

# ARTICLE 8.1. CIGARETTE TAX

## Rule 1. General Provisions

### 45 IAC 8.1-1-1 Covered transactions; intent of act

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-1

Sec. 1. The cigarette tax imposed by IC 6-7-1 is collected from the person or company who first sells, uses, consumes, handles, or distributes cigarettes within Indiana. The tax must be initially collected by the person or company engaged in the business of selling or purchasing cigarettes in Indiana as a distributor. (*Department of State Revenue; Reg. 6-7-1-1(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1800; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-2 Distribution of sample packages; collection of tax by manufacturer

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-1

Sec. 2. Sample packages of cigarettes may not be distributed in this state without Indiana cigarette tax stamps of the proper denomination affixed to the package. (*Department of State Revenue; Reg. 6-7-1-1(020); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1800; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-3 Exemption; sales to United States government

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1

Sec. 3. (a) A distributor does not incur tax liability with respect to sales or other dispositions of cigarettes to the United States government, its agencies and instrumentalities and need not affix tax stamps to individual packages of cigarettes so sold or otherwise disposed of.

(b) Distributors do incur tax liability with respect to sales or other dispositions of cigarettes in this state to individuals, private stores, or concessionaires located upon federal areas and engaged in the business of selling cigarettes. In these situations, the distributor must affix tax stamps of proper denomination to each individual package of cigarettes before delivery thereof pursuant to a sale or other disposition. (*Department of State Revenue; Reg. 6-7-1-1(030); filed Aug. 4, 1982, 3:02 p.m.: 5 IR 1800; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-4 "Cigarette" defined (Repealed)

Sec. 4. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-5 "Individual package" defined (Repealed)

Sec. 5. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-6 "Person" or "company" defined (Repealed)

Sec. 6. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-7 "Department" defined (Repealed)

Sec. 7. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

### 45 IAC 8.1-1-8 "Distributor" defined (Repealed)

Sec. 8. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-9 "Retailer" defined (Repealed)**

Sec. 9. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-10 "Consumption", "consumer", "consume" defined (Repealed)**

Sec. 10. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-11 "Stamps" defined (Repealed)**

Sec. 11. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-12 "Counterfeit stamps" defined (Repealed)**

Sec. 12. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-13 "Drop shipment" defined (Repealed)**

Sec. 13. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-14 Covered transactions; date of sale or use (Repealed)**

Sec. 14. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-15 Common carriers; duty to file on prescribed forms (Repealed)**

Sec. 15. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-16 Stamp; evidence of tax payment**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-14

Sec. 16. (a) Payment of the tax imposed by IC 6-7-1 shall be evidenced by a stamp affixed to or on individual cigarette packages.

(b) Payment of the tax on books, and sets of cigarette papers, wrappers, or tubes, made or prepared for the purpose of making cigarettes, shall be evidenced by the proper denomination of stamps affixed to the package containing such books, sets, wrappers, or tubes. *(Department of State Revenue; Reg. 6-7-1-14(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1801; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-17 Registration requirements (Repealed)**

Sec. 17. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-18 Distributor's registration certificate; revocation or suspension**

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-15

Sec. 18. (a) After notice and a hearing, the department may revoke, cancel, or suspend the registration certificate of any distributor for any violation of, or noncompliance with, the provisions of IC 6-7-1, or for noncompliance with any lawful rule or regulation promulgated by the department. Any such action shall be subject to judicial review.

(b) In the event a certificate is revoked or suspended, no refund of registration fees will be allowed.

(c) In the event a distributor's certificate is suspended, such suspension shall mean the loss of all rights under the license for the period of the suspension.

(d) The length of revocation or suspension will be at the department's discretion. (*Department of State Revenue; Reg. 6-7-1-15(b)(020); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1801; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

#### **45 IAC 8.1-1-19 Conduct of hearings; investigations**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 4-21.5; IC 6-7-1; IC 6-8.1-5-4

Sec. 19. (a) Hearings shall be held at such place as the department may designate.

