

## 810-7-1-.19 Local Government Rate Notification Requirements for Tobacco Tax

(1) Pursuant to § 40-25-2(f), Code of Ala. 1975, no municipality or county can enact an additional local tax or license fee after May 18, 2004 on the sale of cigarettes or other tobacco products. A municipality or county may only increase a tobacco tax levy if the municipality or county did not levy the full tax rate as provided for by a resolution or ordinance adopted prior to May 18, 2004; however, a municipality or county may decrease or repeal the local tax rate.

The department shall publish and maintain a current listing of tax levies for municipal and county tobacco taxes pursuant to §11-51-210, Code of Ala. 1975.

### (2) Local Taxing Jurisdiction Notification Requirements.

(a) Every municipality or county (“locality”) levying a tobacco tax or amending an existing tobacco tax levy must submit notification of the new levy or amendment to the department **at least sixty (60) days before the requested effective date of the tax levy or amendment**. The notification must include the following to be considered proper notification to the department:

1. A written notification on the locality’s letterhead or other department accepted format, addressed to the department and signed by a local government representative.

2. The name of and preferred contact information for the locality’s designated representative to whom notifications by the department as required in paragraph (3) will be provided.

(b) Proper notification, as provided in paragraph (a), must be submitted to the department’s Tobacco Tax Section by either of the following methods:

1. By email to tobacco.account@revenue.alabama.gov.

2. By certified mail to Alabama Department of Revenue, Tobacco Tax Section, Post Office Box 327555, Montgomery, AL 36132-7555.

(c) The date of receipt of the notice by the department (the “received date”) shall be determined as follows:

1. For electronic submissions, the date stamp of the email sent to the department email address provided in this paragraph.

2. For certified mail submissions, the postmarked date on the outer envelope addressed as provided in this paragraph.

(3) Department Notification Requirements.

(a) Upon proper completion of the requirements of paragraph (2), the department will provide a tax levy return confirmation to the locality no later than the first day of the second month after the received date. The tax levy return confirmation will include the new tax rates to be effective as understood by the department based on the notification provided in accordance with paragraph (2), as well as the statutory effective date of the new tax rate(s) and the date the notification was received by the department.

(b) Any corrections to the rates listed on the tax levy return confirmation must be submitted to the department, as provided in paragraph (2)(a), by the locality within ten (10) calendar days of the date of receipt of the tax levy return confirmation by the locality's designated representative. Unless notification of corrections is provided in accordance with this paragraph, the rates and corresponding effective dates listed on the tax levy return confirmation and thereafter published by the department will be considered correct.

(4) Statutory Effective Date of Levy. The statutory effective date of a new tax rate levy or amendment of an existing tax levy for which notice has been provided in accordance with paragraph (2) will be the first day of the third month following the date of receipt of proper notification as described in paragraph (2), unless the tax levy or amendment has requested a specified effective date that is after the first day of the third month. Provided, however, if the effective date requested by the municipality or county is not the first day of the month, the statutory effective date will be the first day of the month following the effective date requested in accordance with the notification requirements in paragraph (2).

(a) Example 1. A city amends their existing tobacco tax rate effective June 1<sup>st</sup>. The Tobacco Tax Section receives proper notification of the amendment on April 1<sup>st</sup>. The statutory effective date of the amendment is July 1<sup>st</sup>.

(b) Example 2. A town amends their existing tobacco tax rate effective October 15<sup>th</sup>. The Tobacco Tax Section receives proper notification of the amendment on July 5<sup>th</sup>. The statutory effective date of the amendment is November 1<sup>st</sup>.

(c) Example 3. A city levies an additional amount of tobacco tax up to the previously authorized amount effective July 1<sup>st</sup>. The Tobacco Tax Section receives proper notification of the levy on April 15<sup>th</sup>. The statutory effective date of the new levy is July 1<sup>st</sup>.

(d) Example 4. A town amends their existing tobacco tax rate effective June 1<sup>st</sup>. The Tobacco Tax Section receives proper notification of the amendment on January 1<sup>st</sup>. The statutory effective date of the amendment is June 1<sup>st</sup>.

(5) Hold Harmless and Rate Responsibility. Failure of the locality to properly notify the department, pursuant to this rule, or failure by the department to provide proper publication of a rate change shall not invalidate the levy of the tax.

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**Authority:** §§ 40-2A-7(a)(5), 40-25-2(f), and 11-51-210 Code of Ala. 1975.

**History:** **New Rule:** Filed February 19, 2020 effective April 13, 2020.