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TAXES; CIGARETTE AND TOBACCO PRODUCTS 8120.0200

CHAPTER 8120

DEPARTMENT OF REVENUE

ALCOHOL, TOBACCO AND SPECIAL TAXES DIVISION

TAXES; CIGARETTE AND TOBACCO PRODUCTS

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TAX ON SALE OF CIGARETTES

8120.0200 STAMPS AFFIXED TO PACKAGES.

On all packages containing 20 cigarettes of standard or king size or super king size to be distributed by him the distributor shall affix the adhesive tax stamps, or, if he is using a tax meter machine, the imprint made thereby, to the bottom of the package.

On all other packages of cigarettes the adhesive tax stamps may be affixed to any portion of the outside of the package.

Statutory Authority: *MS s 297.10 subd 1*

8120.0300 SHIPPING OF UNSTAMPED CIGARETTES INTO MINNESOTA BY LICENSED OUTSTATE DISTRIBUTORS PROHIBITED.

No licensed distributor engaged in the business without this state shall ship or transport cigarettes to retailers in this state, to be sold by those retailers, without first having affixed to each package of such cigarettes the proper Minnesota tax stamp.

Statutory Authority: *MS s 297.10 subd 1*

8120.0400 COMMINGLING OF STAMPED AND UNSTAMPED CIGARETTES PROHIBITED.

No unstamped cigarettes shall be stored or kept behind the same counter or showcase over which cigarettes are sold to ultimate consumers, or within 25 feet of the cabinet, rack, or place where cigarettes for sale to ultimate consumers are kept or stored.

Statutory Authority: *MS s 297.10 subd 1*

8120.0500 CIGARETTE TAX STAMPS; DESIGN.

Adhesive tax stamps shall be of the decalcomania type.

Statutory Authority: *MS s 297.10 subd 1*

8120.0600 CIGARETTE TAX STAMPS; DENOMINATION, PURCHASE, AND PAYMENT FOR.

Tax stamps shall be purchased by the distributor only from the Commissioner of Revenue, Centennial Office Building, St. Paul, Minnesota 55145. All purchases of stamps at the rate specified in Minnesota Statutes, section 297.02, subdivision 1, clause 1, shall be made in multiples of 100 stamps. Stamps of any other denomination may be purchased in any quantity. Requisition forms for the purchase of adhesive tax stamps shall be furnished upon request by the commissioner. Each requisition shall be accompanied by a remittance in full (less discount allowed under Minnesota Statutes, section 297.03, subdivision 5) for the stamps requisitioned.

Mail orders for adhesive stamps will be accepted by the commissioner if the requisitions are prepared correctly and accompanied by proper remittance for the stamps requisitioned. In such case, the remittance must also include first-class postage and registry fee. If requested, orders for stamps will be forwarded by express collect.

Statutory Authority: *MS s 297.10 subd 1*

8120.0700 DISCOUNT ON CIGARETTE STAMP.

The discount on cigarette stamp purchases shall be at the rate specified in Minnesota Statutes, section 297.03, subdivision 5.

Statutory Authority: *MS s 297.10 subd 1*

8120.0800 USE OF TAX METER MACHINES.

Subpart 1. **In general.** In lieu of purchasing and using adhesive tax stamps, any licensed cigarette distributor may apply for permission to use a Pitney-Bowes tax meter machine for the purpose of imprinting tax stamps upon packages containing 20 cigarettes of standard or king size or super king size to be distributed by him in the state of Minnesota. Such application shall be filed with the commissioner of revenue in triplicate.

All meters on tax meter machines, the use of which the commissioner has permitted, shall be under his direct control. All repairs to such meters shall be

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strictly prohibited except by a duly authorized representative of Pitney-Bowes, Inc.

Subp. 2. First meter settings. Before tax meter machines, the use of which the commissioner has permitted, are installed for use the tax meters thereof shall be delivered by Pitney-Bowes, Inc., to the office of the commissioner of revenue for the first meter settings. Where practical, all subsequent meter settings will be made at the location of the tax meter machines on a regularly scheduled basis. Meters will be set only by authorized representatives of the commissioner, and the seals placed on said meters by said representatives shall not be broken by anyone other than a duly authorized representative of the commissioner.

Where it is impractical for a representative of the commissioner to make a special trip to the location of the tax meter machine for the purpose of setting the meter, the distributor or his authorized agent may bring the meter in person either to the office of the Commissioner of Revenue, Centennial Office Building, Saint Paul, Minnesota 55145, or to the nearest county treasurer or banking institution authorized by the commissioner pursuant to Minnesota Statutes, section 297.03, subdivision 12 for setting. In lieu of bringing the meter in person, the distributor may forward the meter by prepaid express to the office of the Commissioner of Revenue, Centennial Office Building, Saint Paul, Minnesota 55145. After setting, the meter will be returned to the distributor by express collect. In no event shall a meter be forwarded to a county treasurer or banking institution by means other than personal delivery.

