

February 1, 2022

## **NOTICE**

**TO: All Electronic Nicotine Delivery System (ENDS) Manufacturers, Wholesalers, Retailers, Jobbers, Semijobbers, Retailers and Importers**

**SUBJECT: Electronic Nicotine Delivery System (ENDS) Certifications and Directory**

### **Act 2021-453**

On May 17, 2021, Governor Kay Ivey signed into law Act 2021-453 which became effective August 1, 2021. This Act requires that every e-liquid manufacturer and manufacturer of alternative nicotine products submit a certification that the manufacturer has submitted a premarket tobacco product application on or before September 9, 2020, to the FDA and the products remain under review by the FDA, a stay order or injunction pending the manufacturer's appeal of the no marketing order has been issued, or the manufacturer has received a marketing order. The Act also imposes restrictions on marketing of certain nicotine products.

### **ENDS Directory Approval Required to Sell Product in Alabama**

In addition, the Department of Revenue is required to develop and maintain a Directory of ENDS Approved for Sale. The Directory can be found beginning May 1, 2022, at <https://myalabamataxes.alabama.gov/#1>. To view the Directory, click on "View or upload a report" in the "Businesses" section. Under Tobacco Reports, click on the Approved ENDS Products Directory hyperlink. **If the products are not listed on the Directory, the products cannot be offered for sale in this state. Manufacturers and retailers are subject to a daily penalty for sales of products not listed on the Directory.**

### **Certification Process**

Effective March 1, 2022, entities that want their approved products to appear on the Directory may begin submitting the initial certifications and supporting documentation to the Department via My Alabama Taxes (MAT), <https://myalabamataxes.alabama.gov/>. All certifications must be submitted via MAT. To submit the certifications, click on the "Register a business/Obtain a new tax account number" hyperlink in the "Businesses" section. **Certifications along with a \$2,000 initial application fee must be submitted by April 30, 2022, for approved products to be included on the initial Directory.** Product deletions and additions may be made throughout the year via MAT at no cost.

For your convenience, the Department has created an Excel template to import information into MAT for submission. Otherwise, data may be keyed directly into the MAT screen for submission. If using the template, the appropriate information from your data system may be copied and pasted in the template for importing into MAT. The information pasted on the template must be in the exact format as the template. The template and instructions for completing the certification via MAT can be found at: <https://revenue.alabama.gov/business-license/tobacco-tax/tobacco-wholesaler-schedule-d-sales-for-resale-and-manufacturer-reports/>.

**Annual Certification Renewal**

Certifications must be renewed annually by April 30 for the approved products to remain on the directory for the following year. Renewal certifications may be submitted via MAT beginning February 1 of each subsequent year along with the renewal application fee of \$500. Failure to remit the required renewal fee by April 30 will result in the products being removed from the Directory and the account closed. If this occurs, a new certification along with the \$2,000 initial application fee is required.

**Questions**

Feel free to contact the Tobacco Tax Section with any questions:

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