

License Requirements for Retailers

Sales of cigarettes and tobacco products in Minnesota

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Cigarette and Tobacco Products Taxes Fact Sheet 2

Fact Sheet

Businesses that make retail sales of cigarettes and tobacco products to the public in Minnesota are required to have a special retailer's license. This fact sheet summarizes the requirements for obtaining a retailer's license and the responsibilities of a license holder.

Retail licensing requirements

Retail sellers of cigarettes and tobacco products in Minnesota must have a Minnesota Cigarette and Tobacco Product Retailer's license prior to purchasing or selling cigarettes or tobacco products.

A separate license is required for each location or vending machine from which cigarettes or tobacco products are sold at retail.

Licenses are administered by the city, county or town in which the business is located.

Responsibilities of license holders

License display. You must conspicuously display your license at each retail location so that it is visible to the public, according to your licensing authority's rule.

Records. You must keep complete and legible records — including invoices of all your cigarette and tobacco product purchases — at each licensed location for at least one year after the date of purchase. All invoices must be made available to Department of Revenue staff or law enforcement officers within one hour of request.

Purchases. You must purchase your inventory of cigarettes and other tobacco products from a licensed Minnesota cigarette and/or tobacco distributor or subjobber. If you make illegal purchases of cigarettes or tobacco products, you are subject to civil and criminal penalties, and possible seizure of your cigarettes and tobacco products.

Sales. You must only sell to adults aged 18 years or older Minnesota-stamped cigarettes or tobacco products on which Minnesota tax has been paid.

You are not allowed to sell cigarettes below cost, according to the Minnesota Unfair Cigarette Sales Act (UCSA). In addition, it is illegal for you to resell cigarettes or tobacco products on which Minnesota tax has not been paid (e.g., items you purchased over the Internet, through mail order or brought in from another

state). If you make illegal sales of cigarettes or tobacco products, you are subject to civil and criminal penalties, and possible seizure of your cigarettes and tobacco products.

Inspections. You must allow Department of Revenue staff or law enforcement officers — without a search warrant — to enter your place of business and inspect the premises, the records you are required to keep, and the packages of cigarettes, tobacco products, and vending devices.

Definitions

Cigarette. Any roll for smoking made entirely or in part of tobacco, the wrapper or cover of which is made of paper or another material except tobacco.

Invoices. A detailed list of cigarettes and tobacco products purchased in Minnesota. Each invoice must contain the following items:

- name of the seller
- name of the purchaser
- date of sale
- invoice number
- an itemized list of goods sold including the cigarette brand, number of cartons of each brand, unit price, and identification of tobacco products by name, quantity, and unit price; and any rebates, discounts, or other reductions.

Minnesota Unfair Cigarette Sales Act (UCSA). The Minnesota Legislature considered the practice of selling cigarettes at below wholesale or retail cost to be an unfair and deceptive business practice and an unfair method of competition. UCSA is the policy to protect the public by prohibiting sales of cigarettes at below wholesale or retail cost.

Retailer. Any person who, in Minnesota, is in the business of selling or offering to sell cigarettes and other tobacco products at retail.

Tobacco products. Any kind or form of tobacco — except cigarettes — that is prepared to be suitable for chewing and/or smoking in a pipe or otherwise. Tobacco products include cigars, little cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, etc.

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Effective August 1, 2010, the definition of tobacco products has expanded to include any product containing, made or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means. The definition excludes any tobacco product that has been approved by the United States Food and Drug Administration and is being marketed and sold exclusively as a tobacco cessation or tobacco dependence product, or for any other medical purpose.

Penalties

Criminal penalties are in addition to any civil penalties that may apply.

Unstamped cigarettes or untaxed tobacco products. It is illegal for any person, other than a licensed distributor or a consumer, to possess, receive, or transport unstamped cigarettes or untaxed tobacco products. It is presumed that any individual possessing more than 4,999 unstamped cigarettes or more than \$350 worth of untaxed tobacco products is not a consumer.

If you, directly or indirectly, purchase for resale cigarettes without the proper stamp affixed, your sales and use tax permit may be revoked.

Sales of cigarette packages with Indian stamp. If you are not located on an Indian reservation, it is illegal for you to sell or offer to sell cigarette packages with Indian stamps.

Sales after license revocation. If you sell cigarettes or tobacco products after your license has been revoked, you are guilty of a felony.

Purchases from unlicensed sellers. It is illegal for you to purchase cigarettes or tobacco products from any person who is not a Minnesota licensed distributor or subjobber.

If you purchase for resale from an unlicensed seller more than 20,000 cigarettes or \$500 or more worth of tobacco products, your sales and use tax permit may be revoked.

Unstamped cigarettes presumption

Whenever a package of cigarettes is found in the place of business or in the possession of any person without a proper stamp affixed, it is presumed that those cigarettes are kept or held illegally.

This presumption does not apply to:

- cigarettes in the possession or place of business of a licensed distributor
- cigarettes in the possession of a common carrier or sleeping car company engaged in interstate commerce
- cigarettes held in a public warehouse of first destination in Minnesota, in the original, unbroken shipping containers from the manufacturer or distributor
- 200 cigarettes or less in the possession of a person other than a distributor when those cigarettes are intended for personal use and not to be sold or offered for sale
- cigarettes sold under circumstances in which the tax cannot legally be imposed because of federal law.

Criminal penalties	
	Penalty
Unstamped cigarettes	
To possess, receive or transport:	
• fewer than 5,000	Misdemeanor
• 5,000 or more, but fewer than 20,001	Gross misdemeanor
• more than 20,000	Felony
Untaxed tobacco products	
To possess, receive or transport:	
• up to \$350 worth	Misdemeanor
• more than \$350, but less than \$1,400	Gross misdemeanor
• \$1,400 or more	Felony
Cigarettes with Indian stamp	
To sell or offer to sell:	
• more than 200, but fewer than 5,000	Misdemeanor
• 5,000 or more, but fewer than 20,001	Gross misdemeanor
• more than 20,000	Felony
Cigarette purchases from an unlicensed seller	
To purchase from an unlicensed seller:	
• fewer than 5,000	Misdemeanor
• 5,000 or more, but fewer than 20,001	Gross misdemeanor
• more than 20,000	Felony
Tobacco products purchases from an unlicensed seller	
To purchase from an unlicensed seller:	
• up to \$350 worth	Misdemeanor
• more than \$350, but less than \$1,400	Gross misdemeanor
• \$1,400 or more	Felony
Sales after license revocation	
To sell cigarettes or tobacco products after your license has been revoked	
	Felony
<i>Any other violation of state law, unless otherwise specified, is a misdemeanor. Criminal penalties are in addition to any civil penalties that may be imposed.</i>	

Anonymous tip line

To report suspected cigarette or tobacco tax violations:
 Email: tax.fraud@state.mn.us
 Phone: 651-297-5195 or 1-800-657-3500
 Fax: 651-556-3105