

CHAPTER 8120
DEPARTMENT OF REVENUE
ALCOHOL, TOBACCO AND SPECIAL TAXES
TAXES; CIGARETTE AND TOBACCO PRODUCTS

	TAX ON SALE OF CIGARETTES	8120.1800	LICENSED WAREHOUSE RECORDS.
8120.0300	SHIPPING OF UNSTAMPED CIGARETTES INTO MINNESOTA BY LICENSED OUTSTATE DISTRIBUTORS PROHIBITED.	8120.1900	INVOICES AND INVENTORY RECORDS.
			TAX UPON USE OR STORAGE OF CIGARETTES BY CONSUMERS
8120.0400	COMMINGLING OF STAMPED AND UNSTAMPED CIGARETTES PROHIBITED.	8120.3100	CONSUMER USE TAX EXEMPTION.
8120.0600	CIGARETTE TAX STAMPS; PURCHASE, AND PAYMENT FOR.		TAX ON TOBACCO PRODUCTS
8120.1000	CREDIT FOR TAX STAMPS DAMAGED OR UNFIT FOR USE.	8120.4000	TAX ON FREE SAMPLES.
8120.1200	CREDIT AND REFUNDS FOR RETURNED TAX STAMPS.	8120.4100	TRANSFER OF CIGARS OR OTHER TOBACCO PRODUCTS WITHIN THE STATE.
8120.1500	APPLICATIONS FOR DISTRIBUTORS' AND SUBJOBBER'S CIGARETTE LICENSES.	8120.5200	CREDIT FOR TAX PAID ON TOBACCO PRODUCTS.

8120.0200 [Repealed, L 2001 1Sp5 art 7 s 66]

TAX ON SALE OF CIGARETTES

8120.0300 SHIPPING OF UNSTAMPED CIGARETTES INTO MINNESOTA BY LICENSED OUTSTATE DISTRIBUTORS PROHIBITED.

No licensed distributor engaged in the business without this state shall ship or transport cigarettes to retailers in this state, to be sold by those retailers, without first having affixed to each package of such cigarettes the proper Minnesota tax stamp.

Statutory Authority: *MS s 297.10 subd 1*

8120.0400 COMMINGLING OF STAMPED AND UNSTAMPED CIGARETTES PROHIBITED.

No unstamped cigarettes shall be stored or kept behind the same counter or showcase over which cigarettes are sold to ultimate consumers, or within 25 feet of the cabinet, rack, or place where cigarettes for sale to ultimate consumers are kept or stored.

Statutory Authority: *MS s 297.10 subd 1*

8120.0500 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.0600 CIGARETTE TAX STAMPS; PURCHASE, AND PAYMENT FOR.

Tax stamps shall be purchased by the distributor only from the commissioner of revenue. Stamps cannot be purchased from other distributors and transfer of stamps between distributors is prohibited. The commissioner has the authority to demand payment in certified funds and determine when a distributor is eligible to purchase stamps on credit.

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: 27 SR 585

8120.0700 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.0800 MR 1991 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]

8120.0900 [Repealed, L 2001 1Sp5 art 7 s 66]

MINNESOTA RULES 2005

435

TAXES; CIGARETTE AND TOBACCO PRODUCTS 8120.1800

8120.1000 CREDIT FOR TAX STAMPS DAMAGED OR UNFIT FOR USE.

Subpart 1. **In general.** Credit for unused tax stamps which for any reason become damaged or unfit for use will be issued by the commissioner of revenue upon compliance by the distributor with the conditions in this part.

Subp. 2. **Application for credit.** The distributor shall file an affidavit with the commissioner of revenue for credit, setting forth in detail the number of stamps, the denomination of each, and the reason why the stamps have become damaged or unfit for use.

Subp. 3. **Stamps held.** Stamps that have been damaged or made unfit for use shall be held by the distributor until the affidavit under subpart 2 is filed with the commissioner of revenue or an authorized agent or employee of the commissioner has inspected them.

Subp. 4. **Stamps affixed to packages.** Credit will be issued by the commissioner of revenue for tax stamps that 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.

Subp. 5. [Repealed, 27 SR 585]

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: *17 SR 1279; 27 SR 585*

8120.1100 [Repealed, 27 SR 585]

8120.1200 CREDIT AND REFUNDS FOR RETURNED TAX STAMPS.

Subpart 1. **In general.** Credit will be issued by the commissioner of revenue for unaffixed tax stamps that are returned to the commissioner and are fit for sale.

Subp. 2. **Business discontinued.** Refunds for unused tax stamps can only be made when the distributor discontinues business. No refund shall be made until the commissioner has had an opportunity to audit the records of the distributor and is satisfied that no further tax is due.

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: *17 SR 1279; 27 SR 585*

8120.1300 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.1400 MR 1991 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]

8120.1500 APPLICATIONS FOR DISTRIBUTORS' AND SUBJOBBER'S CIGARETTE LICENSES.

Applications for cigarette distributors' and subjobbers' licenses shall be made on a form prescribed by the commissioner. Application forms shall be furnished by the commissioner of revenue.

