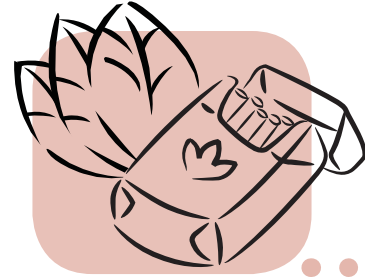


Tax Information for Cigarettes, Tobacco Products and Electronic Cigarette Products



Utah State Tax Commission

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tax.utah.gov

If you need an accommodation under the Americans with Disabilities Act, email taxada@utah.gov, or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

General Information

The Utah State Tax Commission administers the cigarette and tobacco tax laws in Utah and ensures all cigarettes, tobacco products and electronic cigarette products are sold by licensed sellers.

The Tax Commission works with state and local health departments to prevent cigarette, tobacco and electronic cigarette product sales to minors.

The Tax Commission also works with the State Fire Marshal to ensure that cigarettes and tobacco products sold in Utah are fire-safe. Fire Safe Cigarettes (FSC) are designed to stop burning when left unattended.

Definitions

Cigarette: Any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Electronic Cigarette (E-Cigarette): A device that simulates smoking a cigarette, pipe or cigar, which contains a heating element, battery or electronic circuit that produces a vapor of nicotine or another substance.

E-Cigarette Substance: Any substance, including liquid containing nicotine, intended for use in an e-cigarette.

E-Cigarette Product: An e-cigarette or an e-cigarette substance.

Little cigar: A roll for smoking made wholly or in part of tobacco, that uses an integrated cellulose acetate or similar filter, and that is wrapped in a substance containing tobacco, but is not exclusively natural leaf tobacco.

Moist snuff: Tobacco that:

- is finely cut, ground or powdered,
- has at least 45 percent moisture content, and
- is not meant to be smoked or placed in the nasal cavity.

Nonparticipating manufacturer (NPM): A tobacco product manufacturer that is not a participant in the MSA between the State of Utah and the leading U.S. tobacco product manufacturers.

To identify NPM products, see Publication 51, *Utah Approved Tobacco Manufacturers and Cigarette/RYO Brands*, available online at tax.utah.gov/forms/. NPM products are highlighted and identified by brand name. Examples of NPM brands are Complete, Kingsboro, Premis, Roger, Traditions and Zig Zag (this list is not all-inclusive).

Other tobacco products: Products containing tobacco that do not meet the definitions of “cigarette,” “moist snuff” or “little cigars.” Examples: cigars, roll your own (RYO) tobacco and pipe tobacco and cigarettes produced from a rolling machine (this list is not all-inclusive).

Participating manufacturer (PM): A tobacco product manufacturer that is a participant in the Master Settlement Agreement (MSA) between the State of Utah and the leading U.S. tobacco product manufacturers. Examples of PM brands are: Marlboro, Camel, Lucky Strike, Kent and Liggett Select (this list is not all inclusive).

Who Can Sell Cigarettes, Tobacco Products and E-Cigarette Products

You must be licensed by the Tax Commission to legally sell cigarettes, tobacco products and e-cigarette products in Utah. We will only issue a license to the person owning or operating a place which sells the products. A person who does not operate a business cannot be licensed. See Utah Code §59-14-202(1).

We will not issue a cigarette/tobacco license until a seller has paid the license fee and posted a bond, if applicable. See Utah Code §59-14-201.

See *Licenses, Fees and Bonds* on page 2.



Figure 1: Markings on legal packs of cigarettes

Vending Machines

Each cigarette vending machine is considered a separate place of business. **Exception:** When more than one machine operates at a single location, only one of those machines needs to be licensed.

See Rule R865-20T-3(A).

What is Legal to Sell

Only cigarettes and RYO tobacco listed in Publication 51, *Utah Cigarette and RYO Authorized Brands*, may be legally sold in Utah. See Publication 51 online at tax.utah.gov/forms.

Cigarettes sold in Utah must also be fire-safe (see figure 1). The Fire Marshal maintains a list of fire-safe brands online at firemarshal.utah.gov/cigarette-fire-safety-program/.

Collecting Utah Cigarette and Tobacco Taxes

E-Cigarettes

E-cigarette products are not subject to Utah tobacco taxes unless they contain tobacco, in which case they are taxed as tobacco products.

