



Idaho State Tax Commission

Tobacco and Other Tobacco Products

Topics

- Tobacco Taxation
- Revenue
- PACT Act
- Master Settlement Agreement
- Contraband Cigarettes
- Agencies Overseeing Tobacco Sales

What's Taxed as Tobacco and Other Tobacco Products

- Cigars, filtered (small or little) cigars, stogies
- Smoking tobacco: i.e., pipe tobacco or roll-your-own (RYO) cigarette tobacco, shisha
- Chewing tobacco: i.e., loose, in cans or pouches, anything suitable for chewing
- Snuff
- Any other articles or products made of tobacco, except cigarettes



What's Not Taxed as Tobacco and Other Tobacco Products

6% sales tax only:

- Nicotine patches and gum without tobacco
- Vape products without tobacco
- E-cigarettes without tobacco



Tobacco Tax Rate and Tax Due

- Rate
 - Tobacco products: taxed at 40% of the wholesale sales price
 - Maximum tax for cigars: 50 cents per cigar (as of July 1, 2023)
- Tax due when one of these happens:
 - Product is “caused to be brought into Idaho”
 - Tobacco product is manufactured in Idaho
 - Product is shipped or transported to retailers in Idaho
- File Form 1350, *Tobacco Tax Return*, by 20th of month

Who Pays Tobacco Excise Tax

- Every distributor and subjobber must have a tobacco tax permit and file monthly tobacco returns.
- When a retailer buys tobacco products from a distributor that doesn't charge Idaho tax, Idaho considers the retailer a distributor for Idaho tax purposes.



Who Pays Tobacco Use Tax

- Anyone who doesn't hold a tobacco products tax permit who possesses or buys tobacco products upon which no tobacco tax was paid must pay tobacco use tax.
- Anyone who buys tobacco products online must file a [Form 1350U, Idaho Self-Assessed Tobacco Tax](#).
- In addition, any product bought over the internet is subject to a 6% use tax if the seller didn't charge sales tax.



Tobacco Tax Revenue

Source*	FY2020	FY2021	FY2022	FY2023	FY2024**
Tobacco tax	\$15,392,866	\$14,850,749	\$13,818,900	\$12,629,732	\$12,133,441
% change		-3.5%	-7.0%	-8.6%	-3.9%

* Idaho State Tax Commission Annual Report and Comparative Statement tax.idaho.gov/governance/reports-and-statistics

** As of July 1, 2023, the maximum tax for cigars is 50 cents per cigar

Reporting for Federal PACT Act

- Federal definition of cigarette applies (includes roll-your-own)
 - Idaho taxes roll-your-own as a tobacco product
- Prevent All Cigarette Trafficking (PACT) Act amended definition of cigarette to include electronic nicotine delivery systems (ENDS)
 - Went into effect March 27, 2021
- PACT Act applies to Vape companies
- Idaho's definition of tobacco and cigarettes doesn't include ENDS.



Complying with the PACT Act

- Individuals and businesses that sell (or “offer for sale”) in Idaho must register with and report to the Tax Commission
- Delivery sellers must:
 - Pay state, local, and tribal taxes on smokeless tobacco and affix stamps to cigarettes*
 - Comply with state and local laws as if they were retailers in that state (not meant to set precedent for nexus)*
 - * Constitutionality challenged but government prevailed in 2015
 - Require age verification at time of sale and delivery
- USPS won’t mail most tobacco products

Tax Reporting vs. PACT Act Reporting

Tax reporting

- Must apply for and receive a tobacco tax permit
- Must file by 20th of each month
- Doesn't include ENDS
- Roll-your-own is taxed as tobacco
- Purpose: To collect tax and enforce tax laws

PACT Act reporting

- Must register with Tax Commission
- Must file by 10th of each month
- Includes ENDS
- Defines roll-your-own as a cigarette
- Purpose: To prevent illegal cigarette and smokeless tobacco sales by tracking shipments and ensuring proper tax collection

Master Settlement Agreement

- 46 states, including Idaho, filed lawsuits against major tobacco manufacturers.
- Settlement negotiations ensued.
- Result: Master Settlement Agreement (MSA) requiring manufacturers to distribute \$206 billion to states, proportionate to cigarette sales made in each state. Payments began in 1998 and will continue in perpetuity.

Contraband Cigarettes

- Per Idaho Code section 63-2513 the following are considered contraband and are subject to immediate seizure:
 - Unstamped cigarettes (held longer than necessary to affix an Idaho cigarette stamp),
 - Counterfeit cigarettes,
 - Cigarettes with counterfeit cigarette stamps, and
 - Cigarettes and roll-your-own tobacco that aren't listed on the Idaho Directory of Compliant Manufacturers and Brands (Idaho Code section 39-8406).
- Other tobacco products, including cigars aren't subject to seizure.

Agencies Overseeing Tobacco Sales

Idaho Tobacco Enforcement Committee (i-Tec)

- Department of Health and Welfare
- Department of Insurance (Fire Marshal)
- Idaho State Tax Commission
- Office of the Attorney General



Idaho Tobacco Enforcement Committee

Office of the Attorney General • State Tax Commission • Department of Health and Welfare

Questions?

