

DEPARTMENT OF FINANCE
DIVISION OF REVENUE

Statutory Authority: 30 Delaware Code, Section 354 (30 Del.C. §354)

Technical Information Memorandum 2009- 01

DATE: July 10, 2009

SUBJECT: CIGARETTE TAX INCREASE

CONTACT: Ray Benton, Phone (302) 577-8268, Fax (302) 577-8662
raymond.benton@state.de.us

House Bill 211 of the 145th General Assembly amended Chapter 53 of Title 30 of the **Delaware Code** to provide for an increase of 45 cents to the existing cigarette tax of \$1.15 per pack of 20 cigarettes. House Bill 211 also provided for an increase of 56 cents to the existing cigarette tax of \$1.44 per pack of 25 cigarettes.

This Act establishes the rate of tax to pay or to have been paid on cigarettes in possession of any person liable for payment of the tax on or after midnight July 31, 2009.

The new tax rate also applies to cigarettes in possession of any person (generally wholesalers and affixing agents) liable for the payment of the tax as of midnight July 31, 2009, which as of that date have been affixed with any Delaware tobacco product tax stamp or other indicia of payment of the tax in effect prior to the effective date of this Act. The increase in tax is also imposed on Delaware tobacco tax stamps purchased on or before July 31, 2009, and not affixed to any cigarette pack. The amount of the additional tax due is the difference between the new tax rate and the tax paid for Delaware cigarette stamps in their possession which are affixed or unaffixed to packs of cigarettes.

Wholesalers who are not affixing agents and who also possess a retailer license are required to inventory, report and pay the tax increase on all cigarettes in their possession on which the increased tax has not been paid in accordance with the requirements of this Technical Information Memorandum.

Between noon local time and midnight July 31, 2009, all persons liable to pay the tax will be required to conduct a floor stock inventory of Delaware stamped cigarettes and unaffixed Delaware tax stamps in their possession. For purposes of this regulation, possession means cigarettes in the physical control of which remain with the wholesaler or affixing agent including goods in transit where the title to such goods has not passed to the purchaser. The floor stock inventory requirement does not apply to retailers.

All persons liable to pay the tax must report their inventory at close of business on July 31, 2009, via fax to (302) 577-8662 to the attention of Mr. Ray Benton, using the enclosed Form 1074M, Resident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps, or Form 1075M, Nonresident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps, reporting the number of Delaware stamped packs of cigarettes and unaffixed Delaware tax stamps in their possession which are subject to the tax increase.

On or before August 20, 2009, all persons liable to pay the tax must complete and file the enclosed Form 1074M, Resident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps, or Form 1075M, Nonresident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps, reporting the number of Delaware stamped packs of cigarettes and unaffixed Delaware tax stamps in their possession which are subject to the tax increase. The Resident or Nonresident Wholesaler Dealer's Monthly Report of Cigarette & Cigarette Tax Stamps must be accompanied by full payment of the tax increase. Please use the revised Forms 1074M or 1075M, which are enclosed.

Contact Ray Benton concerning the tax increase or the use of the reporting forms.

Patrick T. Carter
Director of Revenue

13 DE Reg. 424 (09/01/09)