

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

212

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Revenue (Agency or Board)

Regulation No. TAX-Cig 5,6,10 TAX-Tob Prod 41+52

Subject: Cigarette and tobacco Products tax Cigarette Stamps and Credit for tax Paid + Transfer of Cigars Within State

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

APR 1 1976

BY Edo Stunderman
AUTH. SIGNATURE

Stamped and filed with the Secretary of State 4-1-76 3:45PM 4:30P

Rev. 9-72

Gerald W. Pahl
Department of Revenue

April 5, 1976

- Tax-Cig 5, 6, 10, Tax-Tob Prod 41, 52

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

ORDER FOR HEARING

To effectively implement the provisions of Minnesota Statutes 1974, Chapter 297, as amended, the Minnesota Commissioner of Revenue deems it necessary to consider adoption of the proposed regulations captioned above pursuant to the authority vested in me by Minnesota Statutes 1974, Sections 297.10 and 297.38.

NOW, THEREFORE, IT IS ORDERED, this thirty-first day of December, 1975, that a public hearing on the proposed rules captioned above be held in the Centennial Office Building, Room 200, St. Paul, Minnesota, commencing at 10:30 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In The Matter of The Proposed Adoption of
Rules of The Department of Revenue Relating
To Cigarette and Tobacco Products Taxes

December 31, 1975

Diane E. DeNet

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In The Matter of The Proposed Adoption of)
Rules of The Department of Revenue Relating) TRANSCRIPT
To Cigarette and Tobacco Products Taxes)

The above-entitled matter came duly on for hearing on December 31, 1975, at 10:30 a.m. before Arthur C. Roemer, Commissioner of Revenue, in Room 200 of the Centennial Office Building, St. Paul, Minnesota.

APPEARANCES:

Arthur C. Roemer, Commissioner of Revenue

Gerald W. Pahl, Research Attorney

Howard Anderson, Director, Special Taxes Division

Howard Nustad, Tax Examiner V, Special Taxes Division

Everett R. Wilson, Jr., Brown & Williamson Tobacco Corporation

Lloyd C. Rutherford, Brown & Williamson Tobacco Corporation

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WHEREUPON, the following proceedings were had:

MR. ROEMER: The meeting will please come to order.

The purpose of this meeting today is to hold a public hearing pursuant to Minnesota Statutes 1974, Section 15.0412, as amended by Laws 1975, Chapter 380, for the purpose of affording the public an opportunity to express itself on the adoption of the proposed rules relating to cigarette and tobacco products taxes. This public hearing is held pursuant to the following Notice of Hearing, and I quote:

"Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 1974, Section 15.0412, Subd. 4, in the above-entitled matter, in Room 200, Centennial Office Building, St. Paul, Minnesota on December 31, 1975, commencing at 10:30 A.M., and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed regulations captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

A copy of the proposed rules is attached hereto."

I will now ask the reporter to mark this notice as Department of Revenue Exhibit "A," which will become a part of the record of this hearing.

The notice was mailed on December 1, 1975, to the accredited representatives of trade associations and other groups and individuals who registered their names with the Secretary of State as desiring to be notified of hearings of this kind in regard to tax matters, as shown by the latest list furnished by the Secretary of State. The mailing of these notices is evidenced by an Affidavit of Gerald Pahl, Research Attorney for the Department of Revenue.

I have here this Affidavit, that I will ask the reporter to mark as Exhibit "B," which will become a part of the record of this hearing.

I would like to remind you that under Minnesota Statutes, Section 10A.01, Subdivision 11 (1974), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence

administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at 410 State Office Building, St. Paul, Minnesota 55155.

After this hearing is concluded, any written material may be submitted up to twenty days after the hearing and will become a part of the record.

Before I hear any testimony from the public, I would like to ask Howard Anderson, Director of the Special Taxes Division, to state the reason that these rules are being proposed.

Mr. Anderson.

MR. ANDERSON: Thank you, Mr. Roemer.

