

FREQUENTLY ASKED QUESTIONS RELATED TO ACT 2014-262

Invoices (General)

WHAT TOBACCO PRODUCTS SHOULD BE SHOWN OR INCLUDED ON THE INVOICE USED TO DISTRIBUTE TOBACCO PRODUCTS? Section 40-25-2, Code of Alabama 1975, (<http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm>) applies to all tobacco products including cigarettes, rolling papers and other tobacco products (OTP).

WHAT TAX NEEDS TO BE LISTED ON THE INVOICES? State and state-administered county tobacco taxes must be separately stated by line item on the invoice. Non-state jurisdictions' invoice requirements for listing taxes are at the discretion of the jurisdiction.

IS THE COUNTY NAME REQUIRED TO BE LISTED ON THE INVOICE? Yes. The county name is required to be listed on the invoice.

CAN WE SHOW THE ALABAMA STATE TAX SEPARATELY AND MERGE THE CITY AND COUNTY TAX WITH THE PRICE OF THE TOBACCO ITEMS? No. The taxes cannot be merged. Invoices must state the tobacco tax separately from the price of the tobacco products. State-administered county taxes are subject to state law. Additionally, counties have this same provision in their Acts. It is recommended that the city/municipal tax also be separated.

CAN THE TAX BE INCLUDED IN THE SALES PRICE AND TOTAL TAX ON THE BOTTOM OF THE RECEIPT? No. State and state-administered county tobacco taxes must be separately stated by line item on the invoice. Non-state jurisdictions' invoice requirements for listing taxes are at the discretion of the jurisdiction.

ARE RETAILERS/SEMIJOBBER ALLOWED TO PUT A GENERAL STATEMENT ON THEIR RECEIPT NOTATING THAT THE TAX HAS BEEN PAID INSTEAD OF BREAKING OUT THE TAX? No. Retailers will need an invoice showing the tax breakout; otherwise, their tobacco products will be subject to confiscation.

IF WE RECEIVED TAX PAID PRODUCTS FROM A PERMITTED WHOLESALER AND THEN SELL THE PRODUCTS TO A RETAILER FOR RESALE ARE WE REQUIRED TO SEPARATE THE TAXES ON THE RECEIPT OR INVOICE TO THE RETAILER? Yes. Tobacco sales for resale made to your retail customers must show on the invoice the state and state-administered county tobacco tax separately from the price of the tobacco. This invoice will be used by the Department of Revenue to substantiate tax payment. If the invoice does not separately show the tax from the price of the tobacco products, the retail customer's tobacco products shall be subject to confiscation.

AS A RETAILER, CAN WE ACCEPT HANDWRITTEN TOBACCO INVOICES? Wholesaler tobacco invoices must be computer or machine generated and the seller's/supplier's name must be on the invoice. Handwritten tobacco invoices may not be considered legitimate documentation to substantiate proof of sale. Failure to acquire appropriate tobacco invoices, substantiate tax

payment or retain invoices as required may result in confiscation of the products and a penalty of not less than \$500 nor more than \$1,000 to be multiplied by the number of violations.

DUPLICATE INVOICES

WHAT IS THE DUPLICATE INVOICE REQUIREMENT RELATED TO THE IMPORT OF TOBACCO PRODUCTS? Retailers and semijobbers that import tobacco products into the State must electronically provide the Department with a duplicate invoice of the purchase within 12 business hours of receiving the tobacco products. The invoice must show who tobacco products were received from, kinds and quantities of tobacco.

HOW MUCH TIME DOES A BUSINESS HAVE TO SUPPLY THE DUPLICATE INVOICES TO THE ADOR? Retail dealers and semijobbers purchasing or receiving tobacco from outside the State are allowed to provide, within 12 **business** hours of receipt, a duplicate invoice of all purchases or receipts electronically to the Alabama Department of Revenue via email.

HOW WILL THE 12 BUSINESS HOURS WORK? Business hours are considered to be 8 a.m. until 5 p.m., excluding weekends and holidays. For example, if product is received at 3 p.m. on Monday, the business would have until 10 a.m. on Wednesday to file the duplicate invoice. If product was received at 3 p.m. on Friday and Monday was a holiday, the duplicate invoice should be received by 10 a.m. the following Wednesday.

MY SUPPLIER DOES NOT ALWAYS INCLUDE AN INVOICE WITH THE SHIPMENT. ARE THERE ANY OTHER DOCUMENTS THAT WILL BE ACCEPTED IN LIEU OF THE INVOICE? If the invoice is not available, ADOR will accept a packing slip, bill of lading or similar documents until such time as the invoice becomes available. The document provided must show from whom tobacco products were received, kinds and quantities of tobacco.

AS A RETAILER, IF WE RECEIVE TOBACCO PRODUCTS FROM A PERMITTED WHOLESALER LOCATED OUTSIDE OF ALABAMA ARE WE REQUIRED TO SUBMIT DUPLICATE INVOICES? No. It is not the intent of the duplicate invoice provision to require Alabama retailers to report invoices when they purchase tobacco products directly from a wholesaler who has obtained a permit from the Department and that wholesaler delivers the product to the retailer. However, if the retailer or semijobber imports tobacco products that are untaxed, the retailer or semijobber is required to register with the Department to file and pay the appropriate tobacco taxes. Failure to furnish the duplicate invoice may subject the retail dealer or semijobber to a Department imposed penalty of not less than \$1,000 nor more than \$5,000, to be multiplied by the sum of the current violation plus prior violations. Additionally, said tobacco products will be considered contraband and subject to confiscation and destruction.

