



Indiana Department of Revenue

Indiana Government Center • 100 N. Senate Ave. Indianapolis, IN 46204 • dor.in.gov

Departmental Notice #8

Subject: Certain Cigarettes Not to be Sold or Distributed in, or Transported to, Indiana

Publication Date: September 2023

Effective Date: Upon Publication

Reference(s): IC 24-3-4-8, IC 24-3-4-9

Replaces Notice #8, dated October 1, 2000

Disclaimer: Departmental notices are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein. This document does not meet the definition of a "statement" required to be published in the Indiana Register under IC 4-22-2-7.

Summary of Changes

Only nonsubstantive, technical changes have been made to this notice. It has been primarily changed to reflect updated formatting.

Introduction

IC 24-3-4-8 provides that the following cigarettes may not be sold or distributed in, or transported to Indiana:

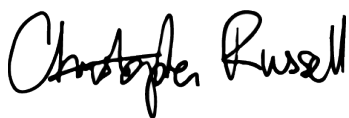
1. Cigarettes marked for foreign distribution, including those labeled "**For Export Only**", "**U.S. Tax-Exempt**," and "**For Use Outside U.S.**" including any cigarettes where the package was altered to remove, conceal, or obscure such marking. These cigarettes are commonly known as "gray markets".
2. Cigarettes not complying with federal requirements regarding health warnings on cigarette packages, including any cigarettes where the package was altered to remove, conceal, or obscure such requirements.
3. Cigarettes not complying with the federal trademark and copyright laws.
4. Cigarettes violating federal requirements on the importation of previously exported tobacco products.
5. Cigarettes that the manufacturer did not intend to be sold, distributed or used in the United States.

6. Cigarettes for which a list of the cigarette's added ingredients have not been submitted to the Secretary of the Department of Health and Human Services.

IC 24-3-4-9 provides that a person may not affix an Indiana cigarette tax stamp on any package of the cigarettes described above. Penalties and remedies provided by IC 24-3-4 include:

1. Seizure and forfeiture to the state of cigarettes in violation, together with any vending machine or receptacle in which the cigarettes were held for sale.
2. An affidavit for a search warrant may be executed if there is reason to believe any cigarettes in violation are being kept, sold, offered for sale, or given away.
3. Any person damaged by the sale of cigarettes in violation may bring action for injunctive or equitable relief. The person bringing action may recover:
 - Actual damages.
 - Interest on the damages from the date the complaint was filed.
 - Costs.
 - Reasonable attorney's fees.
 - Three (3) times the amount of actual damages if court determines the violation was flagrant.
4. Class A misdemeanor for knowingly or intentionally selling, distributing, or transporting cigarettes in violation of IC 24-3-4-8.
5. Class D felony if knowingly sell, distribute, or transport more than twelve thousand (12,000) cigarettes in violation of IC 24-3-4-8 and/or IC 24-3-4-9 and violation has been previously convicted of an offense under IC 24-3-4-8 and/or IC 24-3-4-9.
6. Cigarette distributor's registration certificate issued under IC 6-7-1-16 may be revoked or suspended.

Any complaints or tips regarding any of the illegal cigarettes described above may be forwarded to the Criminal Investigations Division of the Indiana Department of Revenue at 317-232-3365. If you have any other questions concerning this notice, please contact the Tax Policy Division at taxpolicy@dor.in.gov.



Christopher W. Russell
General Counsel
Indiana Department of Revenue