

KANSAS ADMINISTRATIVE REGULATIONS

Agency 92: KANSAS DEPARTMENT OF REVENUE

Article 5.--CIGARETTE TAX

92-5-1 Distinguished; wholesaler-retailer licenses. A wholesale cigarette dealer operating a licensed retail place of business or vending machine shall use a distinctive title for the retail or vending machine operation and shall keep all records of the retail business separate from the records of the wholesale cigarette business.

(Authorized by K.S.A. 1967 Supp. 79-3326; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968.)

92-5-2 Vending machines; owner display; record. (a) All owners and operators of cigarette vending machines are hereby required to have the name and address of the owner displayed on each vending machine in operation within the state.

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(b) Each owner and operator of cigarette vending machines shall keep a record showing the business location of each vending machine being currently serviced, which shall be available to the director of revenue or his agents at any reasonable time.

(c) The vending machine permit shall be securely and visibly attached to the vending machine. Visibly attached means on the face of the machine, and that it can be seen without moving the machine.

(Authorized by K.S.A. 1967 Supp. 79-3303, 79-3326; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968.)

92-5-3 Manufacturer's salespersons. Manufacturer's salespersons shall not have in their possession packages of cigarettes other than sample packages, without the required Kansas tax indicia applied thereto. The salesperson's license shall at all times be posted in the vehicle used by the salesperson in the conduct of the salesperson's business. Cigarettes sold by a manufacturer's salesperson to a retail dealer shall be evidenced by an invoice stating the retail dealer's name, address and retail license number.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3304, 79-3313; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended May 1, 1985.)

92-5-4. (Authorized by K.S.A. 1967 Supp. 79-3311, 79-3326; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; revoked March 22, 2002.)

92-5-5. Interstate shipment, exemptions; transporting unstamped cigarettes. (a)(1) All claims for tax exemption on any shipment of unstamped, cartoned cigarettes consigned in interstate commerce for export from the state of Kansas shall be presented to the director of taxation on the wholesale cigarette dealer's monthly report. The report shall be on a form and in the manner prescribed by the director of taxation.

(2) All invoices or delivery tickets supporting the claims shall be preserved by the wholesale cigarette dealer for three years. Each invoice or delivery ticket shall detail the following information:

(A) The name and address of the consignee;

(B) the date of sale;

(C) the quantity of cigarettes sold; and

(D) if the invoice or delivery ticket includes other merchandise, a separate list of the cigarettes sold by brand at the top or bottom of the invoice or delivery ticket. The invoices or delivery tickets filed for preservation shall be signed by the consignee to whom delivery was made or by the common carrier making the delivery.

(b) If sealed cartons of cigarettes have not been stamped and are not detailed on invoices or delivery tickets showing them to be consigned to out-of-state dealers or authorized persons on a government military post, each wholesale cigarette dealer shall furnish the driver of the vehicle transporting these sealed cartons of cigarettes with a memorandum detailing the quantity of unstamped, cartoned, and not consigned cigarettes to be transported to the border of the state of Kansas or government military post.

The driver of the vehicle transporting the cartons of cigarettes that have not been stamped or consigned shall have in the driver's possession at all times the quantity of cigarettes outlined in the memorandum or receipted invoices or delivery tickets showing to whom the cigarettes were sold, delivered, or given away, so that the total number of cartons of cigarettes shown by the signed invoices and delivery tickets and the number of cartons of cigarettes on hand balance with the memorandum described. All claims for the tax exemption on any sales or deliveries made in this manner shall be procured as outlined in subsection (a) of this regulation.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3311, as amended by L. 2001, Ch. 5, § 450 and K.S.A. 2000 Supp. 79-3316; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended March 22, 2002)

92-5-6. Wholesaler; receiving stamped cigarettes. A wholesale cigarette dealer who receives cigarettes already stamped from another wholesale cigarette dealer shall be required to report to the director of taxation, each month, all of these receipts. All cigarettes sold or delivered by one wholesale cigarette dealer to another licensed wholesale cigarette dealer in the state of Kansas shall be stamped by the wholesale cigarette dealer making the sale or delivery.
(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3311, as amended by L. 2001, Ch. 5, § 450 and K.S.A. 2000 Supp. 79-3316; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended March 22, 2002)

92-5-7. Wholesaler; separate locations, bond. Each wholesale cigarette dealer having more than one wholesale place of business in the state of Kansas shall be required to file an application and pay the required fee for each place of business owned or operated by that dealer. Each place of business licensed shall be covered by a surety bond furnished by the wholesale dealer as provided in K.S.A. 79-3304, and amendments thereto. If the wholesale cigarette dealer is unable to obtain a surety bond, a cash bond or escrow account agreement may be accepted by the director. A cash bond or escrow account agreement shall be submitted in writing with a copy of the surety bond rejection letter.
(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3304; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended March 22, 2002)

