

B-A-101 Instructions Monthly Tobacco Products Other Than Cigarettes Excise Tax Return Instructions

General Instructions

The Form B-A-101, Monthly Tobacco Products Other Than Cigarettes Excise Tax Return is required to be filed by wholesale dealers and retail dealers who first acquire, receive, or handle tobacco products other than cigarettes, excluding vapor products, in this State, as well as those who bring tobacco products other than cigarettes, excluding vapor products, into this State. Note: Taxable transactions for vapor products must be reported separately on Form B-A-102, Monthly Vapor Products Excise Tax Return.

Complete all information at the top of Form B-A-101 including Legal Name (first 35 characters), Trade Name, Mailing Address, City, State, Zip Code, State of Domicile, FEIN or SSN, NCDOR ID number for the place of business, Contact Person, Phone Number, and Fax Number. **Note:** For Contact Person, N.C.G.S. 105-259 states all tax records and information maintained by the N.C. Department of Revenue are confidential. Tax information can only be provided to the owner or authorized party of a business entity. To appoint an employee, attorney, accountant, or other person to access tax information, Form Gen-58, Power of Attorney and Declaration of Representative, must be supplied to the Department granting power of attorney to release the confidential tax information to the appointed person.

This return and payment (if applicable) are due on or before the 20th day of the month following the month in which the taxable sales and other activities occur. A return must be filed even if no tax is due. Form B-A-7, Tobacco Report Tax-Paid Products of Nonparticipating Manufacturers, must be filed with this return even if there is no activity to report. A return is filed when it is received by the Department or postmarked by the due date. If the due date falls on a Saturday, Sunday, or state holiday, the return and payment **MUST BE RECEIVED** by the Department or **MUST BE POSTMARKED** on the next business day. This also applies to returns when no tax is due.

If the return and payment are not submitted timely, the discount deduction will be disallowed. A failure to file penalty will be assessed when returns are not received by the due date of the return, based upon the amount of tax due on the return. A five percent (5%) per month, up to twenty-five percent (25%) maximum penalty, will be assessed for each month the return is late. A failure to pay penalty of five percent (5%) of the amount of tax due and not paid will be assessed when the payment is not received by the due date of the return. In addition, interest will be charged at a daily rate from the date the tax is due until the date the tax is paid. The interest rate is subject to change every six months; therefore, the rates should be verified on the Department's website at www.ncdor.gov.

Amended Returns: Prior period adjustments are not allowed on current returns. If you must amend a previously filed Monthly Tobacco Products Other Than Cigarettes Excise Tax Return, you must complete Form B-A-101, Monthly Tobacco Products Other Than Cigarettes Excise Tax Return, showing the required adjustments for the amended period. You must also mark the return as amended by filling in the circle indicating an amended return.

Invoicing Requirements - Sales invoices of wholesale dealers and retail dealers, whether resident or nonresident, liable for the tax shall indicate payment of the excise tax on tobacco products other than cigarettes by the wording "North Carolina Tobacco Products Tax Paid." All sales invoices of nonresident wholesale dealers and retail dealers shall show point of origin and mode of transportation for all shipments of tobacco products other than cigarettes into this State.

Line-by-Line Instructions

Computation of Tobacco Products Other Than Cigarettes Excise Tax Sold/Purchased in Taxable Transactions

NOTE: Cost price is the actual price paid, before any discount, rebate, or allowance, for an item identified as a stock keeping unit by a unique code or identifier representing the item subject to the tax. If the cost price for an item cannot be determined to the Department's satisfaction, the Department will determine a value based on either of the following:

- a. The cost price of comparable items.
- b. The average of the actual price paid for the item over the 12 calendar months before January 1 of the year in which the sale occurs.

Line 1 - Cost Price of Tobacco Products Other Than Cigarettes Sold/Purchased During the Month

Enter the total actual price paid for all the products sold/purchased during the month. Make sure all invoices, or equivalent information, are attached for verification.

