

TOBACCO TAX

This publication provides general information to tobacco retailers, distributors, and consumers, and assists taxpayers in complying with current laws regarding sales of tobacco products in Arizona.

If you are a retailer or distributor selling cigarettes or other tobacco products or a consumer acquiring cigarettes on which Arizona tobacco taxes have not been paid, you should read this brochure carefully. It provides you with important information regarding tobacco tax rates, including the tobacco tax rates on Indian reservations. It also provides essential information about the Arizona tax stamps that must be affixed to packages of cigarettes. Your cigarettes may be seized if you have unstamped or improperly stamped cigarettes and you may be subject to misdemeanor or felony charges in addition to civil penalties.

For complete details, refer to the Arizona Revised Statutes (A.R.S.) and Arizona Administrative Code (A.A.C.). In case of inconsistency or omission in this publication, the language of the A.R.S. and A.A.C. will prevail.

Key Tobacco Tax Statutes

The following list highlights several important tobacco tax statutes:

- § 42-1102: Distributor bonding provision
- § 42-1124(D): Penalty providing for the forfeiture of fixtures and equipment
- § 42-1125: Civil penalties
- § 42-1127: Criminal penalties
- § 42-3001(4): Definitions for "cigar" and "cigarette"
- § 42-3001(5) through 3001(8): Definitions for "cigarette distributor," "cigarette importer," "cigarette manufacturer," and "consumer"
- § 42-3006(D): Requirement for consumers who acquire unstamped cigarettes to register with ADOR and pay Arizona taxes due on the cigarettes
- § 42-3151: Procedure allowing ADOR's inspection of records and stock of tobacco products where they are placed, produced, stored, or sold

- § 42-3201: Distributors' licensing requirements and posting of licensing information on ADOR's website
- § 42-3201.01: Transactions with licensed cigarette manufacturers, importers, and distributors
- § 42-3202(B): Transactions between licensed distributors
- § 42-3202.02: Transactions in which tobacco products are exempt or excluded from tobacco taxes
- § 42-3202.03: Requirement that tax stamps bear legible serial numbers and that affixation methods preserve such legibility
- § 42-3203(E): Prohibition against retailers selling cigarettes in quantities that are not packaged for sale as such by the manufacturer (single sticks)
- § 42-3205: Possessing and transporting unstamped cigarettes in Arizona
- § 42-3211: Distributor filing requirements for each place of business and requirement for cigarette manufacturers and importers to file monthly reports with ADOR
- § 42-3212: Requirement that cigarette distributors include their distributor's license number on invoices and retain records for four years

Please note that this list is not exhaustive.

Delivery Sales

Effective August 2, 2012, Laws 2012, ch. 311 (SB 1280) provides that Arizona consumers cannot purchase or order tobacco products other than pipe tobacco or cigars through delivery sales (sales for which orders or purchases are made by telephone, Internet, mail, delivery service, or other electronic method) from a seller or third-party service. Such products are considered contraband subject to seizure and destruction by ADOR. ADOR-licensed distributors and retailers who only order or purchase from ADOR-licensed distributors may still order or

purchase such tobacco products through delivery sales.

Cigarette Directory

A.R.S. §44-7111 prohibits the sale of all cigarettes (including roll-your-own tobacco) in Arizona not listed in the Cigarette Directory maintained by the Arizona Attorney General's Office. It is unlawful for any person to affix a stamp to a cigarette package, or sell or possess for sale, cigarettes of a manufacturer or brand family not included in this directory. The Cigarette Directory is found on the Arizona Attorney General's website.

Tobacco Tax Provisions

In addition to the general Arizona luxury privilege tax, there are five taxes that may apply to tobacco products sold, used, or consumed in Arizona: the three Tobacco Taxes for Health Care, including the Tobacco Tax for the Smoke-Free Arizona Fund levied on cigarettes; the Indian Reservation Tobacco Tax; and the Tobacco Tax for Early Childhood Development and Health. (These taxes are often collectively or individually referred to as "tobacco tax.") The applicability of these taxes to a tobacco product depends on four factors further discussed below (see "Tax Stamps" section). Generally, the luxury privilege tax, three Tobacco Taxes for Health Care, and Tobacco Tax for Early Childhood Development and Health are applicable to sales made off the reservation, and the Indian Reservation Tobacco Tax is applicable to sales made by Indian retailers on the reservation to non-tribal members.

Current Tobacco Tax Rates

The following list provides the combined rates of Arizona tobacco taxes for off-reservation sales (rounded up to the nearest tenth of a cent):

Item	Total Tax Rate
Cigarettes (per 20 pack)	\$ 2.00
per individual cigarette.....	\$.10
Smoking tobacco, snuff, etc	\$.223 per oz.
Cavendish plus plug or twist	\$.055 per oz.
Small cigars.....	\$.441 per 20

(weighing not more than 3 lbs. per 1000)
 All other cigars \$.218 per 3
 (retailing at not more than \$.05 each)
 All other cigars \$.218 each
 (retailing at more than \$.05 each)

Indian Reservation Tobacco Tax

The Indian Reservation Tobacco Tax is a tax on the consumer rather than the seller and generally applies to an on-reservation sale of cigarettes, cigars, smoking tobacco, plug tobacco, snuff, and other forms of tobacco by an Indian retailer to non-Indians.

