

## **IDAPA 35 – IDAHO STATE TAX COMMISSION**

### **Tax Policy – Taxpayer Resources Unit**

#### **35.01.10 – Idaho Cigarette and Tobacco Products Taxes Administrative Rules**

##### **Who does this rule apply to?**

*Permit holders of the State Tax Commission:*

- Cigarette wholesalers
- Tobacco products distributors

##### **What is the purpose of this rule?**

*Ensure the reporting and payment of:*

- Cigarette tax
- Tobacco products tax
- Additional tobacco products tax

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Revenue and Taxation -

Department of Revenue and Taxation:

- [Section 63-105, Idaho Code](#) – Powers and Duties - General

Income Tax:

- [Section 63-3039, Idaho Code](#) – Rules and Regulations – Publication of Statistics and Law

Cigarette and Tobacco Products Taxes:

- [Section 63-2516, Idaho Code](#) – Collection and Enforcement – Actions Against State of Idaho
- [Section 63-2563, Idaho Code](#) – Collection and Enforcement

##### **Who do I contact for more information on this rule?**

State Tax Commission

P.O. Box 36

Boise, ID 83722-0410

Phone: (208) 334-7660 or (800) 972-7660

Fax: (208) 334-7846

[taxrep@tax.idaho.gov](mailto:taxrep@tax.idaho.gov)

<https://tax.idaho.gov/>

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## 35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAXES ADMINISTRATIVE RULES

### 000. LEGAL AUTHORITY.

Sections 63-105, 63-2501, 63-2553, Idaho Code.

(7-1-25)

### 001. SCOPE.

These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on all cigarette and tobacco products sold, used, consumed, handled or distributed within this state.

(7-1-25)

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

Sections 63-2502, 63-2528, 63-2551, 63-3611, Idaho Code

**01. Interstate Commerce Sale.** A sale or other transfer of ownership between a person located in Idaho and a person located outside Idaho or within the boundaries of an Idaho reservation.

(7-1-25)

**02. Reservation.** Reservation means:

(7-1-25)

**a.** Federally recognized land reserved for American Indian tribes by treaty with the United States, a state, or a territorial government and established by acts of Congress or the Executive branch of the United States;

(7-1-25)

**b.** Land held in trust by the United States for the use and benefit of an Idaho tribe; or

(7-1-25)

**c.** Land reserved for the United States military.

(7-1-25)

**03. Unmarketable Cigarettes and Tobacco Products.** Any package of cigarettes with an Idaho stamp or tobacco product becomes unmarketable when:

(7-1-25)

**a.** It is returned to the manufacturer as stale or otherwise unsellable, or

(7-1-25)

**b.** The manufacturer or brand family of such cigarettes or roll-your-own tobacco is removed from the Idaho Attorney General's directory.

(7-1-25)

### 011. CIGARETTE AND TOBACCO PRODUCTS SUBJECT TO TAX.

Sections 63-2506, 63-2510, 63-2510A, 63-2552, 63-2552A, 63-2552B, Idaho Code

**01. Cigarette Tax.** Cigarette tax is due when a cigarette stamp is affixed to a package of cigarettes.

(7-1-25)

**a.** Only an Idaho tribe, an enrolled Idaho tribal member, or a business wholly owned and operated by the tribe or tribal member, can purchase unstamped packages of cigarettes for delivery to the reservation.

(7-1-25)

**b.** Non-tribal retailers located within a tribal reservation are forbidden from selling cigarettes without an Idaho cigarette stamp affixed.

(7-1-25)

### 012. TAX PERMITS.

Sections 63-2503, 63-2504, 63-2526, 63-2554, Idaho Code

**01. Cigarette Tax Permit.** A wholesaler does not need a cigarette tax permit when buying only stamped cigarettes. It is mandatory to have a cigarette tax permit when:

(7-1-25)

**a.** The wholesaler affixes Idaho stamps to packages of cigarettes.

(7-1-25)

**b.** The wholesaler is located in Idaho and makes interstate commerce sales of cigarettes.

(7-1-25)

**c.** The wholesaler makes sales delivered to a reservation and the purchaser is the U.S. military, an Idaho tribe, an enrolled Idaho tribal member, or a business wholly owned and operated by the tribe or tribal member.