Line 2 - Cost Price of Tobacco Products Other Than Cigarettes Sold Outside North Carolina

Enter the total actual price paid for all the products sold outside North Carolina during the month. Make sure all invoices, or equivalent information, are attached for verification.

Line 3 - Cost Price of Tobacco Products Other Than Cigarettes Sold to the Federal Government or Instrumentalities Thereof

Enter the total actual price paid for all the products sold to the Federal Government or instrumentalities thereof during the month. Make sure all invoices, or equivalent information, are attached for verification.

Line 4 - Cost Price of Other Exempt Tobacco Products Other Than Cigarettes

The allowable exemptions to be used on this line are:

- A sample tobacco product, other than cigarettes, distributed without charge
- A manufacturer's option
- Modified risk tobacco products

Manufacturer's Option - A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a licensed wholesale dealer or a licensed retail dealer may apply to the Secretary to be relieved of paying the tax imposed on the tobacco products other than cigarettes.

Modified Risk Tobacco Products - means 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.

Tax reduction:

- 50% - for a modified risk tobacco product issued a **risk modification order** by the USFDA under 21 U.S.C. § 387k(g)(1). Complete and attach Form B-A-MR50, Schedule of Modified Risk Tobacco Products - 50% Risk Modification Order.
- 25% - for a modified risk tobacco product issued an **exposure modification order** by the USFDA under 21 U.S.C. § 387k(g)(2). Complete and attach Form B-A-MR25, Schedule of Modified Risk Tobacco Products - 25% Exposure Modification Order.

Modified risk tobacco products must be substantiated by providing the Department with a copy of the order issued by the United States Food and Drug Administration (USFDA) verifying the product as a modified risk tobacco product.

Enter the total price paid for all the products given as samples, sold under the Manufacturer's Option, or sold as a Modified Risk Tobacco Product during the month. Make sure all invoices, or equivalent information, are attached for verification.

Line 5 - Total Cost Price of Exempt Sales

Add Lines 2 through 4. Enter the result.

Line 6 - Total Cost Price of Tobacco Products Other Than Cigarettes Sold/Purchased in Taxable Transactions During the Month

Line 1 minus Line 5. Enter the result.

Line 7 - Tax Due

Multiply Line 6 by 12.8% (0.128). Enter the result.

Line 8a.- Discount

A wholesale dealer or a retail dealer who is primarily liable for the excise taxes imposed on tobacco products other than cigarettes, who files a timely report and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required and the expense of furnishing a bond.

Multiply Line 7 by 2% (0.02) if return with full payment is timely filed; otherwise enter zero.

Line 8b.- Cigar Calculation

From B-A-101, Schedule A (must be attached) - see B-A-101, Schedule A

Line 9 - Total Excise Tax Due

Line 7 minus Line 8a. and Line 8b. Enter the result.

Line 10 - Penalty

Payment of the Failure to File Penalty is required with any return filed after the date the return is due. If this return is late, the penalty is 5% per month or any fraction thereof, with a maximum of 25% of the tax that is due.

Payment of the Failure to Pay Penalty is required with any payment received after the date the return is due. If the payment is late, the penalty is 5% of the tax that is due.

Line 11 - Interest

Payment of interest is required when payment on any return, with tax due, is late. The interest rate is subject to change every six months; therefore, you should verify the rate on the Department's website at www.ncdor.gov.

Line 12 - Total Payment Due

Add Lines 9 through 11. Enter the result. This is the amount due to be paid with the return. Your payment should equal the amount on Line 12 on the return. Make checks or money orders payable to the North Carolina Department of Revenue and include your NCDOR ID number on your check or money order. **Any payment must be drawn on a U.S. (domestic) bank and payable in U.S. dollars.**

G.S. 105-113.30 and 105-113.33 - Penalty for False Statement. Any person making false entries in records, or a false or fraudulent report or statement required under this Article is guilty of a Class 1 misdemeanor.