Subp. 3. Inks and ink imprints. All inks used in tax meter machines must be purchased from Pitney-Bowes, Inc. Each order must be accompanied by a cigarette tax ink order book supplied by Pitney-Bowes, Inc., with an entry in respect of such order made therein stating the date, quantity on hand, quantity ordered, ascending and descending meter register readings, purchase order number, and signature and title of person making the order.

All ink imprints on packages must be clear and legible.

Subp. 4. Noncompliance. The commissioner of revenue reserves the right to refuse the continued use of a tax meter machine in any case where any of the provisions of this part are not complied with.

Subp. 5. Remittance. Every licensed distributor using a tax meter machine may, at the time of the meter setting, remit in full (less the discount allowed under Minnesota Statutes, section 297.03, subdivision 5) the tax represented by the number of units for which the meter is set.

Every licensed distributor using a tax meter machine who elects to make a remittance of tax at the time of filing his monthly return shall file with the commissioner of revenue a corporate surety bond conditioned for the payment when due of all cigarette taxes represented by the imprinting of stamps by said machine. Said bond shall be made on prescribed form CT-104C and shall be in an amount to be determined by the commissioner. Whenever it is the opinion of the commissioner that said bond is inadequate in amount to fully protect the state, the commissioner shall require an additional bond in such amount as he deems sufficient.

Every licensed distributor using a tax meter machine shall include in his monthly return to the commissioner a statement of the number of stamps imprinted by said machine during the month for which the return is submitted, and if he has not already remitted the tax represented by the number of units for which the meter was set, shall accompany said return with a remittance representing the face value of the number of stamps imprinted by said machine during such month (less the discount allowed under Minnesota Statutes, section 297.03, subdivision 5).

Statutory Authority: *MS s 297.10 subd 1*

8120.0900 CANCELLATION OF STAMPS.

Cancellation of tax stamps, both adhesive and meter imprints, will not be necessary.

Statutory Authority: *MS s 297.10 subd 1*

8120.1000 REPLACEMENT OF UNUSED ADHESIVE TAX STAMPS WHICH HAVE BECOME MUTILATED OR UNFIT FOR USE.

Subpart 1. **In general.** Unused adhesive stamps which for any reason become mutilated or unfit for use will be replaced by the commissioner of revenue upon compliance by the distributor with the following conditions.

Subp. 2. **Application requirements.** The distributor shall make a written application for replacement of stamps, setting forth in detail the number of stamps, the denomination of each, and the reason why the stamps have become mutilated or unfit for use.

Subp. 3. **Stamps held.** The spoiled stamps shall be held by the distributor until an authorized agent or employee of the commissioner shall have inspected them.

Subp. 4. **Stamps destroyed.** If the agent or employee of the commissioner is satisfied that the stamps are mutilated or unfit for use, he shall authorize their destruction. Such destruction shall take place in his presence and he shall issue a certificate setting forth the number and denomination of the stamps destroyed and the facts of destruction. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

Subp. 5. **Replacement.** Replacement of the stamps will then be made if the records of the commissioner show that the spoiled stamps were purchased by the distributor seeking their replacement.

Statutory Authority: *MS s 297.10 subd 1*

8120.1100 REPLACEMENT OF OR CREDIT FOR USED TAX STAMPS.

Subpart 1. **In general.** Tax stamps which are affixed to packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, will be replaced by the commissioner of revenue, upon compliance by the distributor with the following conditions.

Subp. 2. **Application requirements.** The distributor shall make an application for replacement of the stamps, stating the brands and number of packages damaged or to be returned to the manufacturer, the cause and type of damage or reason for return to the manufacturer, and the kind, number, and denomination of stamps affixed to said packages.

Subp. 3. **Stamps held.** Said packages shall be held by the distributor until an authorized agent or employee of the commissioner shall call upon him.

Subp. 4. **Stamps defaced.** As to the packages being returned to the manufacturer, the agent or employee of the commissioner may authorize defacement of the stamps affixed thereto, and said defacement shall be made under his supervision. He shall issue a certificate setting forth the kind, number, and denomination of the stamps defaced, the brands and number of packages to be returned to the manufacturer, and the name and address of the manufacturer. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner. If the distributor returns the packages directly to the manufacturer, he shall furnish the commissioner with a duplicate copy of the waybill or bill of lading of the packages returned. If the distributor delivers the packages to a local representative of the manufacturer for return, he shall furnish the commissioner with the representative's receipt for the packages, and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the packages by the manufacturer.

