



June 24, 2005
Pennsylvania Cigarette Tax
No. CIG-05-001
Internet Cigarette Purchases
Requirement to Remit Cigarette Tax and Use Tax

ISSUE

Is a resident of Pennsylvania who purchases cigarettes over the Internet required to pay cigarette tax and use tax to the Commonwealth of Pennsylvania, if the Internet cigarette vendor does not collect these taxes at the time the resident purchases the cigarettes?

CONCLUSION

Yes. Any resident who purchases cigarettes either over the Internet or from vendors located outside of Pennsylvania, and brings or causes cigarettes to be brought into Pennsylvania, must pay to the Department of Revenue both the Cigarette Tax and Use Tax. Pennsylvania law allows a resident to possess no more than one carton of unstamped cigarettes at any one time. The law imposes criminal fines and penalties for possession of more than one carton of unstamped cigarettes.

FACTS

The Taxpayer purchased cigarettes over the Internet from an American Indian Reservation in New York State. The Taxpayer asks whether an individual that purchases cigarettes from an Internet website is responsible for paying the Pennsylvania State Sales or Use Tax and the Cigarette Excise tax on his own, if the Internet vendor does not collect these taxes at the time of purchase.

DISCUSSION

A cigarette excise tax is imposed on the sale or possession of cigarettes within Pennsylvania. Currently, the tax rate is six and seventy-five hundredths cents (\$.0675) per cigarette. 72 P.S. § 8206. The total cigarette tax is \$1.35 per pack of 20 cigarettes, or \$13.50 per carton of cigarettes. Any person who possesses any cigarettes in Pennsylvania that do not have a valid Pennsylvania Cigarette Tax stamp affixed to each pack of cigarettes is required to pay the tax directly to the Department of Revenue. 72 P.S. § 8210.

Additionally, Pennsylvania's Tax Reform Code of 1971, as amended, imposes a use tax of six percent of the purchase price on each separate sale at retail of tangible personal property purchased outside Pennsylvania, but used within Pennsylvania. 72 P.S. § 7202(b). An additional local sales tax of one percent of the purchase price is also imposed on property used in Philadelphia County or Allegheny County. Cigarettes are considered items of tangible personal property, and are therefore subject to state and local (where applicable) sales and use taxes.

Pennsylvania residents may possess one carton of non-Pennsylvania stamped cigarettes, at a time; residents cannot have more than one carton of non-Pennsylvania stamped cigarettes in their possession at one time. Any person possessing more than 200 cigarettes

(1 carton/10 packs) but less than 1,000 cigarettes (5 cartons/50 packs) which do not have the proper Pennsylvania Cigarette Tax stamp may be guilty of a summary offense and on conviction shall pay a fine of \$300. Any person possessing more than 1,000 cigarettes, which do not bear the Pennsylvania Cigarette Tax stamp, may be guilty of a misdemeanor and on conviction may be sentenced to a fine up to \$15,000 and three years imprisonment. 72 P.S. § 8273.

Any person who purchases cigarettes over the Internet or outside of Pennsylvania, and brings the cigarettes into Pennsylvania for use must pay the Department of Revenue the Pennsylvania Cigarette Tax and Use Tax. A Pennsylvania resident owes both taxes, even if the Internet site, mail order catalog or other vendor provides conflicting information. This also applies to cigarettes purchased on or from Indian Reservations.

Pennsylvania residents must pay both taxes by the end of the month following the month of purchase. For example: If you purchased cigarettes on June 28, 2005, you must complete the Consumer Cigarette Excise Tax Return (REV-791) and submit it along with your tax payment by July 31, 2005. You may download additional copies of Form REV-791 from the Department's website.