DOES THE 12 HOUR LIMITATION APPLY ONLY TO PRODUCT ORDERED DIRECTLY FROM OUT OF THE COUNTRY OR TO ALL PRODUCTS THAT COME INTO STORES? The law requires that

retailers and semijobbers provide invoices of all purchases or receipts from outside the State. The provision is not limited to products purchased or received from outside the country.

I RUN A SMALL BUSINESS WITH A SMALL STAFF AND MAY NOT BE ABLE TO PROVIDE THE STATE WITH DUPLICATE INVOICES WITHIN 12 HOURS. WILL I BE PENALIZED? Tobacco products imported by retail dealers and semijobbers in which a true and duplicate invoice has not been received by the Department are considered contraband and subject to confiscation as provided for in Title 40, Chapter 25. According to the statute the business may be subject to a penalty. The circumstances surrounding the event will be evaluated prior to imposing any penalties.

WHAT DATE SHOULD I START SUBMITTING INVOICES? The effective date of Act 2014-262 is October 1, 2014. Therefore, invoices for any tobacco products received from that date forward must be submitted to the Department.

WHERE DO I SUBMIT MY INVOICES? Invoices should be scanned, attached to an email and forwarded to the following email address: Tobacco.Account@Revenue.Alabama.gov.

MAY I SUBMIT MULTIPLE INVOICES AT ONE TIME? Multiple invoices may be submitted in the same email. Please include the wording Duplicate Invoice, your company name and account number, if applicable, in the subject line. For example, "Duplicate Invoice - XYZ Company – R0000004567"

I AM A TOBACCO WHOLESALER; MAY I SUBMIT INVOICES ON BEHALF OF MY CUSTOMERS? Duplicate invoices are not required to be submitted electronically for tobacco products received from a permitted wholesaler where the product is delivered directly to the retailer in Alabama.

WHAT ARE THE PENALTIES IF I AM LATE OR FORGET TO SUBMIT THE INVOICES? Penalties are assessed on an individual basis depending upon the situation. In general, failure or refusal to submit true duplicate invoices for imports of tobacco purchases, as required, may subject the retail dealer or semijobber to a Department imposed penalty of not less the one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), to be multiplied by the sum of current violation plus prior violations. The products would also be considered contraband and subject to confiscation and destruction.

ARE ALL INVOICES REQUIRED TO BE SUBMITTED TO THE EMAIL ADDRESS? Invoices for tobacco purchases from Alabama permitted wholesalers in which the permitted wholesaler delivers the tobacco products are not required to have the invoices electronically submitted to the department. These sales must be included on the monthly reports filed with the Department by the permitted wholesaler.

HOW DO I KNOW IF MY SUPPLIER IS PERMITTED OR REGISTERED WITH ADOR? A list of Permitted/Registered tobacco dealers is available on the Department's website at <http://revenue.alabama.gov/tobaccotax/>. This link takes you to the My Alabama Taxes (MAT) homepage. No sign-in is needed. To view the listings, choose "I want to...View/Upload a Report" to the left of the login box.)

AM I REQUIRED TO KEEP COPIES OF THE INVOICES AFTER SUBMITTING THEM TO THE EMAIL ADDRESS? Retailers are required to keep tobacco purchase invoices at the retail location for a period of 90 days. The invoices from the seller must be computer or machine generated. Invoices that do not meet this requirement may result in penalties being imposed. After 90 days the invoices are to be kept with other business records for a minimum of 3 years.

FLOOR STOCK

WILL THE CHANGE IN THE TOBACCO TAX PROVISIONS CREATE A FLOOR STOCK TAX? IF NOT, WHEN WILL THE INCREASED TAX AMOUNT BECOME EFFECTIVE? No. Floor stock will not be impacted by the amended tobacco tax provisions. The revision in tax basis for filtered cigars and regular cigars becomes effective October 1, 2014.

SALES FOR RESALE REPORT

WHO IS REQUIRED TO FILE THE TOBACCO SALES FOR RESALE REPORT? Pursuant to Act No.

Section 40-25-16.1, Code of Alabama 1975, each wholesaler, jobber, semijobber, registered retailer, importer or any other person selling, receiving, or distributing tobacco products in this state for resale is required to file a monthly report of activity with the Alabama Department of Revenue. Note: Retailers selling directly to the end-user of the tobacco products are not required to file this report.

WHEN IS THE REPORT DUE? The report shall be due no later than the twentieth of the each month for the preceding calendar month's sales for resale activity. The first report is due November 20, 2014 for October 2014 activity.

WHAT INFORMATION IS REQUIRED ON THE REPORT? The report shall include, but not limited to:

- (a) The customer's name.
- (b) Address.
- (c) Invoice number.
- (d) Invoice date.

(e) A detailed description of the tobacco products including brand name and type tobacco product

(f) The itemized tax.

ARE THERE ANY PENALTIES ASSOCIATED WITH THE REPORT? Persons who fail to timely file the report, as required, may be subject to penalties per Title 40, Chapter 2A.