
**Rules of
Department of Revenue
Division 10—Director of Revenue
Chapter 16—Cigarette Tax**

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Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue Chapter 16—Cigarette Tax

12 CSR 10-16.010 Prior Rulings

PURPOSE: This rule prescribes that all rulings issued prior to January 1, 1973, are withdrawn and canceled.

(1) From and after December 31, 1975, all written and verbal rulings issued by the Missouri Department of Revenue to specific taxpayers or groups of specific taxpayers, prior to January 1, 1973, are withdrawn and canceled and thus are not binding upon the Department of Revenue for any tax liability arising after December 31, 1975.

(2) A ruling is defined to be a decision made by the director of revenue or his/her authorized agent which affects the payment of, accounting for or exemption from cigarette tax, Chapter 149, RSMo.

(3) If a ruling had been made on a specific taxpayer situation, it is necessary that the taxpayer resubmit a request in writing for a ruling on that or any future specific question or problem, setting forth the specific information pertaining to that situation.

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 15 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.

*Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.

12 CSR 10-16.020 Definitions

PURPOSE: This rule specifies that the terms defined in section 149.011, RSMo shall also apply to Chapters 66 and 210, RSMo and the rules thereunder.

(1) The terms defined in section 149.011, RSMo shall have the same meaning when used in these rules and, when applicable, shall refer to the St. Louis County and Jackson County cigarette tax provided for by Chapters 66 and 210, RSMo respectively.

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.

*Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.

12 CSR 10-16.030 Cigarette Tax Levied

PURPOSE: This rule sets forth the amount of tax levied for the state, St. Louis and Jackson Counties taxes levied upon the sale of cigarettes.

(1) The eight and one-half (8 1/2) mills per cigarette state tax levied upon the sale of cigarettes is equal to seventeen (17) cents per package of twenty (20) cigarettes. The two and one-half (2 1/2) mills per cigarette St. Louis County and Jackson County tax levied upon the sale of cigarettes is equal to five (5) cents per package of twenty (20) cigarettes.

(2) If the federal excise tax on cigarettes is reduced, the Missouri Cigarette Tax will increase by the amount that the federal excise tax is reduced.

(3) If after the date the federal excise tax was reduced, the federal excise tax is reimposed in full or in part, the Missouri Cigarette Tax will be reduced by the amount of the federal excise tax reimposed.

(4) In no case shall the Missouri Cigarette Tax be reduced lower than six and one-half (6 1/2) mills per cigarette.

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 2 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 24, 1986. Amended: Filed Sept. 16, 1985, effective Dec. 26, 1985. Amended: Filed Jan. 31, 1994, effective July 30, 1994.

*Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993;

149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.

ITT Canteen Corp. v. Spradling 526 SW2d 11 (1975). Under prior Missouri law, on declaratory judgment brought for purpose of declaring void a prior rule of Department of Revenue, court held that the amount of the cigarette tax is not a part of the sales price; it is a levy on the consumer inspired at the time of the retail sale, and the seller is a mere agent (for the state) for collection, thus considered, the amount of the cigarette tax was not properly includable in the sales tax base under the 1969 statutes.

Op. Atty. Gen. No. 431, Ferris (9-15-66). Cigarettes made from a variety of lettuce, being nicotine-free for tobacco, going by the brand name "Braw's", were subject to the cigarette tax imposed by former section 149.020, RSMo.

12 CSR 10-16.040 Tax Evidenced by Stamps

PURPOSE: This rule explains the authorization and use of stamps.

(1) The director of revenue will only furnish tax stamps to licensed Missouri wholesalers that purchase all unstamped cigarettes directly from the manufacturer.

(2) Cigarette tax stamps cannot be loaned, sold, exchanged or otherwise transferred by any wholesaler to any other wholesaler or any other person without prior approval of the director of revenue.

(3) A cigarette tax stamp is considered canceled when affixed to a package of cigarettes.

