywhere in the State of New Jersey;
2. Vending machines containing unstamped or counterfeit stamped cigarettes;
3. Vehicles used to transport cigarettes not stamped as required by the Act, without proper invoices.

Statutory References

As to forfeiture penalties imposed for specified violations, N.J.S.A. 54:40A-30, 32.