

**Regulations for the Tobacco and Tobacco-  
Related Products Tax<sup>1</sup>**

**Philadelphia Code Chapter 193600**

Regulations 101. Definitions

1. *Cigarette.* Any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of any substance or material other than tobacco regardless of the size or shape of the roll and regardless of whether or not the tobacco is flavored, adulterated or mixed with any other ingredient. The term cigarette shall not include cigars, little cigars or cigarillos.
2. *Little cigar.* Any roll for smoking that weighs not more than four pounds per thousand, where the wrapper or cover is made of natural leaf tobacco or of any substance containing tobacco.
3. *Rolling Papers,* Any product consisting of sheets, rolls or leaves of paper or tobacco which are sold for use as the wrapper or cover for any roll of smoking.
4. *Retail seller.* Any person who, in the usual course of business, purchases, or receives tobacco and tobacco-related products from any source whatsoever for the purpose of sale to the ultimate consumer. The term also includes a person, who in the normal course of business, owns, leases or otherwise operates one or more vending machines for the purpose of selling tobacco and tobacco-related products to the ultimate consumer.
5. *Selling at retail.* Any transfer, for consideration, of the ownership, custody or possession of tobacco and tobacco-related products by a retail seller to the ultimate consumer of these products.
6. *Smokeless tobacco.* A product containing finely cut, ground, powdered, blended or leaf tobacco made primarily for individual consumption which is intended to be placed in the oral or nasal cavity and not intended to be smoked. The term includes chewing tobacco, dipping tobacco and snuff.
7. *Tobacco and tobacco-related product.* A product containing tobacco for smoking and other consumption, including any cigar, smokeless tobacco, pipe tobacco or other loose tobacco, but not including a cigarette or a little cigar. The term also includes rolling papers.

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<sup>1</sup> These regulations were filed with the Department of Records on October 18, 2010 (effective November 17, 2010).

## Regulation 102. Imposition and Rate of Tax.

There is imposed on the retail seller for the privilege of selling at retail any tobacco and tobacco-related product, except as excluded in (b) below, including, but not limited to, sales from vending machines, at the following rates:

- (1.) For any tobacco and tobacco-related product that consists of individual items rolled for smoking, including but not limited to, cigars, three and six-tenths cents (\$0.036) per item;
  - (2.) For all other tobacco and tobacco-related products, thirty six cents (\$0.36) per ounce;
  - (3.) For rolling papers, thirty-six cents (\$0.36) per pack.
- (b) Exclusion. The tax imposed on the retail seller under these regulations shall not be imposed on any retail sale involving the bona fide delivery of tobacco or tobacco-related products to a location regularly maintained by the other party to the transaction outside the limits of Philadelphia and not for the purpose of evading or avoiding payment of the tax or any portion thereof.

## Regulation 103. Returns and Payment of Tax.<sup>2</sup>

- (a) Every retail seller of tobacco and tobacco-related products shall file and pay annually on January 31 for the previous calendar year the privilege tax due under these regulations.
- (b) The filing of the return due under these regulations will not exempt a retail seller from filing and paying the tax imposed under Philadelphia Code § 19-2600 (i.e. Business Privilege Tax).
- (c) Electronic Filing and Payment - Effective for the return due January 31, 2011 and for all returns due thereafter, all taxpayers subject to these regulations will be required to file the tax return and remit the attending tax payment electronically through electronic funds transfer ("EFT"). EFT includes automated clearinghouse (ACH) debits and/or credits and any other means or technologies that may be available to obtain the funds due the City in an efficient manner. The Department may by policy or announcement provide for additional electronic means/technologies as they become available.
- (d) Any taxpayer who is required by this regulation to electronically file a return and fails to do so will be subject to a penalty of \$500 for each occurrence. Every month that the taxpayer fails to electronically file will constitute a separate occurrence. This penalty is in addition to any penalty due under Philadelphia Code § 19-509(4)(e).

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<sup>2</sup> Subsections (c), (d) and (e) added by amendment filed with the Department of Records on Dec. 28, 2010 (effective Jan. 27, 2011).

(e) Any taxpayer who is required by this regulation to make an electronic payment and fails to comply shall in addition to any interest, penalties and fees owed under Philadelphia Code § 19-509 be subject to a penalty for each occurrence as follows:

- (1.) If the amount to be paid electronically is less than or equal to \$10,000: five percent (5%) of the amount to be paid electronically.
- (2.) If the amount to be paid electronically is more than \$10,000 but less than \$50,000: five hundred dollars (\$500).
- (3.) If the amount to be paid electronically is \$50,000 or more: one percent (1%) of the amount to be paid electronically.

Every month that the taxpayer fails to make electronic payments will constitute a separate occurrence.

#### **Regulation 104. Interest, Penalties and Costs.**

- (a) The interest and penalties imposed for the failure to file and/or pay the tax due under these regulations will be imposed in accordance with Philadelphia Code § 19-509.

#### **Regulation 105. Compliance and Enforcement**

The City of Philadelphia's Department of Revenue is charged with enforcing the tax imposed under these regulations. As such, the Department may conduct through its employees or authorized representatives and agents inquiries, investigations and/or audit examinations to ensure a retail seller's compliance with the applicable ordinance and these regulations.