(b) Hearings may be held by the department or any officer or employee of the department designated by the commissioner of the department of state revenue. For this purpose, the department may examine books, papers, or memoranda bearing upon the sale or other disposition of cigarettes by such distributor, and may require the attendance of such registered distributor, or any officer or employee of such distributor, or any person having knowledge of the facts, and may take testimony and require proof.

(c) In the conduct of any investigation, or hearing, under IC 6-7-1 or this article, neither the department nor any officer or employee thereof, shall be bound by the technical rules of evidence, and no informality in the proceedings, or in the manner of taking testimony, shall invalidate the department's order or decision.

(d) The department's administrative procedures are otherwise governed by IC 6-8.1-3. (*Department of State Revenue; Reg. 6-7-1-15(b)(030); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1802; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

#### **45 IAC 8.1-1-20 Display of tax stamps on individual packages of cigarettes**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-14

Sec. 20. (a) Approved tax stamps furnished and sold by the department must be physically affixed to individual packages of cigarettes, cigarette papers, cigarette tubes, and cigarette wrappers.

(b) Tax stamps shall be securely attached to each individual package of cigarettes so as to be clearly visible.

(c) Tax stamps must be placed on each individual package originally sold to consumers as distinguished from the carton or larger containers of cigarettes. (*Department of State Revenue; Reg. 6-7-1-15(d)(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1802; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

#### **45 IAC 8.1-1-21 Meter as alternate to stamps (Repealed)**

Sec. 21. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

#### **45 IAC 8.1-1-22 Tampering with meter (Repealed)**

Sec. 22. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

#### **45 IAC 8.1-1-23 Requirement to display stamps in vending machines**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1

Sec. 23. (a) Owners and operators of cigarette vending machines shall load all packages of cigarettes so that if any packages are visible while in the machine, the stamps affixed thereto are clearly visible.

(b) Vending machines shall have the name and address of the owner and of the operator, if they are not the same, conspicuously displayed on the front of the machine. (*Department of State Revenue; Reg. 6-7-1-15(d)(040); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1802; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-24 Authorization of financial institutions to recharge meters (Repealed)**

Sec. 24. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-25 Bonding of registrant**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-16

Sec. 25. (a) Upon application for a registration certificate, a distributor must file a bond in a form and with a surety approved by the department of state revenue.

(b) The department may institute a suit upon such bond for the entire amount of the liability and costs under any of the following circumstances:

(1) A registrant is convicted of a violation of any of the provisions of IC 6-7-1.

(2) The registrant's certificate is revoked and no review is requested of the order of the revocation.

(3) If on review of a revocation, the decision is adverse to the registrant, and the registrant refuses to pay any taxes, damages, fines, penalties, or costs adjudged against him or her by reason of a violation of any of the provisions of IC 6-7-1.

Any suit upon the bond shall be in addition to any other remedy provided for in IC 6-7-1. (*Department of State Revenue; Reg. 6-7-1-16(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1803; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-26 Purchase of tax stamps**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-17

Sec. 26. (a) The department will not sell tax stamps to anyone except distributors holding active and valid registration certificates and such others who established their need for tax stamps by written statement satisfactory to the department.

(b) Registered distributors shall be agents of the department to affix stamps.

(c) Sales of tax stamps shall be made by the department to registered distributors, subject to the discount prescribed by law. The discount shall be allowed at the time of purchase of the stamps. All other purchasers must pay full face value.

(d) After meeting the department's requirements for a credit bond or credit bond release and after authorization from the department, distributors will pay for the tax stamps within thirty (30) calendar days from the date of the purchase.

(e) Payment must be made by electronic funds transfer. If payment is not received by the due date, the discount will be disallowed and penalty and interest will be charged. Additionally, no further stamps will be sold to the distributor until full payment is made. (*Department of State Revenue; Reg. 6-7-1-17(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1803; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-27 Responsibilities of distributor and retailer to affix stamps**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-18

Sec. 27. (a) Registered distributors must affix the proper stamp or stamps to each individual package of cigarettes, cigarette papers, cigarette wrappers, and cigarette tubes upon receipt of such cigarettes, except for those cigarettes exempted from the stamping requirement by IC 6-7-1.

