



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN Excise Tax Bulletin #3

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## CIGARETTES AND TOBACCO PRODUCTS

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This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine tax law. It is written in a relatively informal style and is intended to address issues commonly faced by those engaged in the sale or distribution of cigarettes or tobacco products in the State of Maine.

Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (“MRS”) do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of tax due. This bulletin is current as of the last revision date shown at the end of this document.

The Cigarette Tax Law is found in Title 36, Chapter 703 of the Maine Revised Statutes (“M.R.S.”); the Tobacco Products Tax Law is found in Title 36, Chapter 704. Title 36, MRS rules, and all forms and affidavits referenced in this bulletin may be viewed on the MRS website, [www.maine.gov/revenue](http://www.maine.gov/revenue).

The Cigarette Tax Law imposes the Maine excise tax on cigarettes purchased and brought into the State for sale or use in Maine when the appropriate excise tax has not already been paid. The Tobacco Products Tax law imposes the Maine Tobacco Excise Tax on tobacco products purchased and brought into the State for sale or use in Maine. This bulletin pertains to tobacco product retailers, distributors, wholesalers, and consumers, cigarette distributors and purchasers, and medical cannabis caregivers and adult use cannabis licensees. Throughout the bulletin, the terms “tobacco products tax” and “tobacco excise tax” are used interchangeably.

### 1. CIGARETTE TAX

#### A. DEFINITIONS.

**(1) Cigarette.** “Cigarette,” as defined by 36 M.R.S. § 4361(1-A) and Internal Revenue Code § 5702, means (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in the preceding (1).

**(2) Distributor.** A cigarette “distributor,” as defined by 36 M.R.S. § 4361(2), means any person engaged in Maine in the business of producing or manufacturing cigarettes in Maine, importing cigarettes into Maine, making delivery sales or making wholesale purchases or sales of cigarettes in Maine on which the cigarette excise tax has not already been paid.

**B. REGISTRATION AND LICENSING.** Each distributor must register with MRS and obtain a cigarette distributor license from MRS. The license is non-transferable, does not need to be renewed, and does not expire. Licenses must be displayed in a prominent place in the distributor’s place of business and be available for verification. A license will not be issued unless the applicant certifies to MRS that it is in compliance with 22 M.R.S. § 1580-L. An application for registration is available from MRS.

The State Tax Assessor may revoke or suspend the license of any distributor for failure to comply with the terms of the Cigarette Tax Law, or if the distributor no longer imports or sells cigarettes. A license that has been revoked or suspended must be immediately surrendered to the State Tax Assessor. If a distributor no longer holds a valid license, whether through cancellation, revocation, or suspension, the distributor is responsible for notifying all current customer accounts within ten (10) business days, in writing, that it is no longer licensed as a Maine cigarette distributor.

**C. CIGARETTE TAX STAMPS; RETENTION OF RECORDS.** Cigarette tax stamps may be obtained by completing a Cigarette Stamp Order Form (Form “Cig-1”). The distributor may delay payment for the tax stamps for a period of up to thirty days after the date of purchase, provided that the distributor is bonded for at least 50% of the sale price of the stamps.

Cigarettes sold by a distributor and delivered in Maine are subject to the cigarette excise stamp, even when the sale is claimed to be for export. Cigarettes may be exported from the State without containing an excise tax stamp. Cigarettes removed from a federally bonded warehouse under federal supervision for export from the United States may be sold unstamped.

Orders for cigarette stamps can be placed electronically through the Maine Tax Portal (“MTP”). To electronically submit an order, a cigarette distributor can go to [revenue.maine.gov](http://revenue.maine.gov) and log into its MTP account. Instructional videos and additional assistance in navigating the MTP are available at [maine.gov/revenue/portal](http://maine.gov/revenue/portal).

Distributors must keep complete and accurate records of all cigarettes manufactured, produced, transferred, or sold for a period of six (6) years.