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Subp. 5. Stamps destroyed. As to the packages which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize the destruction of both the packages and their contents and the stamps affixed thereto. Such destruction shall take place in his presence and he shall issue a certificate setting forth the kind, number, and denomination of the stamps, the brands and number of packages of cigarettes destroyed, and the facts of destruction. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

Subp. 6. Replacement. After compliance with the above conditions, replacement of the stamps defaced or destroyed will be made.

Subp. 7. Credit. Where the stamps affixed to the packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, consist of imprints made by tax meter machines, credit will be allowed for all such imprints if the distributor complies with the foregoing conditions.

Subp. 8. Waiver. If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Minnesota Statutes, chapter 297, he may waive any of the requirements of this part.

Statutory Authority: *MS s 297.10 subd 1*

8120.1200 EXCHANGE OF AND REFUNDS ON TAX STAMPS.

Adhesive tax stamps purchased by a distributor from the commissioner of revenue may be exchanged for stamps of other denominations upon written application of the distributor. All such applications shall be made on prescribed form CT-212 which will be furnished by the commissioner of revenue upon request.

Cash refunds for unused adhesive tax stamps and unused tax meter units can only be made when the distributor discontinues business. No cash refund shall be made until the commissioner has had an opportunity to audit the records of the distributor and satisfy himself that no further tax is due. Before the refund is issued, all unused adhesive stamps must be returned to the commissioner and the tax meter cleared by an authorized representative of the commissioner.

Statutory Authority: *MS s 297.10 subd 1*

8120.1300 RAILROAD AND SLEEPING CAR COMPANIES' MONTHLY REPORTS TO COMMISSIONER.

The monthly report which each railroad or sleeping car company licensed as a distributor is required to file shall be made in duplicate on prescribed form CT-205. Each such report shall be complete and accurate and shall be verified by the person signing the same.

The original shall be filed with the commissioner of revenue on or before the 18th day of the succeeding calendar month and shall be accompanied by remittance of the tax due, less the discount allowed under Minnesota Statutes, section 297.03, subdivision 5. The copy shall be retained by the company as part of its records.

The monthly report shall be deemed to have been filed as herein required if postmarked on or before the 18th day of the month when due.

Statutory Authority: *MS s 297.10 subd 1*

8120.1400 DISTRIBUTION OF FREE SAMPLE PACKAGES; MONTHLY REPORTS TO THE COMMISSIONER.

Any cigarette manufacturer or person engaged as a common carrier in the transportation of persons authorized to distribute in Minnesota free sample packages of not more than ten cigarettes each without affixing stamps to said

packages shall file a monthly report of samples distributed and shall accompany such report with the proper tax remittance. This shall be made on the prescribed form CT-204; said forms to be furnished on request by the commissioner.

Statutory Authority: *MS s 297.10 subd 1*

8120.1500 APPLICATIONS FOR DISTRIBUTORS' AND SUBJOBBER'S CIGARETTE LICENSES.

Applications for cigarette distributors' and subjobbers' licenses shall be made on the prescribed form CT-101. Application forms shall be furnished by the commissioner of revenue.

All questions on the application forms must be answered completely and answers must be made in ink or typed. All applications must be signed and acknowledged by the applicant or an officer thereof.

Statutory Authority: *MS s 297.10 subd 1*

8120.1600 DISTRIBUTORS' AND SUBJOBBER'S LICENSE FEES.

If an application for a distributor's cigarette license for the current license period is filed with the commissioner on or before June 30, it shall be accompanied by a fee of \$150; if said application is filed on or after July 1, the fee accompanying it shall be only \$75.

If an application for a subjobber's cigarette license for the current license period is filed with the commissioner on or before June 30, it shall be accompanied by a fee of \$12; if said application is filed on or after July 1, the fee accompanying it shall be only \$6.

Statutory Authority: *MS s 297.10 subd 1*

8120.1700 CORPORATE SURETY BONDS IN SUPPORT OF DISTRIBUTORS' LICENSES.

Each application for a distributor's license shall be accompanied by a corporate surety bond, issued by a surety licensed to do business in Minnesota, in support of the license, in the sum of \$1,000. All corporate surety bonds in support of licenses shall be made on prescribed form CT-104A. Forms for such surety bonds shall be furnished by the commissioner of revenue.

Statutory Authority: *MS s 297.10 subd 1*

8120.1800 LICENSED WAREHOUSE RECORDS.

Licensed warehouses handling deliveries or shipments of cigarettes to persons in Minnesota shall keep a true and accurate book record of all such deliveries or shipments. Such book record shall show the name and address of the consignee, the date of delivery or shipment, the brands and number of cigarettes delivered, and shall be available for inspection by the commissioner of revenue and his authorized agents and employees.

