Cigarette and Tobacco Products Taxes

Excise taxes are imposed upon the distribution of cigarettes and tobacco products in California. Distributors must be licensed and have an account number to remit the excise taxes owed and to conduct these transactions.

Two types of excise taxes are collected on cigarettes and tobacco products distributed in California: 1) the cigarette tax, and 2) the cigarette and tobacco products surtax. Each tax is described below, according to the type of product sold.

Cigarettes

Cigarettes are subject to both the cigarette tax and the cigarette and tobacco products surtax, collectively referred to as taxes.

The taxes imposed per package of 20 (twenty) cigarettes total eighty-seven cents ($0.87). Distributors indicate that the taxes have been paid through the use of cigarette tax stamps, which are purchased from the State Board of Equalization (BOE) and affixed to each package of cigarettes before distribution. Distributors pass these taxes on to their customer and they become part of the retail selling price of the cigarettes.

The cost of the cigarette tax stamp includes both taxes. For current cigarette tax rates, please visit BOE’s website at [www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm#5](http://www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm#5). Distributors receive a discount for each cigarette tax stamp purchased to help offset the cost for affixing cigarette tax stamps.

How are the revenues used?

Of the eighty-seven cents ($0.87) tax per package of cigarettes, ten cents ($0.10) is deposited into the state’s General Fund, and two cents ($0.02) per package goes into the Breast Cancer Research Fund.

Additionally twenty-five cents ($0.25) of the cigarette and tobacco products surtax is used for these purposes:

- Tobacco-related health education programs and disease research.
- Medical and hospital care and treatment of patients who cannot afford those services, and for whom payment will not be made by any private coverage or federal program.
- Programs for fire prevention; environmental conservation; protection, restoration, enhancement, and maintenance of fish, waterfowl, and wildlife habitat areas; and enhancement of state and local parks and recreation.

Furthermore, fifty cents ($0.50) of the cigarette and tobacco products surtax is used for programs that encourage proper childhood development, including the development of professional and parental education and training, informed selection of childcare, development and education of childcare providers, and research into the best practices and standards for all programs and services relating to early childhood development.
Who is required to register?
You are required to register if you are a distributor, wholesaler, manufacturer, or importer of cigarettes or tobacco products in California (see definitions following “Imposition of the tax”). For retail licensing requirements, see publication 78, Sales of Cigarettes and Tobacco Products in California—License Requirements for Retailers.

How do I register?
You can apply online for accounts, licenses, or permits using BOE’s online services, available at https://efile.boe.ca.gov/ereg/index.boe. Please contact BOE’s Customer Service Center at 1-800-400-7115 if you need assistance.

If I am required to register, what are my filing requirements?
Licensing. You must first apply for a distributor, wholesaler, manufacturer, or importer license and pay the applicable licensing fee. For more information on licensing fees, please visit www.boe.ca.gov/sptaxprog/cig_n_tob_prod_lic.htm. If you are applying for a distributor’s license you must also post a minimum $1,000 security deposit before the license can be issued. For more information on purchasing cigarette tax stamps please see publication 63, Cigarette Distributor Licensing and Tax Stamp Guide which can be found at https://efile.boe.ca.gov/ereg/index.boe. There are no security deposit requirements for wholesalers, manufacturers or importers. All licenses must be renewed annually.

Cigarette and Tobacco Products Account. After receiving a license issued under the California Cigarette & Tobacco Products Licensing Act of 2003, a separate account must be established to sell cigarettes and tobacco products in California.

Filing. All licensed distributors, wholesalers, manufacturers, and importers are required to file tax returns, reports, or schedules, which are due on or before the 25th of the month following the reporting period. Tax returns, reports, and schedules must be filed even if no transactions were made during the reporting period. All records must be kept and maintained at the taxpayer’s licensed premises in California, unless another location has been approved by the BOE.

Imposition of the Tax
Cigarette Distributor. A cigarette distributor is a person who purchases untaxed (unstamped) cigarettes and makes the first distribution of the cigarettes in this state. Distribution includes the sale, use or consumption of cigarettes, and the placing of cigarettes into a vending machine or retail stock. A cigarette distributor is required to affix tax stamps to each package of cigarettes to indicate that taxes have been paid prior to their distribution.

Tobacco Products Distributor. A tobacco products distributor is a person who makes the first distribution of tobacco products in this state. Distribution includes the sale, use or consumption of cigarettes, and the placing of tobacco products into a vending machine or retail stock. A tobacco products distributor is required to calculate the taxes due on the wholesale cost of the products they sell and remit the amounts owed each month on return forms provided by the BOE.

Cigarette Wholesaler. A cigarette wholesaler is a person, other than a licensed distributor, who sells tax-stamped cigarettes, obtained from a distributor or another wholesaler, for resale. Cigarette wholesalers cannot purchase their products directly from an importer or manufacturer.

Tobacco Products Wholesaler. A tobacco products wholesaler is a person, other than a licensed distributor, who sells tax-paid tobacco products for resale. Tobacco products wholesalers cannot purchase their products directly from an importer or manufacturer.

Manufacturer. A manufacturer is a person who manufactures cigarettes and/or tobacco products. There are some reporting requirements imposed on manufacturers and there are additional restrictions which carry potential tax consequences regarding product promotions and samples provided to recipients at no cost.