Cigarettes

Each pack of cigarettes must be stamped before it is legal for sale in Utah (see figure 1). Stamps must be affixed within 72 hours of receipt by wholesalers, distributors or retailers in Utah. Stampers buy stamps from the Tax Commission at the current tax rate.

There is no consumer cigarette tax paid at the time of purchase. Consumers can only buy cigarettes from licensed retailers who have paid tax when buying cigarette stamps. All cigarette packs sold to consumers must be stamped.

See Utah Code §59-14-205(3).

Tobacco Products

Tobacco product distributors report and pay tobacco tax quarterly on form TC-553, *Tobacco Product Tax Return*. The return is due on or before the last day of the month following each quarterly period (e.g., the April - June return is due July 31).

See Utah Code §59-14-303(1).

Utah Tax Rates

Utah imposes taxes on the sale, use, storage and distribution of all cigarettes and tobacco products in Utah.

See Utah Code §59-14-204 and §59-14-302.

Cigarettes

Rate per cigarette	Rate per 20 pack	Rate per 25 pack
8.5 cents	\$1.70	\$2.125

NPM Cigarettes

NPM cigarettes are subject to an additional equity assessment of 35 cents per pack of 20 (\$2.05 total tax per pack), and 43.75 cents per pack of 25 (\$2.5625 total tax per pack).

Moist Snuff

The tax rate for moist snuff is \$1.83 cents per ounce.

Little cigars

Effective July 1, 2011, the tax rate for little cigars is 8.5 cents per little cigar.

Rolling Machine Cigarettes

Cigarettes produced by a rolling machine are taxed at the same rate as cigarettes.

All Other Tobacco Products

All other tobacco products are taxed at 86 percent of manufacturer's sales price.

Mail, Phone and Internet Purchases

The sale and purchase of cigarettes, tobacco products and e-cigarette products via the Internet, phone or mail-order is prohibited, except to licensed persons.

Any person who makes such sales to an unlicensed person in Utah is subject to a fine of up to \$5,000 for each sale.

See Utah Code §59-14-509 and §76-10-105.1.

Licenses, Fees and Bonds

You must have an active *Sales and Use Tax License* in good standing to qualify for a *Cigarette/Tobacco License* or an *Electronic Cigarette Products License*.

Apply for these licenses on form TC-69, *Utah State Business and Tax Registration*.

Retailers

Retailers sell products directly to consumers, who buy all products tax-paid. All cigarettes a retailer buys must have the Utah stamp affixed.

A license to sell cigarettes, tobacco products and/or e-cigarette products is owner and location specific. A business must get a new license if its location or ownership changes.

If you have multiple locations you must have a separate license for each location where you sell cigarettes, tobacco products and/or e-cigarette products. We will set the same renewal date for all of your locations.

A location may have either a *Cigarette/Tobacco License* or an *Electronic Cigarette Products License*:

1. Cigarette/Tobacco License

a. The location may sell cigarettes, tobacco products and e-cigarette products.

2. Electronic Cigarette Products License

a. The location may only sell e-cigarette products.

b. The location may not sell cigarettes and tobacco products without a *Cigarette/Tobacco License*.

The license fee is \$30. No bond is needed. The license is valid for three years unless revoked. A three-year renewal license is \$20. In case of revocation, the reinstatement fee is \$30.

Cigarette Stampers

Cigarette stampers buy unstamped product and affix the Utah stamp before selling to a licensed distributor, wholesaler or retailer. Stampers order Utah stamps from the Tax Commission on form TC-79, *Cigarette Revenue Stamp Order Form*.

The license fee is \$30. Cigarette stampers must be bonded. The minimum bond is \$500 and must be paid at the time of application. See Utah Code §59-14-201(3).

Cigarette stampers with accounts in good standing may buy stamps on credit, up to 90 percent of their bond value. These accounts must be paid in full within 60 days after the date the stamps were delivered.

Cigarette stampers report Utah sales of cigarettes and RYO on form TC-553 (with Schedules E and F).

Tobacco Products Distributors

Tobacco products distributors buy tobacco products before the tax has been paid and pay tax on a quarterly basis on form TC-553, *Tobacco Tax Product Return*.

