

**TOBACCO TAX**Pub 541  
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This publication provides general information to tobacco retailers, distributors, and consumers and assists taxpayers in complying with current laws impacting the distribution, sale and taxation of tobacco products in Arizona.

The Arizona Department of Revenue (“Department”) advises that all persons that sell, distribute or purchase cigarettes or other tobacco products in Arizona read this publication. It contains information about state tobacco tax rates, including tobacco tax rates for sales made on Indian reservations, and the four types of tax stamps issued by the Department. It also contains information regarding civil, administrative and criminal penalties that may be imposed for noncompliance with state laws regulating the sale, distribution, stamping and possession of tobacco products in Arizona.

For complete details, refer to the Arizona Revised Statutes (“A.R.S.”) and the 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 highlights several important tobacco tax statutes. Please note that this list is not exhaustive.

- § 13-3711: Unlawful commercial use of a tobacco product rolling machine. Class 3 misdemeanor, civil and administrative penalties.
- § 13-3622: Furnishing of tobacco product, vapor product, or paraphernalia to a minor prohibited. Petty offense.
- § 36-798.06: Delivery sales of tobacco products, other than pipe tobacco and cigars, to anyone other than a licensed distributor or a retailer purchasing from a licensed distributor prohibited. Class 6 felony, seizure and civil penalties.
- § 42-3001: Definitions of various terms, including “roll-your-own tobacco,” “cigarette” and “other tobacco products.”
- § 42-3401: Tobacco distributor licensing

requirements, including basis for license denial, revocation and suspension.

§ 42-3455: License required to purchase, obtain or affix tobacco tax stamps. Sale or transfer of tobacco tax stamps to another person prohibited. Legibility of serial number on tax stamps must be preserved.

§ 42-3457: Possessing and transporting unstamped cigarettes in Arizona.

§ 42-3462: Filing requirements for distributors of cigarettes and roll-your-own tobacco products.

§ 42-3501: Filing and payment requirements for distributors of tobacco products other than cigarettes.

§ 42-3451: Cigarette and roll-your-own tobacco transactions limited to manufacturers, importers, and licensed distributors.

§ 42-3452(B): Payment of tax required to sell, distribute or transfer tobacco products from one licensed tobacco distributor to another.

§ 44-7111(6)(a): Licensed tobacco distributor that violates prohibition against stamping and sale of cigarettes and roll-your-own tobacco products that are not included in the Arizona Cigarette Directory. Administrative and civil penalties.

§ 44-7111(6)(d): Person who knowingly sells, distributes, acquires, holds, owns, possesses, transports or imports cigarettes and roll-your-own tobacco products in Arizona that are not listed in the Arizona Cigarette Directory. Class 1 misdemeanor.

§ 42-1124(A) and (D): Seizure and forfeiture of cigarettes, fixtures and equipment.

§ 42-1125: Civil penalties for noncompliance, including failure to pay tax or file return by statutory deadline.

§ 42-1127(G): Person who knowingly sells a luxury (including tobacco) on which tax has not been paid or accounted for. Class 1 misdemeanor.

§ 42-1127(H): Retailer who possesses cigarette packs which do not bear Arizona tobacco tax stamps. Class 1 misdemeanor.

§ 42-1127(I)(1): Person who sells tobacco products at wholesale or retail that knowingly refuses or fails to produce invoices on demand by the Department. Class 3 misdemeanor.

§ 42-3151: Inspection of books, papers, invoices, electronic data, records, and stock of luxuries (including tobacco) by the Department.

§ 42-3456(F): Prohibition against retailers selling cigarettes in quantities that are not packaged for sale as such by the manufacturer (individual or “single sticks”).

§ 36-798.04: Unlawful manufacture, sale or distribution of cigarettes in packs of fewer than 20 and roll-your-own tobacco in packages of less than .60 ounces. Class 3 misdemeanor.

§ 42-3405: Requirement that invoices for each tobacco transaction in Arizona be retained for four years after the date of the transaction.

§ 42-3404: Transactions in which tobacco products are exempt or excluded from tobacco taxes.

**Taxes on Tobacco Products in Arizona**

There are six separate taxes that may be imposed on tobacco products sold, used or consumed in Arizona: the general Arizona luxury privilege tax (A.R.S. § 42-3052), the three Tobacco Taxes for Health Care (A.R.S. §§ 42-3251, 3251.01, 3251.02), the Tobacco Tax for Early Childhood Development and Health (A.R.S. § 42-3371) and the Indian Reservation Tobacco Tax (A.R.S. § 42-3302). These taxes are often collectively or individually referred to as “tobacco tax.” The applicability of these taxes to a tobacco product depends on the location of the sale, the parties involved and the existence of a tribal exemption. These factors are discussed in more detail in the “Cigarette Tax Stamps” section of this publication.