All questions on the application forms must be answered completely and all applications must be signed by the applicant or an officer thereof.

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: *27 SR 585*

8120.1600 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.1700 MR 1991 [Obsolete, MS s 14.47, subd. 6, paragraph (b)]

8120.1800 LICENSED WAREHOUSE RECORDS.

Licensed warehouses handling deliveries or shipments of cigarettes or tobacco products to persons in Minnesota shall keep a true and accurate book record of all such deliveries or shipments. Such book record shall show the name and address of the consignee, the date of delivery or shipment, the brands and number of cigarettes

delivered, the type of tobacco product, brand name, and quantity delivered, and shall be available for inspection by the commissioner of revenue and the commissioner's authorized agents and employees.

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: *17 SR 1279; 27 SR 585*

8120.1900 INVOICES AND INVENTORY RECORDS.

Every distributor shall preserve invoices of all cigarette purchases and sales except sales to the ultimate consumers. Sales invoices shall clearly specify quantities and brands of cigarettes. Licensed distributors shall make invoices or records of all cigarettes transferred to retail outlets owned or controlled by them.

Every distributor shall, at the close of each period for which a return is required, take an inventory of stamped and unstamped cigarettes on hand as well as an inventory of unaffixed stamps. Cigarettes stamped with indicia of other states shall be considered unstamped cigarettes for Minnesota cigarette tax purposes.

The commissioner may require that a distributor take an additional inventory of stamped and unstamped cigarettes as well as an inventory of unaffixed stamps, if, in the commissioner's opinion such inventory is necessary to determine the correctness of the returns filed by the distributor.

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: *17 SR 1279; 27 SR 585*

8120.2000 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.2100 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.2200 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.2300 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.2400 [Repealed, 27 SR 585]

8120.2500 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.2600 [Repealed, 27 SR 585]

8120.2700 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.2800 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.3000 [Repealed, L 2001 1Sp5 art 7 s 66]

TAX UPON USE OR STORAGE OF CIGARETTES BY CONSUMERS

8120.3100 CONSUMER USE TAX EXEMPTION.

The consumer use tax exemptions in Minnesota Statutes, section 297F.06, can be claimed one time per month by a consumer.

Statutory Authority: *MS s 270.06; 297.10; 297F.02*

History: *27 SR 585*

8120.3200 [Repealed, L 2001 1Sp5 art 7 s 66]

TAX ON TOBACCO PRODUCTS

8120.4000 TAX ON FREE SAMPLES.

Where tobacco products samples are distributed in this state by a manufacturer through its agents, the tobacco products tax is payable by such manufacturer. In such

MINNESOTA RULES 2005

437

TAXES; CIGARETTE AND TOBACCO PRODUCTS 8120.5200

instances, the manufacturer shall file a return and report thereon the quantities of such tobacco products so distributed. The tax shall be computed on the usual wholesale sale price of such products.

Statutory Authority: *MS s 297.38 subd 1*

8120.4100 TRANSFER OF CIGARS OR OTHER TOBACCO PRODUCTS WITHIN THE STATE.

A tax at the rate specified in Minnesota Statutes, section 297F.05, subdivision 3, shall be imposed upon all tobacco products in this state to be paid by any person engaged in business as a distributor. The tax shall be imposed at the time the distributor: brings, or causes to be brought, into this state from without the state tobacco products for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state; or 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.

Statutory Authority: *MS s 270.06; 297.38; 297F.02*

History: *27 SR 585*

8120.4200 [Repealed, 27 SR 585]

8120.4300 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.4400 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.4500 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.4600 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.4700 [Repealed, 27 SR 585]

8120.4800 [Repealed, 27 SR 585]

8120.4900 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.5000 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.5100 [Repealed, L 2001 1Sp5 art 7 s 66]

8120.5200 CREDIT FOR TAX PAID ON TOBACCO PRODUCTS.

Subpart 1. **In general.** Credits will be allowed for tax paid on tobacco products under the following conditions.

Subp. 2. **Sales.** For sales without the state:

A. All sales of tobacco products to retailers located outside the state, to be sold by those retailers, shall be listed on a form prescribed by the commissioner, showing date and number of invoice, name and address of retailer, and manufacturer's wholesale sales price unless permission is granted by the commissioner of revenue to furnish the information in some other manner.

B. All sales to consumers located without the state, to be consumed without the state, shall be listed 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 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.

Subp. 3. [Repealed, 27 SR 585]

Subp. 4. **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 the agent's or employee's presence and he or she 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.

Subp. 5. **Waiver.** If the commissioner is satisfied that the distributor utilizes procedures and maintains adequate records to ensure full compliance with the provisions of Minnesota Statutes, chapter 297F, the commissioner may waive any of the requirements of this part.

Statutory Authority: *MS s 270.06; 297.38; 297F.02*

History: *17 SR 1279; 27 SR 585*

8120.5300 [Repealed, L 2001 1Sp5 art 7 s 66]