

CHAPTER 8120
DEPARTMENT OF REVENUE
ALCOHOL, TOBACCO AND SPECIAL TAXES
TAXES; CIGARETTE AND TOBACCO PRODUCTS

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8120.0200 [Repealed, L 2001 1SP5 art 7 s 66]

TAX ON SALE OF CIGARETTES

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8120.0500 [Repealed, L 2001 1SP5 art 7 s 66]

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8120.0700 [Repealed, L 2001 1SP5 art 7 s 66]

8120.0800 MR 1991 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]

8120.0900 [Repealed, L 2001 1SP5 art 7 s 66]

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, the agent or employee shall authorize their destruction. Such destruction shall take place in the agent's or employee's presence and he or she 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*

History: 17 SR 1279

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. [Repealed, L 1995 c 233 art 3 s 8; L 1995 c 248 art 3 s 8]

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 the agent's or employee's supervision. The commissioner's agent or employee 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, the distributor 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, the distributor 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.

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 the presence of the agent or employee, who 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, the commissioner may waive any of the requirements of this part.

Statutory Authority: *MS s 297.10 subd 1*

History: *17 SR 1279; L 1995 c 233 art 3 s 8; L 1995 c 248 art 3 s 8*

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 is satisfied 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*

History: *17 SR 1279*

8120.1300 [Repealed, L 2001 1SP5 art 7 s 66]

8120.1400 MR 1991 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]

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 [Repealed, L 2001 1SP5 art 7 s 66]

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8120.1700 MR 1991 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]

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 the commissioner's authorized agents and employees.

Statutory Authority: *MS s 297.10 subd 1*

History: *17 SR 1279*

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 the distributor shall withdraw cigarettes for retail sales from wholesale stock by use of a memo prepared at the time of withdrawal.

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 the commissioner's 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*

History: *17 SR 1279*

8120.2000 [Repealed, L 2001 1SP5 art 7 s 66]

8120.2100 [Repealed, L 2001 1SP5 art 7 s 66]

8120.2200 [Repealed, L 2001 1SP5 art 7 s 66]

8120.2300 [Repealed, L 2001 1SP5 art 7 s 66]

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 the 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. The commissioner 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

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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*

History: *17 SR 1279*

8120.2500 [Repealed, L 2001 1SP5 art 7 s 66]

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 the commissioner or before such examiners. The commissioner may appoint such referees as the commissioner 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.

Statutory Authority: *MS s 297.10 subd 1*

History: *1Sp1986 c 3 art 1 s 82; 17 SR 1279*

8120.2700 [Repealed, L 2001 1SP5 art 7 s 66]

8120.2800 [Repealed, L 2001 1SP5 art 7 s 66]

8120.3000 [Repealed, L 2001 1SP5 art 7 s 66]

TAX UPON USE OR STORAGE OF CIGARETTES BY CONSUMERS

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 postmarked on or before the 18th day of the month when due.

Statutory Authority: *MS s 297.10 subd 1*

8120.3200 [Repealed, L 2001 1SP5 art 7 s 66]

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*

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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*

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 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 postmarked on or before the 18th day of the month when due.

Statutory Authority: *MS s 297.38 subd 1*

History: *17 SR 1279*

8120.4300 [Repealed, L 2001 1SP5 art 7 s 66]

8120.4400 [Repealed, L 2001 1SP5 art 7 s 66]

8120.4500 [Repealed, L 2001 1SP5 art 7 s 66]

8120.4600 [Repealed, L 2001 1SP5 art 7 s 66]

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

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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 or her 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 he or she transported into the state. 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.

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*

History: *17 SR 1279*

8120.4900 [Repealed, L 2001 1SP5 art 7 s 66]

8120.5000 [Repealed, L 2001 1SP5 art 7 s 66]

8120.5100 [Repealed, L 2001 1SP5 art 7 s 66]

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.

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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.

A distributor who returns the tobacco products directly to the manufacturer shall furnish the commissioner with a duplicate copy of the waybill or bill of lading of the tobacco products returned. A distributor who delivers the tobacco products to a local representative of the manufacturer for return 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 the agent's or employee's presence and he or she 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, the commissioner may waive any of the requirements of this part.

Statutory Authority: *MS s 297.38 subd 1*

History: *17 SR 1279*

8120.5300 [Repealed, L 2001 1SP5 art 7 s 66]