

Information for Texas Tobacco Retailers

SUSAN COMBS • Texas Comptroller of Public Accounts

If you sell cigarettes, cigars or tobacco products to consumers in Texas, you must have a retailer's permit. The laws governing tobacco taxes can be found in Chapters 154 and 155 of the Texas Tax Code.



Together we can stop kids from buying tobacco.

Guidelines for Texas Retailers Selling Cigarettes, Cigars and Tobacco Products

Any person including a partnership, corporation or other entity who sells cigarettes, cigars and/or tobacco products to consumers in Texas must have a retailer's permit and a sales tax permit. This includes owners of coin-operated cigarette/tobacco products vending machines and any person who sells cigarettes on the Internet or by telephone or mail order. The laws governing cigarette and tobacco taxes can be found in Chapters 154 and 155 of the Texas Tax Code and laws for sales tax are in Tax Code Chapter 151.

Retailers must buy cigarettes and tobacco products from Texas permitted distributors and wholesalers and should not buy these products from other retailers.

PERMITS

A seller must apply for and receive a cigarette, cigar or tobacco product retailer permit from the Comptroller for each place of business including each storage location, vehicle and vending machine from which cigarettes, cigars and/or tobacco products are to be sold. The law does not allow a seller to sell, keep or store for sale cigarettes, cigars and tobacco products at a residence or public storage facility. The only exception to the storage restriction is for tobacco products manufacturer's representatives. Retailer permits are non-transferable and non-assignable.

New retailer permits are valid from the date of issuance and the Comptroller will send renewal notices to all permit holders before the expiration date. Renewals are

valid for two years, beginning June 1 of each even-numbered year, and all retailer permits expire on May 31 of each even-numbered year.

A \$180 fee for each retailer is due at the time of application. The Comptroller will prorate the fee for permits issued after June 1 of each even-numbered year. A renewal fee is due on or before May 31 of each even-numbered year. A penalty of \$50 may be assessed for failing to file for renewal or for failing to pay on time.

Both the retailer permit and the sales tax permit must be on public display in each place of business. Retailer permits and/or decals for vehicles and vending machines must be posted conspicuously.

HOW TO APPLY

To get a retailer permit, you must complete the Texas Application for Retailer Cigarette, Cigar and/or Tobacco Products Permit (AP-193). If you do not have a sales tax permit, complete application AP-201. If you are a sole owner, complete application AP-157.

These applications are available online at <http://window.state.tx.us>. You can also visit the local field office, e-mail us at tax.help@cpa.state.tx.us or call us toll-free at (800) 862-2260. Ask for packet number 400 if you are a retailer.

PERMIT DENIAL, SUSPENSION OR REVOCATION

The Comptroller may, after notice and opportunity for a hearing, deny a permit if a business location is not adequate to protect cigarettes and/or tobacco

(Continued)



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In the event of a cigarette tax increase, each retailer with 2,000 or more cigarettes in stamped packages must report its inventory on the day the increase goes into effect and pay the additional tax.

products; or if the applicant, managing employee, officer, director, stockholder (10 percent or more) or partner failed to disclose pertinent information, or previously violated provisions of the cigarette tax and/or cigars and tobacco products tax law.

The Comptroller may, after notice and opportunity for a hearing, revoke or suspend a permit if the retailer violates cigarette tax and/or tobacco products tax law or administrative rules.

RECORDS

Retailers must collect and report and remit sales tax on all sales of cigarettes, cigars and tobacco products monthly, quarterly or yearly, depending on the volume of sales. For more information, please see Rule 3.286, Seller's and Purchaser's Responsibilities.

Each retailer must keep records available for inspection and copying for a minimum of four years and must provide copies on demand by the Comptroller or Attorney General. A retailer whose place of business is a vehicle must designate a permanent place of business where records are kept.

Required records include:

- the total gross receipts from sales of items subject to sales tax, including receipts, invoices and shipping manifests;
- name and address of the shipper or carrier and the mode of transportation;
- shipping records (or copies), including invoices, bills of lading, waybills, freight bills and express receipts;
- date and name of the place of origin of the cigarette and tobacco product shipment;
- date and name of the place of arrival of the cigarette and tobacco product shipment;
- statement of the number, kind and price paid for cigarettes and tobacco products, including cigarettes in stamped and unstamped packages;
- name, address, permit number and tax identification number of the seller;
- resale and exemption certificates for sales tax purposes; and
- any other information required by the Comptroller's office.

Each retailer must keep all suppliers' purchase invoices. These must include all information listed under required records.

CIGARETTE TAX INCREASES

In the event of a cigarette tax increase, each retailer with 2,000 or more cigarettes in stamped packages must report its inventory on the day the increase goes into effect and pay the additional tax. The report and tax payment must be sent to the Comptroller within 30 days of the effective date of the tax increase.