Statutory Authority: *MS s 297.10 subd 1*

8120.1900 RECEIVING RECORDS, INVOICES, AND INVENTORY RECORDS.

Every licensed distributor shall maintain receiving registers on licensed premises in which shall be currently posted in respect to cigarettes received, the date, name of shipper, and number of pieces received.

Every distributor shall preserve invoices of all cigarette purchases and sales except sales to the ultimate consumers. Sales invoices shall clearly specify quantities of cigarettes. Licensed distributors shall make invoices or records of all cigarettes transferred to retail outlets owned or controlled by them. No invoices shall be required for sales of cigarettes to the ultimate consumer at the address given in the distributor's license, provided he shall withdraw cigarettes for retail sales from his wholesale stock by use of a memo prepared at the time of withdrawal.

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Every distributor shall, at the close of each period for which a return is required, take an inventory of unstamped cigarettes on hand. Cigarettes stamped with indicia of other states shall be considered unstamped cigarettes for Minnesota cigarette tax purposes.

Every distributor shall, at the close of the annual accounting period, take an inventory of stamped cigarettes. The commissioner may require that a distributor take an additional inventory or inventories of stamped cigarettes, if, in his opinion such inventory is or inventories are necessary to determine the correctness of the returns filed by the distributor. Cigarettes in vending machines and cigarettes transferred to retail stock on written memorandum should not be included in inventory reports.

Statutory Authority: *MS s 297.10 subd 1*

8120.2000 DISTRIBUTORS' MONTHLY RETURNS TO COMMISSIONER.

The monthly cigarette return which each Minnesota distributor is required to file shall be made in duplicate on prescribed form CT-201. The monthly cigarette return which each out-of-state distributor is required to file shall be made in duplicate on prescribed form CT-202. Forms for such returns shall be furnished by the commissioner of revenue.

Each return shall be complete and accurate and shall include any and all supporting schedules required by the commissioner.

The return shall be signed by the distributor or an officer thereof.

The original return shall be filed with the commissioner of revenue on or before the 18th day of the succeeding calendar month. The copy shall be retained by the distributor. The monthly return shall be deemed to have been filed as herein required if postmarked on or before the 18th day of the month when due.

Statutory Authority: *MS s 297.10 subd 1*

8120.2100 CIGARETTE VENDING DEVICES; VISIBILITY, PLACEMENT OF PACKAGES THEREIN.

Subpart 1. In general. Every device for the vending of cigarettes in this state must conform to the following requirements.

Subp. 2. Partial visibility. Partial visibility shall include partial visibility from the front or from the back, provided that the back of the device is readily accessible to inspection. If the back of the device is not readily accessible to inspection, partial visibility must be afforded from the front.

Subp. 3. Visibility of packages. At least two packages in each magazine must be visible from the outside of the device.

Subp. 4. Placement of packages. All packages of cigarettes must be loaded in the magazines of the device so that the Minnesota cigarette tax stamps or tax meter imprints are clearly visible from the outside of the device as they come into view in the visible portion of each magazine therein.

Statutory Authority: *MS s 297.10 subd 1*

8120.2200 INSPECTION OF CIGARETTE VENDING DEVICES; SEIZURE OR SEALING.

The commissioner of revenue or his authorized agents may demand access for the inspection of the contents of a cigarette vending device located in this state wherever and whenever deemed necessary in the enforcement of Minnesota Statutes, sections 297.01 to 297.13. If such access is denied, the commissioner or his authorized agents may seize the device in accordance with the provisions of Minnesota Statutes, section 297.08, subdivision 2. In lieu of seizure, the commissioner or his agents may seal the device to prevent its use until inspection of the contents is satisfactorily permitted. The seals so placed by the commissioner or his agents may not be broken and/or removed by anyone other than the

commissioner or his agents. Immediate seizure of the device under Minnesota Statutes, section 297.08, subdivision 2, will be made where the seals placed by the commissioner or his agents have been broken or removed other than by the commissioner or his agents.

Statutory Authority: MS s 297.10 subd 1

8120.2300 NAME AND ADDRESS OR TELEPHONE NUMBER OF OWNER OF CIGARETTE VENDING DEVICES.

Every device for the vending of cigarettes in this state must carry the name and either address or telephone number of the owner, clearly visible from the front of the device.

Statutory Authority: MS s 297.10 subd 1

8120.2400 EXAMINATION OF TAXPAYER'S RECORDS.

For the purpose of determining the correctness of any return or of determining whether or not any person should have made a return or paid taxes under Minnesota Statutes, sections 297.01 to 297.13, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda relevant to making such determination, including the taxpayer's retained copy of his return of income to the United States government for any year, whether such books, papers, records, or memoranda are the property of or in the possession of the taxpayer or any other person or corporation. He shall further have power to require the attendance of any taxpayer or other person having knowledge or information in the premises to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination, and to administer oaths or affirmations.

