FTA
Federation of Tax Administrators

Tobacco Uniformity
Uniformity Guide

Updated: May 2025

FTA Tobacco Tax Section Regions

Central
Illinois
Indiana
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
Oklahoma
South Dakota
Wisconsin

Western
Alaska
Arizona
California
Colorado
Hawaii
Idaho
Montana
Nevada
New Mexico
Oregon
Texas
Utah
Washington
Wyoming

Northeast
Connecticut
Delaware
District of Columbia
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York City
New York State
Pennsylvania
Rhode Island
Vermont
Virginia

Southern
Alabama
Arkansas
Florida
Georgia
Kentucky
Louisiana
Mississippi
North Carolina
Puerto Rico
South Carolina
Tennessee
West Virginia

Benefits of the FTA Tobacco Tax Section Activities

The FTA Tobacco Tax Section, with the help of FTA staff and the Uniformity Committee, will develop and foster a unique and effective partnership between industry and state, federal, and foreign governments regarding tobacco tax administration and enforcement. The result of this partnership should be an international network of information established that covers most everything related to tobacco taxation. This information will be made available to the states through FTA Tobacco Tax Section regional, national, and Uniformity Committee meetings, Tax Exchange, the list serve, and the FTA Web site found at www.taxadmin.org. Whenever possible, information will contain current and historical cigarette and tobacco tax data that facilitates statistical analysis and research on legal, communications, enforcement, and technology issues.

The overall benefits for states participating in FTA Tobacco Tax Section projects and utilizing its resources is reduced tax evasion, improved compliance, minimized administrative costs, increased training for audit and enforcement staff, and easy access to quality information. The FTA Tobacco Tax Section won't dictate procedures for states to follow, but rather will provide guidance for states to use at their discretion when it comes to cigarette and tobacco tax enforcement and administration.

An environment of open communication and cooperation exists among industry and all levels of government. This reduces costs for all partners, minimizes the burden on the cigarette and tobacco industry, controls administrative costs, and fosters a combined effort to control evasion and level the playing field in the cigarette and tobacco arena.

The Uniformity Committee

Mission Statement

Provide an opportunity for government and industry to partner for the efficient and effective reporting and remittance of tobacco taxes, to minimize tobacco tax evasion, and to act as an information resource to stakeholders.

Goals

1. Implement all aspects of the 10-Point Plan.

2. Foster communication between and among levels of government, industry, and related associations and interest groups and their representatives.

3. Encourage coordination of efforts among stakeholders in audit and enforcement.

4. Encourage sharing of information among enforcement, revenue, attorneys general and federal agencies in areas related to tobacco and tobacco revenue.

5. Educate the tobacco community in areas of audit and enforcement techniques, reporting requirements, and how to identify actual and potential evasion schemes.

6. Encourage active participation by stakeholders in Uniformity meetings and inform stakeholders on how the goals of Uniformity are designed to work for all members of the tobacco community.

7. Encourage uniformity in reporting definitions and forms.

8. Prepare for change by staying informed on emerging topics and trends by assuring personnel are fully informed to allow for ease of transition and by being open to new ideas and methods for revenue reporting and remittance.

The 10-Point Plan

1. Adopt/implement uniform reporting guidelines for all states.

2. Adopt/implement uniform definitions and forms.

3. Incorporate the Federal Employer Identification number (FEIN), Social Security number (SSN), or Canadian Federal Business number (BN) as a reference for reporting information between jurisdictions.

4. Promote licensing of all persons that handle tobacco.

5. Adopt/implement procedures to achieve total accountability of tobacco.

6. Utilize uniform electronic reporting standards for tobacco information.

7. Promote workshops for audit and investigative techniques to identify tax evasion schemes and ensure regulatory compliance.

8. Review and establish Memorandums of Understanding to promote and share information that will facilitate tobacco tax compliance.

9. Utilize third party information on the movement of tobacco.

10. Encourage states to establish and adequately maintain a compliance staff dedicated to tobacco tax enforcement.

Organization and Responsibility

The Federation of Tax Administrators Tobacco Tax Section Uniformity Committee has five subcommittees. Each committee is assigned areas of responsibility from the 10-Point Plan.

Communication and Legislation
(Points #1, 4, 8 & 10)

- Promote uniform filing, licensing and exchange agreements with states through the use of common definitions, guidelines and forms
- Review legislation affecting the tobacco industry
- Publications:
  - Uniformity Guide
  - Uniformity Brochure
  - Tobacco Tax Information by State

Compliance
(Points #5, 7 & 9)

Educate and advise stakeholders by:
- Publicizing case studies and best practices
- Acting as a liaison to law enforcement
- Involving stakeholders at all levels
- Establishing a clearinghouse of effective tools to combat tobacco tax evasion
- Encouraging states to educate staff on accounting and distribution processes

Forms
(Points #2 & 3)

Monitor the use of approved uniform forms, sub-schedules, and evaluate the purpose and need for new forms as they're requested
- Definitions and terms

Technology
(Point #6)

- Develop and maintain a standard electronic filing and remittance process
- Facilitate and encourage the implementation of the standard electronic filing and remittance process
- Educate non-technical staff on how to use the standard electronic filing and remittance process
- Work with E-Standards to establish uniform standards for electronic reporting.

Cannabis

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Introduction

The Importance of Uniformity

Cigarette and tobacco taxes are a vital part of every state's revenue base, providing funding for a wide variety of programs. Uniformity makes it easier to ensure that each state is getting the fairest share of the revenue it deserves.

Evasion and Lack of Uniformity

Although there are many similarities, each state has its own unique set of tax laws, tax rates, reporting forms, definitions, exemptions, and compliance methods. These differences can create problems in tax administration, regulation of cigarette and tobacco movement, enforcement efforts, exchange of information among state revenue agencies, and provide incentives for some to evade state cigarette and tobacco taxes.

Some states have traditionally ignored compliance efforts for cigarette and tobacco taxes. Until recently, cigarette and tobacco taxes were considered to be a minor part of the total state revenue, and it was commonly thought there were no real evasion issues. However, as state legislatures struggle to maintain government services with increasingly tighter budgets, cigarette and tobacco taxes are receiving more attention. State and federal tobacco tax rates have steadily increased over the past ten years, providing a greater incentive for tax evaders to circumvent vital revenues and, at the same time, increase the tax burden on legitimate businesses.

Why States Adopt the Uniformity Recommendations

Uniformity offers the best method for reducing inefficiencies in state cigarette and tobacco tax administration and combating tax evasion.

Adopt/implement uniform reporting guidelines

The Uniformity Committee assists in establishing uniform reporting guidelines among the states for exchanging information on the movement of cigarette and tobacco products. Uniform reporting guidelines are a critical tool since each state has its own unique set of tax laws, tax rates, reporting forms, definitions, exemptions, and compliance methods.

Purpose

Uniform forms make it easier for industry to comply with filing requirements. Taxpayers filing in more than one state or taxing jurisdiction can find it much easier to comply by using uniform forms.

Uniform forms can be used for states to share information with other states.

Adopt/implement uniform definitions and forms

The 10-Point Plan emphasizes the need to use uniform definitions of terms and standard forms by state taxing authorities and the cigarette and tobacco industry to promote clear understanding and facilitate improved communications.

Purpose - Definitions

To develop clear and concise definitions dealing with cigarette or tobacco distribution and taxation that can be used and understood by federal and state governments as well as industry representatives. This allows the advancement of uniformity through a clear understanding of universally used terms.

All definitions presented to the Uniformity Committee for approval, and ultimately to the Federation of Tax Administrators for adoption, are presented as model definitions for use by state taxing authorities.

<u>**These definitions are not in any way intended to be construed as legal, legislative, or technical definitions and may be modified at the discretion of the user.**</u>

Procedures for Adding, Deleting, or Modifying a Definition

Action By	Step	Action
Anyone	1	Submit in writing term to be defined, deleted, or modified to the Chairperson of the FTA Tobacco Tax Section Uniformity Committee, along with an explanation of why the term should be defined, deleted, or modified and provide a suggested definition, if available. The name of a contact person should be included with submission.
Uniformity Chairperson	2	Receives the requested action and logs the request. If the request is to define a term, the Chairperson will verify that no definition exists. Copies the request and forwards to the Forms Subcommittee.
Forms Subcommittee	3	Reviews the request and assembles suggestions for discussion with the requestor(s)/representative.
Forms Subcommittee	4	Proposes definition, modification, or deletion of term.
Uniformity Chairperson	5	Places the proposed definition, modification, or deletion on the agenda of the next Uniformity Committee meeting for formal adoption.
Uniformity Committee	6	Discuss the requested action and accept or reject the definition as added, deleted, or modified.
Uniformity Chairperson	7	If accepted - send the accepted change to the Federation of Tax Administrators (Tobacco Tax Coordinator) to prepare a resolution and update the FTA definition list. If rejected - the proposed definition, modification, or deletion is returned to the original requestor along with an explanation of the rejection.

Acronyms

ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives
BOL Bill of Lading
CCTA Contraband Cigarettes Trafficking Act
ENDS Electronic Nicotine Delivery Systems
FDA Food and Drug Administration
FET Federal Excise Tax
LET Local Excise Tax
MRT Modified Risk Tobacco
MSA Master Settlement Agreement
NPM Non-Participating Manufacturer (MSA related)
OPM Original Participating Manufacturer (MSA related)
OTP Other Tobacco Products (other than cigarettes)
PACT Prevent All Cigarette Trafficking Act
RYO Roll-Your-Own Tobacco
SET State Excise Tax
SPM Subsequent Participating Manufacturer
TTB Alcohol and Tobacco Tax and Trade Bureau

Definitions

These definitions are terms generally used by tobacco tax administrators and industry, and are meant to inform users, promote understanding, and to facilitate discussion between the participants. The definitions are not intended to be legal or to include all-encompassing meanings of the defined terms.

At the end of a definition if you see the term "Refer also to..." there is another word or term that may be directly related or has basically the same definition.

At the end of a definition if you see the term "See also…" there is another word or term that may be confused with the current definition, but the definitions and meaning do differ.

Acquisition Date – The date a taxable product was received at a physical facility after a change in physical possession of taxable product.

Additive – Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

Adjustments and/or Tax Credits – Adjustments that can only be shown and deducted as a monetary adjustment because of their nature, other than physical inventory adjustments (i.e., bad debt allowances). (See also "Book Adjustment/Physical Variance".)

Agent – A person normally licensed or registered and designated through legislation as the agent to collect and remit tax on behalf of a taxing jurisdiction. Agents may be referred to as a licensed wholesaler, licensed manufacturer, licensed distributor, supplier, dealer, exporter, importer, and/or sub-Jobber. Agents typically file tax or information returns.

Alternative Nicotine Product (ANP) – Any nicotine product, not consisting of nor containing tobacco, ingested into the body by chewing, absorbing, dissolving, inhaling, sniffing, or by any other means, excluding FDA approved smoking cessation products.

ATF – The Bureau of Alcohol, Tobacco, Firearms and Explosives which is a United States Department of Justice agency. The ATF among other things conducts criminal investigations involving illegal cigarette trafficking which can violate the CCTA, PACT Act, and other money laundering violations involving untaxed cigarettes and tobacco products.

Basic Cost – The invoice cost of a taxable product to a wholesaler or a retailer exclusive of any discounts, rebates, or off-invoice allowances. (May also be referred to as "invoice cost".)

Beginning Inventory – Physical Inventory of taxable product at the beginning of a reporting period. (Also referred to as "Opening Untaxed Inventory".)

Bill of Lading (BOL) – A document issued by a common carrier representing the delivery and physical transfer of a taxable product from a consignor to a consignee. A bill of lading defines the contract for transportation between the shipper and carrier and also serves as a document of title and a receipt for the goods. (See also "Freight Bill".)

Book Adjustment/Physical Variance – An adjustment to books, records, or computerized inventories itemizing changes in physical inventory volume, of a taxable product, with no physical movement of the product. (See also "Adjustments and/or Tax Credits".)

Brand Family – A type of cigarette or tobacco product distinguished by unique attributes. These unique attributes can be the tobacco used, tar and nicotine content, flavoring used, size, filtration, packaging, logo, registered trademark, brand name, identifiable pattern of colors, or any combination of such attributes. Examples of brands may include Marlboro, Camel, Kool, Salem, Winston, etc.

Brand Style – A type of cigarette distinguished by unique attributes within a brand family. These unique attributes can be the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging. Examples of descriptors of styles include but are not limited to "menthol", "lights", "kings", and "100s".

Carton – A container used to contain and convey multiple "original packages" available for sale to consumers.

Cigar – These definitions are taken from the Combined Federal Regulation (27 CFR parts 40.11). It mirrors the definitions in the law (26 USC 5701)

> Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (2) of the definition for cigarette).
>
> Large cigars. Cigars weighing more than three pounds per thousand.
>
> Small cigars. Cigars weighing not more than three pounds per thousand.

Cigarette – Generally recognized as any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Some states may also include in their definitions:

(A) product that includes tobacco, in any form, that is functional in the product, 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 or as roll-your-own tobacco.
(C) little cigars
(D) rolling tubes/papers
(E) product that meets the definition of the term "cigarette" in section 3(1) of the Federal Cigarette Labeling and Advertising Act

Cigarette Tobacco – any product that consists of loose tobacco that is intended for use by consumers in a cigarette. (Refer also to “Roll-Your-Own Tobacco”.)

Closing (or Ending) Inventory – The physical Inventory of taxable product at the end of a reporting period. Inventory can either be considered “unverified” or “verified” depending on whether or not a state agency verified the physical inventory.

Commerce – The buying and selling of taxable product, as between cities, states, tribes, or nations. Taxable product delivered out of a state by or for a seller constitutes interstate commerce. Taxable product delivered within a state by or for a seller constitutes intrastate commerce. (Refer also to “Export”.)

Compensation Allowances – Authorized commissions, discounts, or compensation provided to a distributor for acting on behalf of the state authorities in the collection of the taxes due on taxable tobacco products, *e.g*., allowances for affixing tax stamps or filing and or paying a tax return timely. (See also “Merchandising Allowances/Discounts”.)

Common Carrier – A person that engages in the commercial transportation of taxable products that are not owned by a person. Types of commercial common carriers may include rail, marine vessel, aircraft and truck. (Refer also to “Transport Vehicle”.)

Common Carrier BOL Number – The identification number on the Bill of Lading issued by the common carrier for transportation of taxable products. It is a receipt from the carrier for the physical transfer of taxable products. A freight bill is an invoice for the transportation provided and is based on the bill of lading and other information used to determine the rate for the transportation charges. They are sometimes combined into a "Combination bill of lading and freight bill".

Common Carrier ID – A unique identifying number assigned to a common carrier by a regulatory agency such as the U.S. Department of Transportation.

Consignee – The person to whom the taxable product is delivered by a carrier.

Consignor – The person that hires the carrier to transport the taxable product.

Consumer – A person that consumes or uses a taxable cigarette or other tobacco product.

Contraband Cigarettes – May be defined as any of the following: **(1)** cigarettes that do not bear the required tax stamp for the appropriate jurisdiction; or **(2)** cigarettes for which the required federal taxes have not been paid; or **(3)** cigarettes that bear a counterfeit tax stamp; or **(4)** any cigarettes which may not be legally possessed for resale; or **(5)** counterfeit cigarettes.

Counterfeit Cigarettes – (1) Cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the owner of the trademark rights in the cigarette brand or a person that is directly or indirectly authorized by such owner; or cigarettes imported into the United States, or otherwise distributed, in violation of any federal law; or **(2)** cigarettes that have false manufacturing labels.

Counterfeit Other Tobacco Products – (1) Other tobacco products that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the owner of the trademark rights in the tobacco product brand or a person that is directly or indirectly authorized by such owner; or tobacco products imported into the United States, or otherwise distributed, in violation of any federal law; or **(2)** other tobacco products that have false manufacturing labels.

Contraband Cigarettes Trafficking Act (CCTA) – A federal law dealing with trafficking of contraband cigarette and tobacco products (18 USC Chapter 114).

Credits/Refunds – Allowable reduction in tax liability based on certain criteria having been met. Credits or refunds may be issued for damaged tax stamps; tax stamps (or tax paid) on unusable or unsalable product; or stamped (or tax paid) product that was returned to a manufacturer.

Delivery – A physical transfer and/or change of legal ownership of a taxable product.

Delivery Date – Refer also to "Acquisition Date".

Destination Jurisdiction – Any state, territory, foreign country, jurisdiction, territory, or sovereign nation to which any taxable cigarettes or other tobacco products are directed for delivery into any storage facility, receptacle, container, or any type of transportation equipment for purpose of resale or use.

Distributor – A person who acquires and distributes cigarettes or other tobacco products, whether domestic or imported, from the original manufacturer or any other person for the purpose of reselling that product. (Refer also to "Wholesaler".)

Drop Shipment – Any delivery of a taxable product received by a consignee when payment for the taxable product is made to the shipper or seller by or through a person other than the consignee.

Electronic Cigarette (aka E-Cigarette) – A handheld battery-powered vaporizer that stimulates smoking but without tobacco combustion.

E-liquids – A type of ENDS product generally referring to liquid nicotine and nicotine-containing e-liquids.

Electronic Nicotine Delivery Systems (ENDS) – Noncombustible tobacco products. Includes devices, components, and/or parts that deliver aerosolized e-liquid when inhaled. Examples include vape or vape pens, personal vaporizers, electronic cigarettes, cigalikes, e-pens, e-hookahs, e-cigars and e-pipes.

Exempt Sales – The sale, gift, or exchange of taxable product that is not subject to cigarette and/or tobacco tax in accordance with jurisdictional legislation, regulations, or other authority.

Exempt Sales Type – Possible various types of tax-exempt sales may include:

1. Export sales
2. Federal government sales
3. Indian sales
4. Military sales
5. Research sales other than for marketing purposes
6. Sales between wholesalers and distributors as regulated by that jurisdiction's legislative or regulatory body.

Export – The shipment or delivery of a taxable product to a location outside the country from which the product originated. Taxable product delivered out of a country by or for a seller constitutes exportation by the seller. (Refer also to "Commerce".)

Exporter – Any person engaged in the practice of transferring taxable product from one country to another country.

Federal Excise Tax (FET) – An excise tax that is levied by the United States federal government.

Filtered Cigar – See "Cigar".

Foreign Trade Zone – A U.S. Customs regulated area within which goods may be received and stored without payment of duty, tariffs, taxes etc. (May also be referred to as "Free Trade Zone".)

Freight Bill – A freight bill is an invoice for the transportation provided and is based on the bill of lading and other information used to determine the rate for the transportation charges. They are sometimes combined into a "Combination bill of lading and freight bill". (See also “Bill of Lading (BOL)”.)

Illicit Trade – Any practice or conduct prohibited by law which relates to the production, shipment, receipt, possession, distribution, sale, or purchase of cigarettes or other tobacco products, including any practice or conduct intended to facilitate such activity.

Import – The shipment or delivery of taxable product to a location inside the country when the product originated from a location outside the country. Taxable product delivered into a country by or for the purchaser constitutes importation by the purchaser. (Refer also to “Commerce”.)

Importer – A person that causes the import of taxable products into a country from another country. (Counterpart of “Exporter”.)

Importer Number – Specific number assigned to an Importer by the Tobacco Tax Trade Bureau (TTB) for payment of federal excise tax.

Indian Tribe – An American Indian or Alaskan Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 USC 479a. (See section 4(e) of the Indian Self-Determination and Education Assistance Act.)

Interstate Commerce – The shipment or delivery of taxable product to a location outside the state from which the shipment originated. Taxable product delivered out of a state by or for a seller constitutes interstate commerce. (Refer also to “Commerce”.)

Intrastate Commerce – The shipment or delivery of taxable product to a location within the state from which the shipment originated. Taxable product delivered within a state by or for a seller constitutes intrastate commerce. (Refer also to “Commerce”.)

Inventory – The taxable product that is physically stored at a location.

Inventory Adjustment – Refer also to “Book Adjustment/Physical Variance”.

Invoice – An invoice or bill is a commercial document issued by a seller to the buyer, indicating the accountable product(s), quantity(s), and agreed price(s) for products or services the seller has provided the buyer. An invoice indicates the buyer must pay the seller, according to the payment terms.

For a seller, an invoice is a sales invoice. For a buyer, an invoice is a purchase invoice. The document indicates not only the buyer and seller, but the invoice terms and the money owed or owing.

Large Cigar – See “Cigar”.

Local Excise Tax (LET) – An excise tax that is levied by a city, county, municipality, jurisdiction, borough, etc.

License (or Permit) – A legal document issued by a regulatory agency by which a person is granted authority to manufacture, import, sell, distribute or export taxable product.

Little Cigar – See “Cigar”.

Manifest – A document that lists several shipments contained within a trailer for delivery by a common carrier.

Manufacturer – Any person who manufacturers, fabricates, assembles, processes, or labels a finished taxable product**.**

Master Settlement Agreement (MSA) – Signed in November of 1998, this civil settlement between participating tobacco manufacturers and participating states exempts the tobacco manufacturers from tort liability from state governments in exchange for a combination of yearly payments to the states and voluntary restrictions on advertising and marketing tobacco products.

Merchandising Allowances/Discounts – Generally any number of incentives that are offered by a manufacturer for timely payment of invoices, volume purchases, promotional purchases, etc. (Also see "Compensation Allowances".)

Modified Risk Tobacco Product (MRT) – A tobacco product that has received and continues to maintain a United States Food and Drug Administration (FDA) MRT order. "MRT1" means a tobacco product with an FDA MRT order under 21 U.S.C., sec. 387k(g)(1). "MRT2" means a tobacco product with an FDA MRT order under 21 U.S.C., sec. 387k(g)(2).

Non-Participating Manufacturer (NPM) – Any tobacco product manufacturer who is not a participating manufacturer to the Master Settlement Agreement. NPMs place a MSA-specified amount of funds into a qualified escrow account for each year they sell cigarettes or cigarette equivalents into a settling state.

Original Package – Any individual packet, box, or other container used to contain and convey cigarettes or other tobacco products to the consumer. This definition of original package does not include multiple packages within a carton. (See also "Carton".)

Original Participating Manufacturer (OPM) – A tobacco product manufacturer who is a signatory to the Master Settlement Agreement. Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, and R.J. Reynolds Tobacco Company and the respective successors of each of these companies are the original signatories to the Master Settlement Agreement.

Person – Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company; or a receiver, trustee, or guardian or other representative appointed by order of any court; or any city, town, county, or other political subdivision or Indian tribe. Additionally, whenever used, the term "person" as applied to partnerships and associations shall mean the partners or members thereof. As applied to a limited liability company, the term "person" shall mean the officers, member agents, or employees of the limited liability company, and as applied to corporations, the term "person" shall mean the officers, agents, or employees.

Point of Delivery – The specific address of delivery, including but not limited to customer name, street, city, state, and zip code, to which transfer of ownership and possession of taxable cigarettes and other tobacco products takes place.

Point of Taxation – The instance in the distribution of a taxable product when a tax is levied and applied as regulated by a taxing authority.

Reporting Period – For the purpose of cigarette and other tobacco products tax inventory and/or tax reporting, the reporting period is on a monthly, quarterly, or other basis as may be deemed necessary by statute or regulation.

Retail Location – Any location which may require licensing or other authorization by state or local statutes from which taxable product is sold to an end user for personal use or consumption. A retail location may include, but is not limited to, a place, store, booth, concession, truck, vehicle, or vending machine.

Retailer – Any person who operates a retail location and engages in the sale or making transfers of ownership of, or title to, taxable products to a purchaser for use or personal consumption and not for resale in any form.

Roll-Your-Own Tobacco (RYO) – Any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. (May also be referred to as "Cigarette Tobacco".)

Sale – In addition to its ordinary meaning, any transfer, gift exchange, barter, or other disposition of a taxable product. In every case where such a taxable product is exchanged, given or otherwise disposed of, it shall be deemed to have been sold.

Sample – a tobacco product distributed at no cost for the purpose of promoting the product.

Settling State – Any state or territory that has signed the MSA. The settling states do not include Mississippi, Florida, Texas and Minnesota.

Shipping Container – The case, box, parcel, or other container in which cartons or packages of cigarettes or other tobacco products are placed for shipment or transportation from one place to another. "Shipping container" does not include a package in which retail sales of cigarettes or other tobacco products are normally made or intended to be made.

Small Cigar – See "Cigar".

Smokeless Tobacco – Any non-combustible tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

State Excise Tax (SET) – An excise tax that is levied by a state.

Subsequent Participating Manufacturer (SPM) – A tobacco product manufacturer who is not one of the original participants of the Master Settlement Agreement but has since signed the agreement.

Stamp – A stamp or other indicia that is printed, manufactured, or made under the authorization of a taxing authority that is sold, issued, or circulated and used to pay cigarette or other tobacco products taxes.

Stamping Device – Machinery or hand-held device by which tax stamps are applied to a taxable product.