AUTHORITY: sections 66.380 and 210.320, RSMo (Supp. 1995) and 136.030, 136.120, 149.015 and 149.021 (1994). * Cigarette Tax Regulation 3 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 9, 1996, effective Jan. 1, 1997.

*Original authority: 66.380, RSMo (1967), amended 1993, 1995; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993, 1994; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993, 1995.

12 CSR 10-16.050 Use of Tax Stamps

PURPOSE: This rule prescribes where and in what quantity tax stamps may be purchased and sets forth the minimum specifications for the manufacture of cigarette tax stamps.

(1) Tax stamps representing the state and county tax levied on a package of cigarettes can only be purchased from the director of revenue.

(2) Cigarette tax stamps will be sold in units of not less than one thousand (1000) stamps.

(3) The director will periodically initiate bid procedures for the manufacturer of cigarette tax stamps which meet the following minimum specifications:

(A) Type. The stamps manufactured must be genuine lithographed, layer built transfer type, of approved quality, processed in two (2) colors; or the stamps must be manufactured on a permanent-type (self-destructive) pressure sensitive material with an easy release feature from the backing material. Stamps may be manufactured in either sheets or rolls;

(B) Size and Design. Stamps are to be of irregular shape and outline—processed in two (2) colors—to measure not less than three-eighths by fifteen thirty-secondths inch (3/8" × 15/32") nor more than three-fourths by five-eighths inch (3/4" × 5/8");

(C) Application. All stamps furnished under these specifications shall be water-applied decalcomania transfer stamps, permanent-type pressure-sensitive material or heat transfer stamps, and shall satisfactorily adhere to cellophane, tinfoil or paper. The contractor shall furnish illustrated direction sheets showing the method of affixing the stamps to package or container and offer such help as may be necessary to acquaint users to properly affix stamps;

(D) Paper. Stamps shall be made on unique, safety tinted, yellow paper or permanent-type (self-destructive) pressure-sensitive or heat-applied material furnished by contractor. The name of the paper manufacturer is to be furnished with bid;

(E) Protection. Stamps must be manufactured with features against illegal reproduction and incorporate a ready identification of any counterfeiting attempt. Further, bidder shall be prepared to furnish this department a full explanation of these features and give the department immediate assistance to detect any counterfeiting attempt during the time the bidder's stamps are being used by the department;

(F) Layout. Stamps shall be furnished in sheets or rolls as prescribed by the director of revenue or his/her representative. Each sheet or roll of stamps is to be serially and consecutively numbered;

(G) Accounting. A full and accurate accounting must be made to the state for all spoiled sheets, plates, designs, patterns, films, negatives, etc. Plates, designs, patterns, films, etc., when not in use for the manufacture of tax stamps, must be locked in a safe or vault or secure area. All the plates, designs, films, etc., will be destroyed and disposed of as directed by the state. A complete and accurate accounting of each and every stamp and all sheets of special paper used for these stamps and any other material used in their production must be given to authorized representatives of the state upon demand at any time. Inspection of the plant and of all records and books of account will be allowed by the contractor at any time upon demand of authorized representatives of the state. At all times, the contractor will supervise closely the production of the stamps and will not permit employees or any others to enter or leave the building or that part of the building where stamps are being produced until first assured that all material used in their production is properly accounted for. Every precaution will be taken to make certain that the stamps are not counterfeited or produced anywhere for any other purpose than the use of the state. All shipments must be by bonded carrier, insured and prepaid, and contractor will be responsible for safe and proper delivery;

(H) Production Control. The bid must be accompanied by a full explanation of the precautions which the manufacturer proposes to observe within his/her plant and organization to protect the state against unlawful production of the stamps. The bidder must designate the means by which s/he proposes to guard against the loss of stamps during both the process of manufacture and storage. A secure depository approved by the state shall be installed or designated by the manufacturer for the storage of photographs, films, stones, zincs, plates, drawings, stamps, etc., when not in use or, in the case of stamps, while awaiting shipment. All work must be performed wholly within the premises of the contractor. No part of the contract may be sublet or performed in any other establishment. No assignment of the contract in whole or in part may be made without the consent of the state. Bidders, if required, shall furnish evidence satisfactory to the state that they possess the facilities, tools, machinery, equipment and resources necessary to efficiently and promptly carry out the terms of the contract;