The Indian Reservation Tobacco Tax does not apply to cigarettes and other tobacco products sold on a reservation to enrolled members of the tribe for whose benefit the reservation was established. The Indian Reservation Tobacco Tax also does not apply if the full amount of the other five Arizona tobacco taxes has otherwise been paid. Non-Indian retailers on a reservation pay the full tax of \$2.00 for a pack of 20 cigarettes on sales to non-Indians. On the basis of tribal membership, each tribe has been allocated a maximum number of tax-exempt cigarettes that retailers can sell annually on a reservation to enrolled members of the tribe. ADOR divides this annual allocation into monthly allocations, and distributors are notified each month of the maximum number of tax-exempt cigarettes that they can sell during that month to each Indian tribe and to each Indian retailer registered with ADOR.

Indian tribes may impose their own tobacco tax or similar levy. When an Indian tribe has imposed a tribal tax, ADOR notifies distributors and provides them with information on how to proceed and how to stamp cigarettes.

The Indian Reservation Tobacco Tax rates are as follows (rounded up to the nearest tenth of a cent):

Item	Total Tax Rate
Cigarettes (per 20 pack).....	\$1.00
per individual cigarette.....	\$.05
Smoking tobacco, snuff, etc.....	\$.113 per oz.
Cavendish plus plug or twist	\$.028 per oz
Small cigars	\$.223 per 20 (weighing not more than 3 lbs. per 1000)

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All other cigars \$.11 per 3 (retailing at not more than \$.05 each)
All other cigars \$.11 each (retailing at more than \$.05 each)

Reservation retailers must complete the Reservation Retailer’s Monthly Report (Arizona Form 805), which retailers must file with ADOR no later than the 20th day of the month following the month for which the return covers. The monthly report reflects cigarette and other tobacco product sales, including tax-free cigarette sales.

Tax Stamps

Cigarette distributors initially pay the appropriate tobacco taxes to ADOR for the sale of cigarettes by purchasing tax stamps from ADOR to affix to the cigarettes, thereby reflecting that the tax has been paid. There are three different categories of tax stamps. The distributor affixes the appropriate stamp on each package of cigarettes that is to be sold in Arizona.

The following are the three types of stamps to be affixed:
1. **Blue** Stamp (General tobacco tax stamp)
2. **Red** Stamp (Indian Reservation tobacco tax stamp)
3. **Green** Stamp (Indian Reservation tax-free stamp)

Four factors are considered when determining which stamp is to be affixed to a package of cigarettes:
1. Location
2. Type of Seller
3. Type of Buyer
4. Whether the tribe imposes a luxury or excise tax for a purchaser who is an enrolled member

The **blue** stamp is for the full amount of the tax (i.e., \$2.00 per pack of 20 cigarettes). Distributors affix blue stamps to all cigarettes **except those to be sold by Indian retailers on their own reservations. Blue-stamped cigarettes are the only cigarettes that may be in retail outlets off the reservation or for sale off the reservation. Retailers off the reservation may not buy red-stamped or green- stamped cigarettes for resale.**

Distributors affix **red** stamps to cigarettes to be sold on a reservation by Indian retailers to anyone who is

not an enrolled member of the tribe for whose benefit the reservation was established. The red stamp denotes that the Indian Reservation Tobacco Tax, \$1.00 per pack of 20 cigarettes, has been paid.

No red-stamped cigarettes may be in retail outlets off the reservation or for sale off the reservation. In addition, Indian retailers may not purchase for sale red-stamped cigarettes from retailers on other reservations.

Distributors affix **green** stamps to cigarettes that may be sold tax free, according to ADOR’s allocation formula, on a reservation by a retailer to enrolled members of the tribe. Retailers must be registered with ADOR to sell tax-free cigarettes. An application form (DOR 14-2039) must be completed and approved for a person to be registered as an authorized retailer. **No green- stamped cigarettes may be in retail outlets off the reservation or for sale off the reservation. Also, retailers may not purchase for resale green- stamped cigarettes from retailers on other reservations.**

Green-stamped cigarettes are not available for sale to retailers on reservations whose tribes impose their own tobacco tax or similar levy on their enrolled members. Retailers selling on these reservations may only acquire blue- or red-stamped cigarettes.

Distributors may not affix stamps to packages of cigarettes whose packaging differs from the requirements of the Federal Cigarette Labeling and Advertising Act. Specifically, this relates to cigarettes that were intended for sale outside the United States and have been re-imported or repatriated into this country (A.R.S. § 42-3210).

It is illegal to sell cigarettes in packages of less than 20 cigarettes and a package of roll-your-own tobacco that contains less than .06 ounces except by establishments that only allow customers who are over the age of 21 (A.R.S.§§ 36-798.04, 42-3203.E).

Other Tobacco Products

Other tobacco products (cigars, smoking tobacco, cavendish, plug, and twist) are subject to the Arizona tobacco tax provisions but require no stamps. A

distributor will apply the additional taxes before selling the product. ADOR will audit these products to see if the applicable taxes have been paid by verifying receipts and invoices for purchases made.

Please note that a business with cigarette rolling machines on premises for use by customers will be deemed the manufacturer for any cigarettes made and taken away from the business and subject to federal and state laws for cigarette manufacturers.

Reporting Requirements

On forms provided by ADOR, every tobacco distributor and every cigarette manufacturer, importer, and distributor shall file a monthly report on or before the 20th day of the following month for the preceding month’s business.

For Additional Information, call:

ADOR Tobacco Tax Section (602) 716-7808
Fax (602) 716-7998

Send Written Correspondence to:

Arizona Department of Revenue
Tobacco Tax Section
1600 W Monroe
Phoenix AZ 85007

Internet Addresses

AZ Department of Revenue.....www.azdor.gov
AZ Attorney General’s Office www.azag.gov

This document is available in an alternative format upon request.

Tobacco Tax Fraud Hotline

1-855-CIGTAX1
(1-855-244-8291)

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