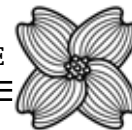




RULES OF
Department of Revenue
Division 10—Director of Revenue
Chapter 16—Cigarette Tax

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TITLE 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 16 – Cigarette Tax

12 CSR 10-16.010 Prior Rulings
 (Rescinded April 30, 2006)

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo Supp. 1993 and 136.030, 136.120 and 149.021, RSMo 1986. Cigarette Tax Regulation 15 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Rescinded: Filed Sept. 30, 2005, effective April 30, 2006.

12 CSR 10-16.020 Definitions
 (Rescinded April 30, 2006)

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo Supp. 1993 and 136.030, 136.120 and 149.021, RSMo 1986. Cigarette Tax Regulation 1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Rescinded: Filed Sept. 30, 2005, effective April 30, 2006.

12 CSR 10-16.030 Cigarette Tax Levied
 (Rescinded April 30, 2006)

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo Supp. 1993 and 136.030, 136.120 and 149.021, RSMo 1986. Cigarette Tax Regulation 2 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 24, 1986. Amended: Filed Sept. 16, 1985, effective Dec. 26, 1985. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Rescinded: Filed Sept. 30, 2005, effective April 30, 2006.

ITT Canteen Corp. v. Spradling 526 SW2d 11 (1975). Under prior Missouri law, on declaratory judgment brought for purpose of declaring void a prior rule of Department of Revenue, court held that the amount of the cigarette tax is not a part of the sales price; it is a levy on the consumer inspired at the time of the retail sale, and the seller is a mere agent (for the state) for collection, thus considered, the amount of the cigarette tax was not properly includable in the sales tax base under the 1969 statutes.

Op. Atty. Gen. No. 431, Ferris (9-15-66). Cigarettes made from a variety of lettuce, being nicotine-free for tobacco, going by the brand name "Braw's", were subject to the cigarette tax imposed by former section 149.020, RSMo.

12 CSR 10-16.040 Tax Evidenced by Stamps

PURPOSE: This rule explains the authorization and use of stamps.

(1) The director of revenue will only furnish tax stamps to licensed Missouri wholesalers that purchase all unstamped cigarettes directly from the manufacturer.

(2) Cigarette tax stamps cannot be loaned, sold, exchanged or otherwise transferred by any wholesaler to any other wholesaler or any other person without prior approval of the director of revenue.

(3) A cigarette tax stamp is considered canceled when affixed

to a package of cigarettes.

AUTHORITY: sections 66.380 and 210.320, RSMo Supp. 1995 and 136.030, 136.120, 149.015 and 149.021, RSMo 1994. Cigarette Tax Regulation 3 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 9, 1996, effective Jan. 1, 1997.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.050 Use of Tax Stamps
 (Rescinded April 30, 2006)

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo Supp. 1993 and 136.030, 136.120 and 149.021, RSMo 1986. Cigarette Tax Regulation 4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed March 13, 1984, effective June 11, 1984. Rescinded: Filed Sept. 30, 2005, effective April 30, 2006.

12 CSR 10-16.060 Sample Cigarettes

PURPOSE: This rule explains the responsibilities of a manufacturer distributing nonstamped sample cigarettes.

(1) Cigarettes distributed in Missouri by manufacturers as samples must be so marked. The manufacturer must report the dates, locations and number of sample cigarettes delivered. The report and all tax due on the sample cigarettes are due on the fifteenth day of the month following the month in which the shipments were made.

(2) The manufacturer must remit county cigarette tax to the department if the sample cigarettes were distributed in either Jackson County or St. Louis County.

(3) The manufacturer must remit city cigarette tax to any city levying a cigarette tax if cigarette samples were distributed in the city.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.070 Discount Allowed

PURPOSE: This rule indicates when the discount will not be allowed.