Statutory Authority: MS s 297.10 subd 1

8120.2500 COMMISSIONER TO APPOINT EXAMINERS.

For the purpose of making such examinations and determinations, the commissioner may appoint such officers, to be known as tax examiners, as he may deem necessary. These examiners shall be furnished proper credentials signifying their appointment as above. The credentials shall be signed by the commissioner and countersigned by the examiner.

It is the duty of every examiner to present his credentials to the taxpayer for the purpose of satisfying the taxpayer that he is duly authorized to examine the taxpayer's books, papers, records, or memoranda relating to the return or the making of a return under Minnesota Statutes, chapter 297.

Statutory Authority: MS s 297.10 subd 1

8120.2600 POWERS OF EXAMINERS.

Such tax examiners shall have all the rights and powers with reference to the examining of books, records, papers, or memoranda, and with reference to the subpoenaing of witnesses, administering of oaths and affirmations, and taking of testimony conferred upon the commissioner by Minnesota Statutes, chapter 297. The court administrator of record, or any justice of the peace, upon demand of any such examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records, or memoranda before such examiner. The commissioner may also issue subpoenas for the appearance of witnesses before him or before such examiners. The commissioner may appoint such referees as he deems necessary to review, singly or as a board of review, the reports of the tax examiners and petitions or complaints of taxpayers, and report thereon to the commissioner. Disobedience of subpoenas issued under Minnesota Statutes, chapter 297 shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court.

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Statutory Authority: *MS s 297.10 subd 1*

History: *1Sp1986 c 3 art 1 s 82*

8120.2700 COMMON CARRIERS; REPORTS.

Reports of shipments of cigarettes transported from without this state to consignees located in this state other than public warehouses of first destination in this state licensed under Minnesota Statutes, chapter 231, shall be made on form CT-206 and shall be signed by a duly authorized official or representative of the carrier. The report shall be filed on or before the tenth day of the month following the month the deliveries of cigarettes were made.

In lieu of itemization of individual shipments on the report form, there may be attached thereto copies of each of the freight bills relating to shipments required to be reported and a notation made on the face of form CT-206 as to the number of shipments required to be accounted for.

Where two or more persons or carriers are engaged in the transportation of a shipment of cigarettes from without the state to a consignee in this state, other than a public warehouse of first destination in this state licensed under the provisions of Minnesota Statutes, chapter 231, the responsibility for filing the report of such shipment shall be that of the person or carrier who transported it into the state provided, however, that if the delivering carrier agrees to report the shipment, no report need be made by the carrier transporting it into the state.

Statutory Authority: *MS s 297.10 subd 1*

8120.2800 SALES AND DISTRIBUTION OF TAX-EXEMPT AND TAX-PAID CIGARETTES BY STATE INSTITUTIONS.

Subpart 1. Gratuitous distributions of cigarettes by state institutions. Where cigarettes are purchased from appropriated funds for gratuitous distribution by the state to inmates of state institutions for the personal use of consumption of such inmates the tax imposed by Minnesota Statutes, section 297.02, shall not be applicable.

Subp. 2. Sales of cigarettes by state institutions. All cigarettes purchased for resale in institutions of the state with exception of cigarettes to be sold at institutions under the control and management of the commissioner of corrections are subject to the tax imposed by Minnesota Statutes, section 297.02. Payment of the tax on all packages sold must be evidenced by tax stamps affixed thereto.

Institutions acquiring unstamped cigarettes for resale shall cause the tax stamps to be affixed to each of the packages thereof, file monthly reports on or before the 18th day of each month with the commissioner of revenue fully accounting for all cigarettes received and stamped during the preceding month, and cause payment of taxes due to be made to the commissioner of revenue.

Institutions which acquire all cigarettes purchased for resale with tax stamps affixed to the packages thereof from cigarette distributors or subjobbers licensed under the provisions of Minnesota Statutes, chapter 297, shall not be required to file monthly reports with the commissioner of revenue.

All orders for cigarettes placed with entities or persons other than Minnesota-licensed distributors and/or subjobbers by or for state institutions other than institutions under the control and management of the commissioner of corrections must state in writing that the cigarettes ordered thereon are:

A. to be disposed of by resale; or

B. purchased from appropriated funds for gratuitous distribution to inmates or patients.

Where an institution makes gratuitous distributions of cigarettes not subject to the tax and also makes sales of taxed cigarettes, the commingling of tax-exempt and taxed cigarettes is prohibited.

Statutory Authority: *MS s 297.10 subd 1*

TAX UPON USE OR STORAGE OF CIGARETTES BY CONSUMERS

8120.3000 TAX ON CONSUMERS.

A consumer is any person who has title to or possession of cigarettes in storage for use or other consumption in this state. The tax is imposed upon every consumer who has acquired title to or has in his possession at any time unstamped cigarettes in quantities exceeding 200.

