Tax Information for Cigarettes, Tobacco Products and Electronic Cigarette Products

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 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, no matter the size or shape, whether the tobacco is flavored, adulterated, or mixed with any other ingredient, and wrapped in a cover made of anything except tobacco (such as paper).

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 Master Settlement Agreement (MSA) between the State of Utah and the leading U.S. tobacco product manufacturers.

To identify NPM products, see the Utah Cigarette Directory at tax.utah.gov/cigarette/cig-directory.pdf. 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 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.
Vending Machines

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

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

What is Legal to Sell

Only cigarettes and RYO tobacco listed in the Utah Cigarette Directory (tax.utah.gov/cigarette/cig-directory.pdf) may be legally sold in Utah.

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

<table>
<thead>
<tr>
<th>Rate per cigarette</th>
<th>Rate per 20 pack</th>
<th>Rate per 25 pack</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.5 cents</td>
<td>$1.70</td>
<td>$2.125</td>
</tr>
</tbody>
</table>

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 per ounce.

Little cigars

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.

No bond is needed. The license is valid for three years unless revoked.
**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**

The Tax Commission audits for cigarette tax compliance. 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).

**Electronic Reporting, Filing, License Renewals and Payments**

We encourage you to file all cigarette and tobacco tax returns, reports and payments online using 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

<table>
<thead>
<tr>
<th>Violation</th>
<th>Statute</th>
<th>Penalty</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to properly affix and cancel stamps</td>
<td>§59-14-205 §59-14-213</td>
<td>- $25 for each offense (article, package or container).</td>
<td>Each article, package or container is a separate offense.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer.</td>
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<tr>
<td></td>
<td></td>
<td>- Confiscated products destroyed.</td>
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</tr>
<tr>
<td>Counterfeit cigarettes or stamps</td>
<td>§59-14-209 §59-14-211 §59-14-213</td>
<td>- 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.</td>
<td>For each affixed stamp.</td>
</tr>
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<td></td>
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<td>- Counterfeit goods seized without a warrant by the Tax Commission, its employees or any peace officer.</td>
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<tr>
<td></td>
<td></td>
<td>- Seizure without a warrant of all cigarettes stamped with counterfeit, reused, washed or restored stamps.</td>
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<td></td>
<td>- Confiscated products destroyed.</td>
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<td></td>
<td></td>
<td>- Various penalties imposed by a court for counterfeit cigarettes.</td>
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<td>- 3rd degree felony.</td>
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<tr>
<td>Prohibited sales of cigarettes</td>
<td>§59-14-210 §59-14-211</td>
<td>- License suspended or revoked.</td>
<td>Each affixed stamp is a separate violation.</td>
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<tr>
<td></td>
<td></td>
<td>- Fine of the greater of 500% of retail value of cigarettes or $5,000.</td>
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<td></td>
<td>- Class B misdemeanor.</td>
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<td></td>
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<td>- Possible imprisonment.</td>
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<tr>
<td>Failure to report imported cigarettes or provides false or misleading information</td>
<td>§59-14-212</td>
<td>- License suspended or revoked.</td>
<td>MAY be subject to civil penalty.</td>
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<tr>
<td></td>
<td></td>
<td>- Fine of the greater of 500% of retail value of cigarettes or $5,000.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Class B misdemeanor.</td>
<td></td>
</tr>
<tr>
<td>Selling contraband goods: no license, no stamp, counterfeit, prohibited, non-reported imported cigarettes, non-reported NPM cigarettes, cigarettes not listed in the Utah Cigarette Directory.</td>
<td>§59-14-213</td>
<td>- Contraband seized without a warrant by the Tax Commission, its employees or any peace officer.</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>- Confiscated products destroyed.</td>
<td></td>
</tr>
<tr>
<td>Internet or mail order sales of tobacco or cigarettes to an unlicensed person</td>
<td>§59-14-509</td>
<td>- Fine of up to $5,000 per violation.</td>
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<tr>
<td></td>
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<td>- Injunction to restrain.</td>
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<tr>
<td></td>
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<td>- Recovery of additional costs and fees.</td>
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<tr>
<td></td>
<td></td>
<td>- Profits, gain, gross receipts, or other benefit may be disgorged and paid to the state treasurer.</td>
<td></td>
</tr>
<tr>
<td>Violation</td>
<td>Statute</td>
<td>Penalty</td>
<td>Notes</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>---------------------------------------------</td>
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</tr>
</tbody>
</table>
| Failure to affix NPM Equity Assessment stamp                              | §59-14-205, §59-14-214                      | • 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           | • Products seized without a warrant by the Tax Commission, its employees or any peace officer.  
• Confiscated products destroyed.                                          |                                                                       |
| Bringing goods not listed in the Utah Cigarette Directory into Utah for use, possession for sale, stamping or selling | §59-14-213, §59-14-604, §59-14-608           | • Stamping agent’s license suspended or revoked.  
• Fine of the greater of 500% of retail value or $5,000.  
• Each affixed stamp is a separate violation.  
• Class B misdemeanor.                                                      | • 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                                    | • Penalty of $10,000-$100,000 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                      | • Seizure, forfeiture and destruction of products.  
• Class B misdemeanor.                                                      |                                                                      |
| Failure to file quarterly return and supporting schedules                 | §59-14-407, §59-14-606, §59-14-214           | • 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                                   | • Class B misdemeanor.                                                 |                                                                      |
## Return Filing Requirements

<table>
<thead>
<tr>
<th>Return</th>
<th>Retailer</th>
<th>Stamper (cigarette only)</th>
<th>Distributor (tobacco only)</th>
<th>Manufacturer (cigarette or RYO)</th>
<th>Rolling Machine Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>TC-69 Utah State Business and Tax Registration</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>TC-79 Cigarette Revenue Stamp Order Form</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>TC-553 Tobacco Product Tax Return (quarterly)</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TC-752 Utah Certificate of Compliance by Tobacco Products Manufacturers (annual)</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>TC-38B License Renewal for Cigarettes/Tobacco Products and Electronic Cigarette Products (every three years)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>TC-550 Cigarette Rolling Machine Operation Certificate</td>
<td></td>
<td></td>
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<td></td>
<td>X</td>
</tr>
</tbody>
</table>