(I) Delivery. Delivery of stamps in the quantities as may be specified by the Department of Revenue must be made;

(J) Bid Binder. A certified check or bid bond for one thousand dollars (\$1000) payable to the state treasurer must accompany the bid. The check or bond will be returned after award is made to the successful bidder unless forfeited by a violation of bid terms by the bidder;

(K) Bond. A successful bidder must furnish a performance bond acceptable to the state in the amount of one hundred percent (100%), guaranteeing the state as to the faithful performance of the contract and against loss of stamps through or from any act of omission or commission by him/her contrary to the terms of the contract; and

(L) Award. Before an award is made, the Department of Revenue reserves the right to summon the bidder to appear before it and demonstrate and prove to its satisfaction the acceptability of his/her stamp to the Department of Revenue. The department also reserves the right to summon the bidder to demonstrate and prove the effectiveness of any and all protective features required. The state reserves the right to waive technicalities and to reject any and all bids. Any proposal offer is subject to the option of the state as to whether it is to the best interest of the state. The price of the stamps will be given consideration, but the primary consideration in choosing a stamp will be the maximum protection offered to the state against illegal reproduction or counterfeiting and for general adaptability to the purpose required.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed March 13, 1984, effective June 11, 1984.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

12 CSR 10-16.060 Sample Cigarettes

PURPOSE: This rule explains the responsibilities of a manufacturer distributing nonstamped sample cigarettes.

(1) Cigarettes distributed in Missouri by manufacturers as samples must be so marked. A manufacturer's report of nonstamped sample cigarettes shipped into Missouri giving the dates, locations and the number of sample cigarettes delivered must be filed with the director and the tax computed at the rate in 12 CSR 10-16.030, remitted therewith. The report shall be filed on the fifteenth day of each month covering shipments made during the previous calendar month.

(2) County cigarette tax shall be remitted to the director if the sample cigarettes are to be distributed in either Jackson County or St. Louis County.

(3) City cigarette tax shall be remitted to the respective cities levying a cigarette tax if cigarette samples are to be distributed in the cities.

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). *Cigarette Tax Regulation 5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Jan. 31, 1994, effective July 30, 1994.

*Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.

12 CSR 10-16.070 Discount Allowed

PURPOSE: This rule indicates when the discount will not be allowed.

(1) The three percent (3%) discount provided for under section 149.021, RSMo will not be allowed if the total deferment liability becomes delinquent as provided by subsection 2 of section 149.025, RSMo, or if the consolidated monthly report, provided for in subsection 2 of section 149.041, RSMo, including all schedules required by the director is not properly filed, that is, it must be completed on the calendar month basis and filed by the fifteenth of the following month if stamps or meter impressions are purchased on the deferred payment basis as provided for in section 149.025, RSMo, and the twentieth of the following month if stamps or meter impressions are purchased on the cash basis.

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993)

and 136.030, 136.120 and 149.021, RSMo (1986). *Cigarette Tax Regulation 6 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.

*Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.

Op. Atty Gen. No. 338, Schechter (11-14-68). The elimination of the discounts presently allowed under the sales tax act, the state income tax act and the city earnings tax authorization statutes for the collection of such taxes would not affect the constitutionality of those statutes.

12 CSR 10-16.080 Use of Meter Machines (Rescinded January 1, 1997)

12 CSR 10-16.090 Purchase on Deferred Payment Basis

PURPOSE: This rule clarifies the reporting requirements, surety bond requirements and the approval necessary for purchases of tax stamps or meter units on the deferred payment basis.