(1) A wholesaler is generally entitled to a three percent (3%) discount off the face value of stamps. The discount is not allowed if a wholesaler:

(A) Purchases stamps on the deferred payment basis and fails to pay for the stamps when due; or



(B) Fails to timely file the report required by section 149.041.2, RSMo, including all schedules.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

Op. Atty Gen. No. 338, Schechter (11-14-68). *The elimination of the discounts presently allowed under the sales tax act, the state income tax act and the city earnings tax authorization statutes for the collection of such taxes would not affect the constitutionality of those statutes.*

12 CSR 10-16.080 Use of Meter Machines

(Rescinded January 1, 1997)

AUTHORITY: sections 66.380, 149.015, and 210.320, RSMo Supp. 1993 and 136.030, 136.120 and 149.021, RSMo 1986. Cigarette Tax Regulation 7 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Rescinded: Filed Feb. 9, 1996, effective Jan. 1, 1997.

12 CSR 10-16.090 Purchase on Deferred Payment Basis

PURPOSE: This rule clarifies the reporting requirements, surety bond requirements and the approval necessary for purchases of tax stamps or meter units on the deferred payment basis.

(1) All wholesalers who purchase tax stamps on the deferred payment basis must file the monthly report required by section 149.041.2, RSMo, on the fifteenth day of the following month.

(2) All purchases of tax stamps on the deferred payment basis must have the prior approval of the director. The total amount of outstanding credit granted may not exceed one hundred percent (100%) of the bond furnished by the wholesaler.

(3) The surety bond required under section 149.025, RSMo, to purchase stamps on the deferred payment basis may be in cash, certificate of deposit, irrevocable letter of credit, or surety bond. A surety bond must be issued by an authorized corporate surety company on a bond form approved by the director. Any surety on a bond furnished by a cigarette wholesaler shall be released and discharged from any and all prospective liability to the state occurring after the expiration of ninety (90) days from the date upon which the surety shall have lodged with the director a written request to be released and discharged, but this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue before the expiration of the ninety (90)-day period. The director, promptly upon receiving any request, shall notify the cigarette wholesaler who furnished the bond, and unless the wholesaler shall file, on or before the expiration of the ninety (90)-day period, with the director a new bond fully complying with the provisions of section 149.025, RSMo, the director shall forthwith revoke all credit privileges and notify the wholesaler

that all purchases must be made in cash.

(4) The payment of the St. Louis County or Jackson County cigarette tax may not be deferred.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.100 Payment on Deferred Payment Basis

PURPOSE: This rule prescribes the payment due dates of deferred tax liabilities and the effects of delinquent payment.

(1) All wholesalers who purchase tax stamps on the deferred payment basis must remit the total amount due on account of the purchases on or before the fifteenth day of the calendar month following the calendar month during which the purchases were made. Purchases of tax stamps are deemed to occur on the date the tax stamps are sent to the purchaser.

(2) If the date for payment of the deferred liability falls on a Saturday, Sunday or legal holiday, or other date on which the United States postal service is not in operation, the payment will be considered timely if sent on the next business day or on the next day in which postal service is resumed. The postmark date appearing on the envelope will be deemed to be the time of payment of the deferred liability.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

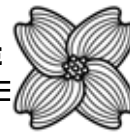
12 CSR 10-16.110 Unsaleable Packages of Cigarettes

PURPOSE: This rule indicates the procedures to follow whenever cigarettes on which tax has been paid are unfit for use or consumption.

(1) If a wholesaler provides proof satisfactory to the department that cigarettes on which the tax has been paid, as evidenced by tax stamps, are unsellable the department may issue new tax stamps to the wholesaler who affixed the tax stamps.

(2) The wholesaler must notify the department prior to destroying unsellable cigarettes and must keep the cigarettes available for inspection by the department.

(3) When a wholesaler intends to return cigarettes that have



tax stamps affixed to a manufacturer, the wholesaler must file with the department a report signed by the wholesaler identifying the number of cigarettes and verifying that stamps have been affixed to the cigarettes. The wholesaler must hold the cigarettes for inspection by the department until notified in writing by the department that the cigarettes may be returned to the manufacturer. The department will provide the wholesaler with stamps equal to the stamps affixed to the returned cigarettes upon receipt of written confirmation from the manufacturer that the manufacturer received the cigarettes.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.120 Missouri Cigarette Wholesaler's License

PURPOSE: This rule sets forth the requirements for obtaining a wholesaler's license, the requirement for prominent display of the license and the possible effect of violation of the law.

