810-7-1-.33 Procedure for Reporting and Payment of State and State-Administered Heated Tobacco Products Tax.

1. Payment of tax. The license or privilege tax specified in §40-25-2, Code of Ala. 1975, on heated tobacco products must be paid on all purchases or receipts by any qualified wholesale distributor or retailer and any other person, firm, corporation, club, or association within the State of Alabama when received for the purpose of selling, storing, or distributing heated tobacco products.

2. Purchase of Stamps. State and state-administered county heated tobacco products tax must be paid by affixing stamps. To obtain state and state-administered county heated tobacco products revenue stamps, each wholesaler or distributor must complete and submit to the department an order for heated tobacco products stamps via the department's online portal. State orders must be on the cash or consignment basis. County orders must be on the cash basis only.

3. Discount. A discount, in the amount of that allowed on the purchase of state stamps, is allowed on heated tobacco products stamp purchases made by qualified wholesalers with a tobacco stamping permit ONLY.

4. Retention of Records. A report, on a form prescribed by the department, must be filed with the department on or before the twentieth day of each calendar month showing the receipts of heated tobacco products for the preceding calendar month. A copy of the report must be maintained by the taxpayer, along with proper documentation which adequately differentiates and substantiates the amount of tax paid, and all deductions, exemptions, or credits claimed for each reporting period. Failure to receive a report does not relieve the taxpayer from filing a report on or before the due date.

5. Loss of Discount. The full amount of tax due and the required report must be paid and filed with the department, in the manner and time allowed above without any offset being allowed, except for heated tobacco products returned to the manufacturer for credit as described herein. Insufficient tax payments or reports not timely filed will result in the loss of discount previously allowed and imposition of applicable penalties and interest.

6. Return of Product to Manufacturer. If the heated tobacco products are unfit for use, consumption, or unsaleable, before or after distribution, the qualified wholesalers whose heated tobacco products are returned to the manufacturer or destroyed by

the manufacturer’s representative will be allowed a refund. The following documents are required to substantiate credits:

a. An original affidavit from the manufacturer,

b. credit memorandum,

c. an authentic credit invoice or memorandum initiated by the qualified wholesaler to the purchaser of said products,

d. a copy of the qualified wholesaler’s invoice to the manufacturer, and

e. other documentation as required by the department.

7. Exempt Sales. Sales exempted from the heated tobacco products tax by law are to be excluded from the taxable measure in the month that the sales occur.

8. Local County Heated Tobacco Tax. Act 2025-448 levies an additional county tax in the counties that have a local tobacco tax on heated tobacco products at half the state rate that will be collected by the wholesaler, jobber, semijobber, or registered retailer from the purchaser at the time of purchase.

9. Monthly Reports. Every manufacturer, distributor (including a delivery seller), and importer must file a report with the department concerning all sales, releases, and deliveries of heated tobacco products to qualified wholesalers, retailers, and consumers of this state made or authorized by such manufacturer, distributor (including a delivery seller), or importer during the preceding calendar month. Such manufacturer, distributor (including a delivery seller), or importer will file a report each month showing all shipments of heated tobacco products from a point outside this state into this state during the preceding calendar month.

a. Entities required to file monthly manufacturers’ reports will provide the following information concerning each sale, release, or delivery:

1. Name and address of purchaser.

2. Invoice date.

3. Invoice or document number.

4. Quantity of heated tobacco products purchased per the invoice.

5. Information pertaining to cancellation of invoices.

6. Gross billing appearing on the invoice.

7. The distributor’s permit or registration number issued by the department.

8. Any additional information as required by the department.

b. Entities required to file monthly Jenkins Act reports will provide the following information concerning each sale, release, or delivery:

1. Name and address of purchaser.

2. Invoice date.

3. Invoice or document number.

4. Brand of heated tobacco products.

5. Number of heated tobacco products purchased.

6. Shipper’s name.

7. Shipper's address.

8. Shipper's phone number.

9. Any additional information required by the department relating to the federal Jenkins Act, as amended.

c. Each manufacturer, distributor (including a delivery seller), or importer will file monthly reports with the department no later than the 10th date of the month, covering shipments of heated tobacco products made during the previous calendar month.

d. The report data must be submitted in the format prescribed by the department. Manufacturers, distributors (including delivery sellers), and importers may submit the data via paper form or electronically.

10. Interstate Commerce. A person who sells, transfers, or ships for profit heated tobacco products in interstate commerce, whereby such heated tobacco products are shipped into a State, locality, or Indian country of an Indian tribe taxing the sale or use of heated tobacco products, or who advertises or offers for such a sale, transfer, or shipment must register to distribute

heated tobacco products into Alabama and obtain a registered agent for service of process if located outside the State of Alabama. The information included on the registration document must be in the format prescribed in the registration form.

Author: Sandy Donaldson
Statutory Authority: §§ 40-1-44, 40-2A7(a)(5), 40-2A-11, 40-25-1, 40-25-2(a), and 40-25-2(g), Code of Ala.1975, and the Jenkins Act, as amended by the PACT Act of 2009
History: **New Rule:** Published ______; effective ______.