(1) All wholesalers who purchase tax stamps or meter units on the deferred payment basis must file the monthly report required by subsection 2 of section 149.041, RSMo on the fifteenth day of each month covering the previous calendar month.

(2) All purchases of tax stamps or meter units on the deferred payment basis must have the prior approval of the director. The total amount of outstanding credit granted shall at no time exceed one hundred percent (100%) of the surety bond furnished by the wholesaler.

(3) The surety bond required under section 149.025, RSMo must be issued by an authorized corporate surety company on a bond form approved by the director. Any surety on a bond furnished by a cigarette wholesaler shall be released and discharged from any and all prospective liability to the state occurring after the expiration of ninety (90) days from the date upon which the surety shall have lodged with the director a written request to be released and discharged, but

this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue before the expiration of the ninety (90)-day period. The director, promptly upon receiving any request, shall notify the cigarette wholesaler who furnished the bond, and unless the wholesaler shall file, on or before the expiration of the ninety (90)-day period, with the director a new bond fully complying with the provisions of section 149.025, RSMo, the director shall forthwith revoke all credit privileges and notify the wholesaler that all purchases must be made in cash.

(4) The payment of the St. Louis County or Jackson County cigarette tax imposed by Chapters 66 and 210, RSMo respectively, may not be deferred.

AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). *Cigarette Tax Regulation 8 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.

*Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.

12 CSR 10-16.100 Payment on Deferred Payment Basis

PURPOSE: This rule prescribes the payment due dates of deferred tax liabilities and the effects of delinquent payment.

(1) All wholesalers who purchase tax stamps or meter units on the deferred payment basis shall remit the total amount due on account of the purchases on or before the fifteenth day of the calendar month following the calendar month during which the purchases were made. Purchases of tax stamps are deemed to occur on the date the tax stamps are sent to the purchaser and purchases of meter units are deemed to occur on the date the purchases are set on meter machines.

(2) If the date for payment of the deferred liability falls upon a Saturday, Sunday or legal holiday, or other date on which the United States postal service is not in operation, the payment shall be considered timely if sent on the next business day or on the next day in which postal service is resumed. The

postmark date appearing on the envelope will be deemed to be the time of payment of the deferred liability.

(3) In the event a cigarette wholesaler's payment becomes delinquent, the wholesaler's credit privilege shall be discontinued at once and the three percent (3%) discount provided for in subsection 1 of section 149.021, RSMo, will be disallowed on the delinquent amount of tax.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 9 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

12 CSR 10-16.110 Unsalable Packages of Cigarettes

PURPOSE: This rule indicates the procedures to follow whenever cigarettes on which tax has been paid are unfit for use or consumption.

(1) Whenever cigarettes on which the tax has been paid, as evidenced by tax stamps and meter impressions, have become unfit for use or consumption; unsalable or damaged or destroyed by fire, flood or similar causes, the director, upon satisfactory proof being received from the cigarette wholesaler, may issue new tax stamps or meter impressions to the wholesaler who affixed the tax stamps or meter impressions.

(2) The director shall be notified prior to the destruction of damaged or partially damaged cigarettes and the cigarettes shall be kept available for inspection by his/her authorized representatives.

(3) When unsalable packages of cigarettes are to be returned to a manufacturer, tax stamps must be affixed to the packages of cigarettes and they must be inspected by an authorized representative of the director. An inspection report signed by the wholesaler must also be filed. A refund in stamps or meter impressions will be made upon receipt of an affidavit from the manufacturer that the cigarettes were received by the manufacturer.

Inspection of the unsalable cigarettes may be waived at the discretion of the director.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 10 was last filed Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

12 CSR 10-16.120 Missouri Cigarette Wholesaler's License

PURPOSE: This rule sets forth the requirements for obtaining a wholesaler's license, the requirement for prominent display of the license and the possible effect of violation of the law.