Statutory Authority: MS s 297.10 subd 1

8120.3100 CIGARETTE CONSUMER'S RETURN TO COMMISSIONER.

A return is required to be filed by every consumer upon whom the tax is imposed. The return shall cover a period of one month and shall be filed on the 18th day of the month following the month in which the consumer became liable for a tax.

The return which is to be filed on the prescribed form CT-203, shall be complete, accurate, and include any and all supporting schedules required by the commissioner.

The return shall be signed by the consumer.

The return shall be deemed to have been filed as herein required if post-marked on or before the 18th day of the month when due.

Statutory Authority: MS s 297.10 subd 1

8120.3200 EXAMINATION OF TAXPAYER'S RECORDS; COMMISSIONER TO APPOINT EXAMINERS; POWERS OF EXAMINERS.

All the provisions of parts 8120.2400, 8120.2500, and 8120.2600 shall be applicable to consumers under Minnesota Statutes, sections 297.21 to 297.26.

Statutory Authority: MS s 297.10 subd 1

TAX ON TOBACCO PRODUCTS

8120.4000 TAX ON FREE SAMPLES.

Where tobacco products samples are distributed in this state by a manufacturer through its agents, the tobacco products tax is payable by such manufacturer. In such instances, the manufacturer shall file a return and report thereon the quantities of such tobacco products so distributed. The tax shall be computed on the usual wholesale sale price of such products.

Statutory Authority: MS s 297.38 subd 1

8120.4100 TRANSFER OF CIGARS OR OTHER TOBACCO PRODUCTS WITHIN THE STATE.

A tax at the rate specified in Minnesota Statutes, section 297.32, subdivision 1, shall be imposed upon all tobacco products in this state to be paid as provided in Minnesota Statutes, sections 297.31 to 297.39 by any person engaged in business as a distributor thereof. Such tax shall be imposed at the time the distributor: brings, or causes to be brought, into this state from without the state tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or ships or transports tobacco products to retailers in this state, to be sold by those retailers.

The liability for the tax accrues at the time of receipt of tobacco products in this state by a distributor. A subsequent transfer from the original distributor to another distributor within this state does not relieve the original distributor from the tax liability. Therefore, no tax credit can be taken on tobacco tax returns for any transfers made within the state.

Statutory Authority: MS s 297.38 subd 1

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8120.4200 TOBACCO PRODUCTS CONSUMER'S RETURN TO COMMISSIONER.

A consumer is any person who has title to or possession of tobacco products in storage, for use or other consumption in this state. The tax is imposed upon every consumer who has acquired title to or has in his possession at any time untaxed tobacco products in quantities of more than 50 cigars, more than ten ounces of snuff or snuff powder, more than one pound of smoking or chewing tobacco, or tobacco products exclusive of cigarettes.

A return is required to be filed by every consumer upon whom the tax is imposed. The returns shall cover a period of one month and shall be filed on the 18th day of the month following the month in which the consumer became liable for the tax.

The return is to be filed on prescribed form CT-303; shall be complete, accurate, and include any and all supporting schedules required by the commissioner.

The return shall be signed by the consumer.

The return shall be deemed to have been filed as herein required if post-marked on or before the 18th day of the month when due.

Statutory Authority: MS s 297.38 subd 1

8120.4300 APPLICATIONS FOR DISTRIBUTORS' AND SUBJOBBER'S TOBACCO PRODUCTS LICENSES.

Applications for tobacco products distributors' and subjobbers' licenses shall be made on the prescribed form CT-101. Application forms shall be furnished by the commissioner of revenue.

All questions on the application forms must be answered completely and answers must be made in ink or typed.

All applications must be signed and acknowledged by the applicant or an officer thereof.

Statutory Authority: MS s 297.38 subd 1

8120.4400 DISTRIBUTORS' TOBACCO PRODUCTS LICENSE FEES.

If an application for a distributor's tobacco products license for the current license period is filed with the commissioner on or before June 30, it shall be accompanied by a fee of \$37.50.

Each application for a distributor's tobacco products license shall be accompanied by a corporate surety bond issued by a surety licensed to do business in the state of Minnesota, in the sum of \$1,000, conditioned upon the true and faithful compliance with all the provisions of Minnesota Statutes, sections 297.31 to 297.39, and the payment of all taxes, penalties, accrued interest, or any delinquent taxes which may be due the state of Minnesota. Said bonds shall be made on prescribed form CT-104B which shall be provided by the commissioner of revenue. Whenever it is the opinion of the commissioner that said bond is inadequate in amount to fully protect the state, the commissioner shall require either an increase in the amount of said bond or additional bond in such amount that he deems sufficient.

