

**DIVISION OF REVENUE**

**TECHNICAL INFORMATION MEMORANDUM 2017-4**

**DATE: 07/28/17**

**SUBJECT: CIGARETTE TAX INCREASE: FLOOR INVENTORY REQUIRED**

**FOR INFORMATION, CONTACT:**

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House Bill 242 of the 148th General Assembly, approved by Governor Carney on July 3, 2017 (81 Del. Laws, c. 55) revises Chapter 53 of Title 30 of the Delaware Code to provide for an increase to the existing cigarette tax setting the new tax rate at \$2.10 per pack of 20 cigarettes and \$2.63 per pack of 25 cigarettes.

This Act establishes the rate of tax due or payable on cigarettes sold on or after midnight August 31, 2017. This Act also provides that the new tax rate will apply to:

1. Cigarettes in the possession of any persons (generally wholesalers and affixing agents) who are liable for the payment of the tax as of midnight August 31, 2017, which as of that date have been affixed with any Delaware tobacco product tax stamp or other indicia of payment of the tax; and
2. Delaware tobacco tax stamps purchased on or before August 31, 2017, that have not yet been affixed to any cigarette pack.

The amount of the additional tax due is the difference between the new tax rate and the tax paid for the Delaware cigarette stamps in their possession whether or not affixed to packs of cigarettes.

Between noon local time and midnight August 31, 2017, all persons liable to pay the tax will be required to conduct a floor stock inventory of Delaware-stamped cigarettes and unaffixed Delaware tax stamps in their possession. For purposes of this Technical Information Memorandum, possession means cigarettes that are within the physical control of the wholesaler or affixing agent, including goods in transit where the title to such goods has not passed to the purchaser. The floor stock inventory requirement does not apply to retailers.

No later than September 1, 2017, all persons liable to pay the tax must report their inventory as of the close of business on August 31, 2017, via email or fax number listed above to the attention of Mr. Larry Brown, using the enclosed Form 1074M, Resident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps, or Form 1075M, Nonresident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps. The completed report shall include the number of Delaware-stamped packs of cigarettes and unaffixed Delaware tax stamps in their possession which are subject to the tax increase.

On or before December 31, 2017, all persons liable to pay the additional tax must submit payment for the tax increase reflected on their completed Form 1074M, Resident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps, or Form 1075M, Nonresident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps which has been previously submitted.

Please contact Larry Brown concerning the tax increase or the use of the reporting forms.

David M. Gregor  
Director of Revenue