

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-89 (7)M
Tobacco Products Tax
November 30, 1989

SUBJECT: 1989 Tobacco Products Tax and floor tax due

Effective July 1, 1989 an amendment to the Cigarette Tax Law, Article 20, imposed an excise tax on tobacco products possessed for sale at the rate of 15% of the wholesale price of tobacco products.

Tobacco products include any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco, and any tobacco other than cigarettes, intended for consumption by smoking, chewing or as snuff.

Wholesale price is the established price for which a manufacturer sells tobacco products to a distributor before the allowance of any discount, trade allowance, rebate or other reduction. In the absence of an established price, the wholesale price is the manufacturer's invoice price (before an allowance for any discount, trade allowance, rebate or other reduction), and in its absence, the wholesale price is the price at which the tobacco products were purchased, unless evidence of a lower wholesale price is established or any industry standard of markup relating to the purchase price in relation to the wholesale price is established.

Among those affected by the tax on tobacco products are:

- importers of tobacco products for sale and persons who cause the importation of tobacco products for sale;
- manufacturers of tobacco products;
- transporters of tobacco products;
- retail dealers of tobacco products; and
- all other dealers of tobacco products.

Each person who imports or causes to be imported into New York State any tobacco products (in excess of 50 cigars or one pound of tobacco) for sale or who manufactures any tobacco products in New York State must first be appointed as a distributor of tobacco products. Any person outside New York State who sells, buys or delivers tobacco products from outside New York State to any person in New York State may request appointment as a distributor of tobacco products. A distributor will be required to file monthly tax returns and pay the tobacco products tax.

Each person who sells tobacco products to retail dealers or other persons for resale, or who owns, operates or maintains one or more tobacco product vending machines in, at or upon premises located in New York State that are owned or occupied by any other person must first be licensed as a wholesale dealer of tobacco products.

Each person who transports more than 250 cigars or more than 5 pounds of tobacco on New York State public highways must have an invoice or delivery ticket with the vehicle showing specified information about the tobacco products.

A law enforcement officer may seize and take possession of the tobacco products and the vehicle or other means of transportation (other than a vehicle or other means of transportation used by a person as a common carrier while doing business as a common carrier) used to transport more than 500 cigars or more than 10 pounds of tobacco when the tobacco products are being imported for sale by a person who has not been appointed as a distributor of tobacco products.

The tobacco products tax is imposed on all tobacco products possessed for sale in New York State on or after July 1, 1989. Each person who held tobacco products for sale as of the close of business on June 30, 1989 (an importer, a manufacturer, a wholesale dealer including a vending machine operator, a retail dealer, etc.) must have filed a floor tax return on or before August 21, 1989. This required the taking of a physical inventory of tobacco products on hand as of the close of business on June 30, 1989, and the paying of the tobacco products tax when filing the floor tax return. Filing the floor tax return was a one-time requirement that allowed the Department of Taxation and Finance to collect the tax on all tobacco products possessed for sale in the state as of the close of business on June 30, 1989.