

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

SUBSTANCE OF THE EMERGENCY RULE

This rule amends the Cigarette Tax regulations and the Cigarette Marketing Standards regulations, as published in Title 20 NYCRR, in response to legislative changes enacted on June 25, 2002, as Chapter 93 of the Laws of 2002.

Among its provisions, Chapter 93 authorized New York City to increase the New York City excise tax on cigarettes from 4 cents for each 10 cigarettes or fraction thereof to 75 cents for each 10 cigarettes or fraction thereof (*i.e.*, from \$.08 per pack to \$1.50 per pack of 20 cigarettes), effective July 2, 2002. The purpose of these amendments is to make necessary regulatory changes, to reflect the increased rate of tax, to eliminate reference to a separate New York City only stamp that no longer exists, and to update the calculation of the basic cost of cigarettes to more realistically reflect such cost based upon the price of cigarettes in the current market. In addition, the regulation ensures that commissions paid by New York State to licensed cigarette agents are preserved at the same level notwithstanding the New York City tax rate increase.

Section 1 of the rule amends section 74.2(a) of the Cigarette Tax regulations to eliminate reference to a separate New York City only stamp. Currently, there are New York State only stamps and joint New York State and New York City stamps; there is no longer a New York City only stamp.

Section 2 of the rule amends section 74.2(b)(2)(i) of these regulations to reflect the statutory increase in the denominations of joint cigarette stamps for New York State and New York City.

Section 3 of the rule repeals section 74.3(b)(1) of these regulations. This paragraph deletes reference to New York City cigarette tax rates that will no longer be in effect as of July 2, 2002. In addition, paragraphs (2), (3) and (4) are renumbered to be paragraphs (1), (2), and (3).

Section 4 of the rule amends the introductory paragraph of newly renumbered section 74.3(b)(1) of these regulations. This paragraph explains how the commissions that are paid to licensed cigarette agents as compensation for affixing stamps to packages of cigarettes are computed. These commissions are based on the par value (the face value of the stamps representing payment of New York State cigarette tax only) for both New York State only or New York State and New York City joint stamps. Accordingly, reference to the New York City rate of tax has been eliminated, since this does not have an effect on the rate of commissions paid to agents.

Section 5 of the rule amends section 80.2(a)(4) of the Cigarette Marketing Standards regulations to reflect the increased rate of New York City cigarette tax in the computation of the basic cost of cigarettes and also amends such computation to make such basic cost more realistic, based upon the price of cigarettes in the current market.

Sections 6 through 9 of the rule make technical amendments to sections 82.2, 82.3, 82.4 and 82.5, respectively of these regulations to reflect the change to the basic cost of cigarettes made by section 5 of the rule. These changes are carried through the illustrations outlining the minimum prices at which cigarettes may be sold at various points in the distribution chain.

Finally, section 10 of the rule provides that the rule shall take effect on July 2, 2002; provided, however, section 1 of the rule concerning the reference to a separate New York City stamp shall take effect on the date the Notice of Emergency Adoption is filed with the Department of State.