Sub-jobber – A person, other than a manufacturer or distributor, who is engaged in the distribution of tax-paid cigarettes and other tobacco products to retailers for resale. Sub-jobbers sell taxable products to retailers, ultimate consumers, or they operate vending machines. Sub-jobbers are a category of wholesaler or distributor but are unique in that they acquire their inventory from someone else who has paid all taxes due**.** Some states also include sub-jobbers in their definition of a distributor.

Taxable Product – Cigarettes and other tobacco products (OTP) that are subject to federal, state, or local excise taxes.

Tobacco Product Manufacturer – Any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution in the United States.

Tobacco Trade Bureau (TTB) – A federal agency charged with regulating and overseeing the alcohol, tobacco, and firearm trade in the United States. The Alcohol and Tobacco Tax and Trade Bureau, shortened to Tax and Trade Bureau, or TTB, is a bureau of the United States Department of the Treasury. Some of the functions of the TTB include auditing alcohol, tobacco, firearms, and ammunition excise tax cases; ensuring fair and proper revenue collection due the federal government; conducting investigations of suspected alcohol and/or tobacco tax evasion cases; promoting voluntary compliance by monitoring the domestic tobacco trade and ensuring compliance with the tax laws relating to alcohol, tobacco and firearms.

Transporter – A person who transports taxable product from a manufacturer, importer, or storage and/or distribution facility by means of a transport truck, aircraft, railroad car, or marine vessel. (Refer also to "Common Carrier".)

Transport Truck/Vehicle – A vehicle used to transport taxable product.

TTB Importer Permit Number – The unique number assigned by TTB to each importer.

Units Sold – The precise definition of “Units Sold” varies from state to state. It generally refers to the number of cigarettes (in many cases this includes RYO) on which a nonparticipating manufacturer must pay escrow.

U.S. Customs Entry Number – The tracking/registration number assigned by U.S. Customs which identifies the specific importer, name of the district port of entry, product description, product manufacturer information, and other pertinent information specific to entry into the United States.

Vending Machine – Any mechanical device by which taxable product is sold or dispensed in its original package. Some states consider a vending machine as a separate “retailer”.

Validated Losses – Taxable product losses which can be significantly documented including documented loss due to fire, flood, or third-party theft.

Wholesaler – Any person engaged in the business of selling cigarettes or other tobacco products to authorized, registered, and/or licensed wholesalers, distributors, or retailers for the purpose of resale.

Uniform Forms

Purpose - Forms

Uniform reports and schedules serve two purposes. First, uniform reports and schedules provide a uniform mechanism for industry and government to record cigarette and tobacco tax transactions. Second, the forms facilitate information exchange between states by ensuring each state collects similar data.

If a manufacturer uses all of the forms, that entity can account for all cigarette and tobacco transactions by reporting the same type of data in a similar format for each state's cigarette and tobacco tax reports. Having standardized reporting provides the industry a better understanding of what is required, and they will be better able to comply with each state's requirements. States using standardized forms will more likely receive the data needed from all taxpayers in a desirable format.

The following pages contain forms that have been approved by the FTA Tobacco Section Uniformity Committee for use by all states and industry.

PA-1: State CIGARETTE PACT Act Report for ______________________________
(Identify the state)

Part 1 – Identify Your Business

Name (please print)				Reporting Period (MM/YYYY)	State Identification Number
Location Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory	Federal Employer Identification Number (FEIN)
Mailing Address	City	State/Province	Zip Code/Postal Code	Country/Territory	Email Address

Part 2 – Identify Your Sales

Customer Name*	Type of Customer	Address*	Fed Desc	Manufacturer Name	Brand Family*	Invoice Date	Invoice Number	Quantity	Total Cigarette Sticks Sold*	Sales Price ($)**
								Totals		

Part 3 – Identify Your Delivery Service – Required for Delivery Sellers ONLY

Delivery Service Name*	Address*	Phone Number*
		( )
		( )

*Required by PACT Act / **Delivery Sellers Only

Part 4 – Sign Below

DECLARATION: I declare under penalties of perjury that I have examined this report and all attachments and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature of Responsible Party	Responsible Party's Name (please print)	Title	Phone Number	Date
			( )	

PA-1 Rev. 05.08.2024

GENERAL INFORMATION – PA-1

What is the PACT Act?
On June 29, 2010, the Prevent All Cigarette Trafficking Act (PACT Act) went into effect. This federal law amends the Jenkins Act, 15 U.S.C. Chapter 10A, which governs the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco. The PACT Act revised definitions in the Jenkins Act, provided new requirements for registration, reporting, record keeping, and increased penalties for criminal violations. The PACT Act also generally prohibits mailing cigarettes and smokeless tobacco through the U.S. Postal Service.

On December 27, 2020, the PACT Act was amended to include electronic nicotine delivery systems or ENDS. This change was effective March 27, 2021.

What tobacco products are covered under the PACT Act?
Cigarettes and smokeless tobacco are covered.

According to 18 U.S.C. 2341 and 26 U.S.C. 5702, cigarettes includes:
-Any roll of tobacco wrapped in paper or in any substance not containing tobacco.
-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 as described in the bullet above.
-Roll-Your-Own (RYO) tobacco, and
-An Electronic Nicotine Delivery System (ENDS).

Smokeless tobacco includes:
-Any finely cut, ground, powdered, or leave tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted (primarily various forms of chewing tobacco, snuff, snus, etc.).

Who must file this report?
You must file this report if you advertise, offer for sale, sell, transfer, or ship (for profit) cigarettes (including RYO and/or ENDS) or smokeless tobacco in interstate commerce. These cigarettes (including RYO and/or ENDS) or smokeless tobacco must be shipped into another state, locality, or Indian nation that taxes the sale or use of cigarettes (including RYO and/or ENDS and /or smokeless tobacco.

When do I file?
The report is due no later than the 10th day of each calendar month for the previous calendar month's shipments.

Definitions
Common Carier – Any person (other than a local messenger service or the U.S. Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

Consumer – Any person who purchases cigarettes or smokeless tobacco. This does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

Deliver Seller – A person who makes delivery sales.

Delivery Sale – Any sale of cigarettes or smokeless tobacco to a consumer if
-the consumer orders by telephone or other method of voice transmission, the mail, or the internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
-the cigarettes or smokeless tobacco products are delivered to the buyer by common carrier, private delivery service, or other method of delivery; or
-the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

Interstate Commerce – The term "interstate commerce" includes commerce between any place in a state and any place outside of that state, commerce between a state and Indian Country in the state, or commerce between points in the same state but through any place outside of the state or through any Indian Country. The term "state" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

Person – an individual, corporation, company, association, firm, partnership, society, state government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

INSTRUCTIONS

Part 1
Identify Your Business
Provide your business name, location and mailing address, reporting period, Federal Employer Identification Number (FEIN), email address and your State Identification Number for the state you are shipping into. If you do not hold a license, permit, registration, or other Identification Number in the state you are shipping into, write NONE in that field.

Part 2
Identify Your Sales
Provide your customer's name, type of customer (refer to the electronic filing Table of Codes), address, federal description (refer to the Electronic Filing Guide Table of Codes), sales price, manufacturer's name, brand family, invoice date, invoice number, quantity of retail packs, and total sticks of cigarettes sold. Do not report cigarettes in cases, cartons, or packs.

Part 3 – FOR DELIVERY SELLERS ONLY *See definition of delivery seller and delivery sales above.*
Provide your delivery service name, address, and phone number.

Part 4
Sign and date the form, and provide the name, title, and phone number of the responsible party.

PA-2: State TOBACCO / ENDS PACT Act Report for ______________________________
(Identify the state)

Part 1 – Identify Your Business

Name (please print)				Reporting Period (MM/YYYY)	State Identification Number
Location Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory	Federal Employer Identification Number (FEIN)
Mailing Address	City	State/Province	Zip Code/Postal Code	Country/Territory	Email Address

Part 2 – Identify Your Sales

Customer Name*	Type of Customer	Address*	Fed Desc	Manufacturer Name	Brand Family*	Invoice Date	Invoice Number	Quantity	Total Weight / Volume*	Sales Price ($)**	Manufacturer's Wholesale List Price**
								Totals			

Part 3 – Identify Your Delivery Service – Required for Delivery Sellers ONLY

Delivery Service Name*	Address*	Phone Number*
		( )
		( )

*Required by PACT Act / **Delivery Sellers Only

Part 4 – Sign Below

DECLARATION: I declare under penalties of perjury that I have examined this report and all attachments and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature of Responsible Party	Responsible Party's Name (please print)	Title	Phone Number	Date
			( )	

PA-2 Rev. 05.08.2024

GENERAL INFORMATION – PA-2

What is the PACT Act?
On June 29, 2010, the Prevent All Cigarette Trafficking Act (PACT Act) went into effect. This federal law amends the Jenkins Act, 15 U.S.C. Chapter 10A, which governs the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco. The PACT Act revised definitions in the Jenkins Act, provided new requirements for registration, reporting, record keeping, and increased penalties for criminal violations. The PACT Act also generally prohibits mailing cigarettes and smokeless tobacco through the U.S. Postal Service.

On December 27, 2020, the PACT Act was amended to include electronic nicotine delivery systems or ENDS. This change was effective March 27, 2021.

What tobacco products are covered under the PACT Act?
Cigarettes and smokeless tobacco are covered.

According to 18 U.S.C. 2341 and 26 U.S.C. 5702, cigarettes includes:
-Any roll of tobacco wrapped in paper or in any substance not containing tobacco.
-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 as described in the bullet above.
-Roll-Your-Own (RYO) tobacco, and
-An Electronic Nicotine Delivery System (ENDS).

Smokeless tobacco includes:
-Any finely cut, ground, powdered, or leave tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted (primarily various forms of chewing tobacco, snuff, snus, etc.).

Who must file this report?
You must file this report if you advertise, offer for sale, sell, transfer, or ship (for profit) cigarettes (including RYO and/or ENDS) or smokeless tobacco in interstate commerce. These cigarettes (including RYO and/or ENDS) or smokeless tobacco must be shipped into another state, locality, or Indian nation that taxes the sale or use of cigarettes (including RYO and/or ENDS and /or smokeless tobacco.

When do I file?
The report is due no later than the 10th day of each calendar month for the previous calendar month's shipments.

Definitions
Common Carier – Any person (other than a local messenger service or the U.S. Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

Consumer – Any person who purchases cigarettes or smokeless tobacco. This does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

Deliver Seller – A person who makes delivery sales.

Delivery Sale – Any sale of cigarettes or smokeless tobacco to a consumer if
-the consumer orders by telephone or other method of voice transmission, the mail, or the internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
-the cigarettes or smokeless tobacco products are delivered to the buyer by common carrier, private delivery service, or other method of delivery; or
-the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

Interstate Commerce – The term "interstate commerce" includes commerce between any place in a state and any place outside of that state, commerce between a state and Indian Country in the state, or commerce between points in the same state but through any place outside of the state or through any Indian Country. The term "state" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

Person – an individual, corporation, company, association, firm, partnership, society, state government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

INSTRUCTIONS

Part 1
Identify Your Business
Provide your business name, location and mailing address, reporting period, Federal Employer Identification Number (FEIN), email address and your State Identification Number for the state you are shipping into. If you do not hold a license, permit, registration, or other Identification Number in the state you are shipping into, write NONE in that field.

Part 2
Identify Your Sales
Provide your customer's name, type of customer (refer to the Electronic Filing Guide Table of Codes), address, federal description (refer to the Electronic Filing Guide Table of Codes), brand family, invoice date, invoice number, quantity of tobacco/vape, and total weight (tobacco products) or volume (vape products), retail sales price of the tobacco/vape products and the manufacturer's wholesale list price.

Part 3 – FOR DELIVERY SELLERS ONLY *See definition of delivery seller and delivery sales above.*
Provide your delivery service name, address, and phone number.

Part 4
Sign and date the form, and provide the name, title, and phone number of the responsible party.

Reporting Period

Date *(MM-YYYY)*

Uniform Cigarette Inventory Schedule

Physical Inventory of Cigarettes

Include all cigarettes in inventory – stamped, unstamped, saleable, or unsaleable.

	Total Cigarettes (No. of Sticks)
Beginning Inventory (Last period's Ending Inventory)	

Adjustments to Inventory

Type	Fed Desc	MSA Status	Tax Jurisdiction	UPC Number	UPC's Unit of Measure (UOM)	Manufacturer	Brand Family	Quantity	Sticks per pack	Total Cigarettes (No. of Sticks)
									Total	

Physical Ending Inventory

Fed Desc	MSA Status	Tax Jurisdiction	UPC Number	UPC's Unit of Measure (UOM)	Manufacturer	Brand Family	Quantity	Sticks per pack	Total Cigarettes (No. of Sticks)
								Total	

FTA_UniformCigInventory Rev. 05/08/2024

Schedule 3

Uniform Cigarette Inventory Schedule
Instructions

This schedule is used to report the total beginning inventory of cigarettes, adjustments to inventory during the reporting period, and the physical ending inventory of cigarettes at the close of the reporting period. This includes all cigarettes in inventory whether stamped, unstamped, saleable, or unsaleable.

Beginning Inventory
Enter the total cigarette sticks from the previous period's ending inventory.

Adjustments to Inventory
Report items not covered by an invoice which includes, but is not limited to, adjustments for damaged, lost, or stolen cigarette packs.

Physical Ending Inventory
Take a physical count of your cigarettes at the close of business on the last working day of the reporting period. Enter the total number of cigarettes on hand. This includes all cigarettes for every tax jurisdiction where the title has not passed whether stamped or unstamped.

Field Details
Type – Enter the appropriate code for the adjustment taken. Refer to the Electronic Filing Guide Table of Codes.
Fed Desc – Enter the type of cigarette based on the federal definition. Refer to the Electronic Filing Guide Table of Codes.
MSA Status – Enter the appropriate code for the MSA status of the manufacturer. Refer to the Electronic Filing Guide Table of Codes.
Tax Jurisdiction – Enter the applicable tax jurisdiction code. Refer to the Electronic Filing Guide Table of Codes. For unstamped cigarettes enter UNSTP.
UPC Number – Enter the Universal Product Code (UPC) assigned to the product brand you are reporting.
UPC's Unit of Measure (UOM) – Enter the appropriate code for the UOM of the UPC being reported. Refer to the Electronic Filing Guide Table of Codes.
Manufacturer – Enter the manufacturer of the cigarettes being reported. Refer to the reporting state's tobacco directory.
Brand Family – Enter the brand family for the product being reported. This should agree with the UPC identified in the UPC number field. Refer to the Electronic Filing Guide Table of Codes.
Quantity – Enter the total quantity of the packs being reported.
Sticks Per Pack – Enter the total number of sticks per pack you are reporting.
Total Cigarettes (no. of sticks) – Enter the total number of cigarette sticks being reported for the transaction.

Uniform Cigarette Stamp Schedule

Unaffixed Cigarette Stamp Report

Include all information related to the report jurisdiction's unaffixed cigarette tax stamps.

Reporting Period

Date (MM-YYYY)

	Count	Gross Value ($)
Beginning Inventory (Last period's Ending Inventory)		

Purchases

Date Received	Purchase Order / Confirmation Number	Roll ID / Sequence #	Tax Jurisdiction	Attribute	Unit of Measure	Count	Gross Value ($)
					Subtotal		

Adjustments

Date	Type	Explanation	Tax Jurisdiction	Attribute	Unit of Measure	Count	Gross Value ($)
					Subtotal		

	Count	Gross Value ($)
Physical Ending Inventory of Cigarette Stamps		
Total Cigarette Stamps Affixed		

FTA_UniformStamp (Rev. 05/08/2024) Schedule 2

Uniform Cigarette Stamp Schedule
Instructions

This schedule is used to report the beginning inventory of the reporting jurisdiction's unaffixed cigarette tax stamps, increases and decreases, in cigarette stamp inventory, the physical ending inventory of unaffixed cigarette stamps at the close of the reporting period, and total cigarette stamps affixed.

Beginning Inventory – Enter the physical inventory of unaffixed cigarette stamps and the gross value of those stamps from the previous period's ending inventory.

Purchases – Enter stamps purchased from the applicable tax jurisdiction.

> Date Received – Enter the date the cigarette stamps were physically received.
> Purchase Order Number / Confirmation Number – Enter the purchase order number or confirmation number for the cigarette stamps received.
> Tax jurisdiction – Enter the applicable tax jurisdiction code for each type of cigarette stamp. Refer to the Electronic Filing Guide Table of Codes.
> Attribute – As applicable, enter the attribute for each type of cigarette stamps. Refer to the Electronic Filing Guide Table of Codes.
> Unit of Measure – Enter the unit of measure for each type of cigarette stamp, (e.g., 10, 20, or 25).
> Count – enter the total count for the cigarette stamps being reported.
> Gross Value – Enter the gross value of each type of cigarette stamp where shown.

Adjustments – Report items not covered by an invoice which includes, but is not limited to, adjustments for returned, lost, stolen, or destroyed unaffixed cigarette stamps.

> Date – Enter the date that the adjustment was made.
> Type – Enter the appropriate code for the adjustment taken. Refer to the Electronic Filing Guide Table of Codes.
>> NOTE – If a taxing jurisdiction has authorized a transfer of unaffixed cigarette stamps, report these adjustments and provide supporting documentation for the transfer, including the taxing jurisdiction's transfer approval. Advise a state immediately of any lost or stolen cigarette stamps.
>
> Explanation – Enter a brief explanation to support the adjustment.

Physical Ending Inventory – Take a physical count of your unaffixed cigarettes stamps at the close of business on the last working day of the reporting period. Enter the total number of unaffixed cigarette stamps on hand and the gross value of those stamps.

Total Cigarette Stamps Affixed – Enter the total number of cigarette stamps affixed for the reporting jurisdiction. Beginning inventory, plus purchases, less adjustments, less physical ending inventory should result in the total number of cigarette stamps affixed.

Uniform Cigarette Transaction Schedule

Transactions

Include all transactions related to the receipts and disbursements of cigarettes.

Reporting Period

Date (*MM-YYYY)*

<table>
<tr><td rowspan="2">Schedule Code</td><td colspan="3">Document</td><td rowspan="2">Type of Customer</td><td colspan="4">Purchased From, Sold To, Ship/Bill To</td><td>Customer FEIN</td><td>Customer ID</td></tr>
<tr><td>Date</td><td>Type</td><td>Number</td><td colspan="4"></td><td></td><td></td></tr>
<tr><td></td><td></td><td></td><td></td><td></td><td>Name</td><td colspan="3">Street address</td><td></td><td></td></tr>
<tr><td colspan="5"></td><td>City</td><td>State</td><td>Country</td><td>Zip</td><td colspan="2"></td></tr>
</table>

Fed Desc	MSA Status	* Price	Tax Jurisdiction	UPC Number	UPCs Unit of Measure	Manufacturer	Manufacturer EIN	Brand Family	Quantity	Sticks Per Pack	Total Cigarettes (no. of Sticks)

* Only required by delivery sellers.

Delivery Service – Required for Delivery Sellers Only

Name	EIN	Address, City, State, ZIP	Phone Number

FTA_UnifmCIGTrans (Rev. 05/08/2024) Schedule 1

Uniform Cigarette Transaction Schedule – Instructions

This schedule is used to report all transactions related to receipts and disbursements of cigarettes.

DEFINITIONS

Delivery Seller – A person who makes delivery sales.

Delivery Sale – Any sale of cigarettes or smokeless tobacco to a consumer if –

- the consumer orders by telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
- the cigarettes or smokeless tobacco products are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery; or
- the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

SCHEDULE DETAILS

Schedule Code – There are two types of schedules that show movement of product.

- **Schedule of Receipts** provides detail to support all cigarettes received. Each receipt of product should be listed on a separate line. Refer to the Electronic Filing Guide Table of Codes.
- **Schedule of Disbursements** provides detail to support all cigarettes disbursed. Each disbursement of product should be listed on a separate line. Refer to the Electronic Filing Guide Table of Codes.

Document Date – Enter the date as provided on the vendor/customer invoice or other document. When multiple dates are listed on the invoice, the document date is the date the product is picked up by the carrier for delivery.

Document Type – Enter the appropriate code for the type of document. Refer to the Electronic Filing Guide Table of Codes.

Document Number – Enter the invoice or other document number as provided.

Type of Customer – Enter the appropriate code for the type of customer. Refer to the Electronic Filing Guide Table of Codes.

Name – Enter the name of the entity purchased from or sold to, depending on the type of transaction being reported. Report the entity as invoiced. Invoices are to show the name(s) and address(es) of permittees as permitted or licensed (legal name, "doing business as" name (DBA) and street address).

Address, City, State, and Zip Code – Enter the physical address, city, state, country and zip code of the entity purchased from, sold to, or shipped/billed to depending on the type of transaction being reported. Do not enter Post Office box information. More than one address may be entered.

Customer FEIN – Enter the Federal Employer Identification Number (FEIN) or the Federal Tax Identification Number. The FEIN is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

Customer ID – Enter your state, tribal or other unique customer ID as an additional identifier of your customer. This field is optional.

Fed Desc – Enter the type of cigarette based on the federal definition. Refer to the Electronic Filing Guide Table of Codes.

MSA Status – Enter the appropriate code for the MSA status of the manufacturer. Refer to the Electronic Filing Guide Table of Codes.

***Price** – Enter the sales price of the cigarettes. This field only applies to delivery sellers.

Tax Jurisdiction – Enter the applicable tax jurisdiction code. Refer to the Electronic Filing Guide Table of Codes.

UPC Number – Enter the Universal Product Code (UPC) assigned to the product brand you are reporting.

UPCs Unit of Measure (UPCs UOM) – Enter the appropriate code for the UOM of the UPC being used. Refer to the Electronic Filing Guide Table of Codes.

Manufacturer – Enter the manufacturer of the cigarettes being reported. Refer to reporting state's tobacco directory.

Manufacturer EIN – Enter the Employer Identification Number of the manufacturer of the cigarettes being reported. This field is optional.

Brand Family – Enter the brand family for the product being reported. This should agree with the UPC identified in the UPC number field. Refer to the Electronic Filing Guide Table of Codes.

Quantity – Enter the total quantity of the packs being reported.

Sticks Per Pack – Enter the total number of sticks per pack you are reporting.

Total Cigarettes (No. of sticks) – Enter the total number of cigarette sticks being reported for the transaction.

Uniform Tobacco Transaction Schedule

Transactions

Include all transactions related to the receipts and disbursements of tobacco products.

Reporting Period

Date *(MM-YYYY)*

Schedule Code	Document Date	Document Type	Document Number	Type of Customer	Purchased From, Sold To, Ship/Bill To				Customer FEIN	Customer ID
					Name	*Street address*				
					City	*State*	*Country*	*Zip*		

Description Fed	Description State	MSA Status	* Price	Tax Jurisdiction	UPC Number	Product Description	Manufacturer	Manufacturer EIN	Brand Family	Unit	Unit Description	Weight/ Volume	Value	Quantity	Stick Count	Extended Taxable Amount

* Only required by delivery sellers.

Delivery Service – Required for Delivery Sellers Only

Name	EIN	Address, City, State, ZIP	Phone Number

FTA_UnifmTOBTrans (R. 5-24) Schedule 1

Uniform Tobacco Transaction Schedule – Instructions

This schedule is used to report all transactions related to receipts and disbursements of other tobacco products.

DEFINITIONS

Delivery Seller – A person who makes delivery sales.

Delivery Sale – Any sale of cigarettes or smokeless tobacco to a consumer if –

- the consumer orders by telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
- the cigarettes or smokeless tobacco products are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or
- the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

SCHEDULE DETAILS

Schedule Code – There are two types of schedules that show movement of product.

- **Schedule of Receipts** provides detail to support all tobacco products received. Each receipt of product should be listed on a separate line. Refer to the Electronic Filing Guide Table of Codes.
- **Schedule of Disbursements** provides detail to support all tobacco products disbursed. Each disbursement of product should be listed on a separate line. Refer to the Electronic Filing Guide Table of Codes.

Document Date – Enter the date as provided on the vendor/customer invoice or other document. When multiple dates are listed on the invoice, the document date is the date the product is picked up by the carrier for delivery.

Document Type – Enter the appropriate code for the type of document. Refer to the Electronic Filing Guide Table of Codes.

Document Number – Enter the invoice or other document number as provided.

Type of Customer – Enter the appropriate code for the type of customer. Refer to the Electronic Filing Guide Table of Codes.

Name – Enter the name of the entity purchased from or sold to, depending on the type of transaction being reported. Report the entity as invoiced. Invoices are to show the name(s) and address(es) of permittees as permitted or licensed (legal name, “doing business as” name (DBA), and street address).

Address, City, State, and Zip Code – Enter the physical address, city, state, country, and zip code of the entity purchased from, sold to, or shipped/billed to depending on the type of transaction being reported. Do not enter Post Office box information. More than one address may be entered.

Customer FEIN – Enter the Federal Employer Identification Number (FEIN) or the Federal Tax Identification Number. The FEIN is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

Customer ID – Enter your state, tribal or other unique customer ID as an additional identifier of your customer. This field is optional.

Fed Description – Enter the type of tobacco product based on the federal definition. Refer to the Electronic Filing Guide Table of Codes.