The purpose of these proposed rule changes is twofold. The first is to make some basic housekeeping changes in the regulations as they now exist. You will notice that we have stricken the term "taxation" and replaced it with "revenue." This is in compliance with the name change enacted two years ago. We are also eliminating references to specific tax and discount rates where the amounts are set forth in the statute itself. This in no way affects these rates. It is merely being done only to preserve the regulations should any law change be made in these areas.

The second change gives the commissioner the option whether or not to witness the defacement of cigarette stamps and the destruction of unsalable stock. We are requesting this particular change for two reasons; first, to save our tax examiners' time and, consequently, the taxpayers' money. At

present over five percent of our time is spent in witnessing destruction and defacement. It is estimated that 80 percent of this time could be saved, which would amount to over $3,500 per year. The second reason is to eliminate the necessity for the wholesaler to hold the unsalable merchandise until a mutually convenient time can be found for both our agent and the manufacturer's agent to meet and make the necessary count. I cannot estimate the dollar savings to both the wholesaler and the cigarette companies, but I would expect it would be at least equal to the amount saved by the Tax Department.

The regulation was originally drafted to preserve the tax dollar through insuring adequate audit controls in the area of tax credits. We now feel that sufficient safeguards exist to permit allowance of these credits without the need for witnessing.

By use of the manufacturer's agents affidavit and the tobacco companies' credit memo, we will be able to issue a credit with confidence. Complete instructions will be sent to all affected wholesalers.

That's it.

MR. ROEMER: Now I'd like to open up the hearing to any comments that might be raised by non-Department people that are in attendance today. Is there any comment that any of you gentlemen have concerning the proposed regulations?

MR. RUTHERFORD: I don't have any questions on it at all, do you, Ev?

MR. WILSON: Will we still be inking out the cancellation of the stamps themselves?

MR. ANDERSON: No, that will not be necessary.

MR. WILSON: No, I think it's fine if we do have an option to take and pack and ship returns, you know, as needed.

MR. ANDERSON: The option to permit it rests with the Commissioner.

MR. RUTHERFORD: Yes. So, you're still notified first, and then we take over. Yes, I understand that. That's fine, fine.

MR. ROEMER: Any further comments from anybody, from any member of the public?

(No response.)

Any further comments from anyone on our staff?

MR. PAHL: Howard, has anyone submitted written briefs or comments to you prior to this hearing?

MR. ANDERSON: There have been no written comments received, no.

MR. NUSTAD: We have had a number of telephone calls asking for clarification of the proposed changes, and everyone that we talked to seems to have been satisfied that it was acceptable to them; consequently, they are not here today.

MR. ROEMER: I would like to reiterate again that any written material may be submitted up to 20 days after the date of this hearing and will be considered and made a part of the record of this hearing.

If there is no further testimony to be presented at the hearing today, the hearing will be concluded.

Thank you, very much.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Revenue Commissioner of the State of Minnesota on the 31st day of December, 1975, at 10:30 a.m. in the Centennial Office Building, Room 200, St. Paul, Minnesota, after proper notice required by M.S. 1974, Section 15.0412, Subdivision 4, as amended by Laws 1975, Chapter 380 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as rules of the Department of Revenue relating to cigarette and tobacco products taxes are adopted this third day of March, 1976, pursuant to authority vested in me by Minnesota Statutes, 1974, Sections 297.10 and 297.38.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE

Exhibit A

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 1974, Section 15.0412, Subd. 4, in the above-entitled matter, in Room 200, Centennial Office Building, St. Paul, Minnesota on December 31, 1975, commencing at 10:30 A.M., and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed regulations captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

A copy of the proposed rules is attached hereto.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer
COMMISSIONER OF REVENUE

Tax-Cig 10 Replacement of or Credit for Used Tax Stamps. Tax stamps which are affixed to packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, will be replaced by the Commissioner of ~~Taxation~~ Revenue, upon compliance by the distributor with the following conditions:

(a) The distributor shall make an application for replacement of the stamps, stating the brands and number of packages damaged or to be returned to the manufacturer, the cause and type of damage or reason for return to the manufacturer, and the kind, number and denomination of stamps affixed to said packages.