(1) A Missouri cigarette wholesaler's license will only be granted to nonresident wholesalers duly registered as a cigarette wholesaler in the wholesaler's state of residence.

(2) A nonresident wholesaler who is granted a Missouri cigarette wholesaler's license under section 149.035, RSMo, and is authorized to affix Missouri tax stamps shall agree to be bound by all cigarette tax rules issued by the director of revenue.

(3) The cigarette wholesaler's license must be prominently displayed in the wholesaler's principal place of business. Any cigarette wholesaler having more than one (1) place of business is required to display a copy of the license in each place of business owned or operated by them doing business in Missouri.

(4) If a wholesaler violates any of the provisions of Chapters 66, 149, and 210, RSMo, or rules issued pursuant to the provisions, contingent upon the hearing provided for by section 149.035, RSMo, the director may revoke or suspend the cigarette wholesaler's license issued under the provisions of section 149.035, RSMo.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.015, 149.021, and 210.320, RSMo 2016. Cigarette Tax Regulation 11 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed July 17, 2023, effective Feb. 29, 2024.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.130 Record Keeping Requirements

PURPOSE: This rule prescribes the record keeping display, reporting and other requirements regarding cigarette sales in Missouri.

(1) A cigarette wholesaler operating a retail place of business or vending machine must keep records of the retail business and the vending machine business separate from the records of the wholesale cigarette business.

(2) In all cases where a wholesaler is selling, both as a retailer and a wholesaler at the same place of business, any cigarettes that do not bear a Missouri tax stamp must be kept in a room separated from the retail business by a wall or partition.

(3) The name and address of the owner of any cigarette vending machine in operation within Missouri must be displayed on each vending machine.

(4) Each owner and operator of cigarette vending machines must keep a record showing the business location of each vending machine currently being serviced, which must be available to the department at the principal place of business in Missouri of the owner or operator.

(5) Operators of cigarette vending machines must load packages of cigarettes in vending machines so that if any packages are visible while in the machine the tax stamp will be clearly visible.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

*Robert Williams and Co., Inc. v. State Tax Commission, 498 SW2d 527 (1973). In Missouri, or in the other states which have considered this question, tobacco and liquor cannot be sold without payment of both federal and state taxes thereon. Without payment of the taxes, their sale would be illegal and they would be valueless. Payment of the taxes being essential to the creation of a salable product and the amount of the taxes paid constituting money invested in the merchandise, they (the taxes) were properly included in the valuation of appellant's inventories (for purpose of an **ad valorem** tax on goods in possession of a merchant).*

12 CSR 10-16.140 Common Carriers, Bonded Warehousemen and Bailees

PURPOSE: This rule prescribes the due dates and required reports of common carriers, bonded warehousemen and bailees; recordkeeping requirements of consignees and cigarettes being available for inspection.

(1) Common carriers transporting cigarettes to a point within Missouri other than the place of business of a licensed cigarette wholesaler and bonded warehousemen or bailees having possession of cigarettes must file all reports required by section



149.045, RSMo, on forms prescribed by the director, on or before the twentieth day of the calendar month following the month of delivery.

(2) A consignee must keep detailed records of any cigarettes either delivered to a common carrier, bonded warehouseman, bailee or wholesaler, or returned to the manufacturer. If a consignee fails to maintain adequate records, the consignee may be liable for all tax due on any cigarettes for which the consignee cannot account.

(3) Cigarettes returned to the manufacturer must be evidenced by an affidavit from the manufacturer that the manufacturer received the cigarettes.

(4) Prior to the destruction of damaged or partially damaged cigarettes by a consignee, the consignee must notify the department. The consignee must keep the cigarettes available for inspection by the department until the department approves their destruction in writing.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.150 Possession of Unstamped Cigarettes

PURPOSE: This rule provides by whom and under what circumstances unstamped cigarettes may be possessed.

