

## WHAT'S NEW?

Act 84 of 2016 imposed tax on **Tobacco Products** other than cigarettes, including e-cigarettes, roll-your-own, and smokeless tobacco. It is commonly referred to as "other tobacco products," or OTP.

### When is the tax effective?

The tax on e-cigarettes, chewing tobacco, snuff and pipe tobacco became effective on October 1, 2016. The tax on roll-your-own tobacco went into effect on December 14, 2016.

### What is taxable under the Other Tobacco Products Tax?

- Electronic cigarettes — defined as an electronic oral device, such as one composed of a heating element and battery, electronic circuit or both. An electronic cigarette provides a vapor of nicotine or any other substance, and the use or inhalation of an electronic cigarette simulates smoking. Electronic cigarettes are subject to the tax no matter whether the devices are manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or under any other product, name or description. These devices are taxable when sold with or without the liquid or substance.
- Any liquid or substance placed in or sold for use in the electronic cigarette, regardless of whether the liquid or substance contains nicotine.
- Any component sold in the same packaging as the electronic cigarettes.

### Who is responsible for payment and reporting of the tax?

Wholesalers and manufacturers are required to collect tax from retailers. Online sellers are required to collect the tax from Pennsylvania retailers or individual consumers in Pennsylvania.

Beginning January 1, 2017, you can visit e-TIDES ([etides.state.pa.us](http://etides.state.pa.us)), the department's electronic filing system, to register your other tobacco products tax account and begin filing returns and payments.

To file and remit the tax, a consumer must complete the REV-1809 Consumer Tobacco Products Use/Excise tax return, available at [revenue.pa.gov](http://revenue.pa.gov).

### How should the OTP tax be displayed on invoices?

The distributor is required to display the tax being paid to the Department of Revenue on each invoice as a separate item.

### Is there a floor tax?

Yes. See the "FLOOR TAX" section of this document for more information.

### Am I required to have a license to sell tobacco Products?

Yes. See the "LICENSING" section for information.

### Are out-of-state manufacturers responsible to collect and remit the OTP tax if selling to a Pennsylvania retailer?

Yes. The out-of-state manufacturer must have a valid Pennsylvania OTP license to sell product directly to a Pennsylvania retailer.

### Are wholesaler to wholesaler sales considered taxable?

No. A wholesaler should not charge and collect tax on sales to another wholesaler, provided there is a valid exemption certificate to substantiate the transaction.

### How are returned sales to be calculated in the remittance of OTP tax and the filing of monthly reports?

The distributor will pay the difference between the calculated tax amount of outbound shipments less the calculated amount of tax on the returned product.

**Example:** A retailer has a 16-ounce bag of tobacco that was included in the floor stock tax return and payment. This product is damaged or is outdated, and the retailer returns it to the distributor for credit. The distributor will issue a credit for the product as well as the 15 x \$.55/ounce = \$8.80 OTP tax to the retailer. On the monthly report, the distributor will reduce their tax liability to the Department of Revenue by \$8.80.

## E-CIGARETTES

### Are online sellers of electronic cigarettes required to be licensed?

Yes. Any online seller that sells electronic cigarettes into Pennsylvania must be licensed and must collect the tax on sales to a Pennsylvania retailer or consumer.

**What is the rate of taxation on e-cigarettes?** The tax rate on the sale of e-cigarettes and the substances that go into them is 40 percent of the purchase price from the wholesaler or manufacturer. For example: If the retailer purchased an e-cigarette for \$10, the retailer would pay tax of \$4.

### What vapor products are covered by the tax?

Electronic cigarettes, any liquid or substance placed in or sold for use in the electronic cigarette, regardless of whether the liquid or substance contains nicotine, and any component not sold separately from the electronic cigarettes.

**Not taxable:** Components, such as but not limited to coils, batteries, and reservoirs, if sold separately, are not subject to the tax imposed by the Tobacco Product Article.

### What is the tax basis for the tax on vapor products?

The tax is based upon the selling price from the distributor/manufacturer to the retailer. The distributor/manufacturer cannot arbitrarily reduce the price to the retailer and therefore lower the tax liability without the permission of the Department of Revenue.

### If I do custom vaporizer blends for my customers in my store, how do I calculate the tax?

The tax is on the purchase price of the ingredients.

## ROLL-YOUR-OWN, CHEWING TOBACCO & PIPE TOBACCO

### What is the rate of taxation on roll-your-own, chewing tobacco and pipe tobacco?

The rate of tax on roll-your-own, chewing tobacco and pipe tobacco is \$0.55 per ounce. For tobacco products other than e-cigarettes that weigh less than 1.2 ounces per container, the tax shall be no less than \$0.66 per package of these tobacco products. For example, if the retailer purchases 100 ounces of tobacco in two-ounce packages, the tax due would be \$55. If the same quantity is purchased in one-ounce packages, the tax due would be \$66.