(b) Said packages shall be held by the distributor until an authorized agent or employee of the commissioner shall call upon him.

(c) As to the packages being returned to the manufacturer, the agent or employee of the commissioner may authorize defacement of the stamps affixed thereto, and said defacement shall be made under his supervision. He shall issue a certificate setting forth the kind, number and denomination of the stamps defaced, the brands and number of packages to be returned to the manufacturer and the name and address of the manufacturer. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner. If the distributor returns the packages directly to the manufacturer, he shall furnish the commissioner with a duplicate copy of the way bill or bill of lading of the packages returned. If the distributor delivers the packages to a local representative of the manufacturer for return,

PROPOSED REGULATIONS
DEPARTMENT OF REVENUE

Cigarette and Tobacco Products Tax

Tax-Cig 5 Cigarette Tax Stamps--Denomination, Purchase and Payment for. Tax stamps shall be purchased by the distributor only from the Commissioner of ~~Taxation~~ Revenue, Centennial Office Building, St. Paul, Minnesota, 55145. All purchases of stamps ~~of the 18¢ denomination~~ at the rate specified in section 297.02, subdivision 1, clause 1, shall be made in multiples of 100 stamps. Stamps of any other denomination may be purchased in any quantity. Requisition forms for the purchase of adhesive tax stamps shall be furnished upon request by the commissioner. Each requisition shall be accompanied by a remittance in full (less discount allowed under Section 297.03, Subd. 5) for the stamps requisitioned.

Mail orders for adhesive stamps will be accepted by the commissioner if the requisitions are prepared correctly and accompanied by proper remittance for the stamps requisitioned. In such case, the remittance must also include first class postage and registry fee. If requested, orders for stamps will be forwarded by express collect.

Tax-Cig 6 Discount on Cigarette Stamp. ~~Discounts on cigarette tax stamp purchases shall be 2 1/2% of the first $500,000 of such stamps purchased in any fiscal year which commences on July 1, 2% on the next $500,000 purchased, and 1 1/2% for all additional purchases in such fiscal year.~~ The discount on cigarette stamp purchases shall be at the rate specified in section 297.03, subdivision 5.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

~~20-percent-of-the-wholesale-sales-price~~ A tax at the rate specified in section 297.32, subdivision 1, shall be imposed upon all tobacco products in this state to be paid as provided in Sections 297.31 to 297.39 by any person engaged in business as a distributor thereof. Such tax shall be imposed at the time the distributor

(a) brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) makes, manufactures or fabricates tobacco products in this state for sale in this state; or

(c) ships or transports tobacco products to retailers in this state, to be sold by those retailers. The liability for the tax accrues at the time of receipt of tobacco products in this state by a distributor. A subsequent transfer from the original distributor to another distributor within this state does not relieve the original distributor from the tax liability. Therefore, no tax credit can be taken on tobacco tax returns for any transfers made within the state.

Tax-Tob Prod 52 Credit for Tax Paid on Tobacco Products. Credits will be allowed for tax paid on tobacco products under the following conditions:

(a) Sales.

(1) Sales of tobacco products to retailers located outside the State to be sold by those retailers. All such sales shall be listed on prescribed Form No. CT-301C, Schedule C, showing date and number of invoice, name and address of retailer and the manufacturer's wholesale

he shall furnish the commissioner with the representative's receipt for the packages, and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the packages by the manufacturer.

(d) As to the packages which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize the destruction of both the packages and their contents and the stamps affixed thereto. Such destruction shall take place in his presence and he shall issue a certificate setting forth the kind, number and denomination of the stamps, the brands and number of packages of cigarettes destroyed and the facts of destruction. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

After compliance with the above conditions, replacement of the stamps defaced or destroyed will be made.

Where the stamps affixed to the packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, consist of imprints made by tax meter machines, credit will be allowed for all such imprints if the distributor complies with the foregoing conditions.

(e) If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Chapter 297, he may waive any of the requirements of this regulation.