State Description – Enter the type of tobacco product based on the state’s statutes and regulations.

MSA Status – Enter the appropriate code for the MSA status of the manufacturer. Refer to the Electronic Filing Guide Table of Codes.

Price – Enter the sales price of the tobacco product. This field only applies to delivery sellers.

Tax Jurisdiction – Enter the applicable tax jurisdiction code. Refer to the Electronic Filing Guide Table of Codes.

UPC Number – Enter the Universal Product Code (UPC) assigned to the product brand you are reporting.

UPCs Unit of Measure (UPCs UOM) – Enter the appropriate code for the UOM of the UPC being reported. Refer to the Electronic Filing Guide Table of Codes.

Product Description – Enter a narrative description of the product being reported. This information is typically taken from the line item on the invoice.

Manufacturer – If RYO is entered as the Fed Description, enter the manufacturer of the product being reported. Refer to the Electronic Filing Guide Table of Codes. Refer to reporting state’s tobacco directory.

Manufacturer EIN – Enter the Employer Identification Number of the manufacturer of the tobacco product being reported. This field is optional.

Brand Family – Enter the brand family for the product being reported. This should agree with the UPC identified in the UPC number field. Refer to the Electronic Filing Guide Table of Codes.

Unit – Enter the lowest number of consumable units in the retail package being reported.

Unit Description – Enter the appropriate unit description code. Refer to the Electronic Filing Guide Table of Codes.

Weight/Volume – Enter the total weight (tobacco products) or volume (vape products) of the retail package being reported.

Value – Enter the dollar value for the product being reported. Check with the specific state into which the tobacco products are being shipped if you have questions about that state’s specific tax base.

Quantity – Enter the total quantity of the retail package being reported.

Stick Count – If large or small cigar is entered as the Fed Description, multiply the “unit” by quantity. If RYO is entered as the Fed Description, divide the total ounces by .09.

Extended Taxable Amount – Multiply the “quantity” by either the “unit”, “weight”, or “value.” Check with the specific state into which the tobacco products are being shipped for any rules regarding rounding which may apply.

Cigarette Schedules of Receipts and Disbursements

Schedules of Receipts

Schedule 1 Cigarettes Received into Inventory

1A - Cigarettes received from a manufacturer or first importer.

Intended Use:

Filer is reporting cigarettes received that were purchased from the original manufacturer or first importer. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any.

1B - Cigarettes received from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee).

Intended Use:

Filer is reporting cigarettes received from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee.) Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any.

1C - Cigarettes received from a customer.

Intended Use:

Filer is reporting cigarettes received that were returned by the customer. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any, or whether no stamp was affixed. Note that “Customer” in this context DOES NOT include manufacturer, first importer, vendor, or a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). “Customer” DOES include a retailer or reseller to consumers.

1D - Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee).

Intended Use:

Manufacturer is reporting the receipt of cigarettes returned by a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). Report each transaction on a separate schedule. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any, or whether no stamp was affixed. A manufacturer’s affidavit should be sent to the licensed wholesaler and is the paper document that will substantiate this transaction.

Schedules of Disbursements

Schedule 2 Cigarettes Disbursed from Inventory

2A - Cigarettes disbursed by a manufacturer or first importer.

Intended Use:

Filer is reporting the sale of cigarettes. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any.

2B - Cigarettes disbursed to a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee).

Intended Use:

Filer is reporting the disbursement of cigarettes to a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any.

2C - Cigarettes disbursed to a customer.

Intended Use:

Filer is reporting the sale of cigarettes to customers (e.g., retailer, employee, or other direct consumer.) Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any. Note that “Customer” in this context DOES NOT include manufacturer, first importer, vendor, or a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). “Customer” DOES include a retailer or reseller to consumers.

2D - Cigarettes returned to the manufacturer.

Intended Use:

Filer is reporting the return of cigarettes to the manufacturer. Report each transaction on a separate schedule. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax stamp has been affixed, if any, or whether no stamp was affixed. Credit for tax stamps is not given by the reporting of this transaction. This schedule is used to report the removal of cigarettes from inventory. A manufacturer’s affidavit should be received from the manufacturer and sent to the state for credit. (A manufacturer’s affidavit is the paper document that will substantiate this transaction.)

Schedules of Receipts

Schedule 1 OTP Shipments Received

1A - OTP received from a manufacturer or first importer.

Intended Use:

Filer is reporting OTP received that was purchased from the original manufacturer or first importer. Refer to the "Tax Jurisdiction" data field to determine which jurisdiction's tax has been paid, if any.

1B - OTP received from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee).

Intended Use:

Filer is reporting OTP received from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). Refer to the "Tax Jurisdiction" data field to determine which jurisdiction's tax has been paid, if any.

1C - OTP received from a customer.

Intended Use:

Filer is reporting OTP received that was returned by the customer. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax has been paid, if any. Note that “Customer” in this context DOES NOT include manufacturer, first importer, vendor, or a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). “Customer” DOES include a retailer or reseller to consumers.

1D - OTP received by a manufacturer or first importer from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee).

Intended Use:

Manufacturer is reporting the receipt of OTP returned by a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). Report each transaction on a separate schedule. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax has been paid, if any. A manufacturer’s affidavit should be sent to the licensed distributor and is the paper document that will substantiate this transaction.

Schedules of Disbursements

Schedule 2 OTP Shipments Disbursed

2A - OTP disbursed by a manufacturer or first importer.

Intended Use:

Filer is reporting the sale of OTP. Refer to the "Tax Jurisdiction" data field to determine which jurisdiction's tax has been paid, if any.

2B - OTP disbursed to a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee).

Intended Use:

Filer is reporting the disbursement of OTP to a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). Refer to the "Tax Jurisdiction" data field to determine which jurisdiction's tax has been paid, if any.

2C - OTP disbursed to a customer.

Intended Use:

Filer is reporting the disbursement of OTP to customers, (e.g., retailer, employee, or other direct consumer). Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax has been paid, if any. Note that “Customer” in this context DOES NOT include manufacturer, first importer, vendor, or a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee). “Customer” DOES include a retailer or reseller to consumers.

2D - OTP returned to the manufacturer or importer.

Intended Use:

Filer is reporting the return of OTP to the manufacturer. Report each transaction on a separate schedule. Refer to the “Tax Jurisdiction” data field to determine which jurisdiction’s tax has been paid, if any. Credit for tax paid is not given by the reporting of this transaction. This schedule is used to report the removal of tobacco product from inventory. A manufacturer’s affidavit should be received from the manufacturer and sent to the state for credit. (A manufacturer’s affidavit is the paper document that will substantiate this transaction.)

Non-Resident – Summary Version –

Non-Resident Uniform Cigarette Cover Page for ______________

(Identify the reporting state tax jurisdiction)

	Begin Date -	End Date -
Reporting Period -		
Federal Employer Identification Number (FEIN)		
State Identification Number -		

20 - # sticks/pack
$ 1.000 - $ value/stamp

Mark one - Original Return / Amended Return / Replacement Return

Taxpayer Name -

	Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory
Location Address -					
Mailing Address -					

Form Row #		Row Formula	FTA Uniformity Form	FTA Uniformity Schedule Code	Stick Quantity	20's Pack Quantity	Value
Stamp Reconciliation:							
1	**Total Beginning Stamps**					-	$ -
2	Stamps Received from Tax jurisdiction (unaffixed)		S			-	$ -
3	Total Stamped Cigarettes received in jurisdiction				-	-	$ -
4	**Stamp Subtotal before Deductions**	4 = 1 + 2 + 3				-	$ -
5	Total Stamps Returned in jurisdiction					-	$ -
6	**Total Ending Stamps**					-	$ -
7	**Total Stamp Deductions**	7 = 5 + 6				-	$ -
8	**STAMPS USED**	8 = 4 - 7			-	-	$ -

Reconciliation of Stamps Used:

			Stick Quantity	20's Pack Quantity	Value
Disbursements of Cigarettes in Jurisdiction:					
9	**Total Cigarettes Disbursed *in* Jurisdiction**		-	-	$ -
Reconciling Difference - Cigarettes Disbursed vs Stamps Used					
10	**Total Cigarettes Disbursed in Jurisdiction less Stamps Used** *[Stamps found / (lost)]*	10 = 9 - 8		-	$ -
Adjustments:					
11	**Total Adjustments *(Stamp Reconciliation)* :**		-	-	$ -
12	**Adjustments Reconciled** *(balance should be zero)*	12 = 11 - 10		-	$ -

I declare that I have examined this form and to the best of my knowledge and belief it is true, correct and complete.

Name ______________ Title ______________ Date ______________

Non-Resident – Detail Version

Non-Resident **Uniform Cigarette Cover Page for ______________**

(identify the reporting state tax jurisdiction)

		Begin Date -	End Date -
Reporting Period -			
Federal Employer Identification Number (FEIN)			
State Identification Number -			

20 - # sticks/pack

$ 1.000 - $ value/stamp

Mark one - Original Return | Amended Return | Replacement Return

Taxpayer Name -

	Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory
Location Address -					
Mailing Address -					

Form Row #		Row Formula	FTA Uniformity Form	FTA Uniformity Schedule Code	Stick Quantity	20's Pack Quantity	Value
	Stamp Reconciliation:						
1.1	Beginning Stamps (unaffixed)		S			-	$ -
1.2	Beginning Stamps affixed to packs		I		-	-	$ -
1	**Total Beginning Stamps**					-	$ -
2	Stamps Received from Tax jurisdiction (unaffixed)		S			-	$ -
3.1	Stamped Cigarettes received from a person other than a manufacturer or first importer in jurisdiction		T	1B	-		$ -
3.2	Stamped Cigarettes received from a customer in jurisdiction		T	1C	-	-	$ -
3.3	Stamped Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer in jurisdiction		T	1D	-	-	$ -
3	Total Stamped Cigarettes received in jurisdiction				-	-	$ -
4	**Stamp Subtotal before Deductions**	4 = 1 + 2 + 3				-	$ -
5.1	Stamps Returned to Tax Jurisdiction (unaffixed)		S			-	$ -
5.2	Stamps Transferred to another Licensed Distributor with Approval (unaffixed)		S			-	$ -
5.3	Stamped Cigarettes returned to the manufacturer in jurisdiction		T	2D	-		$ -
5	Total Stamps Returned in jurisdiction					-	$ -
6.1	Ending Stamps (unaffixed)		S			-	$ -
6.2	Ending Stamps affixed to packs		I		-	-	$ -
6	**Total Ending Stamps**					-	$ -
7	**Total Stamp Deductions**	7 = 5 + 6				-	$ -
8	**STAMPS USED**	8 = 4 - 7			-	-	$ -

Non-Resident – Detail Version Cont'd

Non-Resident **Uniform Cigarette Cover Page for ______________**

(Identify the reporting state tax jurisdiction)

	Begin Date -	End Date -
Reporting Period -		
Federal Employer Identification Number (FEIN)		
State Identification Number -		

20 - # sticks/pack

$ 1.000 - $ value/stamp

Reconciliation of Stamps Used:

					Stick Quantity	20's Pack Quantity	Value
Disbursements of Cigarettes in Jurisdiction:							
9.1	Cigarettes disbursed by a manufacturer or first importer Stamped in jurisdiction		T	2A	-	-	$ -
9.2	Cigarettes disbursed to a person other than a manufacturer or first importer Stamped in jurisdiction		T	2B	-	-	$ -
9.3	Cigarettes disbursed to a customer Stamped in jurisdiction		T	2C	-	-	$ -
9	Total Cigarettes Disbursed *in* Jurisdiction				-	-	$ -
Reconciling Difference - Cigarettes Disbursed vs Stamps Used							
10	Total Cigarettes Disbursed in Jurisdiction less Stamps Used *(Stamps found / (lost))*	10 = 9 - 8				-	$ -
Adjustments:							
11.1	Physical Inventory Adjustments - Stamped Cigarettes in Jurisdiction (found)/lost		I		-	-	$ -
11.2	Stamped Cigarettes in Jurisdiction Stolen or Destroyed (documented)		I		-	-	$ -
11.3	Physical Inventory Adjustments - Unaffixed Stamps in Jurisdiction (found)/lost		S			-	$ -
11.4	Unaffixed Stamps in Jurisdiction Stolen or Destroyed (documented)		S			-	$ -
11.5	Non-Inventory Transaction in Jurisdiction *(i.e., credit issued to customer but no stamped cigarettes received OR cigarettes received from customer and no credit issued)*		I		-	-	$ -
11.6	Timing Difference in Jurisdiction *(i.e., stamped cigarettes received from customer in different reporting period from date credit issued to customer)*		I		-	-	$ -
11	Total Adjustments *(Stamp Reconciliation)* :				-	-	$ -
12	Adjustments Reconciled *(balance should be zero)*	12 = 11 - 10				-	$ -

I declare that I have examined this form and to the best of my knowledge and belief it is true, correct and complete.

Name ______________________ Title ______________ Date ______________

Resident – Summary Version

Resident Uniform Cigarette Cover Page for ______________
(identify the reporting state tax jurisdiction)

			Begin Date -	End Date -
20	- # sticks/pack	Reporting Period -		
$ 1.000	- $ value/stamp	Federal Employer Identification Number (FEIN)		
		State Identification Number -		

Mark one - Original Return | Amended Return | Replacement Return

Taxpayer Name -

	Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory
Location Address -					
Mailing Address -					

FTA Uniformity | FTA Uniformity

	CIGARETTE RECONCILIATION:				Stick Quantity	20's Pack Quantity	Value
20	Beginning Cigarette Inventory		I		-	-	$ -
21	Cigarettes received from a manufacturer or first import (unaffixed)		T	1A	-	-	$ -
22	Cigarettes received from a person other than a manufacturer or first importer		T	1B	-	-	$ -
23	Cigarettes received from a customer		T	1C	-	-	$ -
24	Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer		T	1D	-	-	$ -
25	**Subtotal before Deductions**	25 = sum (20 to 24)			-	-	$ -
26	Cigarettes returned to the manufacturer		T	2D	-	-	$ -
27	Ending Cigarette Inventory		I		-	-	$ -
28	**Total Deductions**	28 = 26 + 27			-	-	$ -
29	**CIGARETTES USED DURING PERIOD**	29 = 25 - 28			-	-	$ -

RECONCILIATION OF CIGARETTES USED:

			Stick Quantity	20's Pack Quantity	Value
	Disbursements of Cigarettes outside Jurisdiction:				
33	Total Cigarettes Disbursed *outside* Jurisdiction	33 = 30 + 31 + 32	-	-	$ -
34	Total Cigarettes Disbursed *in* Jurisdiction	*pull from row 9*	-	-	$ -
35	TOTAL CIGARETTES DISBURSED	35 = 33 + 34	-	-	$ -
	Reconciling Difference - Cigarettes Disbursed vs Cigarettes Used				
36	Difference - Cigarettes Used less Cigarettes Disbursed	36 = 29 - 35	-	-	$ -
	Adjustments:				
37	Total Adjustments *(Cigarette Reconciliation)* :		-	-	$ -
38	Total Adjustments *(Stamp Reconciliation)* :	*pull from row 11*	-	-	$ -
39	Total Adjustments:	39 = 37 + 38	-	-	$ -

Resident – Detail Version

Resident **Uniform Cigarette Cover Page for** ____________

(Identify the reporting state tax jurisdiction)

	Begin Date -	End Date -
Reporting Period -		

CIGARETTE RECONCILIATION:					Stick Quantity	20's Pack Quantity	Value
20.1	Beginning Cigarette Inventory (unaffixed)		I		-	-	$ -
20.2	Beginning Cigarette Inventory Stamped in jurisdiction	*pull from row 1.2*	I		-	-	$ -
20.3	Beginning Cigarette Inventory Stamped outside jurisdiction		I		-	-	$ -
20	Beginning Cigarette Inventory		I		-	-	$ -
21	Cigarettes received from a manufacturer or first import (unaffixed)		T	1A	-	-	$ -
22.1	Cigarettes received from a person other than a manufacturer or first importer (unaffixed)		T	1B	-	-	$ -
22.2	Cigarettes received from a person other than a manufacturer or first importer Stamped in jurisdiction	*pull from row 3.1*	T	1B	-	-	$ -
22.3	Cigarettes received from a person other than a manufacturer or first importer Stamped outside jurisdiction		T	1B	-	-	$ -
22	Cigarettes received from a person other than a manufacturer or first importer		T	1B	-	-	$ -
23.1	Cigarettes received from a customer (unaffixed)		T	1C	-	-	$ -
23.2	Cigarettes received from a customer Stamped in jurisdiction	*pull from row 3.2*	T	1C	-	-	$ -
23.3	Cigarettes received from a customer Stamped outside jurisdiction		T	1C	-	-	$ -
23	Cigarettes received from a customer		T	1C	-	-	$ -
24.1	Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer (unaffixed)		T	1D	-	-	$ -
24.2	Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer Stamped in jurisdiction	*pull from row 3.3*	T	1D	-	-	$ -
24.3	Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer Stamped outside jurisdiction		T	1D	-	-	$ -
24	Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer		T	1D	-	-	$ -
25	Subtotal before Deductions	25 = sum (20 to 24)			-	-	$ -
26.1	Cigarettes returned to the manufacturer (unaffixed)		T	2D	-	-	$ -
26.2	Cigarettes returned to the manufacturer Stamped in jurisdiction	*pull from row 5.3*	T	2D	-	-	$ -
26.3	Cigarettes returned to the manufacturer Stamped outside jurisdiction		T	2D	-	-	$ -
26	Cigarettes returned to the manufacturer		T	2D	-	-	$ -
27.1	Ending Cigarette Inventory (unaffixed)		I		-	-	$ -
27.2	Ending Cigarette Inventory Stamped in jurisdiction	*pull from row 6.2*	I		-	-	$ -
27.3	Ending Cigarette Inventory Stamped outside jurisdiction		I		-	-	$ -
27	Ending Cigarette Inventory		I		-	-	$ -
28	Total Deductions	28 = 26 + 27			-	-	$ -
29	CIGARETTES USED DURING PERIOD	29 = 25 - 28			-	-	$ -

Resident – Detail Version Cont'd

Resident | **Uniform Cigarette Cover Page for ______________**
(Identify the reporting state tax jurisdiction)

	Begin Date -	End Date -
Reporting Period -		

RECONCILIATION OF CIGARETTES USED:

					Stick Quantity	20's Pack Quantity	Value
Disbursements of Cigarettes outside Jurisdiction:							
30.1	Cigarettes disbursed by a manufacturer or first importer (unaffixed)		T	2A	-	-	$ -
30.2	Cigarettes disbursed by a manufacturer or first importer Stamped outside		T	2A	-	-	$ -
30	Cigarettes disbursed by a manufacturer or first importer (outside jurisdiction)		T	2A	-	-	$ -
31.1	Cigarettes disbursed to a person other than a manufacturer or first importer (unaffixed)		T	2B	-	-	$ -
31.2	Cigarettes disbursed to a person other than a manufacturer or first importer Stamped outside jurisdiction		T	2B	-	-	$ -
31	Cigarettes disbursed to a person other than a manufacturer or first importer (outside jurisdiction)		T	2B	-	-	$ -
32.1	Cigarettes disbursed to a customer (unaffixed)		T	2C	-	-	$ -
32.2	Cigarettes disbursed to a customer Stamped outside jurisdiction		T	2C	-	-	$ -
32	Cigarettes disbursed to a customer (outside jurisdiction)		T	2C	-	-	$ -
33	Total Cigarettes Disbursed *outside* Jurisdiction	33 = 30 + 31 + 32			-	-	$ -
34	Total Cigarettes Disbursed *in* Jurisdiction	*pull from row 9*			-	-	$ -
35	TOTAL CIGARETTES DISBURSED	35 = 33 + 34			-	-	$ -
Reconciling Difference - Cigarettes Disbursed vs Cigarettes Used							
36	Difference - Cigarettes Used less Cigarettes Disbursed	36 = 29 - 35			-	-	$ -
Adjustments:							
37.1	Unaffixed Cigarettes Stolen or Destroyed (documented)		I		-	-	$ -
37.2	Stamped Cigarettes outside Jurisdiction Stolen or Destroyed (documented)		I		-	-	$ -
37.3	Physical Inventory Adjustments - Unaffixed Cigarettes (found)/lost		I		-	-	$ -
37.4	Physical Inventory Adjustments - Stamped Cigarettes outside Jurisdiction (found)/lost		I		-	-	$ -
37.5	Non-Inventory Transaction outside Jurisdiction *(i.e., credit issued to customer but no stamped cigarettes received OR cigarettes received from customer but no credit issued)*		I		-	-	$ -
37.6	Timing Difference outside Jurisdiction *(i.e., stamped cigarettes received from customer in different reporting period from date credit issued to customer)*		I		-	-	$ -
37	Total Adjustments *(Cigarette Reconciliation)* :				-	-	$ -
38	Total Adjustments *(Stamp Reconciliation)* :	*pull from row 11*			-	-	$ -
39	Total Adjustments:	39 = 37 + 38			-	-	$ -

Uniform Cigarette Cover Page – Instructions

This Cover Page is used to Reconcile Cigarette Inventory for the reporting period

Data used to populate this Cover Page is pulled directly from the Taxpayer's Uniform Cigarette Schedules ("T" - Transaction Schedule, "S" - Stamp Schedule, "I" - Inventory Schedule) for the Reporting Period

Key data pulled includes – Tax Jurisdiction, Type of Customer, Schedule Code, Sticks per Pack, Total Cigarettes and Adjustment Type

Complete a Separate Cigarette Cover Page for each of 20's Stamps and 25's Stamps -

Data pulled for each Cover Page should leverage the "unit of measure" data on the Stamp Schedules and the "cigarettes per pack" data on the Transaction Schedules and Inventory Schedules

Sections of this Form -	***Completed by -***
SCHEDULE DETAILS	All Taxpayers
STAMP RECONCILIATION	All Taxpayers
RECONCILIATION OF STAMPS USED	All Taxpayers
CIGARETTE RECONCILIATION	Resident Taxpayers Only
RECONCILIATION OF CIGARETTES USED	Resident Taxpayers Only

SCHEDULE DETAILS:

Taxpayer Name – Enter the Name of the Taxpayer filing this report. Name should agree with the Name as shown on the Taxpayer's state license.

Reporting Period – Enter the month and year of the tax period being reported. For a quarterly or annual filing period, enter the last month of the reporting period.

Taxpayer FEIN - Enter the Federal Employer Identification Number (FEIN) or the Federal Tax Identification Number. The FEIN is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

State Identification Number – Enter the State Identification Number of the Taxpayer. This is a unique identifier assigned to the Taxpayer by the reporting state.

Original Return / Amended Return / Replacement Return – Mark the box for the report being filed. Original Return should be marked if this is the first time a report has been filed for this reporting period. Amended Return should be marked if an amendment to the Original Return is being filed after the original due date. Mark the Replacement Return box if this report is correcting an Original Return prior to the original due date.

Location Address – Enter the physical address, city, state, country and zip code of the Taxpayer. Do not enter Post Office box information.

Mailing Address – Enter the mailing address, city, state, country and zip code of the Taxpayer.