(1) Letters of recommendation from four (4) of the six (6) leading manufacturers, for example, American Tobacco Company, Brown & Williamson Tobacco Corporation, Liggett & Myers Incorporated, Lorillard, Philip Morris Tobacco Company and R.J. Reynolds Tobacco Company, must be on file with the director before a Missouri cigarette wholesaler's license will be issued. This requirement may be waived at the discretion of the director.

(2) A Missouri cigarette wholesaler's license will only be granted to nonresident wholesalers duly registered as a cigarette wholesaler in the wholesaler's state of residence.

(3) A nonresident wholesaler who is granted a Missouri cigarette wholesaler's license under section 149.035, RSMo and is authorized to affix Missouri tax stamps or meter impressions shall agree to be bound by all cigarette tax rules issued by the director of revenue.

(4) The cigarette wholesaler's license must be prominently displayed in the wholesaler's principal place of business. Any cigarette wholesaler having more than one (1) place of business is required to display a copy of the license in each place of business owned or operated by him/her doing business in Missouri.

(5) If a wholesaler violates any of the provisions of Chapters 66 and 210, RSMo or Chapter 149, RSMo or rules issued pursuant

to the provisions, contingent upon the hearing provided for by section 149.035, RSMo, the director may revoke or suspend the cigarette wholesaler's license issued under the provisions of section 149.035, RSMo.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation II was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

12 CSR 10-16.130 Recordkeeping Requirements

PURPOSE: This rule prescribes the recordkeeping display, reporting and other requirements regarding cigarette sales in Missouri.

(1) A cigarette wholesaler operating a retail place of business or vending machine shall use a distinctive title for the retail or vending machine operation and shall keep records of the retail business and the vending machine business separate from the records of the wholesale cigarette business.

(2) In all cases where a wholesaler is selling, both as a retailer and a wholesaler at the same place of business, the retail business must be kept separate and apart from the wholesale business in a room separated from the wholesale business by a wall or partition and, in addition, inventories and other matters covering the retail business shall be kept separate and distinct from the wholesale business.

(3) The name and address of the owner of any cigarette vending machine in operation within Missouri shall be visibly displayed on each vending machine.

(4) Each owner and operator of cigarette vending machines shall keep a record showing the business location of each vending machine currently being serviced, which shall be available to the director or his/her authorized representatives at the principal place of business in Missouri of the owner or operator.

(5) Operators of cigarette vending machines shall load packages of cigarettes in vending machines so that if any packages are visible while in the machine the tax stamp affixed thereto or the meter impression thereon will be clearly visible.

(6) Owners and operators of cigarette vending machines who are not licensed cigarette wholesalers shall only purchase tax-stamped or tax-imprinted packages of cigarettes. Owners and operators shall keep records indicating the wholesaler that affixed the tax stamps or meter impressions to packages of cigarettes.

(7) No manufacturer, wholesaler or retailer shall refuse to permit the director or his/her duly authorized representatives to examine records, papers, files and equipment pertaining to the person's business made taxable by Chapters 66, 149 and 210, RSMo. No person shall make an incomplete, false or fraudulent return, or attempt to do anything to evade full disclosure of the facts or to avoid payment in whole or in part of the tax imposed by Chapters 66, 149 and 210, RSMo.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 12 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

Robert Williams and Co., Inc. v. State Tax Commission, 498 SW2d 527 (1973). In Missouri, or in the other states which have considered this question, tobacco and liquor cannot be sold without payment of both federal and state taxes thereon. Without payment of the taxes, their sale would be illegal and they would be valueless. Payment of the taxes being essential to the creation of a salable product and the amount of the taxes paid constituting money invested in the merchandise, they (the taxes) were properly included in the valuation of appellant's inventories (for purpose of an ad valorem tax on goods in possession of a merchant).

12 CSR 10-16.140 Common Carriers, Bonded Warehousemen and Bailees

PURPOSE: This rule prescribes the due dates and required reports of common carriers, bonded warehousemen and bailees; recordkeeping requirements of consignees and cigarettes being available for inspection.