92-5-8. Wholesaler; trucker, salesperson. (a) Each licensed wholesale cigarette dealer who employs truckers or salespeople, either salaried or working on a commission, to both sell and distribute cigarettes to licensed retail dealers shall obtain an identification card for each trucker and salesperson. Application forms for the identification cards shall be furnished upon request by the director of taxation.
(b) All sales of cigarettes made by any trucker or salesperson shall be written up on sales books furnished by the wholesale cigarette dealer, detailing the name of the wholesale dealer. Copies of all sales tickets shall be kept for a period of three years in the files of the wholesale dealer.
(c) The identification card furnished shall be kept posted at all times in the conveyance of each trucker or salesperson. The identification card shall be valid during the term of the wholesale cigarette dealer's license, or until the license is revoked, suspended or surrendered.
(d) If a trucker or salesperson is no longer employed by the wholesale cigarette dealer, the wholesale cigarette dealer shall notify the director and return the identification card furnished to the trucker or salesperson.
(e) Any individual who obtains cigarettes from a wholesale cigarette dealer for sale and distribution to retail cigarette dealers and who is not an employee of the wholesale cigarette dealer shall be required to be licensed as a wholesale cigarette dealer.
(Authorized by K.S.A. 79-3326; implementing K.S.A. 2000 Supp. 79-3316; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended March 22, 2002)

92-5-9. Redemption of unused stamps. The cost of any unused cigarette stamps that any wholesale cigarette dealer presents for refund may be refunded by the director of taxation. The unused cigarette stamps shall be presented for refund within six months from the date of the purchase from the director of taxation. The stamps shall be returned to the director of taxation, and a refund may be issued for the face value less 2.65 percent.
(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3312; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended, E-71-21, July 1, 1971; amended Jan. 1, 1972; amended March 22, 2002)

92-5-10. Cigarettes unfit for sale. If cigarettes on which the Kansas tax has been paid, as evidenced by cigarette tax stamps or tax indicia, have become unfit for use or consumption, unsaleable, or damaged or destroyed by fire, flood, or similar causes, the value of the tax paid less 2.65 percent may be refunded by the director of taxation, upon receipt of satisfactory proof, to the wholesaler who has paid the tax. The director of taxation shall be notified before the destruction of damaged or partially damaged cigarettes, and the merchandise shall be kept available for inspection by a representative of the director of taxation's office.
(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3312; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended, E-71-21, July 1, 1971; amended Jan. 1, 1972; amended March 22, 2002)

92-5-11. (Authorized by K.S.A. 1967 Supp. 79-3311, 79-3326; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; revoked March 22, 2002)

92-5-12. Bond; cancellations. The surety on a bond furnished by a wholesale cigarette dealer as required by the cigarette tax law shall be released and discharged from all liability to the state accruing on the bond after the expiration of 60 days from the date upon which the surety has submitted to the director of taxation a written request to be released and discharged. However, this provision shall not operate to relieve, release, or discharge the surety from any liability that has already accrued or that will accrue before the expiration of the 60-day period.
Prompt notification of the wholesale cigarette dealer who furnished the bond shall be made by the director of taxation upon receiving such a request. If the dealer fails to file with the director of taxation, on or before the expiration of the 60-day period, a new bond fully complying with the provisions of the cigarette tax law, the license or licenses of the

dealer shall be revoked and canceled by the director of taxation in accordance with K.S.A. 79-3309, and amendments thereto. The dealer shall be notified by the director of taxation.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3304, 79-3309, 79-3311, as amended by L. 2001, Ch. 5, § 450; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended March 22, 2002)

92-5-13. Credits. In order to purchase stamps on credit, the wholesale dealer shall forward to the division of taxation a completed stamp purchase order form for the number of stamps that the dealer wishes to purchase as a credit transaction. The purchase order shall be charged to the wholesaler's account on the date the purchase order is approved.

Presentation of company or personal checks that have not been certified shall not be considered payment of credit purchases until the company or personal checks have been presented to and accepted by the bank for payment.

If a delinquency of payment for stamps occurs, the wholesaler's credit privileges shall be discontinued for a period of time prescribed by the director of taxation. Notice of the delinquency shall be forwarded to the surety.

(Authorized by K.S.A. 79-3326; implementing K.S.A. 79-3311, as amended by L. 2001, Ch. 5, § 450; effective Jan. 1, 1966; amended, E-67-11, July 1, 1967; amended Jan. 1, 1968; amended March 22, 2002)

92-5-14 Vending machines; cigarette sales only. A cigarette vending machine may be used for cigarette sales only. No candy or any other items may be sold from a cigarette vending machine.

(Authorized by K.S.A. 79-3303, 79-3326; effective, E-80-2, Jan. 18, 1979; effective May 1, 1979)