Uniform Cigarette Cover Page – Instructions Cont'd

STAMP RECONCILIATION:

The Purpose of this Section is to calculate the number of In-State Cigarette Tax Stamps (both affixed & unaffixed) Used during the reporting period

Following the descriptions on each row of the form, pull data as follows -

Pull *unaffixed* stamp data from the Uniform Cigarette Stamp Schedule for the In-State "Tax Jurisdiction" only -
beginning inventory, purchases, ending inventory, adjustments (Adjustment Types)

Pull Stamped Cigarette data from the Uniform Cigarette Inventory Schedule for the In-State "Tax Jurisdiction" only -
beginning inventory and ending inventory

Pull Stamped Cigarette data from the Uniform Cigarette Transaction Schedules for the In-State "Tax Jurisdiction" only -
Leverage the Schedule Codes and Type of Customer Codes to populate each row with total -
Receipts (Schedule Codes 1B, 1C, 1D) and Disbursements (Schedule Codes 2D)

RECONCILIATION OF STAMPS USED:

The Purpose of this Section is to explain how In-State Cigarette Tax Stamps were Used during the reporting period

Pull Stamped Cigarette data from the Uniform Cigarette Transaction Schedules for the In-State "Tax Jurisdiction" only -
Leverage the Schedule Codes and Type of Customer Codes to populate each row with total -
Disbursements (Schedule Codes 2A, 2B, 2C)

Pull *unaffixed* stamp data from the Uniform Cigarette Stamp Schedule for the In-State "Tax Jurisdiction" only -
Adjustments (use Adjustment Types)

Pull Stamped Cigarette data from the Uniform Cigarette Inventory Schedule for the In-State "Tax Jurisdiction" only -
Adjustments (use Adjustment Types)

CIGARETTE RECONCILIATION: **Residents Only**

The Purpose of this Section is to calculate the number of Cigarettes (both affixed & unaffixed) Used during the reporting period

Pull Stamped Cigarette data from the Uniform Cigarette Inventory Schedule -
beginning inventory and ending inventory (using Tax Jurisdiction codes group by UNSTP, In-State, and Out-of-State Jurisdictions)

Pull Stamped Cigarette data from the Uniform Cigarette Transaction Schedules -
Leverage the Schedule Codes, Type of Customer Codes, and Tax Jurisdiction Codes to populate each row with total -
Receipts (Schedule Codes 1A, 1B, 1C, 1D) and Disbursements (Schedule Codes 2D)

RECONCILIATION OF CIGARETTES USED: **Residents Only**

The Purpose of this Section is to explain how Cigarettes were Used during the reporting period

Pull Stamped Cigarette data from the Uniform Cigarette Transaction Schedules -
Leverage the Schedule Codes, Type of Customer Codes, and Tax Jurisdiction Codes to populate each row with total -
Disbursements (Schedule Codes 2A, 2B, 2C)

Pull Stamped Cigarette data from the Uniform Cigarette Inventory Schedule -
Adjustments (use Adjustment Types)

Uniform Cigarette Cover Page – Notes

Reference Information -

Row # and Formula Information in Blue

Reference to FTA Uniform Cigarette Schedules and SubSchedules in Green

FTA Uniform Cigarette Schedules -

S	Uniform Cigarette Stamp Schedule
I	Uniform Cigarette Inventory Schedule
T	Uniform Cigarette Transaction Schedule

FTA Uniform Cigarette SubSchedules -

1 - Cigarettes Received into Inventory -

1A	Cigarettes received from a manufacturer or first importer
1B	Cigarettes received from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee)
1C	Cigarettes received from a customer
1D	Cigarettes received by a manufacturer or first importer from a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee)

2 - Cigarettes Disbursed from Inventory -

2A	Cigarettes disbursed by a manufacturer or first importer
2B	Cigarettes disbursed to a person other than a manufacturer or first importer, (e.g., a wholesaler, distributor, or other licensee)
2C	Cigarettes disbursed to a customer
2D	Cigarettes returned to the manufacturer

Reference to Tax Jurisdiction in Red

UNSTP	*Unstamped cigarettes*
IS	*In-State stamped cigarettes*
OOS	*Out-of-State stamped cigarettes*

(peach)	*Input field for State rates per stamp*
(yellow)	*Data pulled from Uniform Transaction Schedules - T, S or I - based on Type of Customer code and/or Tax Jurisdiction code*
(white)	*Calculation*
(grey)	*Portion of form used only by Resident Taxpayers*
(green)	*Link from another part of form*

Uniform ***Purchase-Based*** Tobacco Cover Page for _______________

(Identify the reporting state tax jurisdiction)

Taxpayer Name (please print)				Reporting Period (MM/YYYY)	State Identification Number
Location Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory	Federal Employer Identification Number (FEIN)
Mailing Address	City	State/Province	Zip Code/Postal Code	Country/Territory	Email Address

☐ Original Return ☐ Amended Return ☐ Replacement Return ☐ In-state Filer ☐ Out-of-State Filer

		Schedule #	State Description 1	State Description 2	State Description 3	Total
Gross Taxable Transactions						
1	Purchases of untaxed product	1A				
2	Exports - Out of State Customer Returns	1C - OOS & 1B - OOS				
3	**Gross Taxable Transactions** (add lines 1 - 2)					
Reductions						
4	Exports - Out of State Customer Sales	2C - OOS & 2B - OOS				
5	Returns to Manufacturer	2D				
6	**Exempt Sales -**					
6a	Native	1C & 2C - Native - IS				
6b	Licensed Distributor	1B & 2B - Licensed - IS				
6c	Military, Government or other Exempt transaction	1C & 2C - Govt - IS				
7	**Total Subtractions** (add lines 4 - 6)					
8	**Net Taxable Amount** (line 3 less line 7)					
9	Tax Rate by State Description					
10	Tax Amount (line 8 times line 9)					
11	Less Timely Filing Discount (if applicable)					
12	Net Tax (line 10 less line 11)					
13	Total Net Tax from Other Pages (if more State Descriptions)					
14	Carry Over Adjustment - Amount owed or credit					
15	Tax Due (add lines 12 - 15)					
16	Penalty					
17	Interest					
18	**Total Due** (add lines 16 - 18)					
19	Purchases of tax-paid tobacco products *(informational only)*					

I declare that I have examined this form and to the best of my knowledge and belief it is true, correct and complete.

______________________ ______________________ ______________

Name Title Date

Uniform ***Purchase-Based*** Tobacco Cover Page – Instructions

This Cover Page is used to calculate and report tobacco tax due for the period when tax is computed based on ***PURCHASES*** made during the reporting period. ***This form is most commonly used by an in-state Taxpayer***.

Data used to populate this Cover Page is pulled directly from the Taxpayer's Uniform Tobacco Transaction Schedules ("**UTTS**") for the Reporting Period. Key data pulled includes – **State Description Code**, **Schedule Code**, **Type of Customer**, **Tax Jurisdiction**, and **Extended Taxable Amount**.

SCHEDULE DETAILS

Taxpayer Name – Enter the Name of the Taxpayer filing this report. Name should agree with the Name as shown on the Taxpayer's state license.

Reporting Period – Enter the month and year of the tax period being reported. For a quarterly or annual filing period, enter the last month of the reporting period.

State Identification Number – Enter the State Identification Number of the Taxpayer. This is a unique identifier assigned to the Taxpayer by the reporting state.

Location Address – Enter the physical address, city, state, country and zip code of the Taxpayer. Do not enter Post Office box information.

Mailing Address – Enter the mailing address, city, state, country and zip code of the Taxpayer.

Taxpayer FEIN – Enter the Federal Employer Identification Number (FEIN) or the Federal Tax Identification Number. The FEIN is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

Email Address – Enter the Email Address of the Taxpayer's contact.

Original Return / Amended Return / Replacement Return – Mark the box for the report being filed. *Original Return* should be marked if this is the first time a report has been filed for this reporting period. *Amended Return* should be marked if an amendment to the Original Return is being filed after the original due date. Mark the *Replacement Return* box if this report is correcting an Original Return prior to the original due date.

In-State Filer / Out-of-State Filer – Mark the appropriate box based on whether the Taxpayer's physical location is inside or outside the reporting state.

State Description Code – The reporting state will pre-define their State Description Codes (*Codes to replace the 1, 2, 3 shown*). Depending on the state's statutes and regulations, some states may only have 1 State Description Code (i.e., 1 column of data) while other states may have multiple State Description Codes (requiring multiple columns on this Cover Page and possibly multiple pages to this form). Data for each State Description Code should be pulled from the Taxpayer's UTTSs for the Reporting Period and placed in the corresponding State Description column of the Cover Page.

1 – Purchases of untaxed product – Enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Code* "**1A**", for *untaxed* tobacco received (i.e., with no Tax Jurisdiction) by the Taxpayer. These amounts should be placed into the respective State Description Columns based on the State Description Codes on the UTTS.

2 – Exports – Out of State Customer Returns – Enter the total Extended Taxable Amount, as reflected on the UTTSs for Schedule Code "**1B**" and "**1C**", for tobacco received by the Taxpayer. Amounts should include only tobacco received from Tax Jurisdictions *outside* the reporting state ("OOS").

3 – Gross Taxable Transactions – Add rows 1 and 2 by State Description Code**.**

4 – Exports – Out of State Customer Sales – Enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "**2B**" and "**2C**", for tobacco disbursed to Tax Jurisdictions *outside* the reporting state ("OOS").

5 – Returns to Manufacturer – Enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "**2D**", for tobacco disbursed to Type of Customer "*Manufacturer*".

6a - Native – If applicable, enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "1**C**" and "**2C**" , for tobacco received by or disbursed to solely Type of Customer "*Native*" (as defined by state statutes and regulations) *within* the reporting state ("IS").

6b - Licensed Distributor – If applicable, enter the total *Extended Taxable Amount,* as reflected on the UTTSs *Schedule Codes* "**1C**" and "**2C**", for tobacco received by or disbursed to solely Type of Customer "*Distributor*" or "*Wholesaler*" or "*Inter-branch Transfer*" (as defined by state statutes and regulations) within the reporting state ("IS").

6c - Military, Government or other Exempt Customer – If applicable, enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "1**C**" and "**2C**", for tobacco received by or disbursed to solely Type of Customer "*Military*" or "*Government*" (as defined by state statutes and regulations) within the reporting state ("IS").

7 – Total Subtractions – Add rows 4, 5 and 6a to 6c by State Description Code.

8 – Net Taxable Amount – Subtract row 7 from row 3 by State Description Code. Note that these amounts may be a value ($), a number of units or a weight/volume depending on the State Description Code requirement.

9 – Tax Rate by State Description – The reporting state will pre-define their tax rates by State Description Code.

10 – Tax amount – Multiply row 8 by row 9. The resulting amount will be a dollar amount. Include a cross-foot Total for this row.

11 – Timely Filing Discount – If applicable, indicate the timely filing discount. This amount may be a percentage of row 10 with or without a dollar cap. Amounts may be computed by State Description Code or only in Total. If by State Description Code, include a cross-foot Total for this row.

12 – Net Tax – Subtract row 11 from row 10.

13 - Net Tax from Other Pages – To the extent that the reporting state has multiple State Description Codes that do not all fit on 1 Cover Page, multiple Cover Pages may be needed. This row is used to carry all State Description Net Tax totals to the front Cover Page.

14 - Carry Over Adjustment – Amount owed or credit – Use this row to present any prior period adjustment carrying into this Reporting Period.

15 - Tax Due – Add rows 12 to 14. This is your Total Tax Due.

16 - Penalty – If the report is filed late, penalties may be due. Enter the amount due.

17 - Interest - If the report is filed late, interest may be due. Enter the amount due.

18 - Total Due – Add rows 15 to 17. The amount paid by the Taxpayer to the reporting state with this report should equal this amount.

19 – Purchases of tax-paid tobacco products – Enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Code* “**1A**” (OTP received from a manufacturer or first importer) or “**1B**” (OTP received from a person other than a manufacturer or first importer), for tax paid tobacco received (i.e., with an in-state Tax Jurisdiction) by the Taxpayer during the Reporting Period.

Uniform ***Sales-Based*** Tobacco Cover Page for ________________

(Identify the reporting state jurisdiction)

Taxpayer Name (please print)				Reporting Period (MM/YYYY)	State Identification Number
Location Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory	Federal Employer Identification Number (FEIN)
Mailing Address	City	State/Province	Zip Code/Postal Code	Country/Territory	Email Address

☐ Original Return ☐ Amended Return ☐ Replacement Return ☐ In-state Filer ☐ Out-of-State Filer

		Schedule #	State Description 1	State Description 2	State Description 3	Total
Gross Taxable Transactions						
1	Gross Sales Amount (sales to customers)	2C & 2B				
Reductions						
2	In State Returns (Returns from customers within reporting state)	1C - IS & 1B - IS				
3	**Exempt Sales -**					
3a	Native	1C & 2C - Native - IS				
3b	Licensed Distributor	1B & 2B - Licensed - IS				
3c	Military, Government or other Exempt transaction	1C & 2C - Govt - IS				
3d	Exports (out-of-state customer sales)	2C - OOS & 2B -OOS				
4	**Total Subtractions** (add lines 2 – 3d)					
5	**Net Taxable Amount** (line 1 less line 4)					
6	Tax Rate by State Description					
7	Tax Amount (line 5 times line 6)					
8	Less Timely Filing Discount (if applicable)					
9	Net Tax (line 7 less line 8)					
10	Total Net Tax from Other Pages (if more State Descriptions)					
11	Carry Over Adjustment - Amount owed or credit					
12	Tax Due (add lines 9 - 11)					
13	Penalty					
14	Interest					
15	**Total Due** (add lines 12 - 14)					

I declare that I have examined this form and to the best of my knowledge and belief it is true, correct and complete.

______________________ ______________________ ______________________

Name Title Date

Uniform *Sales-Based* Tobacco Cover Page – Instructions

This Cover Page is used to calculate and report tobacco tax due for the period when tax is computed based on **SALES** made during the reporting period. ***This form is most commonly used by an out-of-state Taxpayer.***

Data used to populate this Cover Page is pulled directly from the Taxpayer's Uniform Tobacco Transaction Schedules ("**UTTS**") for the Reporting Period. Key data pulled includes – **State Description Code**, **Schedule Code**, **Type of Customer**, **Tax Jurisdiction**, and **Extended Taxable Amount**.

SCHEDULE DETAILS

Taxpayer Name – Enter the Name of the Taxpayer filing this report. Name should agree with the Name as shown on the Taxpayer's state license.

Reporting Period – Enter the month and year of the tax period being reported. For a quarterly or annual filing period, enter the last month of the reporting period.

State Identification Number – Enter the State Identification Number of the Taxpayer. This is a unique identifier assigned to the Taxpayer by the reporting state.

Location Address – Enter the physical address, city, state, country and zip code of the Taxpayer. Do not enter Post Office box information.

Mailing Address – Enter the mailing address, city, state, country and zip code of the Taxpayer.

Taxpayer FEIN - Enter the Federal Employer Identification Number (FEIN) or the Federal Tax Identification Number. The FEIN is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

Email Address – Enter the Email Address of the Taxpayer's contact.

Original Return / Amended Return / Replacement Return – Mark the box for the report being filed. Original Return should be marked if this is the first time a report has been filed for this reporting period. Amended Return should be marked if an amendment to the Original Return is being filed after the original due date. Mark the Replacement Return box if this report is correcting an Original Return prior to the original due date.

In-State Filer / Out-of-State Filer – Mark the appropriate box based on whether the Taxpayer's physical location is inside or outside the reporting state.

State Description Code – The reporting state will pre-define their State Description Codes (*Codes to replace the 1, 2, 3 shown*). Depending on the state's statutes and regulations, some states may only have 1 State Description Code (i.e., 1 column of data) while other states may have multiple State Description Codes (requiring multiple columns on this Cover Page and possibly multiple pages to this for the UTTSs for *Schedule Codes* "**2B**" and "**2C**", for tobacco disbursed by the Taxpayer. These amounts should be placed into the respective State Description Columns form). Data for each State Description Code should be pulled from the Taxpayer's UTTSs for the Reporting Period and placed in the corresponding State Description column of the Cover Page.

1 - Gross Sales Amount –Enter the total *Extended Taxable Amount,* as reflected on based on the State Description Codes on the UTTS.
For an <u>In-State Filer</u>, **2B** and **2C** amounts should be included for *all* UTTS transactions (for all Tax Jurisdictions whether inside or outside the reporting state).

For an Out-of-State Filer, only include **2B** and **2C** amounts for transactions occurring *within* the reporting state.

2 - In-State Returns – Enter the total Extended Taxable Amount, as reflected on the UTTSs for Schedule Code "**1B**" and "**1C**", for tobacco received by the Taxpayer. Amounts should include only transactions occurring *within* the reporting state ("IS").

3a - Native – If applicable, enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "**1C**" and "**2C**", for tobacco received by or disbursed to solely Type of Customer "*Native*" (as defined by state statutes and regulations) *within* the reporting state ("IS").

3b - Licensed Distributor – If applicable, enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "**1C**" and "**2C**", for tobacco received by or disbursed to solely Type of Customer "*Distributor*" or "*Wholesaler*" or "*Inter-branch Transfer*" (as defined by state statutes and regulations) *within* the reporting state ("IS").

3c - Military, Government or other Exempt Customer – If applicable, enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "1**C**" and "**2C**", for tobacco received by or disbursed to solely Type of Customer "*Military*" or "*Government*" (as defined by state statutes and regulations) *within* the reporting state ("IS").

3d - Exports – *This row applies only to In-State Filers*. Enter the total *Extended Taxable Amount,* as reflected on the UTTSs for *Schedule Codes* "**2B**" and "**2C**", for tobacco disbursed to Tax Jurisdictions *outside* the reporting state ("OOS").

4 – Total Subtractions – Add rows 2 and 3a to 3d by State Description Code.

5 – Net Taxable Amount – Subtract row 4 from row 1 by State Description Code. Note that these amounts may be a value ($), a number of units or a weight/volume depending on the State Description Code requirement.

6 – Tax Rate by State Description - The reporting state will pre-define their tax rates by State Description Code.

7 – Tax amount – Multiply row 5 by row 6. The resulting amount will be a dollar amount. Include a cross-foot Total for this row.

8 – Timely Filing Discount – If applicable, indicate the timely filing discount. This amount may be a percentage of row 7 with or without a dollar cap. Amounts may be computed by State Description Code or only in Total. If by State Description Code, include a cross-foot Total for this row.

9 – Net Tax – Subtract row 8 from row 7.

10 - Net Tax from Other Pages – If the reporting state has multiple State Description Codes that do not all fit on one Cover Page, multiple Cover Pages may be needed. This row is used to carry all State Description Net Tax totals to the front Cover Page.

11 - Carry Over Adjustment – Amount owed or credit – Use this row to present any prior period adjustment carrying into this Reporting Period.

12 - Tax Due – Add rows 9 to 11. This is your Total Tax Due.

13 - Penalty – If this report is filed late, penalties may be due. Enter the penalty amount due.

14 – Interest – If this report is filed late, interest may be due. Enter the interest amount due.

15 – Total Due- Add rows 12 to 14. The amount paid by the Taxpayer to the reporting state with this report should equal this amount.

Electronic Filing Receipt Acknowledgement

It is encouraged to send an acknowledgment when a report is received electronically. Below are suggestions to include in the content of the acknowledgement. Any information to help industry identify what you are acknowledging is helpful. One e-file acknowledgement should be issued for each transmission.

- State
- License number / State identification number
- Taxpayer (Company) name
- Reporting period
- Date received
- Type of tax
- Type of return (original, replacement, amended, etc.)
- Status of filing
- Name and phone number of person to contact for questions/issues
- Name of file(s) submitted, if applicable
- Confirmation number, if applicable
- Total dollar amount, if applicable
- Total lines, if applicable

Uniform Cigarette Incident Deduction / Recovery Schedule

Reporting Period
Date (YYYY-MM)

Claim for Deduction / Recovery

Attach all supporting documentation for incident being reported

PART 1

Schedule Code	Document			Type of Customer	Original Transaction Sold To, Ship/Bill To (or Returned To)				Customer FEIN	Customer ID
	Date	Type	Number							
					Name	Street address				
					City	State	Country	Zip		

PART 2

Incident Code	Incident Date	Incident Explanation

PART 3

Fed Desc	MSA Status	* Price	Tax Jurisdiction	UPC Number	UPCs Unit of Measure	Manufacturer	Manufacturer EIN	Brand Family	Quantity	Sticks Per Pack	a Total Cigarettes (no. of Sticks)	b Tax Rate at time of Original Invoice	a x b Deduction / Recovery Amount

* Only required by delivery sellers.

Deliver Service - Required for Delivery Sellers Only

Name	EIN	Address, City, State, Zip	Phone Number

FTA_Uniform Incident Cig (N. 1-20) Schedule 1

Uniform Incident Form_v4_2020-01-10b.xlsx CIG

Uniform Tobacco Incident Deduction / Recovery Schedule

Reporting Period

Date (YYYY-MM)

Claim for Deduction / Recovery

Attach all supporting documentation for incident being reported

PART 1

Schedule Code	Document Date	Document Type	Document Number	Type of Customer	Original Transaction Sold To, Ship/Bill To (or Returned To)						Customer FEIN	Customer ID
					Name		Street address					
					City		State	Country		Zip		

PART 2

Incident Code	Incident Date	Incident Explanation

PART 3

Description Fed	Description State	MSA Status	* Price	Tax Jurisdiction	Product Description	Manufacturer	Manufacturer EIN	Brand Family	Retail Unit count	Retail Unit Description	Weight/Volume per Retail Unit	Value per Retail Unit	Quantity (of Retail Units)	Stick Count	a Extended Taxable Amount	b Tax Rate at time of Original Invoice	a x b Deduction / Recovery Amount

* Only required by delivery sellers.

Deliver Service - Required for Delivery Sellers Only

Name	EIN	Address, City, State, Zip	Phone Number

FTA_Uniform Incident OTP (N. 1-20)

Uniform Incident Form_v4_2020-01-10b.xlsx

OTP

Uniform Incident Form – Instructions

This Incident Form is used to report incidents that cause an adjustment to inventory or result in a change in a tax calculation. For example, to report a theft, destruction, or bad debt claim, etc.

SCHEDULE DETAILS

Part I – Data used to populate Part 1 of this Incident Form is pulled directly from the Taxpayer's Uniform Transaction Schedule for the Reporting Period in which the Originating Transaction, if any, occurred. For example, the original sales transaction for which a bad debt is claimed, the original purchase transaction for stolen or destroyed product, etc.). To the extent there is no originating transaction, leave this section blank.

Schedule Code – There are two types of schedules that show movement of product.

- Schedule of Receipts provides detail to support all tobacco or cigarette products received. Each receipt of product should be listed on a separate line. Refer to the electronic filing Table of Codes.

- Schedule of Disbursements provides detail to support all tobacco or cigarette products disbursed. Each disbursement of product should be listed on a separate line. Refer to the electronic filing Table of Codes.

Document Date – Enter the date as provided on the vendor/customer invoice or other document. When multiple dates are listed on the invoice, the document date is the date the product is picked up by the carrier for delivery.

Document Type – Enter the appropriate code for the type of document. Refer to the electronic filing Table of Codes.

Document Number – Enter the invoice or other document number as provided.

Type of Customer – Enter the appropriate code for the type of customer. Refer to the electronic filing Table of Codes.

Name – Enter the name of the entity purchased from or sold to, depending on the type of transaction being reported. Report the entity as invoiced. Invoices are to show the name(s) and address(es) of permittees as permitted or licensed (legal name, "doing business as" name (DBA), and street address).

Address, City, State, and Zip Code – Enter the physical address, city, state, country, and zip code of the entity purchased from, sold to, or shipped/billed to depending on the type of transaction being reported. Do not enter Post Office box information. More than one address may be entered.

Customer FEIN – Enter the Federal Employer Identification Number (FEIN) or the Federal Tax Identification Number. The FEIN is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

Customer ID – Enter your state, tribal or other unique customer ID as an additional identifier of your customer. This field is optional.

Part 2 – Detail regarding the incident being reported.

Incident Code – Select the code which best describes the type of incident being reported. Refer to the electronic filing Table of Codes

Incident Date – Enter the date on which the incident occurred, for example, the date of a theft or destruction of product, the date when the bad debt occurred, etc. If multiple dates exist for this incident (i.e., date first reported bad debt to state, date of write-off of bad debt in taxpayer books and records, etc.) refer to the state specific requirements regarding the date to enter in this data field.

Incident Explanation – Describe in detail the nature of the incident being reported. This explanation should include reference to documents to be provided in support of this incident – i.e., police reports, documentation in support of attempts to collect on bad debt, etc.

Part 3 – Description of product lost, stolen, destroyed or written-off as a result of this incident. Note that the Fed Description, State Description (if applicable), MSA Status, Tax Jurisdiction, Product Description, UPC Code, Manufacturer, Manufacturer EIN and Brand should agree with the information originally provided during the Reporting Period of the Originating Transaction.

Tobacco Incident Form

Fed Description – Enter the type of tobacco product based on the federal definition. Refer to the electronic filing Table of Codes**.**

State Description – Enter the type of tobacco product based on the state's statutes and regulations.

MSA Status – Enter the MSA status of the manufacturer. Refer to the electronic filing Table of Codes.

Price – Enter the sales price of the tobacco product. This field only applies to delivery sellers.

Tax Jurisdiction – Enter the applicable tax jurisdiction code. Refer to the electronic filing Table of Codes.

Product Description – Enter a narrative description of the product being reported. This information is typically taken from the line item on the invoice.

Manufacturer – If RYO is entered as the Fed Description, enter the manufacturer of the product being reported. Refer to the electronic filing Table of Codes. Refer to reporting state's tobacco directory.

Manufacturer EIN – Enter the Employer Identification Number of the manufacturer of the tobacco product being reported. This field is optional.

Brand Family – Enter the brand family for the product being reported. This should agree with the UPC identified in the UPC number field. Refer to the electronic filing Table of Codes.

Retail Unit count – Enter the lowest number of consumable units in the retail package being reported.

Retail Unit Description – Enter the appropriate unit description code. Refer to the electronic filing Table of Codes.

Weight/Volume per Retail Unit – Enter the total weight or volume of the retail package being reported.

Value per Retail Unit – Enter the dollar value for the product being reported. Check with the specific state into which the tobacco products are being shipped if you have questions about that state's specific tax base.

Quantity (of Retail Units) – Enter the total quantity of the retail package being reported.

Stick Count – If large or small cigar is entered as the Fed Description, multiply the "unit" by quantity. If RYO is entered as the Fed Description, divide the total ounces by .09.

Extended Taxable Amount – Multiply the "quantity" by either the "unit", "weight", or "value." Check with the specific state into which the tobacco products are being shipped for any rules regarding rounding which may apply.

Tax Rate at time of Original Invoice – Enter the state tax rate applicable to this tobacco product (based on the State Description code) on the date on which the transaction originated. As an example, the date the stolen product was originally purchased or the date the product was originally sold to the customer for whom a bad debt is being claimed. Refer to State specific instructions as to which date to enter here.

