



NCDOR

**NORTH
CAROLINA
DEPARTMENT
OF REVENUE**

**Excise Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001
www.ncdor.gov**

Important Notice: Modified Risk Tobacco Products

During the 2018 legislative session, Session Law 2018-5 added N.C.G.S. § 105-113.4E regarding modified risk tobacco products and an associated tax reduction. This statute became effective June 12, 2018. In Session Law 2020-58, the General Assembly subsequently amended N.C.G.S. § 105-113.4E by clarifying that the manufacturer is responsible for substantiating that a tobacco product is a modified risk tobacco product.

N.C.G.S. § 105-113.4E defines the term “modified risk tobacco product” as a tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. A modified risk tobacco product allows for a tax reduction of either 50% or 25% based on whether the United States Food and Drug Administration issues either a “risk modification order” or an “exposure modification order” pursuant to 21 U.S.C. § 387k.

On July 7, 2020, the United States Food and Drug Administration issued an exposure modification order (tax reduction of 25%) for four tobacco products that are manufactured by Phillip Morris Products S.A. To view the tobacco products that were issued the modified risk order, please click on the following address: <https://www.fda.gov/tobacco-products/advertising-and-promotion/modified-risk-orders>.

The manufacturer has provided documentation to the Department, including the modification order issued by the United States Food and Drug Administration to substantiate that the four tobacco products referenced above qualify as a modified risk tobacco product. Effective with the August 2020 filing period, resident and nonresident licensed distributors may begin taking the tax reduction of 25% on Form B-A-5, Monthly Return of Resident Cigarette Distributor and Form B-A-6, Monthly Return of Nonresident Cigarette Distributor, respectively. In order document the reduction, both Form B-A-5 and Form B-A-6 must include Form B-A-MR25, Schedule of Modified Risk Tobacco Products

- 25% Exposure Modification Order when filed. Both resident and nonresident licensed distributors will need to provide the modification order with their first return only to substantiate the rate reduction. Form B-A-5, Form B-A-6, and Form B-A-MR25 are available on the Department's website at: www.ncdor.gov .

Questions regarding this notice may be directed to the Excise Tax Division at telephone number (919) 707-7500 or toll free (877) 308-9092.

If a written response would require the Department to interpret the law in a manner not specifically addressed in a statute, regulation, or Departmental or IRS publication, the person requesting the written response must follow the procedure (and pay the required fee) for requesting a private letter ruling available on the Department's website at the following address: <https://www.ncdor.gov/documents/nc-481-request-written-determination>.