Tax-Tob Prod 41 Transfers of Cigars or Other Tobacco Products Within the State. ~~Section 297.32, Subd. 1, provides that a tax at the rate of~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

If the distributor returns the tobacco products directly to the manufacturer he shall furnish the commissioner with a duplicate copy of the way bill or bill of lading of the tobacco products returned, If the distributor delivers the tobacco products to a local representative of the manufacturer for return, he shall furnish the commissioner with the representative's receipt for the tobacco products and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the merchandise by the manufacturer.

(c) Destruction of tobacco products. As to tobacco products which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize destruction of same. Such destruction shall take place in his presence and he shall issue a certificate signed by the distributor and the agent or employee of the commissioner setting forth the type of tobacco products, brand name and quantities destroyed, facts of destruction and the manufacturer's wholesale sales price. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

(d) If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Chapter 297, he may waive any of the requirements of this regulation.

sales price unless permission is granted by the Commissioner of ~~Taxation~~ Revenue to furnish the information in some other manner.

(2) Sales to consumers located without the state, to be consumed without the state. All such sales shall be listed on prescribed Form No. CT-301C, Schedule C, showing the date of sale, invoice number, name and address of the consumer and the manufacturer's wholesale sales price of the tobacco products sold unless permission is granted by the Commissioner of ~~Taxation~~ Revenue to furnish the information in some other manner.

A credit will not be allowed under any circumstances for a sale consummated or made in this state to consumers for consumption without this state nor shall such sales be listed on Form No. CT-301C.

(3) Sales to subjobbers without the state. All sales of tobacco products to subjobbers located without the state for resale outside the state shall be listed on prescribed Form No. CT-301C, Schedule C, showing the date of sale, invoice number, name and address of the subjobber and the manufacturer's wholesale sales price of the tobacco products sold. The distributor shall furnish the Commissioner of ~~Taxation~~ Revenue with a duplicate copy of the way bill or bill of lading of the tobacco products shipped to subjobbers outside the state.

(b) Return of tobacco products to the manufacturer by the distributor. All such returns of tobacco products shall be listed on the prescribed Form No. CT-301B, Schedule B, showing date and number of credit memo or bill of lading number, the name and address of the manufacturer to whom shipped and the manufacturer's wholesale sales price.

Exhibit A

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 1974, Section 15.0412, Subd. 4, in the above-entitled matter, in Room 200, Centennial Office Building, St. Paul, Minnesota on December 31, 1975, commencing at 10:30 A.M., and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed regulations captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

A copy of the proposed rules is attached hereto.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer
COMMISSIONER OF REVENUE

Tax-Cig 10 Replacement of or Credit for Used Tax Stamps. Tax stamps which are affixed to packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, will be replaced by the Commissioner of ~~Taxation~~ Revenue, upon compliance by the distributor with the following conditions:

(a) The distributor shall make an application for replacement of the stamps, stating the brands and number of packages damaged or to be returned to the manufacturer, the cause and type of damage or reason for return to the manufacturer, and the kind, number and denomination of stamps affixed to said packages.

(b) Said packages shall be held by the distributor until an authorized agent or employee of the commissioner shall call upon him.

(c) As to the packages being returned to the manufacturer, the agent or employee of the commissioner may authorize defacement of the stamps affixed thereto, and said defacement shall be made under his supervision. He shall issue a certificate setting forth the kind, number and denomination of the stamps defaced, the brands and number of packages to be returned to the manufacturer and the name and address of the manufacturer. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner. If the distributor returns the packages directly to the manufacturer, he shall furnish the commissioner with a duplicate copy of the way bill or bill of lading of the packages returned. If the distributor delivers the packages to a local representative of the manufacturer for return,

PROPOSED REGULATIONS
DEPARTMENT OF REVENUE

Cigarette and Tobacco Products Tax

Tax-Cig 5 Cigarette Tax Stamps--Denomination, Purchase and Payment for. Tax stamps shall be purchased by the distributor only from the Commissioner of ~~Taxation~~ Revenue, Centennial Office Building, St. Paul, Minnesota, 55145. All purchases of stamps ~~of the 18¢ denomination~~ at the rate specified in section 297.02, subdivision 1, clause 1, shall be made in multiples of 100 stamps. Stamps of any other denomination may be purchased in any quantity. Requisition forms for the purchase of adhesive tax stamps shall be furnished upon request by the commissioner. Each requisition shall be accompanied by a remittance in full (less discount allowed under Section 297.03, Subd. 5) for the stamps requisitioned.

