

# Notice

**Notice Number:** 04-04  
**Tax Type:** Cigarette and Tobacco Products  
**Brief Description:** Internet, telephone and mail order cigarette sales.  
**Keywords:**  
**Approval Date:** 06/28/2004

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**Body:**

## **DEPARTMENT OF REVENUE POLICY AND RESEARCH**

### **Internet, Telephone and Mail Order Cigarette sales**

The 2004 Legislature enacted House Bill 2682 concerning the sale of cigarettes to Kansas residents. The legislation requires all cigarette retailers, whether in-state or out-of-state, to register with the Kansas Department of Revenue. This is to ensure that 1) each retailer engaged in selling cigarettes to persons in Kansas obtains a Kansas Retail Cigarette License; 2) the cigarettes sold to Kansas residents have a valid Kansas cigarette tax stamp affixed to each package; 3) that the proper sales or use tax is collected by the retailer on the cigarettes; and 4) that certain packaging and age verification processes are followed for cigarettes shipped by mail. A copy of House Bill 2682 is available on the department's policy library at [www.ksrevenue.org](http://www.ksrevenue.org).

#### **Required Kansas Cigarette Tax Stamps**

House Bill 2682 requires that all cigarettes sold to Kansas residents have a valid Kansas cigarette tax stamp affixed to each package. In order to sell stamped cigarettes, retailers must either purchase their cigarettes from a **licensed Kansas wholesaler** or register with the Department as a wholesaler and purchase stamps for affixing to each package. To register as a cigarette wholesaler, contact our cigarette licensing staff listed at the end of this notice. A listing of Kansas cigarette wholesalers will be posted on the department's web site by July 1 for your reference in locating a wholesaler for the purchase of stamped cigarettes. Selling unstamped cigarettes is a severity level 8, nonperson felony. It is a violation of the Cigarette and Tobacco Products Act for retailers to purchase cigarettes from anyone other than a Kansas licensed wholesaler.

#### **Required Kansas License and Tax Registration**

In order to sell cigarettes to Kansas residents, in-state and out-of-state cigarette retailers are required to have a Kansas cigarette license **and** be registered to collect Kansas sales or compensating use tax on their cigarette sales to Kansas residents. Licensed retail cigarette dealers selling cigarettes over the internet, telephone or other mail order transaction must also have a Kansas cigarette license and be registered to collect and remit the Kansas sales or use on their sales to Kansas residents.

To obtain both the cigarette license and tax registrations, complete our Business Tax Application, Form CR-16. This form, along with Publication KS-1216, Kansas Business Tax Application Booklet, is enclosed. Kansas retailers will register for a Kansas Retailers' Sales Tax Registration number and out-of-state retailers will register to collect the Kansas Retailers' Compensating Use Tax. There is no cost for a sales or use tax registration number. Cigarette retailers not selling through vending machines will also check the "Retail Cigarette License," box in Part II of the application. The cigarette license fee is \$25 for each location, and must be renewed every two (2) years.

#### **Requirements for Cigarettes Delivered through the Mail or other Delivery Methods**

##### **Age Verification**

Before mailing or shipping cigarettes, the seller must reliably establish that the prospective customer is at least 18. To do this, the seller must obtain a signed statement showing the purchaser's address and date of birth, and confirming the purchaser's wish to receive mailings from a tobacco company. The statement must also include an acknowledgement that the buyer understands that signing another person's name is illegal, and that the purchase of cigarettes by anyone under 18 is illegal. The retail cigarette dealer shall verify the information contained in the certification by the purchaser against a commercially available database of governmental records, or obtain a photocopy or other image of a valid,

government-issued identification stating the date of birth or age of the purchaser. Failure to do this is a severity level 8, nonperson felony.

## **Shipping**

All packages of cigarettes shipped from a cigarette dealer to purchasers who reside in Kansas shall clearly print the package with the word: "CIGARETTES" on all sides of the package. The package shall contain the following externally visible and easily legible notice located on the same side of the package as the address to which the package is delivered.

"IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM A SELLER LOCATED OUTSIDE THE STATE IN WHICH YOU RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

## **Invoices, bills of lading and sales receipts**

All invoices, bills of lading, sales receipts and any other documentation related to the sale of cigarettes through the internet or other mail order transactions shall contain the current, valid Kansas cigarette dealer license number, Kansas sales tax registration number, business name and address of the seller.

## **Other Provisions**

### **Jenkins Act**

The requirements of House Bill 2682 complement federal law (commonly referred to as the Jenkins Act) which requires cigarette retailers shipping cigarettes to file with the appropriate state tobacco tax administrator a monthly report of cigarettes delivered within a state. Kansas requests all retailers who are shipping cigarettes to report their Kansas sales on a monthly basis. The report would contain the seller's name, trade name (if any), principal business address, other place of business addresses, and a memorandum or copy of the invoice covering each and every shipment of cigarettes made during the previous calendar month into Kansas. The memorandum or invoice shall include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof. Mail these reports to Customer Relations, Cigarette Tax, Kansas Department of Revenue, 915 SW Harrison, Topeka, KS 66625-2073.

### **Licensee Publication**

Effective July 1, 2004, the Kansas Department of Revenue will publish a list of active cigarette and tobacco licensees on the department's web site, [www.ksrevenue.org](http://www.ksrevenue.org). The list will be updated monthly.

## **TAXPAYER ASSISTANCE**

Additional copies of this notice, forms or publications are available from our web site, [www.ksrevenue.org](http://www.ksrevenue.org). If you have any questions about Kansas cigarette and tobacco products laws or reporting requirements, please contact the Kansas Department of Revenue via e-mail at [abc\\_licensing@kdor.state.ks.us](mailto:abc_licensing@kdor.state.ks.us) or call (785) 368-8222. Address a written inquiry to Customer Relations, Cigarette Tax, Kansas Department of Revenue, 915 SW Harrison, Topeka, KS 66625-2073.

June 28, 2004  
Enclosures

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