

CHAPTER 297F

CIGARETTES AND TOBACCO TAXES

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297F.01 DEFINITIONS.

[For text of subds 1 to 21, see M.S.2002]

Subd. 21a. **Unlicensed seller.** "Unlicensed seller" means anyone who is not licensed under section 297F.03 to sell the particular product to the purchaser or possessor of the product.

[For text of subd 22, see M.S.2002]

Subd. 23. **Wholesale sales price.** "Wholesale sales price" means the price stated on the price list in effect at the time of sale for which a manufacturer or person sells a tobacco product to a distributor, exclusive of any discount, promotional offer, or other reduction. For purposes of this subdivision, "price list" means the manufacturer's price at which tobacco products are made available for sale to all distributors on an ongoing basis.

History: 2003 c 127 art 7 s 4,5

297F.05 RATES OF TAX; PERSONAL DEBT.

Subdivision 1. **Rates; cigarettes.** A tax is imposed upon the sale of cigarettes in this state, upon having cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers, at the following rates:

- (1) on cigarettes weighing not more than three pounds per thousand, 24 mills on each such cigarette; and
- (2) on cigarettes weighing more than three pounds per thousand, 48 mills on each such cigarette.

[For text of subds 2 to 7, see M.S.2002]

History: 2003 c 127 art 14 s 5

297F.06 EXEMPTIONS FROM TAX.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. **Tobacco products use tax.** The tobacco products use tax does not apply to the possession, use, or storage of tobacco products that have an aggregate cost in any calendar month to the consumer of \$100 or less.

[For text of subd 5, see M.S.2002]

History: 2003 c 127 art 7 s 6

297F.08 CIGARETTE STAMPS.

[For text of subds 1 to 6, see M.S.2002]

Subd. 7. **Price of stamps.** The commissioner shall sell stamps to any person licensed as a distributor. The commissioner shall not sell stamps to any other person. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

[For text of subds 8 to 11, see M.S.2002]

Subd. 12. Cigarettes in interstate commerce. (a) A person may not transport or cause to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.

(b) A person may not affix to cigarettes the stamp required by another state or pay any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other excise tax on the cigarettes, or prohibits the sale of the cigarettes.

(c) Not later than 15 days after the end of each calendar quarter, a person who transports or causes to be transported from this state cigarettes for sale in another state shall submit to the commissioner a report identifying the quantity and style of each brand of the cigarettes transported or caused to be transported in the preceding calendar quarter, and the name and address of each recipient of the cigarettes.

(d) For purposes of this section, "person" has the meaning given in section 297F.01, subdivision 12. Person does not include any common or contract carrier, or public warehouse that is not owned, in whole or in part, directly or indirectly by such person, and does not include a manufacturer that has entered into the Master Settlement Agreement with other states.

History: 2003 c 127 art 14 s 6,7; 1Sp2003 c 23 s 31

297F.09 RETURNS; PAYMENT OF TAX.

Subdivision 1. Monthly return; cigarette distributor. On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from outside the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. A licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full unpaid tax liability shown by it. The return for the May liability and 85 percent of the estimated June liability is due on the date payment of the tax is due.

Subd. 2. Monthly return; tobacco products distributor. On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product:

- (1) brought, or caused to be brought, into this state for sale; and
- (2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month.

Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full tax liability shown. The return for the May liability and 85 percent of the estimated June liability is due on the date payment of the tax is due.

[For text of subds 3 to 9, see M.S.2002]

Subd. 10. Accelerated tax payment; cigarette or tobacco products distributor. A cigarette or tobacco products distributor having a liability of \$120,000 or more during a

fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the distributor shall remit the actual May liability and 85 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the distributor shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June, less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

- (1) 85 percent of the actual June liability; or
- (2) 85 percent of the preceding May's liability.

History: 2003 c 127 art 14 s 8; 1Sp2003 c 21 art 9 s 7-9

297F.10 DEPOSIT OF PROCEEDS.

Subdivision 1. **Tax and use tax on cigarettes.** Revenue received from cigarette taxes, as well as related penalties, interest, license fees, and miscellaneous sources of revenue shall be deposited by the commissioner in the state treasury and credited as follows:

(1) the revenue produced by 3.25 mills of the tax on cigarettes weighing not more than three pounds a thousand and 6.5 mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Academic Health Center special revenue fund hereby created and is annually appropriated to the Board of Regents at the University of Minnesota for Academic Health Center funding at the University of Minnesota; and

(2) the revenue produced by 1.25 mills of the tax on cigarettes weighing not more than three pounds a thousand and 2.5 mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the medical education and research costs account hereby created in the special revenue fund and is annually appropriated to the commissioner of health for distribution under section 62J.692, subdivision 4; and

(3) the balance of the revenues derived from taxes, penalties, and interest (under this chapter) and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

[For text of subd 2, see M.S.2002]

History: 2003 c 128 art 1 s 155; 1Sp2003 c 21 art 9 s 10

297F.20 CRIMINAL PENALTIES.