There are no similar requirements for increases in the cigars and tobacco products tax.

CIGARETTE AND TOBACCO PRODUCTS WARNING NOTICE AND OTHER REQUIREMENTS

Retailers must post cigarette and tobacco products warning notice signs where they can be easily seen by customers and employees and close to the location where the cigarettes and tobacco products are sold. Employees must complete Employee Notification Forms within 72 hours of their employment (form 69-117) at http://window.state.tx.us/taxinfo/cig_tob/regulatory.html. Retailers must keep notification forms for 60 days after an employee leaves employment.

The cigarette and tobacco products warning notice signs are available in Spanish and English (forms 96-536) at http://window.state.tx.us/taxinfo/cig_tob/regulatory.html. The law requires the posting of the English version of the warning sign. Please contact the Comptroller's office if you need these signs. The toll-free number is **(800) 252-5555**.

You can view the warning notices and download employee notification information on our Web site at http://window.state.tx.us/taxinfo/cig_tob/regulatory.html.

Retailers are responsible for complying with all other legal requirements, such as requesting identification from customers under the age of 27. For more information on these additional requirements, see *Buying or Selling Tobacco Products to Minors* (96-541). These and other publications are available online at <http://window.state.tx.us/taxinfo/taxpubs/taxpubs.html>.



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Answers to frequently asked questions (FAQs) are available at http://window.state.tx.us/taxinfo/cig_tob/faqcig.html.

PREMISES INSPECTION

The Comptroller can conduct unannounced inspections of sales records and the premises at business locations where cigarettes and tobacco are stored, sold, exchanged or offered for sale.

VIOLATIONS

There are criminal and civil penalties for violations of the law governing taxes on cigarettes, cigars and tobacco products.

REQUIREMENTS FOR TEXAS RETAILERS WHO ALSO SELL CIGARETTES ON THE INTERNET AND BY TELEPHONE OR MAIL ORDER

Texas retailers who offer cigarettes for sale by telephone or mail order, or online via the Internet, and who deliver or cause to be delivered those cigarettes to a customer in Texas, must comply with the following requirements when making a delivery sale.

REQUIREMENTS FOR DELIVERY SALES

Age Verification

Before mailing or shipping cigarettes, the retailer must reliably establish that the prospective customer is at least 18. To do this, the retailer must get a signed statement showing the purchaser's address and date of birth, and confirming the purchaser's wish to receive mailings from a tobacco company. The statement also must include an acknowledgement that the buyer understands that signing another person's name is illegal, and that the purchase of cigarettes by anyone under 18 is illegal.

Disclosure

The retailer must first send to the prospective purchaser a notice that the sale of cigarettes to anyone under 18 years of age is prohibited; that cigarette sales are restricted to those who can provide verifiable proof of age as shown above; and that cigarette sales are taxable. The notice also must include an explanation of how

the tax on the delivery sale has been or will be paid.

Shipping

The shipping documents in a delivery sale order must include conspicuous placement of the following statement: "CIGARETTES: TEXAS LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER 18 YEARS OF AGE AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES."

The retailer must use a mailing or shipping method that requires an adult, who is at least 18 years of age and lives at the address, to sign for delivery after providing proof of age with a government-issued photo ID. The retailer also must provide the delivery service evidence of full compliance with the requirements for tax collection.

The shipping requirements apply whether the retailer delivers the cigarettes or uses a third party for delivery.

Registration and Reporting

Before making a delivery sale or shipping cigarettes, the retailer must file a statement with the Texas Comptroller's office giving its name and trade name, business locations, telephone number and e-mail address.

For all delivery sales in a month, the retailer must give the Comptroller's office information on each sale, including the name, address, telephone number and e-mail address of the buyer, as well as the brand and quantity of cigarettes sold.

Retailers must report this information by the 10th of the following month.

Tax Collection

A retailer who makes a delivery sale must collect all applicable state taxes and remit them to the Comptroller's office. Texas retailers can purchase only stamped packages of cigarettes from permitted distributors and wholesalers. The presence of a valid tax stamp on each cigarette package indicates the state cigarette excise tax has been paid. A retailer must collect, report and remit the sales tax on all cigarettes sold on the Internet or by telephone or mail order and delivered to a purchaser in Texas.

Retailers must post
cigarette warning
signs where they
can be easily seen
by customers and
employees and close
to the location
where the cigarettes
are sold.

COMPTROLLER OFFICES PROVIDE CONVENIENT, COURTEOUS HELP NEAR YOU...