Deduction / Recovery Amount – This is the dollar amount for which a deduction or recovery is being claimed. Enter a dollar amount equal to the "Extended Taxable Amount" times the "Tax Rate at the time of the Original Invoice".

Cigarette Incident Form

Fed Description – Enter the type of cigarette based on the federal definition. Refer to the electronic filing Table of Codes.

MSA Status – Enter the MSA status of the manufacturer. Refer to the electronic filing Table of Codes.

Price – Enter the sales price of the cigarettes. This field only applies to delivery sellers.

Tax Jurisdiction – Enter the applicable tax jurisdiction code. Refer to the electronic filing Table of Codes.

UPC Number – Enter the Universal Product Code (UPC) assigned to the product brand you are reporting.

UPCs Unit of Measure – Enter the unit of measure of the UPC being reported. Refer to the electronic filing Table of Codes.

Manufacturer – Enter the manufacturer of the cigarettes being reported. Refer to reporting state's tobacco directory.

Manufacturer EIN – Enter the Employer Identification Number of the manufacturer of the cigarettes being reported. This field is optional.

Brand Family – Enter the brand family for the product being reported. This should agree with the UPC identified in the UPC number field. Refer to the electronic filing Table of Codes.

Quantity – Enter the total quantity of the packs being reported.

Sticks Per Pack – Enter the total number of sticks per pack you are reporting.

Total Cigarettes (No. of sticks) – Enter the total number of cigarette sticks being reported for the transaction.

Tax Rate at time of Original Invoice – Enter the state tax rate per stick on the date on which the transaction originated. As an example, the date the stolen product was originally purchased or the date the product was originally sold to the customer for whom a bad debt is being claimed. Refer to State specific instructions as to which date to enter here.

Deduction / Recovery Amount – This is the dollar amount for which a deduction or recovery is being claimed. Enter a dollar amount equal to the "Total Cigarettes" times the "Tax Rate at the time of the Original Invoice".

Incorporate Identification Numbers

As part of the 10-Point Plan, states are encouraged to incorporate the Federal Employer Identification Number (FEIN), Social Security Number (SSN), or Canadian Federal Business Number (BN) as a reference for reporting and exchanging information between jurisdictions.

Purpose

To provide a common identifier for the jurisdictions to share information and properly identify all entities shown on the schedules.

The FEIN, SSN, or BN number is a common identifier and is required on all reporting information exchanged between jurisdictions.

Promote licensing of all persons

It is important that every state promote licensing of all persons that handle tobacco.

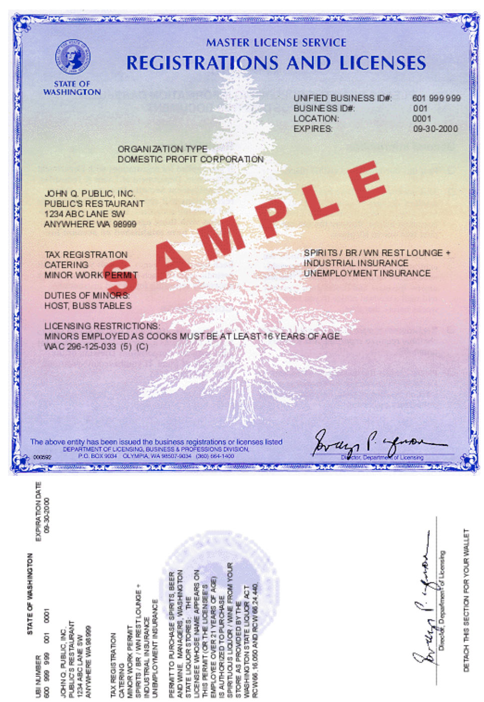
Purpose

Jurisdictions can meet three objectives by licensing all resellers or entities who obtain taxable product:

1) Track tax-free cigarettes and/or other tobacco products to the ultimate sale.

2) Achieve full accountability of tax-free cigarettes and/or other tobacco products.

3) Regulate tax-free purchases and enforce collections. This enforcement effort is enhanced through licensing and bonding procedures. This is especially important for out-of-state purchasers who receive cigarettes and/or other tobacco products for export.



Adopt/implement procedures to achieve total accountability

States should adopt/implement procedures to achieve total accountability of cigarettes and tobacco to include:

a. Types of cigarettes and tobacco they wish to account for and/or tax.

b. Schedules of accountability for cigarettes and tobacco which may be subject to tax.

c. An audit of the required returns and schedules filed with the states.

d. Reporting of sticks (for cigarette) as required by the uniform reporting guidelines.

Purpose

To develop clear and concise procedures and forms dealing with cigarette and tobacco distribution and taxation that can be used and understood by both government and industry. Following standard procedures and using universal terms and forms will pave the way for further advancing uniformity.

Requiring total accountability of all cigarettes and tobacco movement and inventory in each state provides states the ability to better account for potential tax liabilities.

Utilize uniform electronic reporting standards

Allow for uniform electronic reporting systems by adopting standards for all electronic data exchange.

The committee facilitates and encourages all taxing jurisdictions - federal, state/ provincial and local taxpayers alike - to comply with this point.

The technology subcommittee plans to adopt standards for reporting and incorporate into such standards the various codes adopted by the Uniformity Committee for reporting product type, entity identification, mode of transport and locations of points of origin and destination of cigarette and tobacco movements, as well as specific cigarette and tobacco tax information.

Currently a number of states have plans for mandatory or voluntary electronic reporting programs for cigarette and tobacco taxes. The more uniform the methods employed in such reporting, the better it is for all taxpayers and taxing jurisdictions involved. Besides making tax reporting more efficient, uniformity in methods and standards also facilitates the sharing of the detailed information contained in the tax reports among taxing jurisdictions, and it enables taxpayers to better respond to the requirements of the taxing authorities.

To achieve this goal, the FTA Tobacco Tax Section technology subcommittee will work with TIGERS. TIGERS is the FTA-sponsored source for electronic data interchange format standards for tax and revenue administration. Information about TIGERS and these standards can be found at www.statemef.com.

The technology subcommittee will be developing and adopting TIGERS-approved uniform standards for:

- Tax information filing (filer submission of reports to tax authorities)
- Tax information exchange (exchange of information between tax authorities)
- Tax return data acknowledgment and error notification

The technology subcommittee also recommends that state tax administrators adopt the standard TIGERS Internet filing gateway interface for cigarette and tobacco taxpayers.

Promote audit and investigation workshops to identify tax evasion

Audit and investigation workshops are essential to the training of taxing authorities' staff to ensure proper compliance.

Purpose

To help identify and educate compliance staff of current schemes and tactics used to evade cigarette and tobacco taxes.

Review and establish MOUs to promote and share information

A key element to tax administration and enforcement is to know your resources. The Uniformity Committee strongly recommends each state's governmental liaison to review and establish Memorandums of Understanding (MOU's) to promote and share information that will facilitate cigarette and tobacco tax compliance.

Purpose

To provide for ease of sharing information between taxing jurisdictions, it is necessary to keep MOUs up to date. MOUs should clearly and concisely define what is covered under each the agreement to ensure taxing jurisdictions can share information needed to verify proper tax compliance.

Utilize third party information

Third party reports are a critical link and are often the only clue to missing or fraudulently reported tax liabilities of the taxpayer.

Purpose

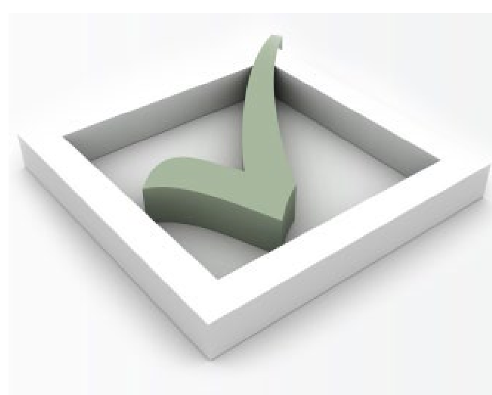
To track cigarette and tobacco movement and verify the accuracy of data reported by taxpayers.

Encourage States to establish a tobacco compliance staff

Tobacco compliance staffs are critical to ensure the proper collection of cigarette and tobacco taxes. A state without ample compliance staff is vulnerable to tobacco tax evasion and avoidance schemes.

Purpose

To provide a level playing field for all members of the cigarette and tobacco industry that have a responsibility to register and report cigarette and tobacco taxes to taxing jurisdictions and to ensure that there is fair and equitable administration, enforcement, and collection of taxes amongst each state.



White Papers

Purpose

A white paper is an authoritative report or guide that informs readers concisely about a complex issue and presents the issuing body's philosophy on the matter. It is meant to help readers understand an issue, solve a problem, or make a decision.

The following pages contain white papers that have been approved for publication by the FTA Tobacco Uniformity Committee for use by all states and industry.

The Federation of Tax Administrators, Tobacco Section, Communications and Legislation Subcommittee has engaged member stakeholders to discuss and develop a Checklist of Best Practices for cigarette tax stamping requirements. This list represents the findings of that subcommittee as of January 2015.

	Stamp Type		
	Digital (Encrypted)		Heat-applied (Thermal)
Pre-bid Evaluation Stage			
Determine necessary stamp and application requirements	X		X
Use Request for Information (RFI) before Request for Proposal (RFP)	X		
Involve industry (e.g., wholesalers)	X		X
Allow time for the process (3 - 5 month minimum)	X		
Ask, don't tell (use open terminology)	X		
Allow for Q & A	X		X
Diverse RFP preparation/evaluation/selection committee(s)	X		X
Measure qualifications and experience of bidders	X		X
Choose appropriate solicitation type (RFP, Invitation to Bid (IFB) Request for Quote (RFQ) ,etc.)	X		X
Bid Stage			
Avoid vendor specific terminology	X		X
Allow for Q & A	X		X
Industry standard technology (e.g., Java, HTML, Open Database)	X		X
Vendor site visits by contract negotiator (when possible)	X		X
Diverse RFP preparation/evaluation/selection committee(s)	X		X
Allow time for the process (3 - 5 month minimum)	X		
Standard label size and roll core	X		X
Consistent instructions	X		X
Use evaluation criteria that matches states' needs (price, tools, etc.)	X		X
'Technical bid' separate from 'price bid'	X		X
Flexible platform (e.g., machinery, camera)	X		X
Electronic submission versus hardcopy	X		X
Promote competition for stamping machine suppliers	X		X
Implementation Stage			
Allow time for the process	X		

2/1/2016

RFP Checklist for E-filing system

The Federation of Tax Administrators, Tobacco Section, Communications and Legislation Subcommittee have engaged member stakeholders to discuss and develop a Checklist of Best Practices for E-filing requirements. This list represents the findings of that subcommittee as of August 2019. This RFP checklist can also be used if a jurisdiction employs internal resources to design and create the e-file.

RFP Planning Stage (Pre-development)
Create a project plan – assign project leader
Establish timeframe for RFP responses
Determine what is in and out-of-scope (arbitration process)
Set size expectations of the project (based on # of filers, amount of data, number of returns involved [1,2,3 or more])
Adhere to FTA Uniformity Schema Standards
Define business rules and reporting tools
Develop a preliminary timeline
Plan for schema changes
Plan for increased data
Define post implementation support (service level agreement)
Development Stage
Work with procurement office
Ensure schema and schema modifications go through the Technology sub-committee of Uniformity Committee
Define number of interfaces needed with your back-end system (licensing, payments, stamp fulfillment, penalties, billing)
Establish payment schedules and milestones
Include audit workpapers in the scope of the work
Define output and reports (summary page vs detailed line-by-line)
Define acknowledgements and error messages
Confirm system is able to accommodate data requirements
Determine if vendor will be on-site or remote
Train personnel
Consider industry insight - have someone from industry come in and share thoughts
Soft launch vs hard launch date - may depend on whether converting from another eFile method
Plan communication and outreach
Allow filers 8 - 12 months for programming

RFP Checklist for E-filing system (cont.)

Implementation Stage
Follow the Uniform Guides -adhere to approved FTA XML schema
Use the FTA approved Brand Code Table - send to filers
Create, communicate, and post the development guide and schema
Communicate the importance of test files to the filers - small but robust test files
Create a test environment/testing infrastructure
Set up hard submission due dates for test files (well in advance of 'go-live')
Design & communicate the means for taxpayers to input the data (transmission method)
After small test files have been approved, allow a large test file to be submitted
Provide feedback on test data
Allow the taxpayer to view data (before processing) and print output
Excel to XML converter tool
Send new form information in acknowledgements for current XML filers
Hold trainings, webinars, conference calls
Connect with taxpayers and wholesaler associations
Meet legislatively mandated deadlines
Anticipate large file submissions - develop plan to process when file sizes grow
Post Implementation
Determine the fields available to crossmatch between two filers
Ability to import/export state data to another state (state-to-state sharing)
Connect gathered data to your audit workpapers
Provide post implementation support
Be prepared to offer extensions & waivers to taxpayers (optional)

MODEL LEGISLATION OUTLINE

Section 1. Intent

- Establish the scope of the act in terms of application to products and transactions by definition.
- Clearly extend application of (State) cigar and pipe tobacco excise tax to transactions between a remote seller and consumer within (State).
- Establish clarity in defining the tax base on which (State) cigar and pipe tobacco excise tax is calculated in remote sales.
- Establish clear responsibility (or liability) for a remote seller to collect cigar and pipe tobacco excise tax from the consumer and remit the tax to (State) on all remote sales to (State) based on ship-to addresses.
- Establish procedures to collect (State) cigar and pipe tobacco excise tax on all transactions regardless of the location (in state or out of state) of the source.
- Establish a clear path to cigar and pipe tobacco excise tax compliance in (State) through licensure for remote sellers making remote sales in interstate and intrastate commerce.

Sections 2. Definitions (add or modify definitions)

- “Actual Cost” The Actual Cost for each SKU shall be the actual price paid by a Remote Seller for an individual SKU.
- “Actual Cost List” will be an annual list (prepared, maintained, and certified by each Remote Seller) of the cost of each SKU.
    - For the purposes of the Actual Cost List, Actual Cost for each SKU shall be the average of the actual price paid by the Remote Seller for the SKU over the twelve calendar months prior to January 1st of the year in which the “Remote Sale” occurs.
- Define “Cigar” (most States the existing definition will be adequate but simplify if possible).
- Define “Consumer” (excluding those who purchase for resale).
- Define “Remote Sale” as any sale of cigars or pipe tobacco to a “Consumer” if;
    - the Consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
    - the cigars or pipe tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigars or pipe tobacco.
- Define the term “Remote Seller” as a person who makes a “Remote Sale”.
- Define “Remote Seller Permit Holder or Licensee” (as a remote seller in good standing).
- Define “Remote Delivery Service” as delivery service to the buyer by common carrier or private delivery service.
- Define "Pipe tobacco" as any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to smoke in a pipe

Section 3. Taxable Event; Report and Remit; Remote seller requirements, Compliance for remote sales into (State)

- **Taxable Event** The triggering event for the obligation to calculate, collect and remit excise tax in an individual state is the retail transaction between the Remote Seller and the Consumer in that state.
- As part of that retail transaction “Remote Sellers” must;
    - Collect cigar and pipe tobacco excise tax from “Consumers” as part of all “Remote Sales” into (State).
    - Keep but do not report, all records of retail Remote Sales as required by this act. (Including all information required to be kept and made available for a Sales and Use tax audit.)
- **Report and Remit** the cigar and pipe tobacco excise tax to (State) (monthly or quarterly) at the time reports are filed for each time period.

- **Tax Base** Tobacco excise tax is a tax based on the value of an upstream transaction and included in the retail price shown to the customer in a brick and mortar store transaction. However, in a Remote Sale, tobacco excise tax cannot be calculated or assessed until the time of the retail purchase by a Consumer in (State).
  - The tax shall be calculated based on either the “Actual Cost” or the “Actual Cost List”.
    - For Remote Sales using the “Actual Cost” method, the tax shall be calculated by applying the State tax rate to the “Actual Cost” of each SKU. Remote sellers shall keep all purchasing records required to establish to the department’s satisfaction the “Actual Cost” of each SKU sold in a Remote Sale.
    - For Remote Sales using the “Actual Cost List” method, the tax shall be calculated by applying the State tax rate to the cost established for each SKU in the Remote Seller’s “Actual Cost List.” Remote sellers keep all purchasing records required to establish to the department’s satisfaction the “Actual Cost List” value of each SKU to be sold in a Remote Sale.
- **Requirements** No person shall make a Remote Sale into or within (State) unless all the requirements of this subsection are met.
  - Apply for and receive a Remote Seller license or permit to be granted by (State). (in addition to any other licenses or permit currently held)
  - If economic nexus thresholds are met, register or acquire a Sales and Use Tax certificate as required by (XXX) acts of (State).
  - Provide for age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is of age.
  - If economic nexus thresholds are met, and excise tax is being remitted using the Actual Cost List method to calculate the excise tax, provide the Remote Sellers’s certified “Actual Cost List” to the department (or other approved submission point) for each SKU to be offered for remote sale in the subsequent calendar year. The Actual Cost List shall be updated quarterly as new SKUs are added to a Remote Seller’s inventory. New SKUs will be added using the actual cost first paid for the SKU.
- **Compliance** Remote Sales into (State) must be compliant with (XXX) acts of (State) (reference to youth access and age verification statutes)
- The department shall establish a communication channel for the purpose of receiving reports of violations of this section of this act.

Section 4. Licensure- Remote Seller Permit or License Required All Remote Sellers as defined herein must apply for and receive a Remote Seller license or permit before making Remote Sales into (State)

- **Qualifications** In order to obtain a license a Remote Seller
  - Must use third party age verification technology
  - Report to (State), on an annual basis, sales volumes (by transaction number and gross sales). Once (State) economic nexus thresholds have been met, a Remote Seller must register for a sales tax license and begin to remit sales tax according to (xxx) and tobacco excise taxes pursuant to this Chapter.
- **Application requirements** (keep in mind this is a virtual setting) An application must include the applicant's name, address, federal employer identification number, and any other information required by the (State) authority. A license is not transferable or assignable and each individual virtual store or catalog store must apply for and receive a separate license regardless of ownership.
- **Denial** (State) authority may refuse to issue or renew a license to an applicant that has done any of the following:
  - Submitted false or misleading information on its application.
  - Had a license issued under this Article revoked by the Secretary.
  - Had a tobacco products license or registration issued by another state revoked.
  - Been convicted of fraud or misrepresentation.

- Been convicted of any other offense that indicates the applicant may not comply with this Article if issued a license.
    - Failed to remit payment for a tax debt under this Chapter.
    - Failed to file a return due under this Chapter.
    - Failed to meet the requirements set out in the application requirements.

  No License or permit shall be denied solely because the applicant's business is not domiciled in (State)
- **Permitted acts** by licensees or permit holders
    - A Remote Seller license or permit shall authorize the holder to ship "Cigars" or "Pipe Tobacco" to consumers within (State).
- **Prohibited acts** by licensees or permit holders
    - Sell Cigars" or "Pipe Tobacco" to minors within (State) in violation of the delivery seller requirements contained in this act.
    - Sell any tobacco product other than "Cigars" or "Pipe Tobacco" to consumers within (State) without obtaining a license to do so.
    - Make a sale permitted that would be permitted while in possession any other license or permit without possessing the license or permit required by this section.
- **Revocation or Cancelation Reasons and Procedure** (Should fall in line with other licenses however again this business is conducted in a virtual setting).

Section 5. Record Keeping- Records of Remote Sales, Records of purchases of products to be sold in Remote Sales. Invoices or Receipts.

- Maintain records of retail Remote Sales as required by this act. (Including all information required to be kept and made available for a Sales and Use tax audit.)
- Keep all purchasing records required to establish to the department's satisfaction the "Actual Cost" of each SKU to be sold in a Remote Sale.
  OR
- Keep all purchasing records required to establish to the department's satisfaction the "Actual Cost List" value of each SKU to be sold in a Remote Sale.
- Invoices or receipts for remote sales presented to the consumer must display:
    - Remote Seller's Identity
    - Date of the sale
    - The Name of the consumer
    - The ship-to (delivery) address (adequate to confirm the State)
    - The final price and quantity purchased by SKU
    - Itemized sales tax
    - Shipping charges if stated separately.

    Consumer's name and address information shall not be reported on reports accompanying sales tax or excise tax filings. This information must be kept and made available for audit purposes.

Section 6. Reporting monthly or Quarterly, Payment of the tax based on reporting and at the time of reporting.

- Reporting of Remote Sales for the previous month or quarter.
- Reporting of Remote Sales shall include sufficient information for the State to identify for the reporting period: total costs per product tax classification; relevant tax rate for each product tax classification and total taxes due
- Reporting of Remote Sales shall not be required to include consumer identity information.

(Structure and level of reporting can vary widely from State to State)

Section 7. Effective Dates

(Effective Date should be at a minimum one year out from date of passage as to accommodate the department of revenue need for IT resources and form amendments.)

Modified Risk Tobacco Products

Points to Consider Relative to Tobacco Tax Administration

Introduction

The Family Smoking Prevention and Tobacco Control Act of 2009 created a regulatory path for tobacco manufacturers to make certain health-related claims on specific tobacco products if they can show, after an extensive scientific review by the Food and Drug Administration (FDA), that the products are likely to benefit public health. These "Modified Risk Tobacco Products" (MRTP) are defined by section 911 of the Federal Food Drug and Cosmetic Act as "any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco related disease associated with commercially marketed tobacco products."

The FDA can grant two different types of orders: Risk modification orders, or exposure modification orders. The FDA will issue a **risk modification order** (Section 911(g)(1)) if the product significantly reduces harm or the risk of tobacco-related disease to individual tobacco users, and benefits the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products. The FDA will issue an **exposure order** (Section 911(g)(2)) if the product reduces or eliminates exposure to a substance that the available scientific evidence suggests would have a measurable, positive impact on public health in future studies.

How do you get classified as a Modified Risk Tobacco Product?

Tobacco Product Manufacturers may file an application with the Food and Drug Administration for a MRTP. Applicants must describe the proposed tobacco product and provide any research related to the tobacco product, and its impact on human health. Sample products can be submitted as well as labeling and advertising information for the tobacco product. Within 60 days of submitting the application, the application is referred to the Tobacco Products Scientific Advisory Committee for the USFDA and they shall report its recommendations on the application to the Secretary. The Tobacco Products Scientific Advisory Committee's ruling is not final -- it is ultimately up to the Secretary to determine if the product qualifies as a MRTP.

In October of 2019, the FDA granted modified risk product status to eight specific snus smokeless tobacco products sold by Swedish Match, USA under the brand name "General." These were the first products granted this status. The products were granted a risk modification order under Section 911(g)(1). In July of 2020, the FDA granted modified risk product status to Philip Morris, S.A.'s IQOS system and three IQOS heatstick products. These products were granted an exposure order under Section 911(g)(2).

Effect on State Tobacco Excise Taxes

By itself, an MRTP designation does not affect the taxation of tobacco products. However, a few states have passed MRTP-related tax legislation. All of these laws reduce the rate of tax by a certain percentage for products granted MRPT status by FDA.

Some states differentiate by type of authorization granted. For example, Kentucky, North Carolina, and Washington reduce the tax by 50% if the FDA has issued a risk modification order under Section 911(g)(1). If the FDA has issued an exposure modification order under Section 911(g)(2), then the tax is reduced by 25%. Connecticut, however, reduces the tax by the same amount regardless of the MRTP designation.

Issues for States

This legislation was introduced very quickly in North Carolina and Kentucky. It is imperative that tax administrators reach out to legislative staff and let them know of these new tobacco products and product designations. Being ahead of the legislation will allow tax administrators to better prepare for the inevitable tasks that must be done such as form and system changes, and compliance issues. Most of these MRTP will be distributed in the same manner as Other Tobacco Products and should have the same age minimums of those products but statutes should be explicit on these issues.

Taxation of E-cigarettes and Their Components

Introduction

E-cigarettes are electronic devices that heat liquid – usually containing propylene glycol and glycerol, with or without nicotine, flavors – that is stored in disposable or refillable cartridges or a reservoir. In turn, this heated "e-liquid" is converted to an aerosol, or vapor, for inhalation. E-cigarettes simulate the act of smoking without lighting, fire, smoke, or ashes. States define e-cigarettes and their components differently for the purposes of taxation.

This white paper will focus on taxation of the product, and its components; and will not address other issues related to it.

Description of Products

Although e-cigarettes have been in the U.S. market for more than a decade, the products continue to evolve and grow in popularity due to advances in technology.

The first generation of e-cigarettes were "closed systems." These were the first style of e-cigarettes and most resemble the traditional cigarette. In fact, they are often called "cigalikes." These e-cigarettes include both disposable and rechargeable options and use prefilled cartridges of liquid. The products are ready to use, and all components are sealed within the device. The products can be used a finite number of times before they are disposed.