(1) Common carriers transporting cigarettes to a point within Missouri other than the place of business of a licensed cigarette wholesaler shall report all deliveries on forms prescribed and furnished by the director, on or before the twentieth day of each month covering the previous calendar month.

(2) A bonded warehouseman or bailee having possession of cigarettes shall file a report on forms prescribed and furnished by the director, on or before the twentieth day of each month covering the previous calendar month.

(3) Detailed records indicating that cigarettes received by a consignee were either delivered to a common carrier, bonded warehouseman, bailee or wholesaler or returned to the manufacturer must be kept if the consignee is to be exempt from the cigarette tax levied on cigarettes by Chapters 66, 149 and 210, RSMo.

(4) Cigarettes returned to the manufacturer must be evidenced by an affidavit from the manufacturer that the cigarettes were received by the manufacturer.

(5) Prior to the destruction of damaged or partially damaged cigarettes by a consignee, the director shall be notified and the cigarettes shall be kept available for inspection by his/her authorized representative.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 13 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*



12 CSR 10-16.150 Possession of Unstamped Cigarettes

PURPOSE: This rule provides by whom and under what circumstances unstamped cigarettes may be possessed.

(1) Except as provided by section 149.045, RSMo, only licensed Missouri cigarette wholesalers can possess unstamped cigarettes. Licensees are required to affix proper amounts of tax stamps or meter impressions to each individual package of cigarettes before transferring the possession of any cigarettes.

(2) All cigarettes sold or delivered by one (1) licensed cigarette wholesaler to another licensed cigarette wholesaler in Missouri shall be stamped by the wholesaler making the sale or delivery. A cigarette wholesaler who receives cigarettes already stamped from another cigarette wholesaler is required to report all the receipts for each month.

(3) A licensed cigarette wholesaler may possess packages of cigarettes designated for export if tax stamp or meter impression required by another state is affixed to the packages of cigarettes and the packages are stored separately and distinct from Missouri tax stamped cigarettes.

(4) Detailed records of all cigarettes distributed and to whom distribution is made, directly or by drop shipment for delivery or consumption outside Missouri must be kept if the cigarettes are to be exempt from the cigarette tax levied by Chapters 66, 149 and 210, RSMo.

(5) Any person who fails to affix stamps to packages of cigarettes sold in St. Louis County or Jackson County within the time and manner required of him/her under the provisions of Chapter 149, RSMo shall pay, as a part of the tax imposed by Chapters 66 and 210, RSMo respectively, a penalty equal to one hundred percent (100%) of the initial tax liability and the tax and penalty shall bear interest at the rate of six percent (6%) per annum.

(6) No person, other than licensed wholesalers or other persons as specifically provided for in Chapter 149, RSMo, shall possess, for the purpose of the sale of cigarettes in St. Louis or Jackson County any packages of cigarettes to which the stamps or meter units required by Chapters 66, 149 and 210, RSMo are not affixed.

(7) Mere possession of an unstamped package of cigarettes in St. Louis or Jackson County by any person, except under circumstances specifically prescribed by Chapter 149, RSMo shall be *prima facie* evidence that the cigarettes are intended for sale in St. Louis or Jackson County.

(8) In no case shall a Missouri cigarette wholesaler sell or transport unstamped cigarettes, as defined by section 149.011(11), RSMo, to a retailer unless such retailer is a post exchange, commissary or other instrumentality of the federal government pursuant to section 149.061.1., RSMo and has received a purchase order from the federal government for such sales and payment for such sales shall be made directly from the federal government to the wholesaler, pursuant to section 149.061.2., RSMo.

