

2004 Amendments Pertaining to Criminal Penalties for Cigarette Tax Evasion

On September 21, 2004, Governor George E. Pataki signed into law Chapter 508 of the Laws of 2004, to amend the Tax Law and the Administrative Code of the City of New York, in relation to criminal penalties for the evasion of the cigarette tax.

Section 1814(a)(2) of the Tax Law is amended to decrease from 20,000 to 10,000 (100 to 50 cartons) the minimum number of cigarettes for which a person may be charged with a class E felony for attempting to evade or defeat the cigarette tax imposed by Article 20 of the Tax Law.¹

Section 1814(e)(1) of the Tax Law is amended to decrease from 20,000 to 10,000 (100 to 50 cartons) the minimum number of cigarettes for which a person (other than a licensed agent) may be charged with a class E felony for willfully possessing or transporting, for purpose of sale, or for selling or offering for sale, unstamped or unlawfully stamped packages of cigarettes.²

Conforming changes were also made to section 11-4012 of the Administrative Code of the City of New York, establishing similar crimes with respect to New York City's cigarette excise taxes.

These amendments are effective December 20, 2004.

¹In addition to any other civil or criminal penalties that may apply, an individual convicted of a class E felony under this section may be sentenced to imprisonment for up to four years, a fine of up to \$50,000, or both. Similarly, a corporation convicted of a class E felony under this section may be sentenced to a fine of \$250,000 or more. (Tax Law, section 1800(c); Penal Law, Articles 70 and 80.)

²The penalties described in sections 1814(a)(2) and 1814(e)(1) do not apply to common or contract carriers or warehousemen while engaged in lawfully transporting or storing unstamped packages of cigarettes as merchandise, nor to any employee of such carrier or warehousemen acting within the scope of his or her employment, nor to public officers or employees in the performance of their official duties requiring possession or control of unstamped or unlawfully stamped packages of cigarettes, nor to temporary, incidental possession by employees or agents of persons lawfully entitled to possession, nor to persons whose possession is for the purpose of aiding police officers in performing their duties. (Tax Law, section 1814(g).)