



Excise Tax Division
North Carolina Department of Revenue
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www.dornc.com

IMPORTANT NOTICE: NEW 5 CENTS PER MILLILITER (ML) ON CONSUMABLE VAPOR PRODUCTS EFFECTIVE JUNE 1, 2015

This notice includes law changes enacted by the 2013-2014 Session of the General Assembly on vapor products as it relates to its taxation under tobacco products other than cigarettes administered by the Excise Tax Division. Legislative changes may supersede any information previously set forth in Excise Tax Administrative Rules, Technical Bulletins, Notices, Directives, and Private Letter Rulings relating to any subject matter of the legislation.

Part I reflects information regarding the Tax Rate for consumable vapor products, as well as the Return Requirements. Part II includes information for obtaining a License and a Bond or Irrevocable Letter of Credit.

PART I: TAX RATE AND RETURN REQUIREMENTS

Effective June 1, 2015

Vapor Products – N.C. Gen. Stat. § 105-113.35(a1) imposes an excise tax on vapor products at the rate of five cents (\$.05) per fluid milliliter of consumable product. All invoices for vapor products issued by manufacturers must state the amount of consumable product in milliliters. Limitation - N.C. Gen. Stat. § 105-113.35(a2) states taxes imposed under this section do not apply to the following:

1. A tobacco product sold outside the State.
2. A tobacco product sold to the federal government.
3. A sample tobacco product distributed without charge.

**** NOTE:** There is no excise tax imposed on a tobacco product sold without nicotine.

N.C. Gen. Stat. § 105-113.35(b) states the wholesale dealer or retail dealer who first acquires or otherwise handles the vapor product, brings the vapor product into this State, or is the original consignee of the vapor product that is made outside this State and shipped into this State is liable for the excise tax on or after June 1, 2015.

N.C. Gen. Stat. § 105-113.37(a) states the taxes levied by this Article are payable when a report is required to be filed. The tax is due on a monthly basis and is reported on Form B-A-101, Monthly Other Tobacco Products Excise Tax Return. A monthly report covers sales and other activities occurring in a calendar month and is due within 20 days after the end of the month



covered by the report. A report shall be filed on a form provided by the Secretary and shall contain the information required by the Secretary.

For additional information regarding the application of excise tax relating to vapor products, see the Department's FAQ's on Tax on Vapor Products at www.dornc.com/taxes/excise/index.html.

PART II: LICENSE AND BOND OR IRREVOCABLE LETTER OF CREDIT

License – N.C. Gen. Stat. § 105-113.36 reads that a wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of ten dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer or where a retail dealer makes tobacco products other than cigarettes or a wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other than cigarettes.

Bond or Irrevocable Letter of Credit – N.C. Gen. Stat. § 105-113.38 sets out that the Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. The bond amount must be proportionate to the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary should periodically review the sufficiency of bonds required of dealers, and increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss.

For purposes of this section, a wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The template for the letter of credit is available on the Department's website at the following address: www.dornc.com/downloads/tobacco_loc_template.pdf

For additional information regarding the license, bond, or irrevocable letter of credit, see the Department's website, <http://www.dornc.com/downloads/tobacco.html>.

If you have questions about the information in this document or about excise tax, please contact the Department at (919) 754-2631. 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: www.dornc.com/practitioner/plr_policy.pdf.