*AUTHORITY: sections 66.380, 149.015 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.021, RSMo (1986). * Cigarette Tax Regulation 14 was last filed Dec. 31, 1975 effective Jan. 10, 1976. Amended: Filed Feb. 18, 1983, effective June 11, 1983. Amended: Filed Feb. 16, 1988, effective May 26, 1988.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

12 CSR 10-16.160 Release of Bonding Requirement

PURPOSE: This rule sets forth the procedures to be followed for obtaining release from bonding requirements and specify under what condition the director may revoke the license held by a wholesaler for a period of one year.

(1) A cigarette wholesaler is eligible for release from the licensing requirement to maintain a surety bond. In order to be released from the bond requirement, a wholesaler must file a written application with the director of revenue. Upon application, the director shall review the reporting and payment history of the wholesaler to determine whether the wholesaler has maintained satisfactory tax compliance for the five (5)-year period immediately preceding the date of application. All wholesalers who make application for release from the bond requirement and who have maintained satisfactory tax

compliance for a five (5)-year period shall be released from the bond requirement. The director shall notify the wholesaler of the release from the bond requirement; the date of notice shall be the effective date of the release from the bond requirement.

(2) If after release from the bond requirement a wholesaler fails to file monthly reports or pay tax due within fifteen (15) days from the last day of the month in which the purchase of cigarette tax stamps or decals was made, the director may revoke the license held by the wholesaler (subject to other provisions of Chapter 149, RSMo) for a period of one (1) year.

*AUTHORITY: sections 66.380 and 210.320, RSMo (Cum. Supp. 1993) and 136.030, 136.120 and 149.025, RSMo (1986). * Original rule filed Nov. 18, 1986, effective March 12, 1987.*

**Original authority: 66.380, RSMo (1967), amended 1993; 136.030, RSMo (1945), amended 1947, 1949, 1965; 136.120, RSMo (1945); 149.015, RSMo (1974), amended 1982, 1993; 149.021, RSMo (1974), amended 1982; and 210.320, RSMo (1939), amended 1969, 1976, 1978, 1993.*

12 CSR 10-16.170 Adjustments to the Distribution of St. Louis County Cigarette Tax Funds Pursuant to the Federal Decennial Census

PURPOSE: This rule explains the information required from each city and unincorporated St. Louis County if there is a change in its population as a result of an adjustment to its population by the United States Census Bureau or as a result of an annexation or consolidation.

(1) The population used for the distribution of St. Louis County cigarette tax monies, pursuant to section 66.350, RSMo shall be the latest federal decennial census that determines the total population of the county and all the political subdivisions in the county.

(2) In the event that the latest decennial census is amended by the United States Census Bureau, due to a correction in the census, the department shall amend the population for distribution purposes under the following conditions:

(A) Notification of the correction to the last decennial census shall be received from the county and/or political subdivision which is affected by the correction to the census;

(B) The notification of the population change shall be accompanied by the official written notification from the United States Census Bureau; and

(C) If the adjustment redistributes total population within the county, the population of those political subdivisions affected shall be indicated to include any population change of unincorporated St. Louis County.

(3) Upon receipt of the official written notification, the department shall adjust population figures prospectively.

(4) For adjustments to the St. Louis County population count as a result of annexations or consolidations

(A) Each political subdivision shall file with the director a certified copy of the annexation or consolidation election results or a certified copy of the ordinance approving the annexation or consolidation;

(B) The political subdivision shall also file with the director of revenue official written notification from the census bureau of the amount of population in the area annexed or consolidated;

(C) The official notification shall also indicate which political subdivision(s) lost population through annexation or consolidation; and

(D) If the director of revenue receives notification before the fifteenth day of the month, the tax imposed by section (4) shall be distributed and allocated using the new information beginning with the next distribution. If notification is received after the fifteenth day of the month, the tax imposed by section (4) shall be distributed and allocated using the new information beginning with the second distribution following receipt of the notification by the director.

*AUTHORITY: section 66.350, RSMo (1986). * Original rule filed March 4, 1991, effective July 8, 1991.*

**Original authority 1967.*