**D. REDEMPTION OF STAMPS.** A refund of the purchase price of cigarette tax stamps will be made to the distributor only under the following conditions:

**(1) Stamped packages of cigarettes that are unsalable or unfit for use and consumption.** A request for refund is available to the distributor for properly stamped packs of cigarettes that are unsalable or unfit for use and consumption and have been returned to the manufacturer. The request for a refund must be made on a Cigarette Tax

Refund Application and be accompanied by a statement from the manufacturer that the packs have been returned with the Maine excise stamps affixed to the pack. Requests must be made within ninety (90) days of the date the distributor returned the cigarettes to the manufacturer or of the destruction of the unsalable cigarettes by the distributor.

**(2) Packs that were damaged or improperly stamped.** A refund will be made for stamps that have been affixed to packs of cigarettes that have become damaged or were improperly stamped, prior to sale to a retailer or wholesaler. The destruction of the cigarettes must be made under the supervision of an employee of MRS.

**(3) Stamps that are unused and uncanceled.** A refund will be made for stamps that are unused and uncanceled if they are returned within one (1) year of the date of purchase by a licensed distributor. A refund is allowed only for full, unopened rolls except that when a distributor ceases business as a distributor and returns its cigarette distributor's license to MRS, timely refunds for open rolls will be allowed.

No refund is allowed for cigarette stamps that are lost, stolen, or destroyed by error, carelessness, or misuse. No refund is allowed for stamped packages of cigarettes that are claimed to be unsalable if they are discarded, destroyed, or disposed of in any manner other than by return to the manufacturer or destroyed under the supervision of an employee of MRS.

**E. PROHIBITED SALES.** A cigarette distributor may not:

**(1)** Offer for sale, sell, or affix a stamp to a package of cigarettes if the package:

**(a)** Does not comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C., § 1331, et. seq., for the placement of labels, warnings or any other information for a package of cigarettes to be sold within the United States;

**(b)** Is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S." or with other wording indicating that the manufacturer did not intend that the product be sold in the United States;

**(c)** Has been altered by adding or deleting wording, labels, or warnings described above in (a) and (b);

**(d)** Has been imported into the United States in violation of 26 U.S.C., § 5754; or

**(e)** In any way violates federal trademark or copyright laws.

Selling a package of cigarettes as described above, with or without a stamp, is an unfair or deceptive act or practice under the Maine Unfair Trade Practices Act.

**(2)** A distributor may not sell, offer for sale, or display for sale in this State cigarettes that do not bear stamps evidencing the payment of the tax imposed by the Cigarette Tax Law,

except that a licensed distributor may sell unstamped cigarettes to another licensed distributor if the sale is documented in writing.

(3) A distributor may not sell or offer to sell cigarettes to a retailer unless the retailer has provided documentation to the distributor that the retailer holds a current retail tobacco license issued under 22 M.R.S. § 1551-A.

**F. VENDING MACHINES.** Vending machines containing cigarettes must be plainly marked with the name and address of the vending machine operator. Cigarettes sold in vending machines must be in sealed packages and be properly stamped. The cigarettes must be loaded so the tax stamps are visible from the outside. If the machine is constructed in a manner that prohibits the display of the tax stamps, the operator must agree to open the machine for inspection upon request from an employee of MRS.

**G. IMPORTATION PENALTIES.** Any person other than a licensed distributor that imports, transports, or possesses untaxed cigarettes in this State may be subject to fines and/or criminal prosecution.

## 2. OTHER TOBACCO PRODUCTS

### A. DEFINITIONS.

(1) **Consumer.** A “consumer,” as defined in 36 M.R.S. § 4401(1-B), means an individual who purchases, receives, or possesses tobacco products for personal consumption and not for resale.

(2) **Cost price.** “Cost price,” as defined by 36 M.R.S. § 4401(1-C), means:

(a) In the case of a manufacturer, the price set for the tobacco products or, if a price has not been set, the wholesale value of those products.

(b) In the case of a distributor or a consumer, the price at which the distributor or consumer purchases tobacco products before the allowance of any discount, trade allowance, rebate, or other reduction.

(c) In the case of a remote retail seller, “cost price” means:

(i) The actual price paid for an item, identified by a stock keeping unit that identifies the item using a unique code or identifier; or

(ii) If the actual price paid for an item is not available, the average of the actual price paid for the item over the 12 calendar months before January 1<sup>st</sup> of the year in which the remote sale occurs.

