

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171, section 475 (not subdivided), and subdivision (12) of section 1142 of the Tax Law, the Second Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the absence of the Acting Commissioner/First Deputy Commissioner and the vacancy in the office of the Commissioner of Taxation and Finance, hereby proposes to make and adopt the following amendments to the Cigarette Tax Regulations and the Tobacco Products Tax Regulations, as published in Article 1 and Article 3, respectively, of Subchapter I of Chapter I of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, such amendments to read as follows:

Section 1. Subdivision (a) of section 75.2 of such regulations is amended to read as follows:

(a) (1) Every licensed wholesale dealer of cigarettes, including a wholesale dealer who is also an agent filing pursuant to section 75.1 of this Part, must file with the Department of Taxation and Finance [an annual] a quarterly informational return on a form prescribed by the department for such purpose. [Such]

(2) The informational return must be filed on or before the [fifteenth] twentieth day of March, June, September and December for the quarterly periods ending on the last day of February, May, August and November of each year, respectively, and must reflect the wholesale dealer's New York State activities for the preceding [12 months] quarter, or fraction thereof [, ending with the last day of February]. The return must show, in addition to any other information the department may require:

(i) [the name and address of every person from whom cigarettes have been purchased or otherwise acquired and the quantity of cigarettes purchased or acquired from each such person during the year;

(ii) the name, address and [sales] federal tax identification number of every person, other than consumers of the subject cigarettes, to whom cigarettes have been sold or otherwise [disposed of and] transferred during the quarter;

(ii) the quantity of cigarettes sold or [disposed of] transferred to each such person during the [year] quarter; [and]

(iii)[the location and number of cigarette vending machines in, at or upon premises owned or occupied by another person within the State.] the total sales price of cigarettes sold or transferred to each such person during the quarter; and

(iv) the total sales price of sales or transfers (cigarette and non-cigarette) to each such person during the quarter.

[(2) On or before the 15th day of June, September and December of each year, quarterly updates to the prior year's annual return must be filed with the department for the three-month periods ending with the last days of May, August and November, respectively. Such updates must be on forms prescribed by the department and must reflect any additions, deletions or other changes to the information as previously reported in the annual return. However, quantities of cigarettes purchased, sold or otherwise acquired or disposed of need not be updated quarterly. Such quantities must be reported in the annual return regardless of the fact that an account may have been added or deleted during the reporting period.]

Section 2. Subdivision (b) of section 75.2 of such regulations is amended to read as follows:

(b) The wholesale dealer's quarterly informational return [and quarterly updates] must be prepared in accordance with the instructions provided by the Department of Taxation and Finance and must be signed and filed in the same manner as an agent's cigarette tax return must be signed and filed pursuant to section 75.1(c) and (d) of this Part.

Section 3. Subdivision (a) of section 90.1 of such regulations is amended to read as follows:

(a)(1) Every licensed wholesale dealer of tobacco products must file with the Department of Taxation and Finance a [monthly] quarterly informational return on a form prescribed by the department for such purpose. Wholesale dealers that are also distributors of tobacco products will not be required to file separate informational returns. Information comparable to that required by this section will be included [in] on the returns required to be filed by distributors pursuant to section 473-a of the Tax Law.

(2) The informational return must be filed on or before the twentieth day of [each month] March, June, September and December for the quarterly periods ending on the last day of February, May, August and November of each year, respectively, and must reflect the wholesale dealer's activities for the preceding [month] quarter, or fraction thereof. Such return must show, in addition to any other information that the department may require:

(i) the quantity, by number of cigars and number of pounds of other tobacco products, on hand at the beginning of the preceding [month] quarter;

(ii) the name, address, and Federal employer identification number of every person from whom cigars and other tobacco products have been purchased or otherwise acquired and the quantity and purchase price of the cigars and other tobacco products purchased or acquired from each such person during the preceding [month] quarter;

(iii) the name, address, and Federal employer identification number of every person, other than consumers of the subject cigars and other tobacco products, to whom cigars and other tobacco products have been sold or transferred and the quantity and selling price of the cigars and other tobacco products sold or transferred to each such person during the preceding [month] quarter;

(iv) the quantity of cigars and other tobacco products otherwise disposed of, including, but not limited

to, those that were not suitable for sale, destroyed, or stolen during the preceding [month] quarter; and

(v) the quantity of cigars and other tobacco products on hand at the end of the preceding [month] quarter.

Section 4. These amendments shall take effect on the date that the Notice of Adoption is published in the State Register and shall apply to quarterly reporting periods beginning more than 60 days after such date.

Dated: Albany, New York
November 18, 2009

Robert Plattner
Deputy Commissioner for Tax Policy Analysis of
the Department of Taxation and Finance