Importer. An importer is any purchaser who purchases for resale in the United States, cigarettes and/or tobacco products manufactured outside the United States for the purpose of making a first sale or distribution within the United States.

Are any transactions not subject to taxes?
The following sales and distributions of cigarettes and tobacco products are generally not subject to taxes although these transactions may be subject to reporting requirements.

• Sales of cigarettes or tobacco products by the original importer to a licensed distributor if the cigarettes or tobacco products are manufactured outside the United States (Revenue and Taxation Code (R&TC) § 30105);
• Sales of cigarettes or tobacco products by the manufacturer to a licensed distributor. (R&TC § 30103);

• Sales by a distributor to a common carrier engaged in interstate or foreign passenger service. (R&TC § 30104);

• Sales to United States military exchanges, commissaries, ship’s stores, or the Veteran’s Administration. (R&TC § 30102);

• Distributions of federally untaxed cigarettes or tobacco products that are under Internal Revenue bond or U.S. Customs control. (R&TC § 30102.5);

• An individual shipment of not more than 400 cigarettes personally transported into California. (R&TC § 30106);

• Sales and distributions of cigarettes and tobacco products that cannot be taxed by the state under the U.S. Constitution or federal law, or under the California Constitution or state law, such as shipments to purchasers in other states, territories, or foreign countries when the cigarette and tobacco products are not to be returned to California before use.

This list is not intended to be all-inclusive. Contact BOE for additional information.

What if consumers purchase cigarettes or tobacco products from outside of California?

If consumers purchase cigarettes or tobacco products for their own use from outside the state without paying California excise tax, they are required to report and pay the tax directly to the BOE. This includes products purchased through the mail, by telephone, or via the Internet, that are shipped into California.

Consumers also owe the taxes if they physically bring any quantity of tobacco products or more than 400 cigarettes, into California. These purchases are also subject to California use taxes. For information regarding California use tax, please visit [www.boe.ca.gov/sutax/sutprograms.htm#](http://www.boe.ca.gov/sutax/sutprograms.htm#).

Do distributors need approval before destroying cigarettes or tobacco products?

If you need to destroy unstamped packs of cigarettes or untaxed tobacco products, contact the BOE at 1-916-327-4208 prior to the destruction. If you do not have an authorized BOE employee witness the destruction of the unstamped cigarettes or untaxed tobacco products, you may be liable for any unpaid cigarette and tobacco products taxes. It is presumed that all cigarettes or tobacco products acquired by a distributor are unstamped cigarettes or tobacco products, and that all cigarettes or tobacco products manufactured in this state or transported to this state and no longer in the possession of the distributor have been distributed. (R&TC § 30109)

If you have stamped cigarettes which have become unfit for use, or unsalable that need to be returned to the manufacturer or destroyed, you must contact the BOE at 1-916-327-4208 prior to returning them to the manufacturer or destroying the stamped cigarettes in order to receive a refund of the taxes paid.

What are the PACT Act requirements?

The Prevent All Cigarette Trafficking (PACT) Act is federal law that amends the Jenkins Act. It revises provisions governing the collection of taxes and trafficking by requiring Internet and other remote sellers of cigarettes and smokeless tobacco products to comply with the same laws that apply to local cigarette and tobacco products sellers.

If you operate a business for profit that sells, transfers, ships, advertises, or offers for sale cigarettes or smokeless tobacco products through interstate commerce into California, or into Indian Country located within California’s borders, you must register with the BOE.

To register, download the Federal PACT Act form, ATF Form 5070.1, Prevent All Cigarettes Trafficking (PACT) Act Registration Form at [www.atf.gov/content/alcohol-and-tobacco](http://www.atf.gov/content/alcohol-and-tobacco). Mail the completed form to Special Taxes and Fees, MIC: 88, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0088.

You must also file monthly reports with the BOE and the California Attorney General, using the newly developed PACT Act forms. These monthly PACT Act forms include PA-1, State Cigarette PACT Act Report, and PA-2, State Tobacco PACT Act Report. To download a copy of the required report forms, please visit the Federation of Tax Administrators website at [www.taxadmin.org/fta/tobacco](http://www.taxadmin.org/fta/tobacco).

The monthly report forms contain detailed information on each shipment of cigarettes (PA-1) or smokeless tobacco products (PA-2) made during the previous calendar month into California or Indian Country, and are due before the 10th day of each month. You must file a report for each monthly reporting period regardless of whether you have transactions to report for that month. It is recommended that you submit the required reports electronically to [PACT.Act@boe.ca.gov](mailto:PACT.Act@boe.ca.gov). If you are unable to submit the reports electronically,
What are the requirements for delivery sellers (direct sales to consumers)?

A “delivery sale” is defined, in part, as any sale of cigarettes or smokeless tobacco (for example, chew or snuff) products sold by an out-of-state vendor to an in-state consumer. If you are a delivery seller, and plan to make delivery sales of cigarettes or smokeless tobacco products in California, you must apply for both a California Cigarette and Tobacco Products Retailer license and a California Cigarette and Tobacco Products Distributor license. A delivery seller must comply with all California laws regarding the sale of cigarettes and smokeless tobacco products into the state as if that seller is located in California.

If you have questions about registering pursuant to the PACT Act, or about cigarette or tobacco products taxes, please visit the BOE website at 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. Assistance is available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time) except state holidays.

Note: This publication summarizes the law and applicable regulations in effect when the publication was written. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.