Mail orders for adhesive stamps will be accepted by the commissioner if the requisitions are prepared correctly and accompanied by proper remittance for the stamps requisitioned. In such case, the remittance must also include first class postage and registry fee. If requested, orders for stamps will be forwarded by express collect.

Tax-Cig 6 Discount on Cigarette Stamp. ~~Discounts on cigarette tax stamp purchases shall be 2 1/2% of the first $500,000 of such stamps purchased in any fiscal year which commences on July 1, 2% on the next $500,000 purchased, and 1 1/2% for all additional purchases in such fiscal year.~~ The discount on cigarette stamp purchases shall be at the rate specified in section 297.03, subdivision 5.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

~~20-percent-of-the-wholesale-sales-price~~ A tax at the rate specified in section 297.32, subdivision 1, shall be imposed upon all tobacco products in this state to be paid as provided in Sections 297.31 to 297.39 by any person engaged in business as a distributor thereof. Such tax shall be imposed at the time the distributor

(a) brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) makes, manufactures or fabricates tobacco products in this state for sale in this state; or

(c) ships or transports tobacco products to retailers in this state, to be sold by those retailers. The liability for the tax accrues at the time of receipt of tobacco products in this state by a distributor. A subsequent transfer from the original distributor to another distributor within this state does not relieve the original distributor from the tax liability. Therefore, no tax credit can be taken on tobacco tax returns for any transfers made within the state.

Tax-Tob Prod 52 Credit for Tax Paid on Tobacco Products. Credits will be allowed for tax paid on tobacco products under the following conditions:

(a) Sales.

(1) Sales of tobacco products to retailers located outside the State to be sold by those retailers. All such sales shall be listed on prescribed Form No. CT-301C, Schedule C, showing date and number of invoice, name and address of retailer and the manufacturer's wholesale

he shall furnish the commissioner with the representative's receipt for the packages, and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the packages by the manufacturer.

(d) As to the packages which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize the destruction of both the packages and their contents and the stamps affixed thereto. Such destruction shall take place in his presence and he shall issue a certificate setting forth the kind, number and denomination of the stamps, the brands and number of packages of cigarettes destroyed and the facts of destruction. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

After compliance with the above conditions, replacement of the stamps defaced or destroyed will be made.

Where the stamps affixed to the packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, consist of imprints made by tax meter machines, credit will be allowed for all such imprints if the distributor complies with the foregoing conditions.

(e) If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Chapter 297, he may waive any of the requirements of this regulation.

Tax-Tob Prod 41 Transfers of Cigars or Other Tobacco Products Within the State. ~~Section 297.32, Subd. 1, provides that a tax at the rate of~~

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sales price unless permission is granted by the Commissioner of ~~Taxation~~ Revenue to furnish the information in some other manner.

(2) Sales to consumers located without the state, to be consumed without the state. All such sales shall be listed on prescribed Form No. CT-301C, Schedule C, showing the date of sale, invoice number, name and address of the consumer and the manufacturer's wholesale sales price of the tobacco products sold unless permission is granted by the Commissioner of ~~Taxation~~ Revenue to furnish the information in some other manner.

A credit will not be allowed under any circumstances for a sale consummated or made in this state to consumers for consumption without this state nor shall such sales be listed on Form No. CT-301C.

