

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (ie., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

Update to TIR 97-001, issued on MAY 9 , 1997

The purpose of this information release is to alert Tobacco Tax licensees of an increase in the tobacco tax rate, and the requirement to file a tobacco floor tax return. If you have any questions about this law change or the Department's interpretation, please call 1-603-271-1306.

COLLECTION OF TOBACCO TAX INCREASE AT RETAIL AND WHOLESALE LEVEL

The department is preparing to implement an increase in the tobacco tax. To assist tobacco product licensees, this information release explains the department's plans to make the process administratively easier for everyone responsible for collecting the additional tax.

The legislature has increased the rate of tax, and all tobacco licensees, manufacturers, wholesalers, retailers, sub-jobbers and vending machine operators will be responsible for inventorying all previously taxed tobacco product in their possession at the close of business on June 30, 1997.

"Possession," for purposes of determining who is responsible for accounting for and remitting the increased tax, shall be determined by who has title on the effective date of the increase. Therefore, the following will apply to tobacco products in transit on the effective date:

<Product, on which title is to pass upon receipt, shipped from the wholesaler prior to July 1, 1997, but not received by the retailer, sub-jobber or vending machine operator prior to July 1, 1997 shall be accounted for by the wholesaler.

<Product shipped from the wholesaler on or after July 1, 1997 will be accounted for by the wholesaler.

<Product received by the manufacturer, retailer, sub-jobber or vending machine operator prior to the close of business on June 30, 1997 will be accounted for by the retailer, sub-jobber or vending machine operator.

NOTE: Wholesalers and retailers may enter into written agreements as to which party is responsible for paying the increased tax as long as a copy of the agreement is maintained with the required floor inventory.

EXAMPLES *The effective date of July 1, 1997 is used :*

Example 1. A wholesaler has stamped 100 cartons of cigarettes using the old rate and prepared a shipment, but has not shipped the product as of the morning of July 1. It is the wholesaler's responsibility to account for the product and remit the increased tax to the department.

Example 2. A wholesaler ships 100 cartons of cigarettes on June 30 to a retailer with title to the product passing upon receipt by the retailer. The retailer receives the product July 1. The wholesaler is responsible for accounting for the product and remitting the increased tax.

Example 3. A wholesaler delivers a shipment of 100 cartons of cigarettes on June 30 to a retailer. The retailer is responsible for accounting for the product and remitting the increased tax.

The department is including a special tax return to be used for reporting and remitting the increase in tax. This return is due on July 21, 1997. The return will be used to report the number of packages of cigarettes on hand as of the start of business on July 1, 1997. Packages of "A" and "B" stamp size will be accounted for separately.