**Combined Tobacco Tax Rates**

The following are the combined Arizona tobacco tax rates applicable to all tobacco sales occurring off of tribal lands and those made on tribal lands between retailers and purchasers that are not enrolled members of the governing tribe (rounded up to the nearest tenth of a cent):

<u>Item</u>	<u>Tax Rate</u>
Cigarettes:	
Per individual cigarette .....	\$ .10
Per pack of 20 cigarettes .....	\$2.00
Per pack of 25 cigarettes .....	\$2.50
Other Tobacco Products:	
Small cigars .....	\$0.441 per 20 cigars (weighing not more than 3 lbs. per 1,000)
Cigars .....	\$0.218 each (retailing at more than \$0.05 each)
Cigars .....	\$0.218 per 3 cigars (retailing at not more than \$0.05 each)
Smoking tobacco, snuff, fine cut chewing, etc. .....	\$0.223 per ounce
Cavendish, plug, or twist.....	\$0.055 per ounce

**Indian Reservation Tobacco Tax Rates**

The Indian Reservation Tobacco Tax is a state-levied tax on tobacco sales made on an Indian reservation by a retail business owned by the governing tribe, or an enrolled member of the tribe, to purchasers who are not enrolled members of the tribe. The Indian Reservation Tobacco Tax is a direct tax on the consumer that is precollected by the distributor. The Indian Reservation Tobacco Tax does not apply to cigarettes and other tobacco products sold on an Indian reservation to enrolled members of the governing tribe. Moreover, the Indian Reservation Tobacco Tax does not apply if the full amount of the other five Arizona tobacco taxes has otherwise been paid: for example, on sales of tobacco products made on tribal lands between retailers and purchasers that are not enrolled members of the governing tribe. The Indian Reservation Tobacco Tax rates are as follows (rounded up to the nearest tenth of a cent):

<u>Item</u>	<u>Tax Rate</u>
Cigarettes:	
Per individual cigarette .....	\$ .05
Per pack of 20 cigarettes .....	\$1.00
Per pack of 25 cigarettes .....	\$1.25
Other Tobacco Products:	
Small cigars .....	\$0.223 per 20 cigars (weighing not more than 3 lbs. per 1,000)
Cigars .....	\$0.11 each (retailing at more than \$0.05 each)
Cigars .....	\$0.11 per 3 cigars (retailing at not more than \$0.05 each)

<u>Item</u>	<u>Tax Rate</u>
Smoking tobacco, snuff, fine cut chewing, etc. .....	\$0.113 per ounce
Cavendish, plug, or twist.....	\$0.028 per ounce

A governing tribe can impose an independent tax on tobacco sales made on tribal lands which may fully or partially offset the state’s Indian Reservation Tobacco Tax. In the event an Indian tribe has imposed an independent tobacco tax, the Department will notify distributors and provide instructions on how to report, stamp and remit tax on tobacco products sold to retailers located on that reservation.

The Department has established an allocation of tax-free cigarettes and other tobacco products for each tribe that has not imposed an independent tobacco tax or levy on its own enrolled members. This allocation is based on census data provided by the Bureau of Indian Affairs multiplied by the per capita annual consumption rate of cigarettes. Total monthly sales of tax-free cigarettes and other tobacco products are limited to the maximum amount allocated to each tribe, as divided among those retailers that have registered with the Department.

**Cigarette Tax Stamps**

Licensed tobacco distributors pay tax on cigarettes through the purchase of tax stamps from the Department. These stamps are then affixed to packs of cigarettes intended for sale in Arizona. An affixed stamp is evidence that the taxes have been paid on that product (or precollected in the case of the Indian Reservation Tobacco Tax). Arizona cigarette stamps are available in four colors. The color of the stamp reflects the classification of tax paid or collected.

- ◆ **Blue** stamps represent the payment of the combined tobacco tax rate.
- ◆ **Red** stamps represent the precollection of the Indian Reservation Tobacco Tax.
- ◆ **Yellow** stamps represent sales to enrolled members of a tribe that are exempt from state tobacco taxation but are subject to an independent tax imposed by the tribe.
- ◆ **Green** stamps represent sales to enrolled members of a tribe that are exempt from state and tribal tobacco taxation.

The following four factors determine which stamp should be affixed to a package of cigarettes:

1. Location;
2. Tribal affiliation of the retailer;
3. Tribal affiliation of the consumer;
4. Whether the governing tribe imposes an independent luxury or excise tax on sales made to enrolled members.

A **blue** stamp indicates that the full combined tobacco tax rate has been paid. Distributors affix blue stamps to all cigarettes except those that will be sold on an Indian reservation by an Indian retailer or by any retailer to enrolled members of the governing tribe. **Blue-stamped cigarettes are the only cigarettes that may be sold or offered for sale off of reservation land.**

A **red** stamp indicates that the Indian Reservation Tobacco Tax has been precollected by the distributor. Distributors affix red stamps to cigarettes to be sold on an Indian reservation by Indian retailers to anyone who is not an enrolled member of the governing tribe. **No red-stamped cigarettes may be sold or offered for sale off of reservation land.**