(3) Sales to subjobbers without the state. All sales of tobacco products to subjobbers located without the state for resale outside the state shall be listed on prescribed Form No. CT-301C, Schedule C, showing the date of sale, invoice number, name and address of the subjobber and the manufacturer's wholesale sales price of the tobacco products sold. The distributor shall furnish the Commissioner of ~~Taxation~~ Revenue with a duplicate copy of the way bill or bill of lading of the tobacco products shipped to subjobbers outside the state.

(b) Return of tobacco products to the manufacturer by the distributor. All such returns of tobacco products shall be listed on the prescribed Form No. CT-301B, Schedule B, showing date and number of credit memo or bill of lading number, the name and address of the manufacturer to whom shipped and the manufacturer's wholesale sales price.

If the distributor returns the tobacco products directly to the manufacturer he shall furnish the commissioner with a duplicate copy of the way bill or bill of lading of the tobacco products returned, If the distributor delivers the tobacco products to a local representative of the manufacturer for return, he shall furnish the commissioner with the representative's receipt for the tobacco products and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the merchandise by the manufacturer.

(c) Destruction of tobacco products. As to tobacco products which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize destruction of same. Such destruction shall take place in his presence and he shall issue a certificate signed by the distributor and the agent or employee of the commissioner setting forth the type of tobacco products, brand name and quantities destroyed, facts of destruction and the manufacturer's wholesale sales price. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

(d) If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Chapter 297, he may waive any of the requirements of this regulation.

Exhibit B

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption
of Rules of the Department of Revenue
Relating to Cigarette and Tobacco
Products Taxes

AFFIDAVIT OF MAILING

Gerald W. Pahl, being first duly sworn on oath says; that he now is and at all times material hereto, was the Research Attorney of the Department of Revenue of the State of Minnesota; that on December 1, 1975, he did cause the attached notice to be mailed through the United States mails to all of the individuals or associations who are registered with the Secretary of State as desiring to be notified of hearings concerning tax matters by placing a copy of said notice in an envelope addressed to said individuals or associations at the address furnished by the Secretary of State and placing said envelope in the United States mails with adequate postage thereon.

Gerald W. Pahl

Subscribed and sworn to before me
this 31st day of December, 1975.

Katherine J. Zimmerman
Notary Public

KATHERINE J. ZIMMERMAN
Notary Public, Ramsey County, Minn.
MY COMMISSION EXPIRES
April 25, 1978

AFFIDAVIT

Gerald W. Pahl, being duly sworn on oath deposes and says:

1) That he is an employee of the Department of Revenue of the State of Minnesota.

2) That on the first day of December, 1975, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the first day of December, 1975, in response to the above request, the Secretary of State provided him with such a list, consisting of 443 mailing labels and one sheet of names.

Further affiant sayeth not.

Gerald W Pahl

Subscribed and sworn to before me
this 31st day of December, 1975.

Katherine J Zimmerman
Notary Public

KATHERINE J. ZIMMERMAN
Notary Public, Ramsey County, Minn.
MY COMMISSION EXPIRES
April 26, 1978

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

CERTIFICATE

I hereby certify that the attached 443 LABELS and 1 SHEET constitutes the complete list of persons, associations, and other interested groups who as of 12:20 o'clock P .M., this 1st day of December, 1975, have requested pursuant to M.S. 1974, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State
JOAN GROWE

By Virginia Daniels

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

STATEMENT OF NEED

The above-captioned rules are amendments to existing rules and regulations relating to Cigarette and Tobacco Products Taxes revised by the Department of Revenue. The last time the above-captioned rules were amended was August 31, 1972.

The need to adopt these rules arises because under the current rules the procedures that relate to defacement of cigarette stamps and destruction of unsalable stock are inconvenient and costly. The proposed rules provide for efficient administration at less cost.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, C. H. Luther, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

C. H. Luther

C. H. LUTHER
Deputy Attorney General
Department of Revenue
State of Minnesota

Dated: March 3, 1976

REGULATIONS
AS ADOPTED

DEPARTMENT OF REVENUE

Cigarette and Tobacco Products Tax

Tax-Cig 5 Cigarette Tax Stamps--Denomination, Purchase and Payment for. Tax stamps shall be purchased by the distributor only from the Commissioner of ~~Taxation~~ Revenue, Centennial Office Building, St. Paul, Minnesota, 55145. All purchases of stamps ~~of-the-100-denomination~~ at the rate specified in section 297.02, subdivision 1, clause 1, shall be made in multiples of 100 stamps. Stamps of any other denomination may be purchased in any quantity. Requisition forms for the purchase of adhesive tax stamps shall be furnished upon request by the commissioner. Each requisition shall be accompanied by a remittance in full (less discount allowed under Section 297.03, Subd. 5) for the stamps requisitioned.