Second and third generations of e-cigarettes are more flexible in terms of options for the consumer and include both closed system products and "open system" products. These products can take a variety of shapes and sizes and often do not look like a cigarette. Later generation closed systems can look like pens or USB flash drives. Open systems are typically larger and modifiable, with parts that are generally interchangeable, and reusable. Consumers can manually refill these open systems with e-liquids that come in thousands of flavors and are sold in a variety of sizes. Second and third generation products can go by names such as "mods," "vape pens," "e-hookah," "personal vaporizers," and "electronic nicotine delivery systems (ENDS)."

According to the U.S. Centers for Disease Control, e- cigarettes are less harmful to individuals than smoking, which likely contributes to its popularity. Some smokers use it as a method to quit smoking combustible cigarettes and others use it in conjunction with traditional cigarettes or other tobacco products. As these are relatively new products, longer term effects are still being studied.

Federal Issues Related to E-cigarettes

In May 2016, the U.S. Food and Drug Administration (FDA) finalized a rule to regulate e-cigarettes along with some Other Tobacco Products that were previously not regulated by the FDA (the effective date was August 8, 2016). The rule established a federal minimum age of 18 to purchase e-cigarettes and other retail provisions.

More importantly, the rule required manufacturers to submit their e-cigarettes to a premarket application process through FDA. Products on the market prior to February 15, 2007, were grandfathered in and exempt from the premarket approval process. Products on the market prior to August 2016 were allowed to stay on the market but had to submit to the premarket application process through the FDA by November 2018 in order to be in compliance. In 2017, the FDA extended the deadline to August 8, 2022. In 2019, responding to what FDA Commissioner Scott Gottlieb called an "epidemic- rise" in youth e-cigarette use, FDA moved the deadline up to August 8, 2021, for all flavored e-cigarettes, other than "tobacco," "mint," or "menthol."

Various public health groups sued the FDA in the U.S. District Court for the District of Maryland over the Agency's decision to extend the premarket application process. In May 2019, the court ruled in the plaintiff's favor and established a new deadline of May 12, 2020, which was later extend to September 9, 2020 due to delays caused by the COVID-19 pandemic. Products for which an application is submitted by the deadline can remain on the market for one year while the FDA considers their application.

E-cigarettes are not taxed by the federal government.

State Taxation of E-cigarettes

States were slow to tax e-cigarettes but are rapidly catching up. E-cigarettes are currently taxed by more than half the states, as well as Washington D.C., and several localities. This is a doubling in the number of states taxing the products in less than a year. These jurisdictions have taken different paths toward taxation and have applied different taxing methods.

General

E-cigarettes present challenges for tobacco tax administration and enforcement. There are two main reasons for this. First, there are a variety of products that fit under the e-cigarette umbrella, from closed-system disposables and refillable/reusable products that visually look like cigarettes, to more open-system products such as personal vaporizers, and mods that look nothing like cigarettes. The lack of uniformity extends to how they are packaged – disposables are self-contained, whereas refillable/reusable products may be sold along with extra cartridges.

Second, the distribution model is dramatically different from cigarettes and other tobacco products. In the traditional model that tobacco tax administrators are well acquainted with, tobacco products flow (with some exceptions) from the manufacturer to the wholesaler/distributor, and finally to the retailer. At the state level, these are taxed once at the wholesale level via excise taxes and may also be taxed at the retail counter through the general sales tax. For the tobacco tax administrator who deals with just the excise tax, that shrinks the universe of taxpayers dramatically and makes administration and enforcement much easier. Most closed-system products follow this model.

However, open-system products are typically sold outside this traditional chain through specialized "vape" shops or direct to consumer through the Internet. This expands the universe of potential taxpayers and makes identifying taxpayers more difficult for tax administrators

Method of Taxation

Tobacco taxes generally fall into two categories: Specific, per-unit taxes; or *ad valorum* (Latin for "according to value") taxes. Initially, states stuck to those two basic categories, whether they incorporated e-cigarettes/vapor products into the existing tobacco products tax (e.g. MN), or created a new tax specifically for these products (e.g., LA, NC).

More recently, states have expanded the range of methods used to tax these products. New York has passed a tax that instead of being applied at the wholesale level, will be assessed at the retail level, similar to a sales tax. New hybrid taxes that apply different tax rates (and even different methods) depending on whether the e-cigarettes are "open" or "closed" were passed in New Mexico and Washington.

In Washington, the tax is applied per unit but with different rates depending on the size and type of product. For "accessible containers" (i.e., those intended to be opened) greater than 5 ml, the tax is $0.09 per ml. However, for closed systems, the tax is $0.27 per ml.

In New Mexico, the tax can be either per unit or *ad valorum*, depending on the type of product. "Closed system cartridges" containing 5 ml or less of e-liquid are taxed at $0.50 per unit. But "e-liquid" sold outside of a "closed system cartridge" is subject to a tax of 12.5% of the product value.

A novel variation on the hybrid taxation method was proposed by the Governor of California in 2020. This would continue to tax these products under the existing ad valorum rate, but also apply a tax based on the amount of nicotine in the liquid, not the volume of liquid itself.

CASE STUDIES

Minnesota

Minnesota was the first state to tax e-cigarette/vapor products, with passage of the "Tobacco Modernization and Compliance Act of 2010" (MN Session Laws 2010, Chapter 305, SF3055). This law broadened the definition of tobacco products in Minnesota to cover the wide variety of non-traditional products appearing on the market. The law gave the Minnesota Department of Revenue the authority to tax these products at the existing Other Tobacco Product (OTP) rate (effective August 1, 2010). It is unclear how much tax collection actually occurred as the products were not widely available. For example, one public health study found that e-cigarettes were not available in C-Stores until the 3rd quarter of 2010, and it was not until the 2nd quarter of 2012 that they were available in all the markets tracked by Nielsen.[1]

In October of 2012, the Department of Revenue issued Revenue Notice #12-10 to clarify their e-cigarettes/vapor products tobacco product tax. They highlighted the following statutory text that defined tobacco products:

> ""Tobacco Products" means **any product containing, made, or derived from tobacco** that is intended for human consumption, **whether** chewed, **smoked,** absorbed, dissolved, **inhaled**, snorted, sniffed, or ingested by any other means, **or any component,** part, **or accessory of a tobacco product…"**

It further clarified that a) the burden of proving that the nicotine in the e-cigarette came from a non-tobacco source and thus was not taxable as a tobacco product was on the taxpayer; and, b) that assuming that the taxpayer sold cartridges "separately," and could "isolate" the cost of a cartridge, that the tax would be assessed only on the cartridge. This latter issue was important as initially, the entire kit was subject to taxation. Before the DOR adjustment, this meant equal amounts of nicotine liquid were subject to dramatically different rates of tax depending solely on how they were packaged.

Tax Rate and Revenue

From 2010 to through June of 2013, the tax rate on e-cigarettes and vapor products was 70% of the wholesale sales price. On July 1, 2013, the tax rose to 95% of the "wholesale sales price."

Minnesota has limited visibility on revenues due to the way it collects the tax on OTP products. As mentioned above, wholesalers are simply required to report the wholesale sales price of nearly all OTP purchased each month on a single form. To the extent DOR has any visibility on revenue, it comes from some combination of DOR surveys of wholesalers, key searches, and various tobacco industry and market research data.

North Carolina

North Carolina passed a tax on "consumable vapor products" in 2014 (H.B. 1050), with an effective date of June 1, 2015. A "consumable vapor product" is "any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used. This includes pre-filled tanks used in rechargeable and non-rechargeable (disposable) vapor products."[2]

[1] Diaz M., Huang, J., Chaloupka, F., "The Impact of Electronic Cigarette Sales on Cigarette Sales, 2007-2013," Institute for Health and Policy Research, University of Illinois at Chicago, September 2014. Online at http://www.sctcresearch.org/media/products/Huang_ECigs_SCTC_Sept2014.pdf.

[2] North Carolina Department of Revenue, "Tax on Vapor Products: Frequently Asked Questions" 21 May 2015

Unlike Minnesota, which taxed vapor products using the existing (*ad valorum)* tax rate for OTP, North Carolina created a separate, unit-based rate specifically for these products ($0.05 per milliliter).

The legislature gave the North Carolina Department of Revenue 12-months to develop the means to administer and enforce the tax. Unlike Minnesota, which had a tax when the size of the industry was quite small and manageable, North Carolina was imposing a tax on a robust market with several hundred potential taxpayers. While many vapor products were still sold through the traditional tobacco manufacturer-wholesaler-retailer chain that was already part of the tax regime, vape shops were previously untaxed (excise tax) and largely unknown to the North Carolina DOR. In order to identify the universe of potential taxpayers, the North Carolina DOR queried the sales tax for terms like "vape," "smoke," etc., and then sent them letters alerting them to the new law. They set up an extensive frequently asked questions page designed to clarify any administrative issues for these new taxpayers.

North Carolina kept the same basic structure that was in place with cigarettes and OTP. "Wholesale Dealers" who already had a license could sell taxed vapor products to retailers. Vape shops that were not purchasing their products from licensed "wholesale dealers" or were mixing their consumable vapor product in house were required to be licensed and were liable for tax. These are referred to as "retail dealers."

The tax is reported by the taxpayer on the same form one would file with North Carolina DOR were they selling OTP. However, unlike Minnesota, a separate section on the form was created to document information on vapor products. This was necessary because the OTP tax and consumable vapor product tax are both different rates and different types (*ad valorum* in the case of OTP, unit/volume-based in the case of vapor). A side effect is that it allows North Carolina to have much greater visibility on revenues.

Tax Rate and Revenue

The tax rate for "consumable vapor product" is $0.05 per milliliter of consumable vapor (the liquid with nicotine). In FY2018, North Carolina collected $4.5 million in revenue from the tax.

Louisiana

In June of 2015, Louisiana passed a tax on "consumable vapor products" of $0.05 milliliter, effective on
August 1, 2015.

The definition of "consumable vapor product," tax-rate, type (unit/volume-based) and structure of the Louisiana tax regime is basically identical to that of North Carolina. One difference is that while North Carolina had a full year to implement, Louisiana was afforded just two months to have an entire tax regime for this newly taxable product.

Another key difference is how "retail dealers" report the tax. Louisiana "retail dealers" file a separate form. Because of this difference, Louisiana can identify revenues from both the traditional wholesaler chain and the retail dealers such as vape shops who make their own "consumable vapor product."

Tax Rate and Revenue

The tax rate for "consumable vapor product" is $0.05 per milliliter of consumable vapor (the liquid with nicotine). In FY2018, Louisiana collected $1.15 million in consumable vapor product taxes.

<u>Challenges in Compliance</u>

There are several challenges faced by both tax authorities and taxpayers in regard to the taxation of e-cigarettes. E-cigarette tax definitions, rates and taxing methodologies vary by tax jurisdiction (both state and local). Some taxing authorities tax a percentage of the wholesale value, while others tax per unit or milliliter of e-liquid. As discussed above, the variety of e-cigarettes on the market is diverse and policymakers must decide whether and how to tax these products perhaps based on the risk profile of the various products. In addition, identifying and licensing the taxpayer can be challenging with cigarette taxation. Due to the variety of ways an end consumer can purchase e-cigarettes - traditional tobacco retail distribution, vape shops, online purchase from in-state as well as out-of-state/country vendors - finding and taxing the taxpayer can be difficult. Once a taxing authority has identified taxpayers and determined a taxing methodology, they will likely want to obtain statistical information regarding the amount of tax collected under this category. Thus, the way the -cigarette tax information is collected is also important.

As indicated above, there are essentially 2 different methods used by taxing authorities to tax e-cigarettes:

1. Volume - a fixed $ amount per volume of e-cigarette liquid, or
2. Value - % times a value (either cost or sales price) of the e-cigarette

In order to properly calculate a tax imposed on e-cigarettes, it is important that e-cigarette manufacturers provide detailed product specifications for each individual item (stock keeping unit number or sku) sold indicating the volume of e-cigarette liquid contained in each saleable unit. In addition, for a tax based on value, it is important to understand the various components contained in each individual saleable item because tax jurisdiction tax methodologies vary as to whether and how they tax the various components of an e-cigarette. For example, for many tax jurisdictions, it is important to know whether the item in question contains nicotine. As an example, in Minnesota, the tax cannot be calculated unless the manufacturer provides information as to the percentage of total product value attributable solely to nicotine. From a taxpayer perspective, given the various methodologies taxing authorities employ to tax these products, it is a challenge to determine which e- cigarette products fall within each tax jurisdiction's classifications of taxable products.

From an administrative perspective (i.e., for purposes of calculating the tax and auditing tax calculations), a tax based on volume is much easier to understand and administer than a tax based on value. In order to calculate and audit a tax based on volume, one only needs to know the volume of e- cigarette liquid contained in each product sold by manufacturers; as discussed above, this information should be required in all manufacturers' product specifications. Once this volume is known for each product, the tax computation will be the same for all taxpayers. That is, a tax based on volume will not fluctuate based on the size, location, or profitability of the taxpayer.

A tax based on volume is generally only assessed on nicotine-containing liquid, but can be assessed on all e-liquid, even those not containing nicotine. Since it is typically assessed per milliliter, in absolute terms this kind of tax affects the sellers of bottled e-liquid more than it does retailers of finished products containing a small amount of e-liquid (like pod vapes and cigalikes).

One notable advantage to taxing these products based on volume (per milliliter) as opposed to price (*ad valorem*) is that volume taxes do not apply to the delivery device when the e-liquid and electronic device are sold together. As an analogy, this would be like taxing a pipe, when an excise tax should really only apply to the pipe tobacco.

A tax calculated on a value may, on its face, appear easier to calculate and administer. If the tax is imposed at retail (i.e., at the time of sale to the end consumer), then the tax could be easily computed in a manner similar to a sales tax. Auditing a tax based on "value" requires a detailed review of the taxpayer's invoices. In the case of a tax computed on Wholesale Cost (i.e., the price the wholesaler pays to their vendor, either before or after discounts), the taxpayer's purchase invoices must be closely inspected – prices charged by vendors will not be consistent from one taxpayer to the next. Similarly, a tax computed on Wholesale Sales Price (i.e., the price the wholesaler charges their customer), will also vary from one invoice to the next as wholesalers do not necessarily charge the same amount for the same product to all of their customers. These values can differ from invoice to invoice across the entire audit period making audit testing difficult. Vendor promotional items can also cause complexity in the determination of products taxed on a value. In addition, value must also be determined in the calculation of returns to vendor and/or export & exempt sales – transactions that don't necessarily disclose a consistent value as determined at the time of original in-state purchase or sale. Thus, the time required to prepare and audit an excise tax return calculated on value will likely exceed the time required for a return calculated on volume.

A tax calculated on a wholesale value is ostensibly a tax on the retailer as it is collected from the retailer by the wholesaler who remits it to the taxing authority. However, the cost is always passed on to the consumer in the form of higher prices. This type of tax is assessed on the cost of the product the retailer is charged when purchasing from the wholesaler. Often the state classifies e-cigarettes as tobacco products (or “other tobacco products,”) for purposes of assessing the tax. The wholesale tax may be assessed only on products that contain nicotine, or it may apply to all e-liquid, or all products including devices that do not contain e-liquid. Examples include California and Pennsylvania. The California vape tax is a wholesale tax that is set yearly by the state and is equal to the combined rate of all the taxes on cigarettes. It only applies to products that contain nicotine. The Pennsylvania vape tax originally applied to all products, including devices and even accessories that don’t include e-liquid or nicotine, but due to a court ruling the state modified their definition to impose tax only on devices that contain nicotine.

Because e-cigarettes are not covered by PACT Act, gathering statistical data regarding sales of e-cigarettes within the taxing jurisdiction can be challenging. Therefore, when a tax authority develops an excise tax form which includes a tax on e-cigarettes, consideration should be given as to whether the e-cigarette tax component should be separately disclosed on the tax form. For example, North Carolina has a completely separate tax form for vapor taxes, whereas California just includes e- cigarettes within the existing “Other Tobacco” category. Thus North Carolina can easily determine the amount of tax collected from e-cigarette taxation.

Challenges of Marking/Stamping E-Cigarettes

Marking, or stamping OTP can come with a wealth of challenges attached to them, some regulatory and some logistical. That extends to e-cigarettes as well. Regulatory hurdles involve staying in line with the FDA’s regulations regarding tobacco products and making sure that markings do not interfere with the warnings that the FDA already have in place. The logistical issues come into play once the products form factors are considered, specifically size and shape. First, the pods for e-cigarettes are already miniscule as currently constructed, potentially causing issues when locating a place for a warning and/or a stamp. Second, if a location for a warning label is finally found, how would the stamp be affixed consistently across form factors? All these hurdles are important to consider when thinking about applying markings to e-cigarettes. Costs which follow stamping e-cigarettes are another thing to consider before any decisions are made. The marking of OTP is something that will need to be backed by wholesalers with costs coming both directly and indirectly. Some of the costs that could become burdens for wholesalers to consider are additional machinery, a larger inventory, as well as increased labor.

The last, but most important challenge, to marking e-cigarettes is the lack of uniformity between brand packaging and labeling laws. Unlike cigarettes, the packaging between brands differs greatly even though the product inside remains the same. This would require markings to maneuver around brand logos and health advisories and be affixed to various packaging substrates unlike cigarettes which are affixed to polypropylene on a standard sized 20 or 25 count cardboard box. Law consistency on marking e-cigarettes, or lack thereof, is another roadblock that must be prepared for as well. As currently constructed, there are no mandates that will force states to comply with one another between jurisdictions, and this could cause a problem since some states have less of a motivation to follow rules as others. A formal marking method must be agreed upon to maintain the most efficient process all the way through the supply chain.

Federation of Tax Administrators
Tobacco Section

From Sea to Shining Sea: State Cannabis Taxation

Irakli G. Mirzashvili and Julian Daniels

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Contents

Abstract

This paper provides an overview of state taxation of cannabis in the United States. The paper details each state's cannabis tax system, provides a historical background of the imposition of federal law and states' regulations, provides to-date tax revenue collections, highlights state compliance and administration challenges, examines tax policy considerations, including the imposition of various cannabis taxes, and discusses federal executive and legislative developments.

Disclaimer

The views expressed are those of the authors and should not be attributed to the Texas Comptroller of Public Accounts.

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Introduction

Some of the common street names for marijuana or cannabis are Aunt Mary, BC Bud, Blunts, Boom, Chronic, Dope, Gangster, Ganja, Grass, Hash, Herb, Hydro, Indo, Joint, Kif, Mary Jane, Mota, Pot, Reefer, Sinsemilia, Skunk, Smoke, Weed, and Yerba.[1] We will use the term "cannabis" throughout this paper. Cannabis is a psychoactive (mind-altering) drug[2] made from dried buds and leaves of the Cannabis sativa plant.[3] Among the plant's many active chemical compounds, delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD) are the most commonly known.[4] CBD is derived from hemp. Hemp is any part of the cannabis sativa plant with no more than 0.3% of THC. THC is believed to be the main ingredient producing cannabis' psychoactive effect.[5] Cannabis is considered a controlled substance, meaning a drug that is placed under federal government regulation, including manufacture, possession, and sale.[6] Also, the Food and Drug Administration (FDA) has not approved the use of the cannabis plant as medicine.[7] Despite cannabis' treatment on the federal level, a growing number of states have decriminalized and legalized medical and recreational use of cannabis and have been collecting revenue from its taxation for the last several years. As cannabis use has become a more legally and socially accepted part of the domestic market,[8] its legalization and taxation has landed high on the list of the hottest topics in state taxation.[9] This paper covers important issues impacting state governments, such as taxation, revenue collections, federal legal landscape, tax policy considerations, compliance, and administration.

From the start, one core argument for the legalization of cannabis has been the potential revenue to fund government services through taxes.[10] Cannabis taxes also presented an option to increase revenue for states that faced budget shortfalls caused, in part, by the COVID-19 pandemic.[11]

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[1] Department of Justice, Drug Enforcement Administration, *Drug Fact Sheet Marijuana/Cannabis* (April 2020), https://www.dea.gov/sites/default/files/2020-06/Marijuana-Cannabis-2020_0.pdf (Last visited October 11, 2022).

[2] Department of Justice, Drug Enforcement Administration, https://www.dea.gov/sites/default/files/2020- 06/Marijuana-Cannabis-2020_0.pdf (Last visited October 11, 2022).

[3] National Institute on Drug Abuse, "Cannabis (Marijuana) Research Report: What is marijuana?," https://nida.nih.gov/publications/research-reports/marijuana/what-marijuana (Last visited October 11, 2022).

[4] Federal Drug Administration, "FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)," (January 22. 2021), https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd#whatare (Last visited October 11, 2022).

[5] Department of Justice, Drug Enforcement Administration, https://www.dea.gov/sites/default/files/2020- 06/Marijuana-Cannabis-2020_0.pdf (Last visited October 11, 2022).

[6] Dwight K. Blake, "Controlled Substances Act: Everything That You Need to Know," (January 12, 2022), https://americanmarijuana.org/controlled-substances-act/ (Last visited October 17, 2022).

[7] National Institute on Drug Abuse, https://nida.nih.gov/publications/research-reports/marijuana/what-marijuana (Last visited October 11, 2022).

[8] Kristen D. Mitchan, Allen N. Trask, III, "Real Estate Leases in the Help and Cannabis World," *National Law Review* (August 24, 2022), https://www.natlawreview.com/article/real-estate-leases-hemp-and-cannabis-world (Last visited November 14, 2022).

[9] Ulrick Boesen, "How High Are Taxes on Recreational Marijuana in Your State?," *Tax Foundation* (March 31, 2021), https://taxfoundation.org/state-recreational-marijuana-taxes-2021/ (Last visited June 14, 2022).

[10] Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.1.

[11] National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021), p.3.

Revenue collection has been robust in several jurisdictions with established markets where cannabis taxes have surpassed alcohol and cigarette tax collections.[12]

The underlying aim of cannabis legalization is to reduce illegal sales and provide regulation of poor quality or high potency products. Taxing cannabis sales should help fund government services and address negative consequences of cannabis consumption. The challenge of taxing cannabis is achieving these goals without creating an overly complex tax system.[13]

With 21 states having some type of recreational cannabis tax, no best practices or uniform approach exists. The lack of uniformity and many uncertainties continue to challenge states considering cannabis legalization. One major uncertainty is cannabis' status on the federal level. Although the federal government has chosen not to interfere with states that have legalized it, cannabis is still classified as an illegal, Schedule I controlled substance. Due to cannabis' federal classification, state cannabis businesses are not able to access banking services or many federal deductions that are available to most other businesses.[14] The lack of access to banking services makes cannabis industry a cash-intensive business. Also, cannabis businesses do not qualify for many of the protections traditionally afforded to other businesses, such as insurance.

The discrepancy between the state and federal legality presents a unique legal framework under which cannabis use and sales operate, and this effectively complicates the domestic market. Cannabis products cannot be legally transported across state borders, so the entire process (seed- to-consumer) must occur within state borders. This unusual situation has resulted in a wide variety of tax designs and ongoing discourse and change.[15]

Different states levy different taxes, with some even levying multiple taxes, including excise taxes as well as general sales tax on cannabis purchases. Although some jurisdictions impose local cannabis taxes, they are not discussed in this paper.[16]

The three main ways states tax recreational cannabis may be categorized as follows:

- Percentage-of-price: tax on the price of the product (like general sales tax, but typically at higher rates;[17] *i.e.*, an ad valorem tax[18]).
- Weight-based: tax on the weight of the product (similar to per-pack cigarette taxes).
- Potency-based: tax on potency (*i.e.*, THC level) of the product (similar to alcoholic beverages taxes).

The variety of approaches to state cannabis taxation and each state's unique features, such as population, also make comparison of rates across the states challenging. Each state has different tax schemes, population, and market size. For example, Washington has the highest statewide retail-level tax at 37%. New York is the first state to implement a potency-based tax by milligrams of THC.[19]

Most state cannabis tax systems have existed for only a year or two, and many have operated exclusively without competition from neighboring states. The possibility of major federal cannabis law reforms could radically change how cannabis is sold and taxed in states across the U.S.[20]

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[12] National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021), p.2.

[13] Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.1.

[14] National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021), p.4.

[15] Ulrick Boesen, "How High Are Taxes on Recreational Marijuana in Your State?," *Tax Foundation* (March 31, 2021), https://taxfoundation.org/state-recreational-marijuana-taxes-2021/ (Last visited June 14, 2022).

[16] Local excise or sales taxes may apply to several recreational cannabis states, including Alaska, California, Colorado, Illinois, Massachusetts, Nevada, Oregon, and Washington. Office of Legislative Research, Research Report, *State and Local Taxes on Recreational Marijuana* (March 31, 2020), https://www.cga.ct.gov/2020/rpt/pdf/2020-R-0019.pdf (Last visited May 5, 2023).

[17] Urban Institute, State and Local Backgrounders, "Cannabis Taxes," https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/marijuana-taxes (Last visited July 6, 2022).

[18] Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.1

[19] Ulrick Boesen, "How High Are Taxes on Recreational Marijuana in Your State?," *Tax Foundation* (March 31, 2021), https://taxfoundation.org/state-recreational-marijuana-taxes-2021/ (Last visited June 14, 2022).