The license fee is \$30. Tobacco product distributors must be bonded. The minimum bond is \$500 (cash or surety), or an amount equal to one quarter of the filing obligation, and must be paid at the time of application. A higher bond amount may be required if the distributor has not faithfully met all obligations to the state or if the account is not in good standing. See Utah Code §59-14-201(3).

Each quarter, distributors must report cigarettes and RYO sold in Utah on form TC-553.

Manufacturers

Cigarette manufacturers that want to certify cigarettes for sale in Utah must have a valid cigarette license.

Tobacco product manufacturers that will distribute tobacco products directly into Utah must have a valid Utah tobacco distributor license.

E-cigarette product manufacturers do not need a Utah license unless they also sell e-cigarette products in Utah.

Rolling Machine Operators

Rolling machine operators must:

1. have a Utah tobacco license,
2. certify with the Tax Commission (form TC-550) prior to bringing rolling machines into the state,
3. renew certification each year by December 31, and
4. file form TC-553 quarterly to report and pay taxes on cigarettes produced by rolling machines.

Keeping a License in Good Standing

State and local health departments monitor all retail locations and perform quarterly compliance checks to prevent illegal sales to underage persons. You can learn about the Utah Department of Health Tobacco Prevention and Control Program by calling 1-877-220-3466 or visiting www.tobaccofreeutah.org.

- Your license will be suspended for up to 30 days if you are cited for selling to an underage person three times in a 12-month period.
- Your license will be revoked for one year if you are cited for selling to an underage person four times in a 12-month period.

The Tax Commission audits for cigarette tax compliance.

- Check packs before stocking to ensure all cigarettes on your shelves have the proper tax stamp visible. Keep invoices for all tobacco products for three years from date of purchase.
- Renew your license prior to expiration. Failure to renew will cause your license to expire. Expired licenses cannot be renewed. You will have to apply for a new license.

Electronic Reporting, Filing, License Renewals and Payments

You are encouraged to file all cigarette and tobacco tax returns, reports and payments online using Tax Express, Taxpayer Access Point (TAP), our online account management system. TAP:

- Is fast
- Is accurate
- Calculates for you
- Is available 24/7

You will need the following information to set up online access to your accounts:

- Federal Employer Identification Number (FEIN) or Social Security Number (SSN),
- Utah 14-digit account number
- Your PIN

Table 1: Cigarette, Tobacco and E-Cigarette Products Violation Penalties

Violation	Statute	Penalty	Notes
Failure to properly affix and cancel stamps	§59-14-205 §59-14-213	<ul style="list-style-type: none"> • \$25 for each offense (article, package or container). • Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer. • Confiscated products destroyed. 	Each article, package or container is a separate offense.
Counterfeit cigarettes or stamps	§59-14-209 §59-14-211 §59-14-213	<ul style="list-style-type: none"> • Seizure of counterfeit cigarettes and any personal property used in direct connection with sale or possession for sale of counterfeit cigarettes. Forfeiture of the seized assets. • Counterfeit goods seized without a warrant by the Tax Commission, its employees or any peace officer. • Seizure without a warrant of all cigarettes stamped with counterfeit, reused, washed or restored stamps. • Confiscated products destroyed. • Various penalties imposed by a court for counterfeit cigarettes. • 3rd degree felony. 	<ul style="list-style-type: none"> • For each affixed stamp. • Reuse or cause stamps to be reused; buy, sell, offer washed or restored stamps; use or possess washed or restored stamps; buy, sell, offer for sale or use counterfeit stamp.
Prohibited sales of cigarettes	§59-14-210 §59-14-211	<ul style="list-style-type: none"> • License suspended or revoked. • Fine of the greater of 500 percent of retail value of cigarettes or \$5,000. • Class B misdemeanor. • Possible imprisonment. 	<ul style="list-style-type: none"> • Each affixed stamp is a separate violation. • Prohibited sales include products not intended for sale or use in the US, products that do not comply with labeling laws, and products imported unlawfully. • Does not include duty-free cigarettes.
Failure to report imported cigarettes or provides false or misleading information	§59-14-212	<ul style="list-style-type: none"> • License suspended or revoked. • Fine of the greater of 500% of retail value of cigarettes or \$5,000. • Class B misdemeanor. 	MAY be subject to civil penalty.
Selling contraband goods: no license, no stamp, counterfeit, prohibited, non-reported imported cigarettes, non-reported NPM cigarettes, cigarettes not listed in Pub 51	§59-14-213	<ul style="list-style-type: none"> • Contraband seized without a warrant by the Tax Commission, its employees or any peace officer. • Confiscated products destroyed. 	
Internet or mail order sales of tobacco or cigarettes to an unlicensed person	§59-14-509	<ul style="list-style-type: none"> • Fine of up to \$5,000 per violation. • Injunction to restrain. • Recovery of additional costs and fees. • Profits, gain, gross receipts, or other benefit may be disgorged and paid to the state treasurer. 	