**(3) Distributor.** A tobacco “distributor,” as defined in 36 M.R.S. § 4401(2), means any person who:

- (a) Is engaged in the business of producing or manufacturing tobacco products in Maine for sale in Maine;
- (b) Is engaged in the business of selling tobacco products in Maine, and who brings, or causes to be brought, tobacco products into Maine for sale to a retailer;
- (c) Has a place of business in Maine and is engaged in the business of selling tobacco products in Maine who brings, or causes to be brought, tobacco products into Maine for sale to a person other than a retailer;
- (d) Is engaged in the business of selling tobacco products who ships or transports tobacco products to retailers for sale in Maine;
- (e) Is a retailer and imports, receives, or acquires tobacco products for sale in Maine from a person other than a licensed distributor; or
- (f) A person who makes delivery sales.

A “distributor” may be located within or without the State of Maine.

**(4) Delivery sale.** A “delivery sale,” as defined in 36 M.R.S. § 4401(1-A), means a sale of tobacco products, other than premium cigars, to a consumer in this State when:

- (a) The purchaser submits the order for the sale by means of telephonic or other electric method of voice transmission, the United States mail, the Internet, or a delivery service; or
- (b) The tobacco products are delivered by use of a delivery service.

**(5) Electronic smoking device.** An “electronic smoking device” is defined in 36 M.R.S. § 4401(2-A) as a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol, including, without limitation, devices manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, or “vape pen.”

**(6) Premium cigar.** A “premium cigar,” as defined in 22 M.R.S. § 1551(5), means a cigar that weighs more than three (3) pounds per 1,000 and is wrapped in whole tobacco leaf.

**(7) Remote retail sale.** A “remote retail sale” is defined in 36 M.R.S. § 4401(4-B) to mean any sale of premium cigars to a Maine consumer when either:

(a) The consumer submits the order for the sale via telephone or other voice transmission, U.S. mail, the internet or another online service or the remote retail seller is otherwise not in the physical presence of the buyer when the request for the purchase or order is made; or

(b) The premium cigars are delivered to the consumer by common carrier, private delivery service, or other method of remote delivery, or the remote retail seller is not in the physical presence of the buyer when the buyer obtains possession of the cigars.

**(8) Remote retail seller.** A “remote retail seller,” as defined in 36 M.R.S. § 4401(4-C), means a person who makes a remote retail sale when either:

(a) The person’s gross sales from sales of tangible personal property or taxable services, as those terms are defined under the Maine Sales and Use Tax Law, into Maine in the previous calendar year or current calendar year exceeds \$100,000; or

(b) The person made sales of tangible personal property or taxable services, as those terms are defined under the Maine Sales and Use Tax Law, for delivery into Maine in at least 200 separate transactions in the previous calendar year or current calendar year.

**(9) Retailer.** A “retailer,” as defined in 36 M.R.S. § 4401(5), is any person engaged in the business of selling tobacco products to ultimate consumers.

**(10) Tobacco products.** “Tobacco products,” as defined in 36 M.R.S. § 4401(9), means cigars, including premium cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices, whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be intended for human consumption or as is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means.

Beginning August 9, 2024, P.L. 2023, c. 613, Pt. B, § 5 amended the definition of “tobacco products” found in 36 M.R.S. § 4401(9) to include, in addition to the list of items described in the above paragraph that are other kinds and forms of tobacco, any product containing, made of, or derived from any amount of tobacco or nicotine. Examples of products that will be subject to the Tobacco Products Tax beginning on August 9, 2024, include Zyn® and Velo™ tobacco-free nicotine pouches. Liquids used in electronic smoking devices that do not contain nicotine have been subject to the Tobacco Products Tax since January 2, 2020.

**36 M.R.S. § 4401(9), effective August 9, 2024: Tobacco products.** “Tobacco products” means any products that are made from or derived from tobacco, or that contain nicotine, whether natural or artificial, including, but not limited to, cigars, including premium cigars; [...]. P.L. 2023, c. 613, Pt. B, § 5.

## **B. REGISTRATION AND LICENSING.**

**(1) Distributors.** Each tobacco distributor must register with MRS and obtain a tobacco distributor's license from MRS. The license is non-transferable, does not need to be renewed, and does not expire. Licenses must be displayed in a prominent place in the business and be available for verification. An application for registration is available from MRS.