(If you have problems contacting an office, please call (800) 252-5555 or visit us online at www.window.state.tx.us)

Abilene 209 South Danville Drive, Ste C-202 79605-1464 (325) 695-4323	Dallas Northeast 9221 LBJ Freeway, Suite 100 75243-3429 (972) 792-5800	Laredo 1202 East Del Mar Boulevard, Suite 1 78041-2400 (956) 722-2859	San Antonio Northwest 9514 Console Drive, Suite 102 78229-2042 (210) 616-0067
Amarillo Park West Office Centre, Building A 7120 I-40 West, Ste 220 79106-2519 (806) 358-0148	Dallas Southwest 7222 South Westmoreland Road Suite 100 75237-2983 (972) 709-4357	Lubbock 6202 Iola Avenue, Suite 900-B 79424-2733 (806) 783-0316	San Antonio Southwest 123 Southwest Military Drive 78221-1613 (210) 924-6434
Austin Central Services Building, Suite 180 1711 San Jacinto Blvd 78701-1416 (512) 463-4865	Denton 400 South Carroll Blvd, Ste 1000 76201-5929 (940) 891-4790	Lufkin 306 Harmony Hill Drive, Suite A 75901-5759 (936) 634-2621	Sherman One Grand Centre Building, Ste 110 1800 Teague Drive 75090-2672 (903) 893-0692
Beaumont 6440 Concord Road 77708-4315 (409) 899-4650	El Paso 401 East Franklin Avenue, Suite 160 79901 (915) 533-0506	McAllen 3231 North McColl Road 78501-5538 (956) 687-9227	Tyler 3800 Paluxy Drive, Suite 300 75703-1661 (903) 534-0333
Brownsville 1900 North Expressway, Suite C-1 78521-1563 (956) 542-8426	Fort Worth 4040 Fossil Creek Boulevard, Ste 100 76137-2747 (817) 847-6201	Odessa 4682 East University Boulevard Suite 200 79762-8104 (432) 550-3027	Victoria 3003 North Cameron Street 77901-3931 (361) 575-2874
Bryan 1713 Broadmoor Drive, Suite 300 77802-5220 (979) 776-5200	Houston Northwest 1919 North Loop West, Suite 510 77008-1354 (713) 426-8200	San Angelo 3127 Executive Drive 76904-6801 (325) 942-8364	Waco 801 Austin Avenue, Suite 810 76701-1937 (254) 752-3147
Corpus Christi 400 Mann Street, Suite 600 78401-2047 (361) 882-1234	Houston Southwest 7011 Harwin, Suite 186 77036-2128 (713) 777-1881	San Antonio Northeast 3300 Nacogdoches Road, Suite 105 78217-3373 (210) 646-0399	Wichita Falls 925 Lamar Street, Suite 1900 76301-3414 (940) 761-4141

We're Here To Help! *Call Toll-Free!*

If you have questions or need information on a specific tax, please call our toll-free numbers:

(800) 252-5555

911 Emergency Service/Equalization Surcharge
Automotive Oil Fee
Battery Fee
Boat and Boat Motor Sales Tax
Customs Broker
Fireworks Tax
Mixed Beverage Tax
Off-Road, Heavy-Duty Diesel
Equipment Surcharge
Oyster Fee
Sales and Use Taxes
Telecommunications Infrastructure Fund

(800) 531-5441

Cement Tax
Inheritance Tax
Local Revenue
Miscellaneous Gross Receipts Taxes
Oil Well Servicing Tax
Sulphur Tax

(800) 531-5441, ext. 3-3630

WebFile Help

(800) 252-1381

Bank Franchise
Franchise Tax

(800) 252-7875

Spanish

(800) 531-1441

Fax on Demand (Most frequently requested Sales and Franchise tax forms)

(800) 252-1382

Clean Vehicle Incentive Program
Manufactured Housing Tax
Motor Vehicle Sales Surcharge,
Rental and Seller Financed Sales Tax
Motor Vehicle Registration Surcharge

(800) 252-1383

Fuels Tax
IFTA
LG Decals
Petroleum Products Delivery Fee
School Fund Benefit Fee

(800) 252-1384

Coastal Protection
Crude Oil Production Tax
Natural Gas Production Tax

(800) 252-1387

Insurance Tax

(800) 252-1385

Coin Operated Machine Tax
Hotel Occupancy Tax

(800) 252-1386

Certificates of Account Status/Good Standing
Officer and Director Information

(800) 862-2260

Cigarette and Tobacco

(888) 4-FILING (888-434-5464)

TELEFILE: To File by Phone

(800) 252-1389

GETPUB: To Order Forms and Publications

(800) 654-FIND (800-654-3463)

Treasury Find

(800) 321-2274

Unclaimed Property Claimants
Unclaimed Property Holders
Unclaimed Property Name Searches
(512) 463-3120 (Austin)

(877) 44RATE4 (877-447-2834)

Interest Rate

Texas Comptroller of Public Accounts Publication #96-928 Revised June 2008

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Texas Comptroller of Public Accounts
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Austin, Texas 78711-1440

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