(1) Except as provided by section 149.045, RSMo, only licensed Missouri cigarette wholesalers may possess unstamped cigarettes. Licensees must affix proper amounts of tax stamps to each individual package of cigarettes before transferring the possession of any cigarettes to a retailer, jobber, agent, or any other person who does not possess a Missouri cigarette wholesale license.

(2) A cigarette wholesaler that receives cigarettes already stamped by another cigarette wholesaler must report all receipts of such cigarettes for each month.

(3) A wholesaler must keep records of the number of cigarettes distributed for delivery or consumption outside Missouri, the date of distribution, and to whom distribution is made.

(4) Any person who fails to affix stamps to packages of cigarettes sold in St. Louis County or Jackson County within the time and manner required by Chapter 149, RSMo, must pay a penalty equal to one hundred percent (100%) of the initial tax liability. The tax and penalty bears interest at the rate determined by section 32.065, RSMo.

(5) Possession of an unstamped package of cigarettes in St. Louis or Jackson County by any person other than a licensed wholesaler is *prima facie* evidence that the cigarettes are intended for sale in St. Louis or Jackson County.

AUTHORITY: sections 66.380, 136.030, 136.120, 149.021 and 210.320, RSMo 2000 and 149.015, RSMo Supp. 2005. Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994. Amended: Filed Sept. 30, 2005, effective April 30, 2006.*

**Original authority: 66.380, RSMo 1967, amended 1993, 1995; 136.030, RSMo 1945, amended 1947, 1949, 1965; 136.120, RSMo 1945; 149.015, RSMo 1974, amended 1982, 1993, 1994, 2001, 2005; 149.021, RSMo 1974, amended 1982; and 210.320, RSMo 1939, amended 1969, 1976, 1978, 1993, 1995.*

12 CSR 10-16.160 Release of Bonding Requirement (Rescinded April 30, 2006)

AUTHORITY: sections 66.380 and 210.320, RSMo Supp. 1993 and 136.030, 136.120 and 149.025, RSMo 1986. Original rule filed Nov. 18, 1986, effective March 12, 1987. Rescinded: Filed Sept. 30, 2005, effective April 30, 2006.

12 CSR 10-16.170 Adjustments to the Distribution of St. Louis County Cigarette Tax Funds Pursuant to the Federal Decennial Census

PURPOSE: This rule explains the information required from each city and unincorporated St. Louis County if there is a change in its population as a result of an adjustment to its population by the United States Census Bureau or as a result of an annexation or consolidation.

(1) The department will base the distribution of St. Louis County cigarette tax monies, on the population determined in the latest federal decennial census that determines the total population of the county and all the political subdivisions in the county.

(2) If the United States Census Bureau amends the decennial census the department will amend the population used for distribution purposes under the following conditions:

(A) The county or political subdivision affected by the amendment to the census must notify the department of the amendment;

(B) The county or political subdivision must provide the department a copy of the official written notification of the amendment from the United States Census Bureau; and

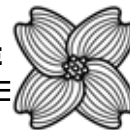
(C) If the adjustment redistributes total population within the county, the notification must include any population change for unincorporated St. Louis County.

(3) Upon receipt of proper written notification, the department will adjust population figures for future distributions, but will not change any distribution made before notification was received by the department.

(4) For adjustments to the St. Louis County population count as a result of annexations or consolidations –

(A) Each political subdivision must file with the department a certified copy of the annexation or consolidation election results or a certified copy of the ordinance approving the annexation or consolidation;

(B) The political subdivision must provide the department with official written notification from the United States Census Bureau of the amount of population in the area annexed or consolidated;



(C) The official notification must also indicate which political subdivision(s) lost population through annexation or consolidation; and

(D) If the department receives notification before the fifteenth day of the month, the tax will be distributed using the new information beginning with the next distribution. If notification is received after the fifteenth day of the month, the tax will be distributed using the new information beginning with the second distribution following receipt of the notification by the department.

AUTHORITY: section 66.351, RSMo 2016. Original rule filed March 4, 1991, effective July 8, 1991. Amended: Filed Sept. 30, 2005, effective April 30, 2006. Amended: Filed April 5, 2023, effective Oct. 30, 2023.*

**Original authority: 66.351, RSMo 1992.*