[20] Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.2.

Imposition of Federal Law and States' Regulation

Since 1970, "marihuana," which includes all parts of the Cannabis sativa plant, has been listed in Schedule I of the Controlled Substances Act (CSA)[21] due to its high potential for abuse attributable to THC effects and the absence of currently accepted medical use.[22] While cannabis is classified as a controlled substance under federal law and its possession is prohibited under the CSA, 21 states and Washington, D.C. have legalized the possession of cannabis for recreational use.[23] The following section briefly summarizes the history of cannabis regulation.

Growing and consuming cannabis was legal in the U.S. until the 1910s when the states, not the federal government, started to enact laws criminalizing cannabis. In 1937, the federal government followed suit by passing the Marijuana Tax Act (MTA). Prior to criminalizing the plant, cannabis was included in the United States Pharmacopoeia, the list of permissible and federally approved medicines. Regulation continued, until cannabis was classified as a Schedule I narcotic in 1970. Cannabis' classification in the CSA placed it alongside LSD, heroin, and other substances deemed highly addictive and without safe dosages. Under the CSA, the manufacture, distribution and possession of Schedule I narcotics is prohibited, carrying criminal sentences of up to life in prison.[24]

In the 1990s, the states took the initiative again to change cannabis' legal classification through state policy action. States started to adopt their own regulations, unwinding federal ones. There were several increasingly important changes that supported the states in adopting new regulations. First, there was an increase in popular and political support for the use of medical cannabis by seriously ill patients. Second, the war on drugs proved futile in controlling a substance that continued to be easy to acquire. Third, large amounts of resources were spent on enforcement of cannabis laws.[25]

The first state to enact medical cannabis use was California, where voters passed Proposition 215 in 1996. To protect doctors' federal Drug Enforcement Agency (DEA) licenses, the proposition only required a doctor to give an oral or written "recommendation," not an actual prescription of medical cannabis.[26] As of this writing, medical cannabis is legal in 37 states.

In 2013, under President Obama's administration, the Department of Justice (DOJ) issued a memo (the Cole Memorandum) stating that the DOJ would not enforce federal marijuana prohibition in states that "legalized marijuana in some form and ... implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana," with certain exceptions. The Cole Memorandum was rescinded in 2018 by Attorney General Jeff Sessions, during President Trump's administration. In response to this, the Sensible Enforcement of Cannabis Act, which attempted to enshrine into law the protections offered by the memorandum, was introduced, but not enacted.

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[21] The CSA is the common name of the Comprehensive Drug Abuse and Prevention and Control Act of 1970, a law that combined all the existing anti-drug laws in the 20th century. Federal Drug Administration, "FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)," (January 22. 2021), https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd#whatare (Last visited October 11, 2022).

[22] *See* 21 U.S.C. 802(16).

[23] Urban Institute, State and Local Backgrounders, "Cannabis Taxes," https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/marijuana-taxes (Last visited July 6, 2022).

[24] Armikka R. Bryant, Taxing Marijuana: Earmarking Tax Revenue From Legalized Marijuana, 33 Ga. St. U. L. Rev. 659, 666-69 (2017).

[25] Bryant, Taxing Marijuana: Earmarking Tax Revenue From Legalized Marijuana, 33 Ga. St. U. L. Rev. 659, 666-69 (2017).

[26] Bryant, Taxing Marijuana: Earmarking Tax Revenue From Legalized Marijuana, 33 Ga. St. U. L. Rev. 659, 666-69 (2017).

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In October 2022, President Biden pardoned thousands of Americans convicted for possession of cannabis and ordered a review of the drug's legal status.[27] Biden also urged state governors to issue similar pardons for state offenses involving cannabis. It would take an act of Congress to decriminalize cannabis. Although lawmakers have not acted on the matter, the issue has gained support among members of both parties.[28] Aside from Congressional action, the Department of Justice has independent authority under the CSA to begin the process of removing cannabis' classification as a Schedule I drug.[29]

Cannabis' removal from the list of the most dangerous drugs would change the federal and, in turn, state regulatory landscape, materially impacting cannabis businesses – which then would be allowed to bank and be listed on U.S. stock exchanges. It would also do away with certain tax burdens[30] for these businesses and make them eligible for some tax benefits.

For example, Internal Revenue Code (IRC) of 1982, Section 280E prohibits a taxpayer from deducting or claiming credits for the business expenses of any trade or business that "consists of trafficking in controlled substances (within the meaning of Schedule I and II of the CSA)." Thus, even where the sale of cannabis is legal under state law, Section 280E denies[31] deducting ordinary and necessary business expenses such as "rent, utilities, compensation, costs of administration, and charitable gifts to promote goodwill."[32] Many states conform to the provisions of the IRC for corporate and/or personal income tax purposes, including Section 280E application in determining state taxable income. A few states (such as Colorado and Oregon) have enacted a provision that modifies their conformity to allow cannabis businesses to deduct business expenses on their state returns that would otherwise be nondeductible because of Section 280E.[33]

[27] Jordan Fabian and Tiffany Kary, "Biden Pardons Weed Convictions, Orders Review by Law Enforcement," *Bloomberg* (October 6, 2022) https://www.bloomberg.com/news/articles/2022-10-06/biden-to-pardon-marijuana-possession-order-criminal-review?leadSource=uverify%20wall (Last visited October 10, 2022).

[28] Fabian and Kary, "Biden Pardons Weed Convictions, Orders Review by Law Enforcement," *Bloomberg* (October 6, 2022) https://www.bloomberg.com/news/articles/2022-10-06/biden-to-pardon-marijuana-possession-order-criminal-review?leadSource=uverify%20wall (Last visited October 10, 2022).

[29] Fabian and Kary, "Biden Pardons Weed Convictions, Orders Review by Law Enforcement," *Bloomberg* (October 6, 2022) https://www.bloomberg.com/news/articles/2022-10-06/biden-to-pardon-marijuana-possession-order-criminal-review?leadSource=uverify%20wall (Last visited October 10, 2022).

[30] Fabian and Kary, "Biden Pardons Weed Convictions, Orders Review by Law Enforcement," *Bloomberg* (October 6, 2022) https://www.bloomberg.com/news/articles/2022-10-06/biden-to-pardon-marijuana-possession-order-criminal-review?leadSource=uverify%20wall (Last visited October 10, 2022).

[31] The courts have repeatedly rejected constitutional concerns about section 280E and have sided with the IRS in determining that even businesses in states where cannabis sales are legal aren't entitled to deduct their business expenses. However, those businesses may offset their gross receipts by the cost of goods sold when calculating their gross income. Wesley Elmore, Biden Review of Marijuana Scheduling Could Have Tax Implications, Tax Notes Federal, Vol. 177, October 10, 2022.

[32] Wesley Elmore, Biden Review of Marijuana Scheduling Could Have Tax Implications, Tax Notes Federal, Vol. 177, October 10, 2022. *Also see* Michael S. Bookbinder and Jacob D. Millis, "Cannabis Industry State Tax Guide," *Fox Rothschild LLP* (June 2019) https://foxrothschild.gjassets.com/content/uploads/2019/06/Cannabis-Tax-E-book- June-v22019.pdf (Last visited November 14, 2022).

[33] Michael S. Bookbinder and Jacob D. Millis, "Cannabis Industry State Tax Guide," *Fox Rothschild LLP* (June 2019) https://foxrothschild.gjassets.com/content/uploads/2019/06/Cannabis-Tax-E-book-June-v22019.pdf (Last visited November 14, 2022).

If cannabis is added or moved to a lower schedule under the CSA (Schedule III[34]) or de- scheduled, this would allow the tax deduction and remove the credit prohibitions on cannabis businesses. There are several decriminalization bills in Congress, including the Marijuana Opportunity Reinvestment and Expungement Act (H.R. 3617), which passed the House in April 2022; and the Cannabis Administration and Opportunity Act (S. 4591), introduced in the Senate in July 2022. Among several changes, H.R. 3617 would impose a tax on cannabis products produced in or imported into the U.S. and an occupation tax on cannabis production facilities and export warehouses.[35] This would regulate cannabis and impose an excise tax on cannabis products like the taxes imposed on alcohol and tobacco products.[36]

Federal legalization could allow multinational corporations to grow cannabis on an industrial scale and ship it across state lines, which may result in a significant drop in cannabis product prices. The price drops may, in turn, affect state revenue collections from cannabis taxes, while possibly increasing other revenue sources, such as corporate income taxes.[37]

States face several concerns and challenges, such as coming up with effective regulations to address black-market competition, the proliferation of high-potency THC products, and preventing youth from accessing the drug.[38] Legalization of cannabis would remove the cloud of uncertainty over state programs that have been attempting to provide safe, regulated access to the public, while ensuring a robust and inclusive framework for legalization to come to fruition.[39] For the moment, federal laws continue to conflict with state legalization, which creates instability and uncertainty as states begin to institute cannabis reform.[40]

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[34] Schedule III drugs have less potential for abuse or dependence and include products with less than 90 milligrams of codeine per dose, as well as ketamine and anabolic steroids. Wesley Elmore, Biden Review of Marijuana Scheduling Could Have Tax Implications, Tax Notes Federal, Vol. 177, October 10, 2022.

[35] H.R. 3617 – 117th Congress (2021-2022): Marijuana Opportunity Reinvestment and Expungement Act, https://www.congress.gov/bill/117th-congress/house-bill/3617.

[36] Wesley Elmore, Biden Review of Marijuana Scheduling Could Have Tax Implications, Tax Notes Federal, Vol. 177, October 10, 2022.

[37] Cannabis Update, FTA, Alex Spelman SICPA, February 28, 2021.

[38] Jordan Fabian and Tiffany Kary, "Biden Pardons Weed Convictions, Orders Review by Law Enforcement," *Bloomberg* (October 6, 2022) https://www.bloomberg.com/news/articles/2022-10-06/biden-to-pardon-marijuana-possession-order-criminal-review?leadSource=uverify%20wall (Last visited October 10, 2022).

[39] Tiffany Kary, "From Bias to Banking, Biden's Pot Promises Have Impact," *Bloomberg* (October 10, 2022) https://www.bloomberg.com/news/newsletters/2022-10-10/is-marijuana-legal-yet-no-but-biden-s-plans-will-have- impact (Last visited October 10, 2022).

[40] Armikka R. Bryant, Taxing Marijuana: Earmarking Tax Revenue From Legalized Marijuana, 33 Ga. St. U. L. Rev. 659, 662 (2017).

State Cannabis Taxation

Aside from the societal and political support for (medical) cannabis that began to increase in the 1990s, states have also discovered the immense revenue potential for both businesses and local and state governments.[41] As of this writing, 21 states have enacted recreational cannabis taxes. Most states levy an excise tax at the retail and/or wholesale level, with several states applying excise taxes at both levels.[42] Although Connecticut, New York, Rhode Island, Vermont, and Virginia have enacted a cannabis tax, they have not yet begun taxing sales. The District of Columbia[43] and Minnesota also legalized recreational cannabis possession, but neither jurisdiction imposes a cannabis tax. Maryland and Missouri voters approved legalization of recreational cannabis in the November 2022 midterm elections, whereas voters in Arkansas, North Dakota, and South Dakota rejected legalization proposals.[44] Currently, states with cannabis taxes levy three types of excise taxes: a percentage-of-price tax, a weight-based tax, and a potency-based tax.[45]

<u>Price-Based Taxes</u>
In most states, cannabis excise taxes are based on the retail price and imposed at the point of sale.[46] A percentage-of-price cannabis tax is similar to a general sales tax. It is calculated as a percentage of the retail price, paid by the consumer and remitted to the government by the retailer. Cannabis taxes are typically higher than the state general sales tax rates, ranging from 10% to 37%. The price-based tax is the most popular among the states, with 11 states solely levying this excise tax and five states using it in addition to another tax. In contrast, California, Illinois, and New Jersey impose gross receipts taxes.

<u>Weight-Based Taxes</u>
Akin to other "sin taxes," such as alcohol and tobacco, weight-based taxes are based on weight or quantity and not the price. These taxes vary based on the part of the plant being sold.[47] The calculation method for these taxes varies among states. A cultivator is responsible for paying the tax following the sale of its product to a distributor or retailer. The tax is then incorporated into the purchase price paid by a consumer. Alaska and New Jersey exclusively use weight-based taxes, whereas Colorado, Maine, and Nevada use both price-based and weight-based taxes.[48]

<u>Potency-Based Taxes</u>
Potency-based taxes are like taxes on liquor: They are based on the product's content.[49] Potency-based taxes on cannabis are based on the product's THC content, because the THC level is the primary psychoactive compound in cannabis. Connecticut exclusively levies a potency-based tax, whereas Illinois and New York use price-based and potency-based taxes.[50]

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41 Armikka R. Bryant, Taxing Marijuana: Earmarking Tax Revenue From Legalized Marijuana, 33 Ga. St. U. L. Rev. 659, 676-679 (2017).

42 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

43 In 2014, DC voters approved the legalization of recreational cannabis, but Congress prevents the District from regulating and taxing legal transactions. Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.4.

44 Steffen Sykes, "Here's how five states voted on the legalization of recreational marijuana," *CNBC* (November 9, 2022) https://www.cnbc.com/2022/11/09/heres-how-five-states-voted-on-the-legalization-of-recreational-marijuana.html (accessed November 10, 2022).

45 Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.4.

46 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

47 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

48 Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.5.

49 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

50 Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p. 4, 6

Stamp Tax

Some states levy a "stamp tax" or "controlled substance tax," historically imposed on the sale or possession of illegal drugs. These taxes are generally payable by the sellers of the illegal drugs by requiring them to purchase official stamps from the state's department of revenue that are affixed to the product as evidence of payment of the tax, hence the name "stamp tax."[51]

General Sales Tax

Of the 21 states with cannabis excise taxes, 12 states also impose a general sales tax on the purchase of cannabis. Colorado, Maine, and New York exempt cannabis purchases from their general sales tax. Montana, Oregon, and Alaska do not have a general sales tax.[52]

Retail Sales Tax and Use Tax Revenue from Medical Cannabis

The tax rates imposed on medical cannabis sales are generally not as burdensome as the excise taxes imposed on recreational cannabis. Unless specifically exempt, medical cannabis is usually subject to retail sales tax.[53]

Table 1
State Cannabis Taxes

State	Price-based	Weight-based	Potency-based	General sales tax
Alaska		X		
Arizona	X			X
California	X			X
Colorado	X	X		
Connecticut			X	X
Illinois	X	X		
Maine	X	X		
Massachusetts	X			X
Michigan	X			X
Montana	X			
Nevada	X	X		X
New Jersey		X		X
New Mexico	X			X
New York	X		X	
Oregon	X			
Rhode Island	X			X
Vermont	X			X
Virginia	X			X
Washington	X			X

Source: Table based on information from the Urban Institute and Brooking Institution.[54]
Note: Connecticut, New York, Rhode Island, Vermont, and Virginia have enacted taxes but have not yet begun taxable sales.

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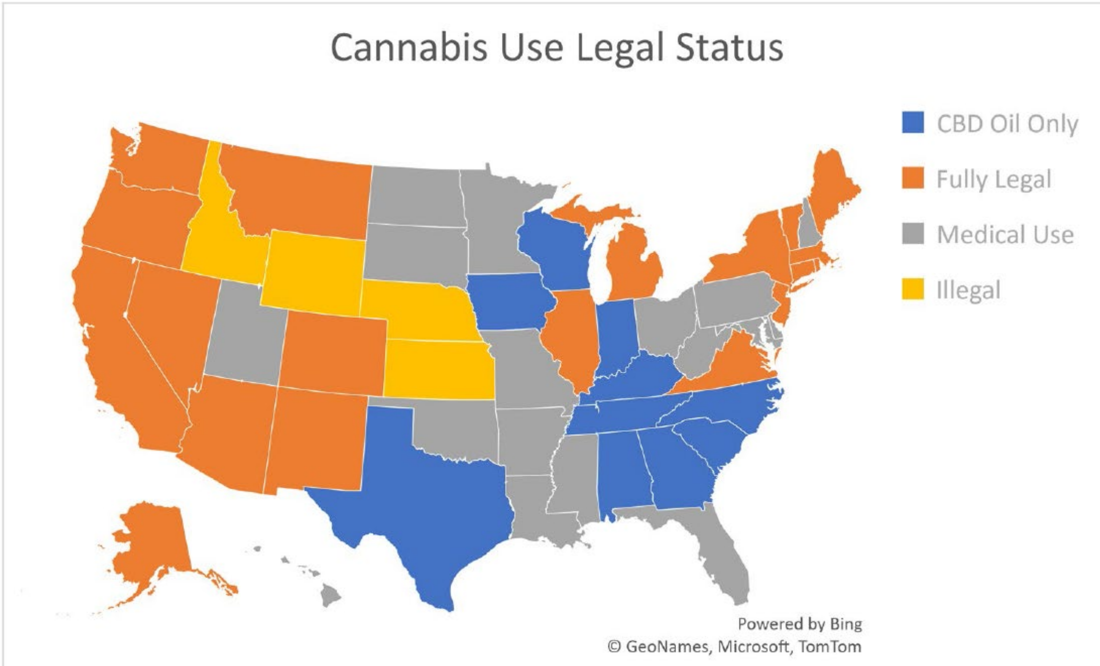
51 Michael S. Bookbinder and Jacob D. Millis, "Cannabis Industry State Tax Guide," *Fox Rothschild LLP* (June 2019) https://foxrothschild.gjassets.com/content/uploads/2019/06/Cannabis-Tax-E-book-June-v22019.pdf (Last visited November 14, 2022).

52 Urban Institute and Brooking Institution, Tax Policy Center, The Pros and Cons of Cannabis Taxes, by Richard Auxier and Nikhita Airi (September 28, 2022), p.4,6.

53 Armikka R. Bryant, Taxing Marijuana: Earmarking Tax Revenue From Legalized Marijuana, 33 Ga. St. U. L. Rev. 659, 679 (2017).

Figure 1
Legal Status of Cannabis by State



Source: Based on information from The Center for Advancing Health (CFAH).[55]

Notes: In Alabama, medical cannabis use is only legal in the form of non-psychoactive CBD oil for children with epilepsy. In South Carolina, medical cannabis use is only legal in the form of CBD oil with less than 0.9% THC for people with Dravet syndrome, Lennox-Gastaut syndrome, or refractory epilepsy.

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[54] Urban Institute and Brooking Institution, Tax Policy Center, The Pros and Cons of Cannabis Taxes, by Richard Auxier and Nikhita Airi (September 28, 2022), p.4, 5.

[55] The Center for Advancing Health, Where Is Marijuana Legal? Cannabis Legality by State, by Livy Ashton (November 11, 2022), https://cfah.org/marijuana-legality-by-state/, (Last visited December 7, 2022).

State Cannabis Tax Revenue Collections

Revenue continues to be the main motivator for legalized recreational cannabis.[56] State cannabis tax collections totaled nearly 1% of the total state general tax revenues. Several states provided their state revenue collections from cannabis taxes, which are included in Table 2 below. As evidenced in the table, cannabis revenues have increased annually and demonstrated resiliency throughout the COVID-19 pandemic, with robust growth in many cases.[57]

Table 2
State Revenue from Cannabis Taxes (medical use and/or recreational use) (in millions of dollars, fiscal year period July 1 through June 30)

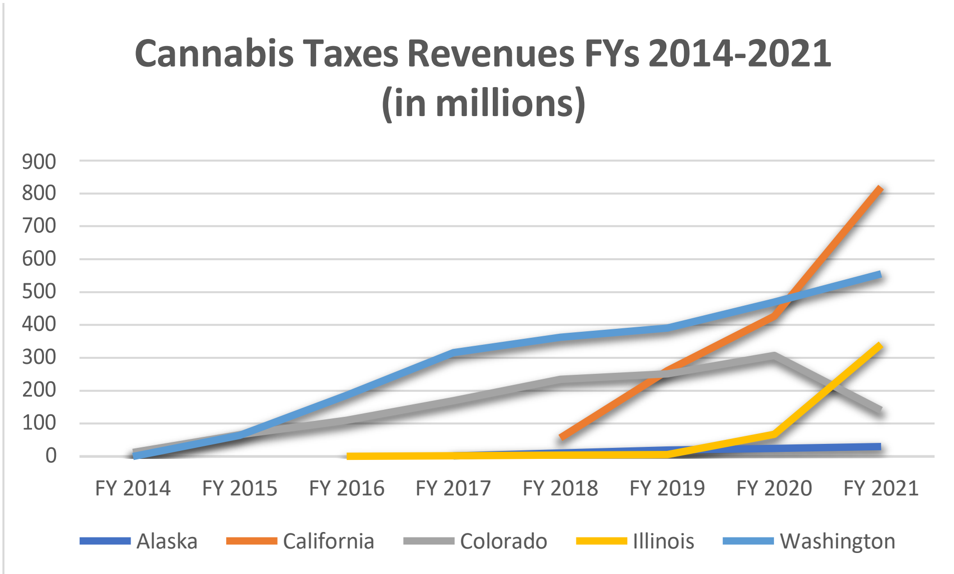
State	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Totals (FYs 14-21)
Alaska*				1.8	10.8	19.1	24.2	30.1	86.0
California**					56.4	261.2	426.3	819.0	1,562.9
Colorado***	12.0	66.0	109.7	169.8	235.2	251.8	307.3	410.6	1,562.4
Illinois			0.5	1.9	3.9	5.9	66.9	340.9	420.0
Washington****	0.0	64.6	186.1	315.2	362.0	390.4	469.2	555.4	2,342.9

Source: State agencies, including state departments of revenue.

Notes:
*Alaska – Cannabis tax revenue is from cultivation. There is no tax on final sales and no breakout of medical versus recreational. FY 2022 values are preliminary as of Nov. 30, 2022.
**California – Imposition of California cannabis taxes became operative on Jan. 1, 2018. Cannabis taxes apply to recreational and medical cannabis at the same rates.
***Colorado – Tax on cannabis (recreational sales and excise) began on Jan. 1, 2014. Cannabis sales tax increased from 10% to 15% on July 1, 2017. Cannabis excise tax is 15%, but the average market rates fluctuate quarterly.
****Washington – Prior to FY 2016, the cannabis excise tax was based on a three-tier model. The tax was levied at 25% at the production level, 25% at the processor level, and 25% at the retail level. Beginning in FY 2016 to date, the excise tax is only levied on retail sales at 37%.

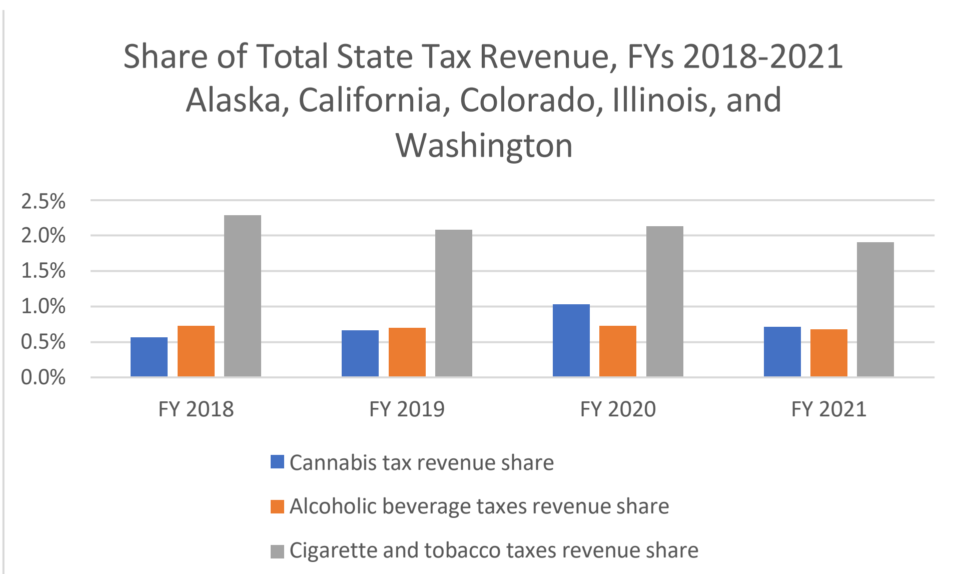
[56] *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).
[57] *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

Figure 2
State Revenue from Cannabis Taxes, FYs 2014-2021 (medical use and/or recreational use) (in millions)



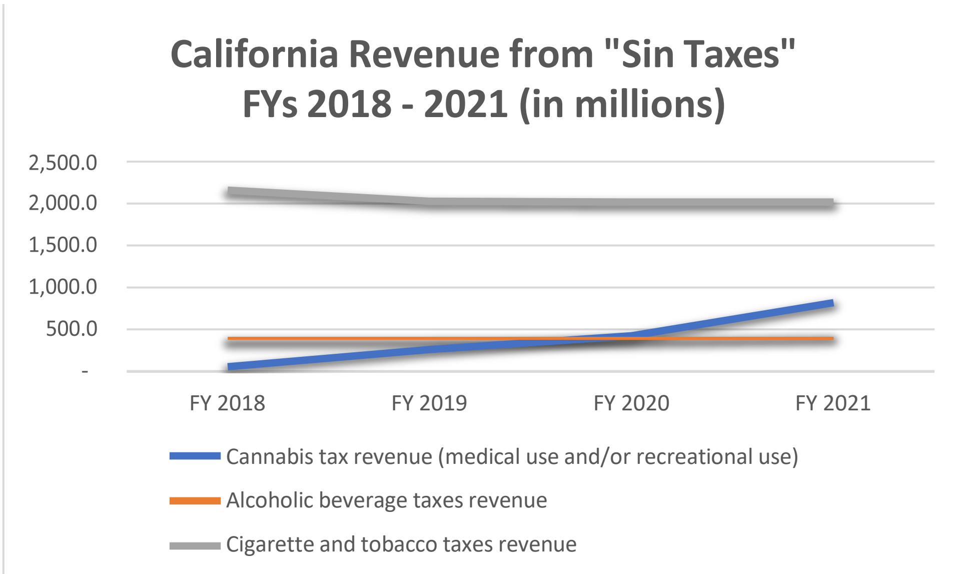
Note: Chart based on data from state agencies.