(7-1-25)

**02. Permits Non-Transferable.** When a business is sold or transferred the permits are not transferable.

(7-1-25)

- a. It is mandatory for the new owner or lessee to obtain their own permits. (7-1-25)
- b. If the previous owner does not cancel their permits, they may be responsible for all tax, penalty, and interest resulting from the use of their permit by the new owner or lessee. (7-1-25)
- c. Cancellation of a permit is accomplished by written notice to the Tax Commission. (7-1-25)

**013. – 014. (RESERVED)**

**015. STAMP INVENTORY.**

Sections 63-2510, 63-2510A, Idaho Code

**01. Obtaining Stamps.** Cigarette stamps may only be obtained from the Boise office of the Tax Commission. Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Tax Commission to a wholesaler until clear and convincing evidence is received by the Tax Commission that the return has been filed and the tax has been paid. (7-1-25)

**02. Unused Stamp Inventory.** A wholesaler may not hold an inventory of unused Idaho cigarette stamps exceeding the face value of their bond. If no bond is required a, wholesaler's inventory of unused Idaho cigarette stamps cannot exceed two (2) times the wholesaler's average monthly tax liability. (7-1-25)

**03. Repayment of Allowance.** The Tax Commission will reduce all credit or refund claims for stamps affixed to packages of cigarettes by the discount for affixing stamps. (7-1-25)

**04. Physical Security.** A wholesaler is responsible for the face value of all stamps received from the Tax Commission and for providing physical security for the stamps in the wholesaler's possession. (7-1-25)

**05. Unusable Stamps.** Stamps that are unused, unfit, or damaged may be returned to the Tax Commission. If stamps cannot be returned to the Tax Commission, the wholesaler will submit a request for stamp destruction on a Tax Commission prescribed form. Destruction of stamps cannot take place without approval from the Tax Commission. The wholesaler may make the adjustment on the next monthly tax return, provided the approval documentation is attached to the return. (7-1-25)

**016. WHOLESALER'S CREDIT OR REFUND CLAIMS.**

Sections 63-2510, 63-2559, Idaho Code

**01. Stamped Cigarette Tax Credits or Refunds.** Stamps affixed to cigarettes destroyed by the manufacturer or wholesaler as a result of cigarettes being unmarked may be redeemed by the wholesaler for credit against future tax due if: (7-1-25)

a. The wholesaler provides an affidavit or returned goods receipt from the manufacturer detailing the number of packages, package type, and date the stamped cigarettes were returned. The returned goods receipt will include a bill of lading. (7-1-25)

b. The wholesaler submits a request for stamped cigarette destruction to the Tax Commission in writing at least ten (10) working days prior to the scheduled destruction. The notice has to include a complete description of the number of packages, package type, date and time, and manner the stamped cigarettes will be destroyed. All requests have to be approved by the Tax Commission prior to destruction. (7-1-25)

**02. Tobacco Products Tax Credits and Refunds.** Credit or refund claims can be made for unmarketable tobacco products using the following methods: (7-1-25)

a. Records are provided documenting the return of tobacco products to the manufacturer. (7-1-25)

b. The distributor destroys tobacco products after submitting a destruction request form to the Tax Commission. Tobacco products can be destroyed in a manner authorized by the Tax Commission after receiving

approval. (7-1-25)

**017. – 020. (RESERVED)**

**021. MANDATORY RECORDS.**

Sections 63-2511, 63-2555, Idaho Code

**01. In General.** Every person liable for payment of taxes on cigarettes or tobacco products needs to keep and preserve the following records in date order: (7-1-25)

**a.** A daily record of all cash and credit sales including invoices, receipts, journals, and other related records. (7-1-25)

**b.** A record of the amount of all merchandise purchased, including all bills of lading, invoice, sales receipts, bank statements, canceled checks, and copies of purchase orders. (7-1-25)

**c.** Supporting documents for all deductions and exemptions allowed by law or claimed on a tax return. (7-1-25)

**d.** True and complete physical counts of the cigarette and tobacco products inventory taken at the end of each reporting period. (7-1-25)

**e.** True and complete records of breakage and spoilage claimed as a deduction from inventory. (7-1-25)

**f.** Other documents used in preparing or supporting the accuracy of the return. (7-1-25)

**02. Records Retention.** If a taxpayer appeals an assessment, all records need to be kept until final disposition of the appeal. (7-1-25)

**022. – 999. (RESERVED)**