

**New Hampshire Department of Revenue Administration
45 Chenell Drive, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE
TIR 2008-009 September 26, 2008**

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 Customer Service at (603) 271-2191.

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 (603) 271-2191.

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 tobacco tax rate on cigarettes effective October 1, 2008. See SB 321, sections 15, 16 and 17. The tax rate for each pack containing 20 cigarettes is increased from \$1.08 to \$1.33 per pack – a 25¢ increase. The rate for each pack containing 25 cigarettes is increased from \$1.35 to \$1.66 – a 31¢ increase.

All tobacco licensees, manufacturers, wholesalers, retailers, sub-jobbers, samplers and vending machine operators will be responsible for inventorying all unaffixed tobacco stamps and all stamped tobacco products in their possession at the close of business on September 30, 2008. The tax is not increased for cigars, pipe tobacco, smokeless and loose tobacco.

“Possession,” for determining who is responsible for accounting for and remitting the increased tax, shall be in the party who has title on the effective date of the increase. Therefore, the following will apply to stamped tobacco products in transit on October 1, 2008:

- Product, to which title is to pass upon receipt, shipped from the wholesaler prior to October 1, 2008, but not received by the manufacturer, retailer, sub-jobber, sampler or vending machine operator prior to October 1, 2008 shall be accounted for by the wholesaler.
- Product shipped from the wholesaler on or after October 1, 2008 shall be accounted for by the wholesaler.
- Product received by the manufacturer, retailer, sub-jobber, sampler or vending machine operator, prior to the close of business on September 30, 2008, shall be accounted for by the manufacturer, retailer, sub-jobber, sampler or vending machine operator.
- Wholesalers and retailers may enter into written agreements as to which party is responsible for paying the increased tax. A copy of the agreement shall be filed with the inventory and tax return.

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 October 1, 2008. 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 September 30, 2008 to a retailer with title to the product passing upon receipt by the retailer. The retailer receives the product October 1, 2008. 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 September 30, 2008 to a retailer. The retailer is responsible for accounting for the product and remitting the increased tax.

The Department is distributing to all licensees a special form, Tobacco Floor Tax Inventory and Return, to be used for reporting inventories and tax due. This return is due on or before October 20, 2008. Payment of the tax due may be made with the filing of the return, or remitted separately on or before November 15, 2008.

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 45 Chenell Drive, Concord, NH 03301 or by contacting them at (603) 271-2318.