Mail orders for adhesive stamps will be accepted by the commissioner if the requisitions are prepared correctly and accompanied by proper remittance for the stamps requisitioned. In such case, the remittance must also include first class postage and registry fee. If requested, orders for stamps will be forwarded by express collect.

Tax-Cig 6 Discount on Cigarette Stamp. ~~Discounts-on-cigarette-tax stamp-purchases-shall-be-2-1/2%-of-the-first-$500,000-of-such-stamps purchased-in-any-fiscal-year-which-commences-on-July-1,-2%-on-the-next $500,000-purchased,-and-1-1/2%-for-all-additional-purchases-in-such fiscal-year.~~ The discount on cigarette stamp purchases shall be at the rate specified in section 297.03, subdivision 5.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Tax-Cig 10 Replacement of or Credit for Used Tax Stamps. Tax stamps which are affixed to packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, will be replaced by the Commissioner of ~~Taxation~~ Revenue, upon compliance by the distributor with the following conditions:

(a) The distributor shall make an application for replacement of the stamps, stating the brands and number of packages damaged or to be returned to the manufacturer, the cause and type of damage or reason for return to the manufacturer, and the kind, number and denomination of stamps affixed to said packages.

(b) Said packages shall be held by the distributor until an authorized agent or employee of the commissioner shall call upon him.

(c) As to the packages being returned to the manufacturer, the agent or employee of the commissioner may authorize defacement of the stamps affixed thereto, and said defacement shall be made under his supervision. He shall issue a certificate setting forth the kind, number and denomination of the stamps defaced, the brands and number of packages to be returned to the manufacturer and the name and address of the manufacturer. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner. If the distributor returns the packages directly to the manufacturer, he shall furnish the commissioner with a duplicate copy of the way bill or bill of lading of the packages returned. If the distributor delivers the packages to a local representative of the manufacturer for return,

he shall furnish the commissioner with the representative's receipt for the packages, and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the packages by the manufacturer.

(d) As to the packages which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize the destruction of both the packages and their contents and the stamps affixed thereto. Such destruction shall take place in his presence and he shall issue a certificate setting forth the kind, number and denomination of the stamps, the brands and number of packages of cigarettes destroyed and the facts of destruction. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

After compliance with the above conditions, replacement of the stamps defaced or destroyed will be made.

Where the stamps affixed to the packages being returned to the manufacturer, or affixed to packages which, or the contents of which, have become damaged and unfit for sale, consist of imprints made by tax meter machines, credit will be allowed for all such imprints if the distributor complies with the foregoing conditions.

(e) If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Chapter 297, he may waive any of the requirements of this regulation.

Tax-Tob Prod 41 Transfers of Cigars or Other Tobacco Products Within the State. ~~Section 297.32, Subd. 1, provides that a tax at the rate of~~

~~20-percent-of-the-wholesale-sales-price~~ A tax at the rate specified in section 297.32, subdivision 1, shall be imposed upon all tobacco products in this state to be paid as provided in Sections 297.31 to 297.39 by any person engaged in business as a distributor thereof. Such tax shall be imposed at the time the distributor

(a) brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) makes, manufacutres or fabricates tobacco products in this state for sale in this state; or

(c) ships or transports tobacco products to retailers in this state, to be sold by those retailers. The liability for the tax accrues at the time of receipt of tobacco products in this state by a distributor. A subsequent transfer from the original distributor to another distributor within this state does not relieve the original distributor from the tax liability. Therefore, no tax credit can be taken on tobacco tax returns for any transfers made within the state.

