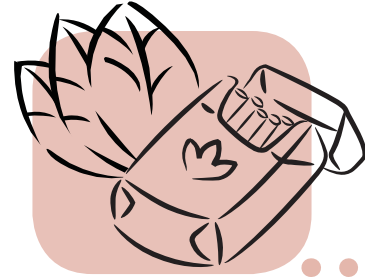


Tax Information for Retailers, Distributors and Stampers of Cigarettes and Tobacco Products



Utah State Tax Commission

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801-297-3533
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tax.utah.gov

If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at 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 tobacco products are sold by licensed sellers.

The Tax Commission works with state and local health departments to prevent cigarette and tobacco 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.

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 Master Settlement Agreement 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” or “moist snuff.” Examples: cigars (including little cigars), roll your own (RYO) tobacco and pipe tobacco (this list is not all-inclusive).

Participating manufacturers: Those other than “nonparticipating manufacturers.” Examples of PM brands are: Marlboro, Camel, Lucky Strike, Kent, Liggett Select (this list is not all inclusive).

Who Can Buy Cigarettes and Tobacco Products

A person must be at least 19 years of age to legally buy cigarettes or tobacco products in Utah. A person younger than 19 who uses or possesses cigarettes or tobacco products is guilty of a class C misdemeanor, subject to a minimum fine of \$60 and a mandatory court-approved tobacco education program. See Utah Code 76-10-105(1).

Anyone who provides any cigarettes or tobacco products to a person younger than 19 is guilty of:

1. a class C misdemeanor for the first offense,
2. a class B misdemeanor for the second offense, and
3. a class A misdemeanor for each additional offense.

See Utah Code §76-10-104(1).

Who Can Sell Cigarettes and Tobacco Products

You must be licensed by the Tax Commission to legally sell cigarettes and tobacco 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 tobacco license until a seller has paid the license fee and posted a bond, if applicable. See Utah Code §59-14-201.

See *Cigarette and Tobacco License* 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 roll-your-own (RYO) 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 publicsafety.utah.gov/firemarshal/cigarettes.html.

Collecting Utah Cigarette and Tobacco Taxes

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

Non-participating manufacturer (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.

All Other Tobacco Products

Tobacco products other than moist snuff are taxed at 86 percent of manufacturer's sales price.

Mail, Phone and Internet Purchases

The sale and purchase of cigarettes and tobacco 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.

Cigarette and Tobacco License

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

Apply for both a sales tax license and a tobacco license on form TC-69, *Utah State Business and Tax Registration*.

Fees

Initial license	\$30
Renewal	\$20
Reinstatement.....	\$30

Bond

Cigarette stampers and tobacco distributors must be bonded. The minimum bond amount is \$500 for cigarettes or tobacco, or \$1,000 for both.

Post a cash bond or obtain a surety or performance bond from an insurance company. See Utah Code §59-14-201(3).

Retailers

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

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.

Licenses are owner and location specific. A business must get a new license if the business location or ownership changes.

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 licensing fee is \$30. A cigarette stamper must be bonded. The minimum bond is \$500 and must be paid at the time of application.

Cigarette stampers must inventory stamps monthly and file form TC-552, *Utah Cigarette Stamp Report*. Each quarter, stampers must also report Utah sales of cigarettes and RYO on form TC-562, *Utah Quarterly Report of Cigarette/Tobacco Products*.

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.

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 licensing fee is \$30. A tobacco product distributor must be bonded. The minimum bond is \$500 (cash or surety) 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.

Each quarter, distributors must report cigarettes and RYO sold in Utah on form TC-562, *Utah Quarterly Report of Cigarette/Tobacco Products*.

Manufacturers

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

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

- 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

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.

Table 1: Cigarette and Tobacco 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.

Violation	Statute	Penalty	Notes
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 §76-10-105.1	<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. 	
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. 	

Violation	Statute	Penalty	Notes
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 \$1000 and suspend license up to 30 days. 4th – penalty of up to \$1000 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 NPM Quarterly Escrow Payment Affidavit, TC-554	§59-14-407 §59-14-606	<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. 	
Failure to file Quarterly Report of Cigarette/RYO Products, TC-562	§59-14-407 §59-14-606	<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 or \$5,000. 	

Violation	Statute	Penalty	Notes
Failure to file Monthly Utah Cigarette Stamp Report, TC-552	§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. 	

Return Filing Requirements

Return	Retailer	Stamper (cigarette)	Distributor (tobacco)	Importer	Manufacturer
TC-69 Utah State Business and Tax Registration	X	X	X	X	Cigarettes: Yes RYO: No
TC-79 Cigarette Revenue Stamp Order Form		X			
TC-553 Tobacco Product Tax Return (quarterly)			X		
TC-562 Utah Quarterly Report of Cigarette/Tobacco Products		X	X		
TC-552 Utah Cigarette Stamp Report (monthly)		X			
TC-752 Utah Certificate of Compliance by Tobacco Products Manufacturers (annual)					X
Renewal (every three years)	X	X	X	X	X