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Commissioner

State of Alabama Department of Revenue

(www.revenue.alabama.gov)
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April 23, 2014

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NOTICE

TO: All Tobacco Distributors

SUBJECT: Act 2014-262

On April 2, 2014, Governor Robert Bentley signed into law Act No. 2014-262 which becomes effective October 1, 2014. The Act amends the tobacco tax laws in Title 40, Chapter 25, Code of Alabama 1975. It further defines a *wholesale dealer and jobber* as entities that buy tobacco products direct from the manufacturer or an affiliate of the manufacturer and sell tobacco products at wholesale only to licensed wholesale dealers, jobbers, semijobbers, and retail dealers for the purpose of resale only. It defines *semijobber* as an entity that buys tobacco products from permitted wholesalers or obtain tobacco from other sources and sell at wholesale to licensed retail dealers for the purpose of resale only. It defines *cigars, cheroots, stogies, etc.* as a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco or any substitute therefore, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in part of tobacco.

The Act separates little cigars from certain filtered cigars and eliminates the retail selling price requirement on cigars. Filtered cigars are defined as cigars that have a cellulose acetate or similar integrated filter, made of tobacco, or any substitute therefor.

- Filtered cigars weighing 3 pounds or less per thousand will be taxed at the little cigar rate which is \$0.04 per ten cigars or fractional part thereof.
- Filtered cigars weighing more than 3 pounds per thousand will be taxed at a rate of \$0.015 per filtered cigar.
- All other cigars will be taxed at a rate of \$40.50 per thousand cigars or \$0.0405 per cigar.
- My Alabama Taxes (MAT) will be updated to accommodate filing and payment of the new filtered cigar categories.

The Act has the following additional requirements and changes as it relates to wholesalers, retailers, and semijobbers:

- Wholesaler invoices must show the State tobacco tax separately, per each line item, from the price of the tobacco products.
- Wholesaler invoices must be computer or machine generated and the seller's/supplier's name must be on the invoice. Handwritten invoices may not be considered legitimate documentation to substantiate proof of sale.

- Retail dealers and semijobbers purchasing or receiving tobacco from outside the State are required to provide, within 12 hours of receipt, a duplicate invoice of all purchases or receipts electronically to the Alabama Department of Revenue via email. The invoice must show who tobacco products were received from, kinds and quantities of tobacco. 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.
- Tobacco products imported into the State by retail dealers or semijobbers in which a duplicate invoice has not been received by the Department will be considered contraband and subject to confiscation and destruction.
- Any tobacco products possessed by retailers or semijobbers which do not have the appropriate tax stamp(s) affixed, or, in the case of products not requiring a stamp to be affixed where purchase invoices do not itemize the applicable tobacco taxes (OTP), will be contraband and subject to confiscation and destruction.
- Any untaxed tobacco products found anywhere within the State other than the primary location of the permitted wholesaler or jobber, registered semijobber, registered retailer or at the bonded warehouse of a tobacco products manufacturer will be considered contraband and may be seized by the Department, or any peace officer, for destruction. Any vehicle used for the purpose of transporting untaxed tobacco products is subject to confiscation and may be sold at public auction to the highest bidder after due advertisement and notice to the title owner of the vehicle.
- Retailers must receive, examine and keep purchase invoices for a period of 90 days at the retail location and then maintain them with required books and records. Retailer's invoices from the seller must be computer or machine generated. Failure to acquire appropriate 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.
- Wholesalers, jobbers, semijobbers, retailers, importers or any other person selling, receiving, or distributing tobacco products in this State *for resale* shall file a report of its sales for resale activity with the Department. The report will be due by the 20th of the month following the month of activity. The Department will create a form to report this information which will be filed via MAT. The first report will be due by November 20, 2014.
- A listing of permitted and registered tobacco distributors will be made available on the Department's website.

Note: Please share this information with your customers. Questions concerning this notice should be directed to the below address or telephone number.

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 Tobacco Tax Section
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 (334) 242-9627