### How is the tax amount determined for individual units that weigh less than 1.2 ounces, packaged in a single container?

The 1.2 ounce minimum is based upon the minimum selling container marked for resale to the consumer.

**Example 1:** Item comes in a 5/.82 can roll. Each individual can is taxed as if it is a 1.2 ounce can.

**Example 2:** Item comes in a tub of 5/.82 ounce cans where the minimum selling unit is the tub of 5 cans and/or each can is marked "Not for resale." Total tub is taxed at  $5 \times .82 = 4.1$  ounces.

### What distinguishes roll-your-own cigarette tobacco from pipe tobacco?

The distinguishing factor to determine roll-your-own tobacco from pipe tobacco is how the product is labeled for resale to the consumer. Anything labeled "Pipe Tobacco" will be taxed effective October 1, 2016 and the floor stock tax should be reported and paid. Anything labeled "Cigarette Tobacco" will be taxed, but the exact date has yet to be determined. As with pipe tobacco, there will be a floor stocks tax.

### Are rolling papers, pipes and other accessories for smoking tobacco subject to the tax?

No.

### Are cigar wraps or blunt wrappers subject to the OTP tax?

No.

### How do I get a copy of the roll-your-own floor tax return?

The department will mail roll-your-own floor tax returns to all retailers by December 1, 2016. For all others, or if you do not receive a return in the mail, returns will be available at [revenue.pa.gov](http://revenue.pa.gov).

### Will I need a license to sell OTP?

Yes. Tobacco manufacturers, wholesalers and retailers, including vending machines, will need a license per location. Cigarette tax licensees will need a separate OTP license.

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### What is the OTP license fee?

- The cost for a wholesaler or manufacturer license is \$1,500 per location.
- The cost of a retailer license is \$25 per location.
- The cost of a vending machine license is \$25 per location.

### How do I obtain a tobacco products license?

If you are a current cigarette licensee, you will receive a temporary license for tobacco products that will be valid until February 28, 2017 at no cost. The cigarette license renewal process which will begin November 1, 2016, will include the tobacco license fee as well as cigarette license. This new combined license for

cigarettes and tobacco products will expire February 28, 2018.

If you are a new registrant, you must complete the [Tobacco Products Registration Form, REV-663](#), available at [revenue.pa.gov](http://revenue.pa.gov). This application and remittance of the fee associated with the type of license will be issued and valid until February 2018.

**I own a tobacco products business located in PA and all of my products are sold to out-of-state businesses. Do I need a license?**

Yes.

**Do I need a license if my business is out-of-state and sells online to PA customers?**

Yes, depending on your business structure you will need the corresponding license. Manufacturers need a manufacturer's license and wholesalers need a wholesaler's license.

## FLOOR TAX

**What is a floor tax?**

The floor tax is a tax imposed on untaxed inventory in the possession of the retailer on the date the tax became effective. The retailer is responsible for the reporting and payment of the floor tax. Wholesalers are not responsible for floor tax.

**Will the business owner's current inventory be taxable?**

Yes. The inventory in the retailer's business on the effective date of the tax is subject to the floor tax. The retailer must take an inventory and remit the floor tax return and payment within 90 days.

**Do I pay the tax on outdated product that I'm not selling on the effective date of the tax?**

If the product is in the store on the effective date and it is being offered for sale, it is taxable and subject to the floor tax.

**When is the floor tax due?**

An inventory of e-cigarettes, chewing tobacco, snuff and pipe tobacco products held by each retailer must be taken on October 1, 2016. **The tax return and payment on that inventory is due no later than December 29, 2016.**

An inventory of roll-your-own tobacco products held by each retailer must be taken on December 14, 2016. **The tax return and payment on that**

**inventory is due no later than March 14, 2017.**

**Where do I mail the floor tax return and the tax payment?**

PA DEPARTMENT OF REVENUE  
BUREAU OF IMAGING AND  
DOCUMENT MANAGEMENT (CIG)  
DEPT. 280408  
HARRISBURG PA 17128-0408

All checks should be made payable to: PA DEPARTMENT OF REVENUE

**What if I do not file the floor tax return?**

Failure to file and pay the floor tax will result in the imposition of penalties and interest and may result in criminal prosecution.

**Can I combine my payment for my OTP license and my OTP floor tax into one check?**

No. Each remittance and form must be returned to the department separately and the payments for a license fee and floor tax cannot be combined into one check.

**How do I get a copy of the floor tax return?**

The department will mail floor tax returns to all retailers. For all others, or if you do not receive a return in the mail, returns will be available at [revenue.pa.gov](http://revenue.pa.gov).

**When is the tobacco products tax due?**

The first tax and return are to be remitted to the department, for the quarter ending December 31, 2016, on or before January 20, 2017. Subsequently, beginning January 2017 (due February 20, 2017), the tax and return will be due monthly, on or before the 20th day of the following month.