



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

SN 2005(8)

25 Sigourney Street
Hartford CT 06106-5032

SPECIAL NOTICE

2005 Legislation Affecting the Cigarette Taxes

Purpose: This Special Notice discusses 2005 legislation affecting the cigarette taxes.

Effective Date: As indicated below.

Statutory Authority: Conn. Gen. Stat. §§12-286(a) and 12-326a(a), as amended by 2005 Conn. Pub. Acts 96, §§1 and 2; Conn. Gen. Stat. §§12-295 and 12-326g, as amended by 2005 Conn. Pub. Acts 221, §§1 and 2; and Conn. Gen. Stat. §§12-285b(a) and 12-293a(b), as amended by 2005 Conn. Pub. Acts 260, §§1 and 3.

Definitions: As used in this Special Notice:

- **DRS** means the Department of Revenue Services.
- **Licensed distributor** means any person issued a cigarette distributor's license by DRS.
- **Licensed dealer** means any person issued a cigarette dealer's license by DRS.
- **Stamper** means any person who is a licensed distributor and is authorized under Chapter 214 of the Connecticut General Statutes to purchase unstamped packages of cigarettes and is required to affix Connecticut cigarette tax stamps to those packages before those packages are transferred out of the person's possession.

Excluding Franchisors From the Definition of Chain Store Distributors: In general, any person making an initial application to be issued a cigarette distributor's license by DRS is required to submit an affidavit from each of three recognized manufacturers of cigarettes (stating such manufacturer's intent to supply cigarettes to the person if the person is issued a cigarette distributor's license by DRS).

Prior to July 1, 2005, any person making an initial application to be issued a cigarette distributor's license by DRS who purchased the business of a

licensed distributor, or who was the operator or franchisor of five or more Connecticut retail establishments, was exempt from the three-affidavit requirement.

On or after July 1, 2005, a person making an initial application to be issued a cigarette distributor's license by DRS will not be exempt from the three-affidavit requirement unless the person purchased the business of a licensed distributor or is the operator of five or more retail stores in Connecticut with common ownership and control. A person who is a franchisor of retail stores will not be considered to be an operator of those stores with common ownership and control.

Note: As indicated in **Announcement 2005(13)**, *The Connecticut Tobacco Directory*, the tobacco product manufacturers listed in the Connecticut Tobacco Directory shall constitute, for purposes of Conn. Gen. Stat. §12-286(a)(2), the recognized manufacturers of cigarettes.

For Cigarette Minimum Pricing Law Purposes, Sales to Franchisors No Longer Treated as Sales to Chain Store Distributors:

Under the Connecticut cigarette minimum pricing laws (Conn. Gen. Stat. §§12-326a to 12-326h, inclusive), stampers are prohibited from selling cigarettes below cost to subjobbers, chain stores, or licensed dealers. Cost means the basic cost of cigarettes plus the cost of doing business. In the absence of filing with DRS of satisfactory proof of a lesser or higher cost of doing business, the Connecticut cigarette minimum pricing laws set a presumed cost of doing business for stampers selling cigarettes to subjobbers, chain stores, or licensed dealers.

When a stamper sells cigarettes to a subjobber or chain store, the stamper's presumed cost of doing business is 7/8 of 1% of the basic cost of the cigarettes to the stamper, plus the cost of cartage to the subjobber or chain store, if performed or paid for

by the stamper (with the cost of cartage being presumed to be 3/4 of 1% of the basic cost of cigarettes to the stamper).

When a stamper sells cigarettes to a licensed dealer, the stamper's presumed cost of doing business is 5 3/4% of the basic cost of the cigarettes to the stamper, plus the cost of cartage to the dealer, if performed or paid for by the stamper (with the cost of cartage being presumed to be 3/4 of 1% of the basic cost of cigarettes to the stamper)

On or after July 1, 2005, stampers shall treat as sales to chain stores, for Connecticut minimum pricing law purposes, only the following sales:

- Sales to any licensed distributor that operates or services 25 or more cigarette vending machines in Connecticut and is buying cigarettes for sale exclusively in such vending machines.
- Sales to any licensed distributor that operates at least five retail stores with common ownership and control. A person who is a franchisor of retail stores will not be considered to be an operator of those stores with common ownership and control.

On or after July 1, 2005, stampers shall treat as sales to licensed dealers, for Connecticut minimum pricing law purposes, any sales made to a person who is a franchisor of retail stores.

Penalties for Dealers and Distributors Violating Connecticut Laws Prohibiting the Sales of Cigarettes Below Cost: Effective October 1, 2005, the penalties for a licensed dealer who violates the prohibition on selling cigarettes below cost are changed as follows:

- For the first violation, the dealer's license shall be suspended for not less than seven days, and the dealer shall be assessed a penalty of not less than \$1000.
- For a second or subsequent violation within a five-year period, the dealer's license shall be suspended for not less than 30 days, and the dealer shall be assessed a penalty of not less than \$5,000.

Effective October 1, 2005, the penalties for a licensed distributor who violates the prohibition on selling cigarettes below cost are changed as follows:

- For the first violation, the distributor's license shall be suspended for not less than seven days, and the distributor shall be assessed a penalty of not more than \$10,000.

- For a second violation within a five-year period, the distributor's license shall be suspended for not less than 30 days, and the distributor shall be assessed a penalty of not more than \$25,000.
- For subsequent violations within a five-year period, the distributor's license shall be revoked, and the distributor shall be assessed a penalty of not more than \$50,000.

Any licensed dealer or licensed distributor whose cigarette license is suspended shall be required to post a notice in a public place stating that cigarettes cannot be sold during the period of suspension and the reasons for the suspension. Any sale of cigarettes during the period of suspension shall be deemed an additional violation.

Excluding Certain Manufacturers From the Connecticut Tobacco Directory: Effective July 1, 2005, DRS shall not include or retain in the Connecticut Tobacco Directory the name or cigarette brand families of any cigarette manufacturer who has failed to secure and retain a cigarette manufacturer's license under Conn. Gen. Stat. §12-285b. For more information, see **Announcement 2005(13)**, *The Connecticut Tobacco Directory*, and **Announcement 2004(8.1)**, *Applying for a Cigarette Manufacturer's License*.

Cigarette Vending Machine Reports No Longer Required: Effective July 13, 2005, any person(s) who own or operate cigarette vending machines is no longer required to file **Form OP-182**, *Vending Machine Report/Cigarette Distributors and Dealers*, with DRS. Formerly, person(s) owning or operating more than five cigarette vending machines was required to file Form OP-182 monthly with DRS, and person(s) owning or operating five or less cigarette vending machines was required to file Form OP-182 semiannually with DRS.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at www.ct.gov/DRS
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu. Only forms (not publications) are available through TAX-FAX.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to file sales and use taxes, business use tax, room occupancy tax, estimated corporation business tax, business entity tax, or withholding tax returns over the Internet. Visit the DRS Web site at www.ct.gov/DRS and click on *File/Register OnLine*.
 - **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at www.ct.gov/DRS and click on *File/Register OnLine*.
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