



# Special Notice

CALIFORNIA STATE BOARD  
OF EQUALIZATION  
450 N STREET  
SACRAMENTO, CA 95814

## Clarifying Retail Stock for Cigarette and Tobacco Products Tax Purposes

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BOE WEBSITE AND  
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INFORMATION  
[www.boe.ca.gov](http://www.boe.ca.gov)

CUSTOMER SERVICE CENTER  
1-800-400-7115

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711

The State Board of Equalization (BOE) adopted [Regulation 4001](#), *Retail Stock*, to clarify the definition of retail stock for cigarette and tobacco products tax purposes. Regulation 4001 takes effect July 1, 2017.

The California cigarette and tobacco products tax (excise tax) is imposed on the first distribution of cigarette and tobacco products in this state. A distribution includes the placing of untaxed cigarettes or tobacco products in a vending machine or in *retail stock* for the purpose of selling cigarettes or tobacco products to consumers.

### What is considered retail stock?

Retail stock includes cigarette and tobacco products that are stored in the area where retail sales are made and available for sale to consumers by a person who holds a Retailer's License.

If you hold a Distributor's License and a Retailer's License, purchase untaxed products, and only make retail sales to consumers, all cigarette and tobacco products in your inventory are considered retail stock, distributed in this state, and the excise tax is due (regardless of where the product is placed or stored). All cigarette packs placed in retail stock must have a cigarette tax stamp affixed.

If you hold a Distributor's License and a Retailer's License, purchase untaxed products, and make sales to consumers and to licensed distributors, wholesalers, or retailers, the untaxed cigarette and tobacco products that are placed or stored in the area where retail sales are made are considered to be retail stock, distributed in this state, and the excise tax is due. All cigarette packs placed in retail stock must have a cigarette tax stamp affixed. However, the untaxed cigarette and tobacco products that are securely stored away from the area where retail sales are made are not considered retail stock. The untaxed products must be in the original manufacturer's packaging, with an unbroken seal, and they must **be secured, segregated, and separated from your entire retail inventory**, including your tax-paid products that you store or hold in areas not accessible to consumers.

Examples of secured, separated, and segregated from retail stock include, but are not limited to, the following areas:

- a secured store room or closet;
- a secured back office;
- inside a locked cabinet, safe or other similar storage container; or
- behind a locked wire-cage door or similar encumbrance.

### **Walk-in humidors**

Tobacco products placed inside a walk-in humidor displayed for sale to consumers are considered retail stock. If you hold both a Distributor's License and a Retailer's License, purchase untaxed tobacco products, and only make retail sales to consumers, your entire inventory is considered retail stock, whether or not the untaxed tobacco products are separately stored away. The excise tax is due immediately upon placing the untaxed tobacco products in retail stock.

If you hold a Distributor's License and a Retailer's License, untaxed tobacco products are not considered retail stock if the product is placed in a walk-in humidor in the original manufacturer's packaging with an unbroken seal, **secured, segregated, and separated from retail stock, and not on display for sale to consumers.**

Examples of separated and segregated from retail stock within a walk-in humidor include, but are not limited to, the following secured areas:

- inside a locked cabinet, safe, or similar secured storage container, or behind a wire-cage door, or similar encumbrance.

### **Presumption of Distribution**

It is presumed that all cigarette and tobacco products no longer in a distributor's possession have been distributed and the excise tax is due. Unless the contrary is established, this presumption includes instances when cigarette and tobacco products have been lost through an unexplainable disappearance.

You can rebut this presumption by demonstrating that an explainable disappearance, such as theft, has occurred. Examples of evidence that may overcome the presumption include, but are not limited to:

- Timely police reports (required)
- Insurance claims
- Insurance reimbursements
- Cigarette and tobacco purchase invoices (required)
- Video surveillance footage
- Photographs
- Detailed tobacco inventory reports
- Proof of prosecution for theft of cigarettes and tobacco products

Please note that product placed in retail stock prior to a disappearance has already been distributed and is; therefore, not rebuttable.

Please refer to [Regulation 4001](#) for the regulation's full text.

### **For More Information**

If you have questions regarding retail stock, visit the BOE website at [www.boe.ca.gov](http://www.boe.ca.gov). You may also call the Customer Service Center at 1-800-400-7115 (TTY: 711). From the main menu, select the option, *Special Taxes and Fees*. Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.