Tax-Tob Prod 52 Credit for Tax Paid on Tobacco Products. Credits will be allowed for tax paid on tobacco products under the following conditions:

(a) Sales.

(1) Sales of tobacco products to retailers located outside the State to be sold by those retailers. All such sales shall be listed on prescribed Form No. CT-301C, Schedule C, showing date and number of invoice, name and address of retailer and the manufacturer's wholesale

sales price unless permission is granted by the Commissioner of ~~Taxation~~ Revenue to furnish the information in some other manner.

(2) Sales to consumers located without the state, to be consumed without the state. All such sales shall be listed on prescribed Form No. CT-301C, Schedule C, showing the date of sale, invoice number, name and address of the consumer and the manufacturer's wholesale sales price of the tobacco products sold unless permission is granted by the Commissioner of ~~Taxation~~ Revenue to furnish the information in some other manner.

A credit will not be allowed under any circumstances for a sale consummated or made in this state to consumers for consumption without this state nor shall such sales be listed on Form No. CT-301C.

(3) Sales to subjobbers without the state. All sales of tobacco products to subjobbers located without the state for resale outside the state shall be listed on prescribed Form No. CT-301C, Schedule C, showing the date of sale, invoice number, name and address of the subjobber and the manufacturer's wholesale sales price of the tobacco products sold. The distributor shall furnish the Commissioner of ~~Taxation~~ Revenue with a duplicate copy of the way bill or bill of lading of the tobacco products shipped to subjobbers outside the state.

(b) Return of tobacco products to the manufacturer by the distributor. All such returns of tobacco products shall be listed on the prescribed Form No. CT-301B, Schedule B, showing date and number of credit memo or bill of lading number, the name and address fo the manufacturer to whom shipped and the manufacturer's wholesale sales price.

If the distributor returns the tobacco products directly to the manufacturer he shall furnish the commissioner with a duplicate copy of the way bill or bill of lading of the tobacco products returned, If the distributor delivers the tobacco products to a local representative of the manufacturer for return, he shall furnish the commissioner with the representative's receipt for the tobacco products and also a certified copy of the manufacturer's credit memorandum to the distributor evidencing receipt of the merchandise by the manufacturer.

(c) Destruction of tobacco products. As to tobacco products which have become damaged and unfit for sale, the agent or employee of the commissioner may authorize destruction of same. Such destruction shall take place in his presence and he shall issue a certificate signed by the distributor and the agent or employee of the commissioner setting forth the type of tobacco products, brand name and quantities destroyed, facts of destruction and the manufacturer's wholesale sales price. A copy of the certificate shall be furnished to the distributor and the original shall be filed with the commissioner.

(d) If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to insure full compliance with the provisions of Chapter 297, he may waive any of the requirements of this regulation.

APPROVED AS TO FORM AND LEGALITY
Apr 1 1976 19
WARREN S ANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR1 - 1976 - 3:45 pm
Joan Anderson Growe
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
APR 1 1976
BY Eda Staudenmayer
AUTH. SIGNATURE
4:30 PM

Changes or additions are indicated by underline, deletions by strikeout.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Relating to Cigarette and Tobacco Products Taxes

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Commissioner of Revenue of the State of Minnesota on the 31st day of December, 1975, at 10:30 a.m. in Room 200, Centennial Office Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes 1974, Section 15.0412, as amended, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. Under present rules distributors may not dispose of damaged or unsalable cigarettes and other tobacco products or the stamps affixed thereto except in the presence of an agent or employee of the Department of Revenue.

2. Of the time spent by the Department of Revenue to administer Minnesota Statutes, Chapter 297, five percent of that time is devoted to functions described in paragraph 1.

3. The adoption of the proposed regulations would make tax examiners' time valued at $3500 per year available for more productive administration.

4. Distributors of cigarettes and tobacco products maintain extensive business records which adequately insure verification by the Department of Revenue that proper payment of tax due is made.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE