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State of Alabama Department of Revenue

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NOTICE: All Tobacco Wholesalers and Retailers

On April 2, 2014, Governor Robert Bentley signed into law **Act No. 2014-262** which becomes effective October 1, 2014. The Act amends the tobacco tax laws in Title 40, Chapter 25, Code of Alabama 1975. It further defines a *wholesale dealer and jobber* as entities that buy tobacco products direct from the manufacturer or an affiliate of the manufacturer and sell tobacco products at wholesale only to licensed wholesale dealers, jobbers, semijobbers, and retail dealers for the purpose of resale only. It defines *semijobber* as an entity that buys tobacco products from permitted wholesalers or obtains tobacco from other sources and sell at wholesale to licensed retail dealers for the purpose of resale only. It defines *cigars, cheroots, stogies, etc.* as a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco or any substitute therefor, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in part of tobacco.

The Act separates little cigars from certain filtered cigars and eliminates the retail selling price requirement on cigars. Filtered cigars are defined as cigars that have a cellulose acetate or similar integrated filter, made of tobacco, or any substitute therefor. The following four bullets relate to companies required to file reports and remit tobacco tax payments to the Alabama Department of Revenue.

- Filtered cigars weighing 3 pounds or less per thousand will be taxed at the little cigar rate which is \$0.04 per ten cigars or fractional part thereof.
- Filtered cigars weighing more than 3 pounds per thousand will be taxed at a rate of \$0.015 per filtered cigar.
- All other cigars will be taxed at a rate of \$40.50 per thousand cigars or \$0.0405 per cigar.
- My Alabama Taxes (MAT) will be updated to accommodate filing and payment of the new filtered cigar categories. Review the sample return at <http://revenue.alabama.gov/tobaccotax/ttforms.cfm>.

The Act has the following additional requirements and changes as it relates to wholesalers, retailers, and semijobbers:

- Wholesaler tobacco invoices must show the state and state-administered county tobacco tax separately, per each line item, from the price of the tobacco products.
- Wholesaler tobacco invoices must be computer or machine generated and the seller's/supplier's name must be on the invoice. Handwritten tobacco invoices may not be considered legitimate documentation to substantiate proof of sale.
- Retailers and semijobbers that import tobacco products into the State must electronically provide the Department with a duplicate invoice of the purchase within 12 hours of receiving the tobacco products. The invoice must show who tobacco products were received from, kinds and quantities of tobacco. Failure to furnish the duplicate invoice may subject the retail dealer or semijobber to a Department imposed penalty of not less than \$1,000 nor more than \$5,000, to be multiplied by the

sum of the current violation plus prior violations. Additionally, said tobacco products will be considered contraband and subject to confiscation and destruction. If the tobacco products are untaxed, the retailer or semijobber is required to register with the Department to file and pay the appropriate tobacco taxes. The duplicate invoices must be provided to the following email address: Tobacco.Account@revenue.alabama.gov. These invoices may subsequently be provided electronically via MAT. *Note: It is not the intent of this provision to require the Alabama retailer to report these invoices when they purchase tobacco products directly from a wholesaler who has obtained a permit from the Department and that permitted wholesaler delivers the products to the retailer. In this situation, the permitted wholesaler is importing the tobacco products into Alabama, not the retailer. The permitted wholesaler is also responsible for payment of the appropriate tobacco taxes.*

- Any tobacco products possessed by retailers or semijobbers which do not have the appropriate tax stamp(s) affixed, or, in the case of products not requiring a stamp to be affixed where purchase invoices do not itemize the applicable tobacco taxes (OTP), will be contraband and subject to confiscation and destruction.
- Any untaxed tobacco products found anywhere within the State other than the primary location of the permitted wholesaler or jobber, registered semijobber, registered retailer or at the bonded warehouse of a tobacco products manufacturer will be considered contraband and may be seized by the Department, or any peace officer, for destruction. Any vehicle used for the purpose of transporting untaxed tobacco products is subject to confiscation and may be sold at public auction to the highest bidder after due advertisement and notice to the title owner of the vehicle.
- Retailers must receive, examine and keep tobacco purchase invoices for a period of 90 days at the retail location and then maintain them with required books and records. Retailer's tobacco invoices from the seller must be computer or machine generated. Failure to acquire appropriate tobacco invoices, substantiate tax payment or retain invoices as required may result in confiscation of the products and a penalty of not less than \$500 nor more than \$1,000 to be multiplied by the number of violations.
- Any business who shall reuse or refill any box, package, or container from which tax-paid tobacco products have been removed, may be subject to a Department imposed penalty of not less than \$500 nor more than \$1,000 to be multiplied by the number of violations.
- Wholesalers, jobbers, semijobbers, retailers, importers or any other person selling, receiving, or distributing tobacco products in this State *for resale* shall file a report of its sales for resale activity with the Department. The report will be due by the 20th of the month following the month of activity. *Retailers who sell only to end-users (consumers) and who make no sales for resale are not required to file this report.* The Department has created a form to report this information which will be filed via MAT. The first report will be due by November 20, 2014. Review a sample of this new report (TOB: SALES FOR RESALE) at <http://revenue.alabama.gov/tobaccotax/ttforms.cfm> .
- Imports of tobacco products from an entity other than entities listed on the Department's website shall be subject to confiscation, if the appropriate tax is not remitted by the retailer to the Department. Tobacco products delivered directly to a retailer in this State must be purchased from a company permitted or registered with the Department and whose name appears on the Department's website listing. A listing of permitted and registered tobacco distributors will be made available on the Department's website.

Note: Please share this information with your customers, if applicable. Questions concerning this notice should be directed to the below address or telephone number.