The State Tax Assessor may revoke or suspend the license of any distributor for failure to comply with the terms of the Tobacco Products Tax laws, or if the person no longer imports or sells tobacco products. A license that has been revoked or suspended must be immediately surrendered to the State Tax Assessor. If a tobacco products distributor no longer holds a valid license, whether through cancellation, revocation, or suspension, the distributor is responsible for notifying all current customer accounts within ten (10) business days, in writing, that it is no longer licensed as a Maine tobacco products distributor.

**(2) Remote retail sellers of premium cigars.** A person making remote retail sales of premium cigars is required to register with MRS as a remote retail seller and must collect and remit the excise tax on sales of premium cigars made to consumers in Maine if the person's gross sales from sales of tangible personal property or taxable services into Maine exceeded \$100,000 in the previous calendar year or current calendar year, or if the person made sales of tangible personal property or taxable services for delivery into Maine in at least 200 separate transactions in the previous or current calendar year.

A remote retail seller is required to register with MRS and begin reporting and remitting the excise tax on remote retail sales of premium cigars made to consumers located in Maine on or before the first day of the first month that begins no more than thirty (30) days after the remote retail seller exceeds the nexus-establishing thresholds described in the previous paragraph in Maine.

**Example:** ABC Corporation makes sales of tangible personal property into Maine, including premium cigars, humidors, and apparel. ABC's gross sales of tangible personal property in Maine in the current calendar year exceeds \$100,000 on May 15. ABC Corporation must register with MRS on or before July 1, and begin collecting and remitting the Tobacco Products Tax on sales of premium cigars sold to consumers in Maine made on or after July 1.

A remote retail seller may cancel their registration with Maine when their gross sales or transactions into Maine do not exceed the threshold for two consecutive calendar years following the remote retail seller's registration.

**Example:** ABC Corporation registered with Maine on July 1, 2024, after exceeding the \$100,000 gross sales threshold. During calendar year 2025, ABC Corporation's sales into Maine did not exceed either the \$100,000-gross-sales threshold or the 200-transaction threshold, but ABC Corporation is still required to remain registered as they

had exceeded the \$100,000-sales threshold in the prior calendar year. ABC Corporation does not exceed either threshold again in calendar year 2026. Therefore, ABC Corporation may cancel its registration with an end date of December 31, 2026, as it had not exceeded the required thresholds in either the previous or current calendar year.

ABC Corporation would need to newly register should the company exceed either the \$100,000-sales threshold or 200-transaction threshold in a future calendar year.

**(3) Retailers.** Each Maine retailer of tobacco products, including a cannabis retailer, must verify that it purchases tobacco products only from Maine licensed tobacco distributors. A Maine retailer that purchases tobacco products from someone other than a Maine licensed tobacco products distributor must itself register and be licensed as a Maine tobacco products distributor. MRS provides a list of licensed tobacco distributors on the MRS website, and by mail, email, or fax upon request. The licensed tobacco distributor list should be checked periodically to verify distributor status and minimize unexpected tax liability and risk. Checking this list is particularly important when considering a new tobacco products supplier for your business.

**(4)** Effective March 15, 2023, P.L. 2023, c. 6 (“An Act to Clarify State Policy Regarding Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act and the Cannabis Legalization Act”) repealed the requirement that a medical cannabis caregiver, registered medical cannabis dispensary, or adult use cannabis establishment hold a retail tobacco license issued by the Maine Department of Health and Human Services (“DHHS”), Health Inspection Program pursuant to Title 22, c. 262-A of the Maine Revised Statutes, before selling or providing tobacco products used only for cannabis use to their patients or customers. The licensing requirement is reinstated, however, if the medical cannabis caregiver, registered medical cannabis dispensary, or adult use cannabis establishment sells, offers for sale, or furnishes any products containing tobacco, nicotine, or synthetic nicotine.

If a medical cannabis caregiver, registered medical cannabis dispensary, or adult use cannabis establishment purchases electronic smoking devices or other tobacco products from a person other than a Maine licensed tobacco distributor, still required to register with MRS as a tobacco products distributor. The medical cannabis caregiver, registered medical cannabis dispensary, or adult use cannabis establishment would then be obligated to report and remit the Tobacco Products Tax on purchases of untaxed tobacco products brought into the State.

