

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, subdivision 4 of section 474, and section 475 (not subdivided) of the Tax Law, the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of Commissioner of Taxation and Finance, hereby proposes to make and adopt the following amendments to the Tobacco Products Tax Regulations, as published in 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. A new Part 90 is added to such regulations to read as follows:

PART 90

Wholesale Dealers

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(Statutory Authority: Tax Law, sections 171, 474, 475; art. 20)

Section 90.1 Wholesale dealer's informational returns. (Tax Law, sections 474 and 475)

(a)(1) Every licensed wholesale dealer of tobacco products must file with the Department of Taxation and Finance a monthly 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 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 and must reflect the wholesale dealer's activities for the preceding month, 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;

(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;

(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;

(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; and

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

(b) In accordance with section 474 of the Tax Law, the wholesale dealer must maintain complete and accurate records to support the information reported on the informational returns required to be filed by subdivision (a) of this section.

(c) The wholesale dealer's informational returns must be prepared and filed in accordance with the instructions provided by the department. Every return filed by or on behalf of a wholesale dealer must contain a certification to the effect that the statements in the return are true, correct, and complete. The fact that a person's name is signed on the certification of the return is prima facie evidence for all purposes that such

person is authorized to sign and certify the return on behalf of the dealer and that the return was actually signed by such person.

(d) The department may, if it deems necessary in order to insure the revenue under Article 20 of the Tax Law, require returns (from all wholesale dealers or from any particular wholesale dealer) to be made at such other times and covering such other periods as it may determine.

(e) In accordance with section 480 of the Tax Law, the license of any wholesale dealer of tobacco products may be cancelled or suspended for such dealer's failure to comply with the provisions of this Part.

Section 2. These amendments shall take effect on the date that the Notice of Adoption is published in the State Register and shall apply to monthly reporting periods beginning more than 90 days after such date.

Dated: Albany, New York
October 3, 2007

Barbara G. Billet
Acting Commissioner and Executive Deputy
Commissioner of Taxation and Finance