Any bond required by Minnesota Statutes, section 297.33 shall be kept in full force and effect during the entire period of the license.

Statutory Authority: MS s 297.38 subd 1

8120.4500 SUBJOBBER'S TOBACCO PRODUCTS LICENSE FEES.

If an application for a subjobber's tobacco products license is filed with the commissioner on or before June 30, it shall be accompanied by a fee of \$10.

Statutory Authority: MS s 297.38 subd 1

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8120.4600 DISTRIBUTORS' AND SUBJOBBER'S TOBACCO PRODUCTS LICENSE FEES FOR PART OF A YEAR.

If an application for a distributor's tobacco products license for the current period is filed on or after July 1, it shall be accompanied by a fee of \$18.75.

If an application for a subjobber's tobacco products license for the current period is filed on or after July 1, the fee accompanying it shall be \$5.

Statutory Authority: *MS s 297.38 subd 1*

8120.4700 LICENSED WAREHOUSE RECORDS.

Licensed warehouses handling deliveries or shipments of tobacco products shall keep a true and accurate book record of all such deliveries or shipments. Such book record shall show the name and address of the consignee, the date of delivery or shipment, the type of tobacco product, brand name and quantity delivered, and shall be available for inspection by the commissioner of revenue or authorized agents.

Statutory Authority: *MS s 297.38 subd 1*

8120.4800 TRANSPORTATION OF TOBACCO PRODUCTS; REPORTS.

Subpart 1. Other than common carriers. Any persons other than common carriers who transport into this state from without tobacco products other than cigarettes must file form CT-305 with the commissioner of revenue except that any person who transports more than 50 cigars, more than ten ounces of snuff or snuff powder, or more than one pound of smoking or chewing tobacco into this state for his own use or consumption and who files a tobacco products consumer return may fulfill the requirements of reporting transportation of such products by indicating on the tobacco products consumer's return which of the items reported on such return were transported into the state by himself. Form CT-305 shall give descriptions of tobacco products brought into the state, date brought into the state, to whom delivered and date delivered, and shall be filed with the Commissioner of Revenue, Centennial Office Building, Saint Paul, Minnesota 55145, no later than 30 days after the tobacco products have been brought into the state.

This requirement for filing of reports referred to in this subpart shall not be applicable to consumers who import 50 cigars or less, ten ounces of snuff or snuff powder or less, or one pound of smoking or chewing tobacco or less into this state; or licensed distributors who are required to file returns under provisions of part 8120.4900.

Subp. 2. Common carriers. Reports of shipments of tobacco products other than cigarettes transported from without this state to consignees located in the state other than public warehouses of first destination licensed under Minnesota Statutes, chapter 231, shall be made on form CT-206 and shall be signed by a duly authorized official or representative of the carrier. The report shall be filed with the Commissioner of Revenue, Centennial Office Building, Saint Paul, Minnesota 55145, on or before the tenth day of the month following the month in which deliveries of tobacco products were made.

In lieu of itemization of individual shipments on the report form there may be attached thereto copies of each of the freight bills relating to shipments required to be reported and a notation made on the face of form CT-206 as to the number of shipments required to be accounted for.

Where two or more persons or carriers are engaged in the transportation of a shipment of tobacco products other than cigarettes from without the state to a consignee in this state, other than a public warehouse of first destination in this state licensed under the provisions of Minnesota Statutes, chapter 231, the responsibility for filing the report of such shipment shall be that of the person or carrier who transported it into the state provided, however, that if the delivering carrier agrees to report the shipment, no report need be made by the carrier transporting it into the state.

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Common carriers transporting tobacco products other than cigarettes into Minnesota shall permit examination of their records relating to shipment of such tobacco products.

Statutory Authority: *MS s 297.38 subd 1*

8120.4900 DISTRIBUTORS' MONTHLY RETURNS TO THE COMMISSIONER.

The monthly tobacco products tax return which each distributor having a place of business in this state is required to file shall be made in duplicate on form CT-301.

Every licensed distributor outside this state who ships or transports tobacco products to retailers in this state to be sold by those retailers is required to file a return on form CT-302.

Each return shall be complete and accurate and shall include any and all supporting schedules required by the commissioner.

The return shall be signed by the distributor or an officer thereof.

The original return shall be filed with the commissioner of revenue on or before the 18th day of the succeeding calendar month. The monthly return shall be deemed to have been filed as herein required if postmarked on or before the 18th day of the month when due.

Statutory Authority: *MS s 297.38 subd 1*

8120.5000 RECEIVING RECORDS.

Every licensed distributor shall maintain receiving registers on licensed premises in which shall be currently posted with respect to tobacco products received, the date, name of shipper, and number of pieces received.