A **yellow** stamp indicates that the cigarettes are to be sold on an Indian reservation and are subject to a tobacco tax levied by the governing tribe on sales made to enrolled members of that tribe. **No yellow-stamped cigarettes may be sold or offered for sale off of reservation land.**

A **green** stamp indicates that the cigarettes may be sold tax-free, according to the Department’s allocation formula, on an Indian reservation to enrolled members where the governing tribe does not impose a tobacco tax or similar levy on sales to its own members. **No green-stamped cigarettes may be sold or offered for sale off of reservation land.**

To ensure proper administration and use of cigarette tax stamps and to avoid the taxation of exempt transactions, retailers located on tribal lands must register with the Department of Revenue and receive a retailer identification number. Licensed distributors will use the retailer identification number to report tobacco sales made to retailers located on reservation lands. Retailers may not purchase stamped cigarettes for resale from retailers located on other reservations.

Distributors may not affix tax stamps to packages of cigarettes whose packaging differs from the requirements of the Federal Cigarette Labeling and Advertising Act. Specifically, tax stamps may not be affixed to cigarettes that were intended for sale outside the United States and have been re-imported or repatriated into this country.

### **Tobacco Products Other than Cigarettes**

Tobacco products other than cigarettes (*e.g.*, cigars, smoking tobacco, cavendish, plug, and twist) are subject to the Arizona tobacco tax provisions but do not require stamps. Licensed tobacco distributors pay tax on all tobacco products other than cigarettes by reporting products received into the state and remitting tax to the Department. The amount of tax is added to the sales price.

### **Electronic Reporting and Payment; Record Retention Requirements**

Licensed tobacco distributors must electronically file all required returns and remit payment of taxes due on tobacco products other than cigarettes through Arizona Luxury Tax Online, available at <https://luxury.AZTaxes.gov>. Distributors who fail to electronically file their return or remit payment by electronic funds transfer will be subject to penalties and interest.

Licensed tobacco distributors are required to file a tax return for each place of business on or before the 20<sup>th</sup> day of the month following the month reported in the return. For cigarettes, the return must be submitted on or before the statutory deadline to avoid penalty.

For tobacco products other than cigarettes, each distributor is required to submit the return, together with payment of any tax due, on or before the 20<sup>th</sup> day of the month following the month in which the tax accrues. The return and payment must be submitted within 10 calendar days of the due date to avoid penalties and interest.

Manufacturers and importers who ship cigarettes and roll-your-own tobacco into Arizona must also file a monthly report with the Department.

Manufacturers, importers, and distributors must retain all invoices reflecting transactions involving the sale, purchase, transfer, consignment or receipt of tobacco products in Arizona for four years following the date of the transaction. Pursuant to A.R.S. § 44-7111(5)(a), licensed tobacco

distributors are required to retain all invoices and documentation relating to sales of nonparticipating manufacturer cigarettes and roll-your-own tobacco for a period of five years. Retailers must retain invoices issued by distributors reflecting any sale, purchase or consignment of tobacco for four years after the date of the transaction.

### **Delivery Sales**

Arizona law prohibits consumers from purchasing or ordering tobacco products, other than pipe tobacco or cigars, in non-face-to-face transactions (*e.g.*, delivery sales where orders or purchases are made by telephone, internet, mail, delivery service, or other electronic methods) from a seller or third-party service. Such products are considered contraband and are subject to seizure and destruction by the Department. Arizona-licensed distributors and retailers may order or purchase tobacco products from an Arizona-licensed distributor through delivery sales.

### **Arizona Cigarette Directory**

A.R.S. § 44-7111 prohibits the sale of any cigarettes, including roll-your-own tobacco products, in Arizona that are not listed in the Arizona 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 the Arizona Cigarette Directory. The Arizona Cigarette Directory is published on the Arizona Attorney General's website.

### **Enforcement**

All books, papers, invoices, records and product inventories of any tobacco distributor or retailer are subject to inspection by the Department.

Distributors and retailers must maintain all such items in a place and manner such that they are accessible to the Department's agents during normal business hours without the need of judicial warrant or the business's prior written consent.

Failure to comply with statutory requirements may result in civil penalties, criminal charges, license revocation, and/or product seizure.

The Department may revoke a tobacco distributor license for more than two violations of any Arizona tax provision within a three-year period or if any of the conditions of A.R.S. § 42-3401(F) apply. The

Department may also assess civil and criminal penalties for noncompliance, including those contained in A.R.S. §§ 42-1125 and 1127. Pursuant to A.R.S. § 42-1124, the Department may seize cigarettes and other tobacco products on which tax has not been paid or accounted for. The Department may also seize and destroy cigarettes and roll-your-own tobacco products that are not listed in the Arizona Cigarette Directory.

**For more information, call:**

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**Internet Addresses**

AZ Department of Revenue ..... [www.azdor.gov](http://www.azdor.gov)  
AZ Luxury Tax Online... <https://luxury.aztaxes.gov>  
AZ Attorney General’s Office .... [www.azag.gov](http://www.azag.gov)

This document is available in an alternative format upon request.

**Tobacco Tax Fraud Hotline**

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