Violation	Statute	Penalty	Notes
Failure to affix NPM Equity Assessment stamp	§59-14-205 §59-14-214	<ul style="list-style-type: none"> Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer. Confiscated products destroyed. 	Each article, package or container is a separate offense.
Selling smokeless tobacco without a warning label	§59-14-501 §59-14-505 §59-14-506	<ul style="list-style-type: none"> Products seized without a warrant by the Tax Commission, its employees or any peace officer. Confiscated products destroyed. 	
Bringing goods not listed in Pub 51 into Utah for use, possession for sale, stamping or selling	§59-14-213 §59-14-604 §59-14-608	<ul style="list-style-type: none"> Stamping agent's license suspended or revoked. Fine of the greater of 500 percent of retail value or \$5,000. Each affixed stamp is a separate violation. Class B misdemeanor. 	<ul style="list-style-type: none"> Civil penalties and Tax Commission action (see §59-14-608). These are contraband cigarettes.
Failure to place funds in escrow	§59-22-203	If a court finds violation of annual deposit, it may impose a penalty of 5 percent of amount not put into escrow per day of violation, up to 100 percent of amount improperly withheld. If it is a knowing violation, the court may impose 15 to 300 percent. A two-year injunction is added for a second knowing violation.	Each failure to make an annual deposit is a separate violation.
Selling or offering for sale cigarettes that are not marked Fire Safe (FSC)	§53-7-406	<ul style="list-style-type: none"> Penalty of \$10,000-\$100,000 penalty against manufacturer. Penalty of \$500-\$25,000 against retailer. Penalty of \$75,000-\$250,000 for false certification. Forfeiture and destruction of cigarettes. 	Each violation is a separate offense.
Failure to supply a report of Internet sales as required by Jenkins Act	§375 of US Code Title 15 Chapter 10A	\$1,000 or imprisonment of up to six months.	
Selling cigarettes without a license	§59-14-203 §59-14-213	<ul style="list-style-type: none"> Seizure, forfeiture and destruction of products. Class B misdemeanor. 	
Selling to underage person (under 19 years)	§26-42-103 §59-14-203.5	<ul style="list-style-type: none"> 1st – penalty of up to \$300. Within 12 months of 1st violation: 2nd – penalty of up to \$750. 3rd – penalty of up to \$1,000 and suspend license up to 30 days. 4th – penalty of up to \$1,000 and revoke license for one year. 	<ul style="list-style-type: none"> Dept. of Health enforces and assesses penalties. Tax Commission suspends/revokes accounts.
Failure to file quarterly return and supporting schedules	§59-14-407 §59-14-606 §59-14-214	<ul style="list-style-type: none"> Class B misdemeanor. Subject to revocation or suspension of license. Penalty, not to exceed the greater of 500% of retail value of cigarettes or \$5,000. 	
Selling e-cigarette products without a license	§59-14-803	<ul style="list-style-type: none"> Class B misdemeanor. 	

Return Filing Requirements

Return	Retailer	Stamper (cigarette only)	Distributor (tobacco only)	Manufacturer (cigarette or RYO)	Rolling Machine Operator
TC-69 Utah State Business and Tax Registration	X	X	X	X	X
TC-79 Cigarette Revenue Stamp Order Form		X			
TC-553 Tobacco Product Tax Return (quarterly)		X	X		X
TC-752 Utah Certificate of Compli- ance by Tobacco Products Manufacturers (annual)				X	
TC-38B License Renewal for Ciga- rettes/Tobacco Products and Electronic Cigarette Products (every three years)	X	X	X	X	X
TC-550 Cigarette Rolling Machine Operation Certificate					X