

**New Hampshire Department of Revenue Administration  
109 Pleasant Street, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE  
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A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or 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 (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Central Tax Services at (603) 230-5920.

**Passage of House Bill 488 – Definition of “Cigarette” under RSA Chp. 78**

The New Hampshire Legislature passed and Governor Hassan has signed into law House Bill 488 (Chapter 35, Laws of 2013), which amends the definition of a “cigarette” under RSA Chp. 78 to conform to the definition of “cigarette” under the Master Settlement Agreement, RSA Chp. 541-C, effective May 31, 2013. Amended RSA 78:1, XVII reads as follows:

(a) In conformity with RSA 541-C:2, IV, “cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(2) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(3) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (a)(1).

(b) The term “cigarette” includes “roll-your-own” (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of “cigarette,” 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “cigarette.”

Under the amended law, roll-your-own tobacco (RYO) is included within the term “cigarette.” As such, the tax rate for RYO, which is currently taxed at the rate for tobacco products other than cigarettes (OTP), will now be taxed at the cigarette rate. The current cigarette rate is \$1.68 for a package of 20 cigarettes, which translates to a rate of \$0.084 per cigarette or 0.09 ounces of RYO.

N.H. Department of Revenue Administration forms are currently being updated to address the RYO calculation for the July 2013 reporting period and should be available in August. For the June 2013 reporting period, however, wholesalers shall submit the Wholesalers' Smokeless Tobacco Tax Returns (Form DP-151) to the New Hampshire Department of Revenue Administration calculating for RYO as follows:

Step 3, Line 2: Enter the total of loose tobacco sold or distributed in New Hampshire in the month of June - excluding any RYO sold or distributed in New Hampshire in the month of June.

Step 3, Line 5: Enter the total weight of all packages/pouches of RYO tobacco sold or distributed in New Hampshire in the month of June divided by 0.09, plus any little cigars deemed to be cigarettes not stamped; then multiply this total by \$0.084 (*note: \$0.089 is incorrect on current DP-151*).

Example:

1,600 ounces of RYO ÷ 0.09 = 17,778 “deemed cigarettes”  
+ 2000 little cigars deemed to be cigarettes  
19,778 “deemed cigarettes”  
× \$0.084  
\$1,661.35 tax due – enter on Step 3, Line 5

Also, please note the definition of “cigarette” no longer contains a weight criterion. Therefore, certain tobacco products that did not previously meet the definition of a “cigarette” only because the product weighed more than 3 pounds per thousand, will now qualify as a “cigarette” under RSA 78:1, XVII and must be properly stamped as a cigarette. For example, wholesalers shall affix the appropriate tobacco tax stamps to little cigars sold to retailers in packages containing 20 or 25. Little cigars sold to retailers in packages containing quantities other than 20 or 25 not suitable for stamping shall be reported by wholesalers on the Form DP-151 and taxed at the cigarette rate. Pursuant to RSA 78:7, the tax imposed does not apply to little cigars sold individually to retail stores and, therefore, wholesalers do not need to report on the Form DP-151 little cigars sold individually to retail stores.

Cigars not meeting the new definition of “cigarette” or the definition of “premium cigar” under RSA 78:1, XXI, are subject to tax imposed on tobacco products other than cigarettes (OTP) as provided in RSA 78:7-c.

***Individuals who need auxiliary aids for effective communication in programs and services of the N.H. Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 230-5000.***