(b) Retailers who receive unstamped cigarettes have the duty to make certain that stamps are affixed immediately on each individual package. (*Department of State Revenue; Reg. 6-7-1-18(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1803; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-28 Exception to stamping requirements for items in interstate commerce**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-18; IC 6-7-1-19.5

Sec. 28. The tax imposed by IC 6-7-1 upon distributors of cigarettes within this state does not apply to cigarettes which are shipped from within this state to a point outside the state, not to be returned to this state. Distributors do not need to affix tax stamps to the individual packages of cigarettes that are sold and shipped outside the state. The burden of proof, however, is at all times upon the Indiana distributor to show that such cigarettes actually were sold and shipped outside the state, and did not return to the state. (*Department of State Revenue; Reg. 6-7-1-18(020); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1803; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-29 Distributor's records**

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-19

Sec. 29. Every registered distributor of cigarettes shall keep complete and accurate records of cigarettes held, purchased, manufactured, brought in, or caused to be brought in from without the state, or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, copies of bills of sale, and other pertinent papers and documents relating to the purchase, sale, or disposition of cigarettes. Such books, records, papers, and documents shall be kept at the location of the registered certificate unless approval is given by the department in writing to have such records kept at another location. Such books, records, papers, and documents must be subject to inspection by the department or its duly authorized agents and employees at all times during the usual business hours of the day. Such books, records, papers, and documents shall be preserved for a period of at least three (3) years after the date of said documents, or the date of the entries thereof appearing in such records. (*Department of State Revenue; Reg. 6-7-1-19(010); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1803; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA; errata filed Feb 18, 2015, 10:18 a.m.: 20150318-IR-045140146ACA*)

**45 IAC 8.1-1-30 Distributor's reports**

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-19

Sec. 30. Every Indiana registered distributor shall, on or before the fifteenth day of each calendar month following the transaction, file a return with the department. The return shall be made upon forms furnished and prescribed by the department and shall contain such other information as the department may reasonably require. (*Department of State Revenue; Reg. 6-7-1-19(020); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1804; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-31 Additional reports for transactions made out of state**

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-19; IC 6-7-1-19.5

Sec. 31. Indiana distributors claiming exemption from the tax on cigarettes on the ground that shipment or deliveries were made out of state shall file a report on forms prescribed by the department and shall contain such other information as the department may reasonably require. (*Department of State Revenue; Reg. 6-7-1-19(030); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1804; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-32 Counterfeit stamps; penalty (Repealed)**

Sec. 32. (*Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA*)

**45 IAC 8.1-1-33 Affixing counterfeit or previously used stamps; penalty (Repealed)**

Sec. 33. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-34 Record keeping violations; penalty (Repealed)**

Sec. 34. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-35 Other violations; penalty (Repealed)**

Sec. 35. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-36 Seizure of property; resale by department; redemption (Repealed)**

Sec. 36. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-37 Selling unstamped cigarettes; penalty (Repealed)**

Sec. 37. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-38 Search warrants for untaxed cigarettes (Repealed)**

Sec. 38. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-39 Mutilated stamps; replacement (Repealed)**

Sec. 39. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-40 Unused stamps; refund**

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-27

Sec. 40. (a) Sales and transfers of Indiana Cigarette Revenue Stamps by one (1) registered cigarette distributor to another registered cigarette distributor are not permitted unless authorization is given in writing by the department.

(b) If a registered distributor terminates its business as a registered distributor in this state, and the registered distributor has unaffixed Indiana Cigarette Revenue Stamps, the stamps may be returned to the department for a refund.

(c) Cigarettes sold by registered distributors to other registered distributors must not be accompanied by loose stamps. *(Department of State Revenue; Reg. 6-7-1-27(020); filed Aug 4, 1982, 3:02 p.m.: 5 IR 1805; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-41 Procuring or inducing tax evasion; unlawful advertising (Repealed)**

Sec. 41. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

**45 IAC 8.1-1-42 Falsified reports; penalty (Repealed)**

Sec. 42. *(Repealed by Department of State Revenue; filed Jan 12, 2015, 12:14 p.m.: 20150211-IR-045140146FRA)*

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