**C. MAINE EXCISE TAX IMPOSED.** The Maine Tobacco Products Tax is an excise tax and is imposed on all tobacco products that are for sale or use in Maine. The excise tax is imposed at the time the tobacco distributor or remote retail seller brings or causes to be brought into Maine tobacco products that are for sale or use, or at the time the tobacco products are manufactured or fabricated in Maine for sale in Maine.



**(1) Tax on smokeless tobacco.** The current Maine excise tax rates on smokeless tobacco or nicotine products, including chewing tobacco, snuff, snus, and certain tobacco-free synthetic nicotine pouches are as follows:

(a) On amounts of smokeless tobacco for sale in a package that contains one ounce or more of smokeless tobacco, the tax rate is \$2.02 per ounce and prorated.

(b) On smokeless tobacco packaged for sale in a container that contains less than one ounce of smokeless tobacco, the tax rate is \$2.02 per container.

**(2) Tax on smoking tobacco and electronic smoking devices.** Beginning January 1, 2024, the Maine excise tax imposed on smoking tobacco, premium cigars, electronic smoking devices, and liquids used in electronic smoking devices whether they contain nicotine or not, is 43% of the cost price of the tobacco product. For sales of smoking tobacco, electronic smoking devices and liquids used in electronic smoking devices prior to January 1, 2024, the excise tax was 43% of the wholesale sales price. See Section 2(A)(2) above for the definition of “cost price.”

Should the mill rate of tax imposed on cigarettes be increased, 36 M.R.S. § 4403(5) requires the State Tax Assessor to calculate the rates of tax imposed on smoking and smokeless tobacco that are equivalent to the same percentage change in the tax rate for one cigarette.

**Example:** The mill rate on cigarettes increases from 100 mills per stick to 150 mills per stick, an increase of 50%. The rate of excise tax on smokeless tobacco would increase by 50% from \$2.02 to \$3.03 per ounce or per package, and the excise tax on smoking tobacco would increase by 50% from 43% to 64.5% of the cost price of the item sold.

**C. PRICE UPON WHICH TAX IS BASED.** For sales of smoking tobacco products, including electronic smoking devices and premium cigars, into Maine beginning on or after January 1, 2024, the tobacco excise tax rate is imposed on the cost price of the item sold.

In the case of a distributor or consumer reporting the excise tax, the cost price is the price at which the distributor or consumer purchases the tobacco products before any discount, trade allowance, rebate, or other reduction. Additional charges that are included and are not separately stated on the invoice (e.g., freight charges that are not separately stated) are considered part of the cost price.

**Example:** ABC Distributor sells electronic smoking devices to a tobacco retailer. The electronic smoking devices are \$20 each, but if purchased in quantities of 100 or more, the price is reduced by \$5 each. The tobacco retailer purchases 200 electronic smoking devices. ABC Distributor reports the tobacco products cost price as \$4,000 (200 devices x \$20) and remits \$1,720 excise tax to MRS on its tobacco products tax return (\$4,000 x 43%).

**D. REPORTING AND PAYMENT.** Each tobacco distributor and remote retail seller must file a monthly Tobacco Products Tax return. The distributor or remote retail seller that first

brings, receives, or causes untaxed tobacco products to be brought into the State must pay the tax. Returns are due on or before the last day of each month for transactions occurring during the previous month, even if no tax is due for the reporting period. If the last day of the month falls on a weekend or holiday, the return is due on the next business day. Tax computed on the monthly return is due at the same time the return is due.

Tobacco Products Tax returns may be filed electronically through the MTP. To file electronically, a tobacco distributor or remote retail seller must go to [revenue.maine.gov](http://revenue.maine.gov) and log into its MTP account. Instructional videos and additional assistance in navigating the MTP are available at [maine.gov/revenue/portal](http://maine.gov/revenue/portal).