Figure 3
Share of State Revenue from Cannabis, Alcoholic Beverage, and Cigarette/Tobacco Taxes, FYs 2018-2021



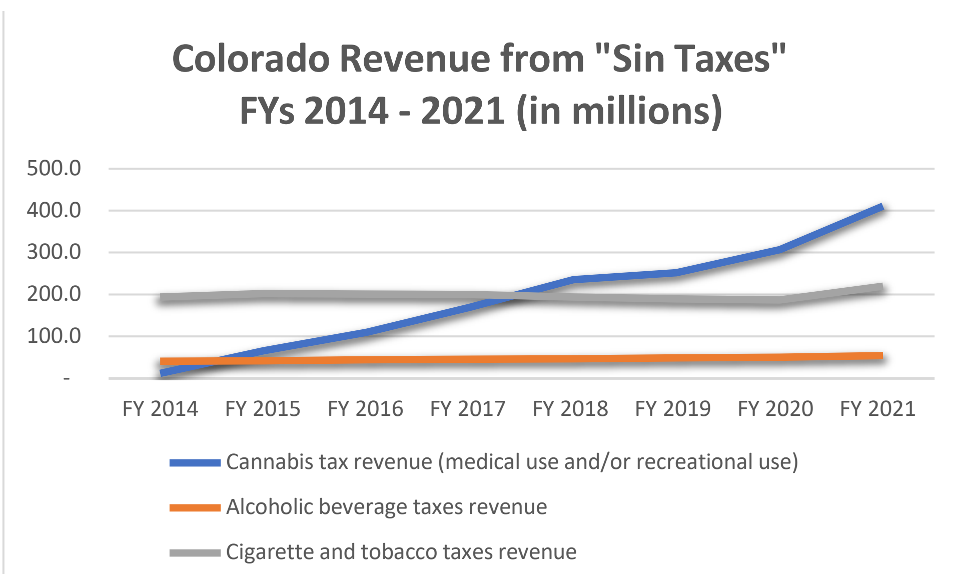
Note: Chart based on data from state agencies.

Figure 3
California State Revenue from "Sin Taxes," FYs 2018-2021 (in millions)



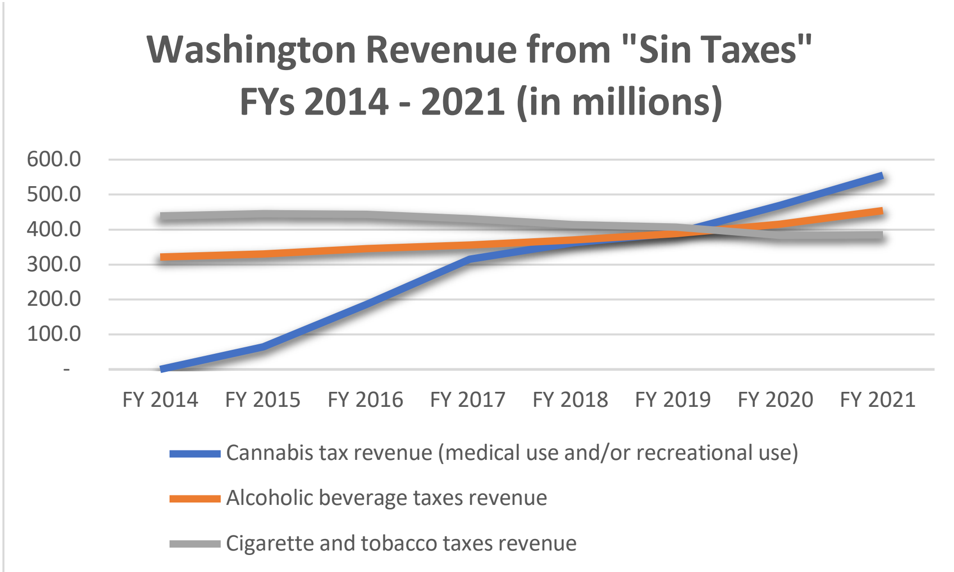
Source: Chart based on data from California Department of Tax and Fee Administration.

Figure 4
Colorado Revenue from Cannabis, Alcoholic Beverage, and Cigarette/Tobacco Taxes, FYs 2014-2021 (in millions)



Source: Chart based on data from Colorado Department of Revenue.

Figure 5
Washington State Revenue from "Sin Taxes," FYs 2014-2021 (in millions)



Source: Chart based on data from Washington State Liquor and Cannabis Board.

Forecasting Challenges and Tax Revenue Allocation

Although cannabis tax collections are performing well overall, they are not an immediate or infallible revenue solution. According to the Pew Charitable Trust, it has been difficult to accurately forecast cannabis tax revenues. Some states have underestimated revenue (*e.g.*, Nevada exceeded projections by 45%), others overestimated revenue (*e.g.*, California missed projections by 45%) and some, like Colorado, were close to projections. With this still unpredictable revenue potential, states should consider setting up trust funds or another mechanism during high revenue periods to balance low revenue periods.[58]

Cannabis legalization and taxation should not be seen as an immediate band-aid or a magic bullet for budget shortfalls. It can take years to fully develop effective regulations, licenses, and a legal framework and for revenues to match expectations (see examples of Colorado and Washington).[59]

[58] *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).
[59] *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

State Tax Policy Considerations

"We don't know the best way to tax cannabis, and even if we knew at first, that way would soon prove wrong." – Pat Oglesby, cannabis taxation professional.[60]

Setting cannabis tax rates is certainly a balancing act. On one side of the scale is the rationale of using excise taxes to make "sin" products cost prohibitive – especially for young and occasional users. On the other side of the scale is collecting enough from the "sin" taxes to draw users out of the illicit market and to use these taxes to offset costs to society created or exacerbated by the consumption of cannabis products.[61]

As states grapple with setting tax rates for cannabis sales, they juggle several factors: determining the best balance between dissuading occasional use and curbing (ideally, eliminating) customer participation in the illicit market; balancing the medical and recreational cannabis tax rates; and the complexity inherent in competing tax rates between neighboring states.

One goal of implementing an excise tax on cannabis sales is like that of other "sin" taxes: to dissuade the consumption of the product by raising the price. The increased price limits consumption by young and occasional users.

However, increasing the "sin" tax too high may further allow the illicit market to thrive. Combining effective cannabis taxes from most states, we observe relatively high rates – between 20% and 40%. These high rates keep illicit sales attractive, as a 2019 study of California suggests that illegal cannabis sellers outnumbered legal ones by almost three-to-one.[62]

The second factor in considering tax rates is the differences between medical cannabis sales tax rates and those for recreational use. The typically lower tax rates for medical cannabis, which predate taxes on recreational cannabis, create a downward pressure on recreational cannabis tax rates.[63]

Lastly, as legalization increases across more states, significant tax differences will be reflected in product pricing – leading consumers to travel across state borders to purchase cheaper cannabis in neighboring states. As more data becomes available and states gain greater experience in administering their cannabis tax programs, some states, such as Colorado and Washington, are considering lowering their tax rates. In contrast, others are considering increasing their taxes. For example, Massachusetts increased its cannabis excise tax rate from 3.5% to 10.75% when revenue expectations were not met.[64] Continuing to share intended and unexpected outcomes of cannabis taxation among states should help all states develop the most appropriate rates for their needs.

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60 Benjamin M. Leff, "Marijuana Taxation: Theory and Practice," *Boston University Law Review,* Vol 101:915 (2021).

61 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021). *Also see* FDA-Proposed Ban on Specified Tobacco Products: A Bad Idea for the Right Reasons, Roxanne Bland, Tax Notes State, Vol. 106, Oct. 3, 2022. Also *see* Ulrick Boesen, "How High Are Taxes on Recreational Marijuana in Your State?," *Tax Foundation* (March 31, 2021), https://taxfoundation.org/state-recreational-marijuana-taxes-2021/ (Last visited June 14, 2022); Benjamin M. Leff, "Marijuana Taxation: Theory and Practice," *Boston University Law Review,* Vol 101:915 (2021).

62 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

63 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

64 *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

Thus, for states that have not yet settled on the best rate, there is an additional challenge with tax design – that of the variety of cannabis products currently on the market as well as any new products that will enter the market in the future. Current products vary from pre-rolled joints and brownies to THC-infused sparkling water. State tax systems must be flexible enough to adjust to new products as they enter the market.[65]

To date, most states have applied a price-based tax on retail sales of recreational cannabis. The advantage of this type of a tax is that it allows for simplicity as there is a taxable event with a transaction, allowing for simple valuation. The downside is that it is not neutral or equitable. It has been argued that to tax cannabis efficiently, the tax should be levied at a rate that corresponds to the social costs or externalities associated with the product. These externalities do not share association with the price.[66]

It has been suggested that weight-based taxes are more resistant to volatility in the long term as prices tend to drop when markets mature. However, this type of tax may lead to the consumption of higher-potency cannabis products, as the potency or quality is not considered in this tax approach. This type of tax is also more burdensome as far as compliance and its administration. Moreover, studies suggest that THC content is not equivalent to alcohol content and does not necessarily determine potency. Therefore, potency may not be as reliable of a measure as alcohol content is for liquor taxes.[67]

The challenges and opportunities states face in creating their cannabis taxation system may be as unique as the states themselves. Could a state directly sell cannabis to consumers in the same way that some governments operate liquor stores (*e.g.*, Virginia or Canadian provinces)?[68] Even when a state has established a taxation system, its work is never complete, as cannabis laws and markets evolve. For example, Alaska Gov. Mike Dunleavy established a task force to review and recommend reforms to the state's taxation of its legal marijuana industry, which the task force issued on January 13, 2023.[69]

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[66] Ulrick Boesen, "How High Are Taxes on Recreational Marijuana in Your State?," *Tax Foundation* (March 31, 2021), https://taxfoundation.org/state-recreational-marijuana-taxes-2021/ (Last visited June 14, 2022); Benjamin M. Leff, "Marijuana Taxation: Theory and Practice," *Boston University Law Review,* Vol 101:915 (2021).

[67] *See* National Conference of State Legislatures, Fiscal Brief, *State Taxation of Cannabis* (January 2021).

[68] Urban Institute and Brooking Institution, Tax Policy Center*, The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.1.

[69] The Task Force on Recreational Marijuana, *Governor's Advisory Task Force on Recreational Marijuana Report tot eh Honorable Governor Mike Dunleavy* (January 13, 2023).

State Compliance and Administration

As states legalize and implement their cannabis tax programs, they face a variety of challenges. Below are some examples of compliance and administration challenges encountered by state agencies in California, Washington, and Illinois.

California[70]

Cultivation Tax

The California Department of Tax and Fee Administration (CDTFA) experienced the following challenges with auditing the cultivation tax along with compliance issues that the cannabis industry encountered upon the imposition of the tax.

- Through June 30, 2022, cultivation tax was imposed on all harvested cannabis based on the weight and category of the cannabis that entered the commercial market on all cannabis cultivators, with the final distributors being responsible for reporting and paying the tax to the CDTFA.
- The cultivation tax was based on the weight and category of harvested cannabis at the beginning of the supply chain, which required each cannabis business in the supply chain to keep track of the weight and category of the cannabis for the last distributor to properly report and pay the cultivation tax to the CDTFA.
- The weight-based cultivation tax created a challenge for cultivators when the wholesale cost of the cannabis decreased and the weight-based rate remained the same, which ultimately increased the ratio between the cultivation tax paid and the wholesale cost of the cannabis.
- CDTFA had difficulty tracing the reported cultivation tax back to the originating cultivator along with verifying the weight and category of the cannabis that was used to calculate the tax.

Cannabis Excise Tax

Through Dec. 31, 2022, the Cannabis Tax Law imposed a 15% cannabis excise tax on purchasers at the retail sale of cannabis or cannabis products based on the average market price of cannabis or cannabis products sold in a retail sale. Distributors are responsible for collecting the cannabis excise tax from cannabis retailers along with reporting and paying the cannabis excise tax to the CDTFA.

The following are the general challenges the CDTFA has experienced with auditing cannabis excise tax along with compliance issues that the cannabis industry faces.

- Distributors are required to report and pay the cannabis excise tax to the CDTFA prior to when the tax is imposed on the purchaser at the retail sale and collected from the purchaser.
- The calculation of the average market price to determine the cannabis excise tax is complex, which can lead to collecting, reporting, and paying an incorrect amount to the CDTFA.
- CDTFA is challenged with determining the type of transactions that occurred between cannabis retailers and their suppliers to determine the correct calculation of the average market price.

[70] Based on information provided by the California Department of Fee and Tax Administration, November 23, 2022. The California's Cannabis Tax Law, California Revenue and Taxation Code found at https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=RTC&division=2.&title=&part=14.5.&chapter=&article=, (Last visited December 2, 2022). *Also see* California Assembly Bill 195, Cannabis Tax Reform, found at, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB195, (Last visited December 2, 2022).

To address the difficulties the state and the industry faced in administering and complying with the California Cannabis Tax Law, Assembly Bill 195 (Stats. 2022, ch. 56) was chaptered on June 30, 2022, which reformed the Cannabis Tax Law. This reform should aid in improving CDTFA's administration in collecting cannabis taxes and ensuring a level playing field for all cannabis business in the state by enacting the following changes to the Cannabis Tax Law:

- Effective July 1, 2022, the cultivation tax imposition ended, and it no longer applies to cannabis that entered the commercial market on and after July 1, 2022.
- Effective Jan. 1, 2023, the responsibility to report and pay the cannabis excise tax to the CDTFA shifted from distributors to cannabis retailers.
- New enforcement and collection provisions were added to the Cannabis Tax Law.

Cannabis Tax Allocation
The California cannabis taxes are deposited into a California Cannabis Tax Fund, a special trust fund established solely to carry out the purpose of the Control, Regulate and Tax Adult Use Marijuana Act (Act). The Act seeks to establish a comprehensive system to control and regulate the cultivation, distribution, transportation, storage, manufacturing, processing, and sale of all cannabis and cannabis products. The cannabis taxes provide funding for youth education and prevention programs, medical research, environmental mitigation efforts, law enforcement, and administrative costs for numerous California state agencies charged with licensing, regulating, and taxing cannabis.

Colorado

Cannabis Tax Allocation
Ten percent of the Colorado cannabis tax revenues are allocated to local governments and the remaining 90% go to the state. The state portion allocates 72% to the marijuana tax cash fund, 15.5% to the general fund, and 12.5% to the public-school fund. The retail marijuana excise tax goes to the public-school capital construction fund.

Washington[71]

The Washington State Liquor and Cannabis Board has pointed to the difficulty of tracking sales and inventory of cash-based businesses, reporting sales for products with high tax rates, and acquiring inventory from authorized sources.

- Cash-based businesses: Requiring deeper analysis of cash received and logged (sales and inventory tracking) rather than deposited directly utilizing bankcard transactions due to current federal regulations. This practice requires added analysis of gross receipts and cash logs in addition to bank statements. Alternative cashless transactions that transfer funds from a consumer's account to the business's account must also be considered.
- High tax rates: Requiring careful analysis to ensure sales are reported and reasonable in relation to cost of goods while factoring in local statutes regarding conditional sales, sales below acquisition, samples, discount market trends and other inventory changes. Reviewing sales transaction documentation for adequate reflection of sales price and respective tax.
- Inventory: Ensuring that product sold is obtained from authorized sources. Reviewing inventory records for diversion and inversion. Sampling inventory counts to ensure that values are not overstated.

Illinois[72]

The Illinois Department of Revenue has encountered several compliance issues with cannabis dispensaries charging an incorrect tax rate and/or taxes, including:

- Dispensaries failing to charge or charging the incorrect retailers' occupation tax rate on cannabis and non-cannabis sales. Dispensaries should be charging the proper retailers' occupation tax based on the location where sales occur for both cannabis and non- cannabis sales.

- Dispensaries charging municipal or county cannabis retailers' occupation taxes prior to their effective date.
- Dispensaries charging both adult-use rates and medical rates on a single sale. Medical and adult-use cannabis are taxed differently. In no case should a sale of a single cannabis product be charged both the medical cannabis tax rate and adult-use cannabis rate.

Cannabis Tax Allocation

All monies collected under the Cannabis Regulation and Tax Act are to be deposited into the Cannabis Regulation Fund, consisting of taxes, license fees, other fees, and any other amounts required to be deposited or transferred into the Fund.

- 2% is to be transferred to the Drug Treatment Fund to be used by the Department of Human Services for: (i) developing and administering a scientifically and medically accurate public education campaign educating youth and adults about the health and safety risks of alcohol, tobacco, illegal drug use (including prescription drugs), and cannabis, including use by pregnant women; and (ii) data collection and analysis of the public health impacts of legalizing the recreational use of cannabis. Expenditures for these purposes shall be subject to appropriations.
- 8% is to be transferred to the Local Government Distributive Fund and allocated as provided in Section 2 of the State Revenue Sharing Act. The monies shall be used to fund crime prevention programs, training, and interdiction efforts, including detection, enforcement, and prevention efforts, relating to the illegal cannabis market and driving under the influence of cannabis.
- 25% shall be transferred to the Criminal Justice Information Projects Fund to be used for the purposes of the Restore, Reinvest, and Renew Program to address economic development, violence prevention services, re-entry services, youth development, and civil legal aid, as defined by Section 15 of the Public Interest Attorney Assistance Act. The Restore, Reinvest, and Renew Program shall address these issues through targeted investments and intervention programs and promotion of an employment infrastructure and capacity building related to the social determinants of health in impacted community areas. Expenditures for these purposes shall be subject to appropriations.
- 20% shall be transferred to the Department of Human Services Community Services Fund, to be used to address substance abuse and prevention and mental health concerns, including treatment, education, and prevention to address the negative impacts of substance abuse and mental health issues. These include concentrated poverty, violence, and the historical overuse of criminal justice responses in certain communities, on the individual, family, and community; including federal, State, and local governments, health care institutions and providers, and correctional facilities. Expenditures for these purposes shall be subject to appropriations.
- 10% shall be transferred to the Budget Stabilization Fund.
- 35% or any remaining balance, shall be transferred to the General Revenue Fund.

[71] Based on information provided by the Washington State Liquor and Cannabis Board, November 22, 2022.

[72] Based on information provided by the Illinois Department of Revenue, November 14, 2022. Public Act (P.A.) 101-0027 (as further amended by P.A. 101-0363 and P.A. 101-0593) created the Cannabis Regulation and Tax Act. The Act provides for the controlled legalization of Adult-Use Cannabis and sets forth rules and provisions for the taxation of adult-use cannabis in the state of Illinois (410 ILCS 705/60-1 et seq., 410 ILCS 705/65-1 et seq., 55 ILCS 5/5-1006.8, and 65 ILCS 5/8-11-23).

Alaska[73]

The Alaska Department of Revenue has experienced challenges with taxpayers reporting higher-value parts of the cannabis flower as a lower-value part of the trim to reduce their tax rate.

- Alaska's tax structure is based on the weight of different parts of the plant and paid by cultivators on wholesale transfers. The flower tax rate is $50 per ounce vs. the trim rate of $15 per ounce.
- Alaska requires all licensed cannabis facilities to use Metrc,[74] a provider of cannabis regulatory systems in the U.S. Metrc combines advanced software, radio-frequency identification (RFID) technology, a dedicated customer-support team, and a secure database to track and trace cannabis from seed, growth, harvest, and processing to testing, transport, and sale. The seed-to-sale data provides valuable insights to growers, processors, retailers, and regulators to help ensure a safe and compliant cannabis industry.
- Alaska can conduct monthly reconciliations using transfer reports from Metrc. Most of the audits are selected from discrepancies found between the Metrc data and what is reported on tax returns.
- Most cannabis taxpayers do not have traditional bank accounts in Alaska. Alaska is challenged with many cultivators going out of business before they can be audited, often with an outstanding tax debt. Additionally, Alaska is unable to follow normal collection efforts due to an inability to levy bank accounts.

Cannabis Tax Allocation

In 2016, the Alaska Legislature created the Recidivism Reduction Fund, a sub fund within the General Fund, and directed the Alaska Department of Administration to separately account for 50% of the cannabis tax collected and deposit it into this fund. The Legislature may use the annual estimated balance in the fund to make appropriations to the departments of Corrections, Public Safety, and Health and Social Services for recidivism programs. Since October 2018, 25% of cannabis tax revenue has been deposited into the Marijuana Education and Treatment Fund.

[73] Based on information provided by the Alaska Department of Revenue, December 6, 2022.

[74] https://www.metrc.com/, (Last accessed on December 6, 2022).

Conclusion

States that have enacted recreational legal cannabis regulations have experienced various challenges and worked toward developing best practices regarding administration, revenue collection, and enforcement procedures. In developing and implementing cannabis tax programs, states may use the following principles as a basis for their excise tax rates on recreational cannabis: keeping tax rates low enough to undercut, or at the very least, stabilize the illicit market; design a tax regime that would bring in consistent revenue, even while cannabis products prices may fluctuate; and generate sufficient revenue to fund cannabis-related programs and infrastructure, including mitigating societal costs associated with cannabis products consumption.[75] States that are developing cannabis taxation programs could look to similar, established excise tax programs, such as alcoholic beverage excise taxation. For example, in Alaska a task force was commissioned to review the state's cannabis tax and regulations, as well as the state's alcoholic beverages programs, and provide recommendations for improvements to the system.[76] Should cannabis become legalized on the federal level, large tobacco and pharmaceutical companies will be important industry stakeholders. With the ever-evolving cannabis markets and possible state and federal law reforms, states should stay informed and flexible.[77]

[75] Ulrick Boesen, "How High Are Taxes on Recreational Marijuana in Your State?," *Tax Foundation* (March 31, 2021), https://taxfoundation.org/state-recreational-marijuana-taxes-2021/ (Last visited June 14, 2022).

[76] Governor's Advisory Task Force on Recreational Marijuana Report to the Honorable Governor Mike Dunleavy, (January 13, 2023), https://www.commerce.alaska.gov/web/Portals/9/pub/MCB/MJTaskForce/Advisory%20Task%20Force%20on%20Recreational%20Marijuana%20Report.FInal.3.20.2023.pdf, (Las visited March 22, 2023).

[77] Urban Institute and Brooking Institution, Tax Policy Center, *The Pros and Cons of Cannabis Taxes*, by Richard Auxier and Nikhita Airi (September 28, 2022), p.2.

Appendix: Cannabis Use Data

Cannabis is the most-used federally illegal drug in the United States.[78]

How many people use cannabis?
Among aged 12 or older in 2020 in the U.S., 17.9% (or about 49.6 million people) reported using cannabis in the past 12 months, according the 2020 National Survey on Drug Use and Health.[79]

How many young students use cannabis?
In 2021, an estimated 7.1% of 8th graders, 17.3% of 10th graders, and 30.5% of 12th graders reported using cannabis/hashish in the past 12 months, according to the 2021 Monitoring the Future Survey.[80]

How many people have a cannabis use disorder?
Among people aged 12 or older in 2020, an estimated 5.1% (or about 14.2 million people) had a cannabis use disorder in the past 12 months, according to the 2020 National Survey on Drug Use and Health.[81]

[78] Centers for Disease Control and Prevention, "Data and Statistics," (June 8, 2021), https://www.cdc.gov/marijuana/datastatistics.htm#:~:text=Marijuana%20is%20the%20most%20commonly,at%20least%20once%20in%202019.&text=Recent%20research%20estimated%20that%20approximately,marijuana%20have%20marijuana%20use%20disorder (Last visited October 10, 2022).
[79] National Institute on Drug Abuse, https://nida.nih.gov/publications/research-reports/marijuana/what-scope-marijuana-use-in-united-states (Last accessed October 10, 2022).
[80] National Institute on Drug Abuse, https://nida.nih.gov/publications/research-reports/marijuana/what-scope-marijuana-use-in-united-states (Last accessed October 10, 2022).
[81] National Institute on Drug Abuse, https://nida.nih.gov/publications/research-reports/marijuana/what-scope- marijuana-use-in-united-states (Last accessed October 10, 2022).