Subdivision 1. **Penalties for failure to file or pay.** (a) A person or consumer required to file a return, report, or other document with the commissioner who fails to do so is guilty of a misdemeanor.

(b) A person or consumer required to pay or to collect and remit a tax under this chapter, who fails to do so when required, is guilty of a misdemeanor.

Subd. 2. **Penalties for knowing failure to file or pay.** (a) A person or consumer required to file a return, report, or other document with the commissioner, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

(b) A person or consumer required to pay or to collect and remit a tax under this chapter, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

Subd. 3. **False or fraudulent returns; penalties.** (a) A person or consumer who files with the commissioner a return, report, or other document, or who maintains or provides invoices subject to review by the commissioner under this chapter, known by the person or consumer to be fraudulent or false concerning a material matter, is guilty of a felony.

(b) A person or consumer who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, invoice, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud is committed with the knowledge or consent of the person or consumer authorized or required to present the return, report, invoice, or other document, is guilty of a felony.

[For text of subds 4 and 5, see M.S.2002]

Subd. 6. Unstamped cigarettes; untaxed tobacco products. (a) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports fewer than 5,000 unstamped cigarettes, or up to \$350 worth of untaxed tobacco products is guilty of a misdemeanor.

(b) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports 5,000 or more, but fewer than 20,001 unstamped cigarettes, or more than \$350 but less than \$1,400 worth of untaxed tobacco products is guilty of a gross misdemeanor.

(c) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports more than 20,000 unstamped cigarettes, or \$1,400 or more worth of untaxed tobacco products is guilty of a felony.

(d) For purposes of this subdivision, an individual in possession of more than 4,999 unstamped cigarettes, or more than \$350 worth of untaxed tobacco products, is presumed not to be a consumer.

[For text of subds 7 and 8, see M.S.2002]

Subd. 9. Purchases from unlicensed sellers. (a) No retailer or subjobber shall purchase cigarettes or tobacco products from any person who is not licensed under section 297F.03 as a licensed distributor or subjobber.

(b) A retailer or subjobber who purchases from an unlicensed seller fewer than 5,000 cigarettes or up to \$350 worth of tobacco products is guilty of a misdemeanor.

(c) A retailer or subjobber who purchases from an unlicensed seller 5,000 or more, but fewer than 20,001 cigarettes or more than \$350 but less than \$1,400 worth of tobacco products is guilty of a gross misdemeanor.

(d) A retailer or subjobber who purchases from an unlicensed seller more than 20,000 cigarettes or \$1,400 or more worth of tobacco products is guilty of a felony.

[For text of subds 10 to 12, see M.S.2002]

History: 2003 c 127 art 7 s 7-11

297F.24 FEE IN LIEU OF SETTLEMENT.

Subdivision 1. Fee imposed. (a) A fee is imposed upon the sale of nonsettlement cigarettes in this state, upon having nonsettlement cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers of nonsettlement cigarettes. The fee equals a rate of 1.75 cents per cigarette.

(b) The purpose of this fee is to:

(1) ensure that manufacturers of nonsettlement cigarettes pay fees to the state that are comparable to costs attributable to the use of the cigarettes;

(2) prevent manufacturers of nonsettlement cigarettes from undermining the state's policy of discouraging underage smoking by offering nonsettlement cigarettes at prices substantially below the cigarettes of other manufacturers; and

(3) fund such other purposes as the legislature determines appropriate.

Subd. 2. Nonsettlement cigarettes. For purposes of this section, a "nonsettlement cigarette" means a cigarette manufactured by a person other than a manufacturer that:

(1) is making annual payments to the state of Minnesota under a settlement of the lawsuit styled as State v. Philip Morris Inc., No. C1-94-8565 (Minnesota District Court,

Second Judicial District), if the style of cigarettes is included in computation of the payments under the agreement; or

(2) has voluntarily entered into an agreement with the state of Minnesota, approved by the attorney general, agreeing to terms similar to those contained in the settlement agreement, identified in clause (1) including making annual payments to the state, with respect to its national sales of the style of cigarettes, equal to at least 75 percent of the payments that would apply if the manufacturer was one of the four original parties to the settlement agreement required to make annual payments to the state.

Subd. 3. Collection and administration. The commissioner shall administer the fee under this section in the same manner as the excise tax imposed under section 297F.05 and all of the provisions of this chapter apply as if the fee were a tax imposed under section 297F.05. The commissioner shall deposit the proceeds of the fee in the general fund.

History: 2003 c 127 art 14 s 9