Supporting schedules are required to be filed with all returns except when there was no activity during the month. The schedule must be completed in Excel format; if the return and schedule are not filed through the MTP, the Excel schedule must be sent by email to [SpecialTaxes.MRS@maine.gov](mailto:SpecialTaxes.MRS@maine.gov) for the filed return to be deemed complete. Failure to submit supporting schedules may prevent returns from being processed in a timely manner. Failure to receive a blank tax return from MRS does not excuse a distributor or remote retail seller from the filing and payment obligations prescribed by law. Blank tax returns and schedules are available on the MRS website. Distributors and remote retail sellers must maintain complete and accurate records to substantiate all receipts and sales of tobacco products for a period of six (6) years.

#### **E. EXEMPT AND NONTAXABLE SALES.**

**(1) Exempt products.** The following products are not considered “tobacco products” and are therefore not subject to the Tobacco Products Tax:

**(a) Cigarettes.** Cigarettes are subject to the Cigarette Tax under Title 36, chapter 703, discussed in Section 1 of this bulletin.

**(b) Other products.** Drugs, devices, or combination products authorized for sale by the United States Department of Health and Human Services, Food and Drug Administration (“FDA”), as those terms are defined in the Federal Food, Drug and Cosmetic Act (e.g., a combination device authorized for sale by the FDA and marketed as a “smoking cessation device”).

**(2) Tobacco products containing cannabis.** The Tobacco Products Tax does not apply to the sale of an electronic smoking device or other tobacco product that contains either adult use cannabis (subject to the Cannabis Excise Tax under Title 36, chapter 723 of the Maine Revised Statutes) or cannabis products that are subject to control under the Maine Medical Use of Cannabis Act (Title 22, chapter 558-C).

**(3) Tobacco products exported out of Maine.** Tobacco products exported from Maine are not subject to the excise tax. In the event tobacco products are exported from Maine after the excise tax has been remitted on those products, a distributor or remote retail seller

may claim a credit on their Tobacco Products Tax return for the amount of tax remitted on tobacco products that were previously exported from Maine.

**F. PROHIBITED SALES.** DHHS requires any person engaged in retail sales of tobacco products, including sales through vending machines or the distribution of free tobacco products, to obtain a retail tobacco license before they may sell, keep for sale, or give away in the course of any trade any tobacco products, unless the person engaged in retail sales is a medical cannabis caregiver, registered medical cannabis dispensary, or adult use cannabis establishment that only sells or provides tobacco products used only for cannabis use to their patients or customers. A distributor may not sell or offer to sell tobacco products to a Maine retailer that does not hold a current retail tobacco license issued by DHHS. Distributors should record the appropriate retail tobacco license number on all sales invoices. A distributor selling tobacco products to a medical cannabis caregiver, a registered medical cannabis dispensary, or an adult use cannabis establishment shall include that cannabis seller's Maine sales tax registration number on the invoice in lieu of the retail tobacco license number. Information for contacting DHHS can be found at the end of this bulletin.

**G. IMPORTATION PENALTIES.** Except as provided in paragraphs (1) and (2) below, any person other than a licensed distributor or remote retail seller that imports, sells, or offers untaxed tobacco products for sale in Maine may be subject to fines and/or criminal prosecution.

**(1) Manufacturers.** A manufacturer may transport tobacco products into and within Maine for the purpose of marketing and sales, provided that a licensed distributor accounts for the sale or distribution of those products, files all required returns and schedules, and pays any tax due.

**(2) Personal use.** An individual who is not a distributor or remote retail seller may import into and transport within Maine up to 125 cigars or one (1) pound of other tobacco products for personal use. **Note: The Maine Tobacco Products Tax and the Maine Sales Tax are still owed on these purchases. See Section 4 below.**

### 3. PACT ACT REQUIREMENTS

The Prevent All Cigarette Trafficking (“PACT”) Act requires all cigarette and tobacco manufacturers, wholesalers, distributors, and delivery sellers who sell, transfer, or ship for profit cigarettes, roll-your-own tobacco, and smokeless tobacco in interstate commerce to (1) register with the United States Attorney General and the state tobacco tax administrator of each state into which they make shipments; and (2) file monthly reports with the state tobacco tax administrator. See Sections 1(B) and 2(B) above for information on registering with MRS as either a cigarette or tobacco distributor.