Statutory Authority: *MS s 297.38 subd 1*

8120.5100 SALES AND DISTRIBUTION OF TAX-EXEMPT AND TAXABLE TOBACCO PRODUCTS BY STATE INSTITUTIONS.

Subpart 1. Gratuitous distributions of tax-exempt tobacco products other than cigarettes by state institutions. Where tobacco products are purchased from appropriated funds for gratuitous distribution to inmates of state institutions for the personal use or consumption of such inmates the tax imposed by Minnesota Statutes, section 297.32 shall not be applicable.

Subp. 2. Sales of taxable tobacco products by state institutions. All tobacco products purchased for resale in institutions of the state with exception of tobacco products to be sold at institutions under the control and management of the commissioner of corrections are subject to the tax imposed by Minnesota Statutes, section 297.32.

Institutions acquiring tobacco products on which the tax has not been paid for purposes of resale shall file reports with the commissioner of revenue on or before the 18th day of each calendar month showing the wholesale sales price of each of such products acquired during the preceding month. Each return shall be accompanied by a remittance for the full tax liability shown therein less a discount of 2-1/2 percent.

Where any institution acquires all tobacco products purchased for resale from a tobacco products distributor or subjobber licensed under the provisions of Minnesota Statutes, chapter 297, it will be presumed that the tax on such products has been or will be paid by a licensed distributor and such institution shall not be required to file monthly reports with the commissioner of revenue.

All orders for tobacco products made by state institutions other than those under the administration and control of the commissioner of corrections must state in writing whether such order is for tobacco products:

A. to be disposed of by resale; or

B. purchased from appropriated funds for gratuitous distribution to inmates or patients.

Statutory Authority: MS s 297.38 subd 1

8120.5200 CREDIT FOR TAX PAID ON TOBACCO PRODUCTS.

Subpart 1. **In general.** Credits will be allowed for tax paid on tobacco products under the following conditions.

Subp. 2. **Sales.** For sales without the state:

A. All sales of tobacco products to retailers located outside the state, to be sold by those retailers, shall be listed on prescribed form CT-301C, schedule C, showing date and number of invoice, name and address of retailer, and manufacturer's wholesale sales price unless permission is granted by the commissioner of revenue to furnish the information in some other manner.

B. All sales to consumers located without the state, to be consumed without the state, shall be listed on prescribed form CT-301C, schedule C, showing the date of sale, invoice number, name and address of the consumer, and the manufacturer's wholesale sales price of the tobacco products sold unless permission is granted by the commissioner of revenue to furnish the information in some other manner.

A credit will not be allowed under any circumstances for a sale consummated or made in this state to consumers for consumption without this state nor shall such sales be listed on form CT-301C.

C. All sales of tobacco products to subjobbers located without the state for resale outside the state shall be listed on prescribed form CT-301C, schedule C, showing the date of sale, invoice number, name and address of the subjobber, and the manufacturer's wholesale sales price of the tobacco products sold. The distributor shall furnish the commissioner of revenue with a duplicate copy of the waybill or bill of lading of the tobacco products shipped to subjobbers outside the state.

Subp. 3. **Return of tobacco products to manufacturer by distributor.** All such returns of tobacco products shall be listed on the prescribed form CT-301B, schedule B, showing date and number of credit memo or bill of lading number, the name and address of the manufacturer to whom shipped, and the manufacturer's wholesale sales price.

If the distributor returns the tobacco products directly to the manufacturer he shall furnish the commissioner with a duplicate copy of the waybill or bill of lading of the tobacco products returned. If the distributor delivers the tobacco products to a local representative of the manufacturer for return, he shall furnish the commissioner with the representative's receipt for the tobacco products and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the merchandise by the manufacturer.

Subp. 4. **Destruction of tobacco products.** As to tobacco products which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize destruction of same. Such destruction shall take place in his presence and he shall issue a certificate signed by the distributor and the agent or employee of the commissioner setting forth the type of tobacco products, brand name and quantities destroyed, facts of destruction, and the manufacturer's wholesale sales price. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

Subp. 5. **Waiver.** If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to ensure full compliance with the provisions of Minnesota Statutes, chapter 297, he may waive any of the requirements of this part.

Statutory Authority: MS s 297.38 subd 1

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8120.5300 EXAMINATION OF TAXPAYER'S RECORDS; COMMISSIONER TO APPOINT EXAMINERS; POWERS OF EXAMINERS.

For the purpose of determining the correctness of any return or of determining whether or not any person should have made a return or paid taxes under Minnesota Statutes, sections 297.31 to 297.39 all the provisions of parts 8120.2400, 8120.2500, and 8120.2600 shall be applicable.

Statutory Authority: *MS s 297.38 subd 1*