**Effective March 27, 2021,** the term “cigarette” as defined in the PACT Act **includes “electronic nicotine delivery systems,”** which is defined as “any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device,” including an e-cigarette; an e-hookah; an e-cigar; a vape pen; an advanced refillable

personal vaporizer; an electronic pipe; and any component, liquid, part, or accessory of a device described above, without regard to whether the component, liquid, part, or accessory is sold separately from the device. (See 15 U.S.C. § 375.)

The monthly report is due to MRS no later than the 10<sup>th</sup> day of each calendar month and can be submitted either through the MTP or by email to [SpecialTaxes.MRS@maine.gov](mailto:SpecialTaxes.MRS@maine.gov). The report must include either a memorandum or a copy of the invoices covering every shipment made during the previous calendar month into Maine, and must contain the following information:

- A. The name and address of the person or business to whom the shipment was made;
- B. The brand and the quantity delivered to the person or business in the specific shipment; and
- C. The name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller.

The distributor must organize all information relating to specific customers by ZIP Code. MRS will use this information only for purposes of the enforcement of the PACT Act and collection of any tobacco or cigarette taxes owed.

An example of a schedule that a distributor can use to submit PACT Act information to MRS is available on the MRS website, at [www.maine.gov/revenue/tax-return-forms/other-taxes#tobacco](http://www.maine.gov/revenue/tax-return-forms/other-taxes#tobacco).

#### **4. CONSUMER RESPONSIBILITIES**

Consumers who purchase or otherwise acquire, but do not sell, cigarettes or tobacco products for use in Maine are not required to be licensed as a distributor but must report purchases of products that have not previously been taxed in Maine (for example, imports from other states or countries and purchases made over the internet).

**A. REPORTING AND PAYMENT.** Consumers must properly complete a Tax Declaration Form with detailed support schedules for all untaxed purchases made during the previous month. Declarations submitted with incomplete, inaccurate, or missing schedule information may not be processed, and will require additional communication with MRS. Payment is due when the Tax Declaration Form is filed. Tax Declaration Forms can be submitted on the MTP and are available on the Forms section of the MRS website by clicking on “Other Taxes” and then either “Cigarette” or “Tobacco,” or by contacting the MRS Sales, Fuel & Special Tax Division.

**B. LIMITS ON IMPORTATION.** A consumer may not import into or transport within Maine more than 125 untaxed cigars or one (1) pound of other untaxed tobacco products without being licensed as a tobacco distributor or remote retail seller. Importation or transportation of more than that quantity of untaxed tobacco products may subject the person to fines and/or criminal prosecution, and the tobacco products may be subject to seizure or

forfeiture. See Section 2(G) above for more information. **Any amount of products lawfully or unlawfully imported into Maine are subject to both the Maine Tobacco Products Tax and Maine Sales Tax.**

A consumer may not import into or transport within Maine more than two cartons of untaxed cigarettes for personal use without being licensed as a cigarette distributor. Importation or transportation of more than that quantity of untaxed cigarettes may subject the person to fines and/or criminal prosecution. **Any amount of cigarettes lawfully or unlawfully imported into Maine are subject to both the Maine Cigarette Excise Tax and the Maine Sales Tax.**

## 5. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the Cigarette Tax and Tobacco Products Tax Laws. It is not intended to be all-inclusive. Requests for additional information on specific situations must be in writing, contain full information as to the transaction in question, and be directed to:

**MAINE REVENUE SERVICES  
SALES, FUEL & SPECIAL TAX DIVISION  
P.O. BOX 1060  
AUGUSTA, ME 04332-1060  
[www.maine.gov/revenue](http://www.maine.gov/revenue)  
[SpecialTaxes.MRS@maine.gov](mailto:SpecialTaxes.MRS@maine.gov)**

Questions related to the Retail Tobacco Licenses issued by the Maine Department of Health and Human Services can be directed to:

Department of Health and Human Services  
Health Inspections Program  
Division of Environmental Health  
11 State House Station  
Augusta, ME 04333-0011  
TEL: (207) 287-5671  
[www.maine.gov/dhhs/mecdc/environmental-health/el/](http://www.maine.gov/dhhs/mecdc/environmental-health/el/)

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