

Amend Revenue and Taxation Code Section 30141 to revise the minimum amount of security required from a cigarette distributor from \$1,000 per licensed location to an amount determined by the Board and add security release requirements consistent with other Board-administered programs. Also amend Section 30142 to remove provisions not related to the security requirements for purchasing cigarette tax stamps on credit.

Source: Excise Taxes Division

Existing Law

Under existing Cigarette and Tobacco Products Tax Law, a distributor is required to obtain a license for each place of business at which he or she engages in the business of distributing cigarettes or tobacco products. Every applicant for a distributor license is required to file security with the Board in an amount the Board prescribes. While the Board sets the amount of the security, and may increase or reduce the amount at any time, a minimum security of one thousand dollars (\$1,000) must be furnished by every distributor for each location that is required to be licensed.

Cigarette distributors desiring to defer payment for stamps and meter impressions have additional security requirements, which are as follows:

- Equal to not less than 70 percent of the amount and not more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a monthly basis.
- Equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a twice-monthly basis.
- Equal to not less than 25 percent of the amount and no more than twice the amount, as fixed by the Board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred if a distributor elects to make payments on a weekly basis.

In General

The cigarette and tobacco products tax program is the only Board-administered program that imposes a mandatory security. Although the Board is authorized to increase or reduce the amount of security, the minimum security amount of one thousand dollars (\$1,000) cannot be waived, even if the distributor is in good standing.

There are currently 113 cigarette distributors and 588 tobacco products distributors licensed with the Board under the cigarette and tobacco products tax program.

This Proposal

This proposal would amend Section 30141 to (1) allow the Board to waive or release redundant security requirements for distributors that have more than one location and (2) allow the Board to reduce or waive security requirements for long time distributors

that have established an excellent payment record with the Board. In addition, Section 30141 would be revised to state that the amount of the security may be increased or decreased by the Board and, consistent with other programs administered by the Board, released after a three-year period in which the person has filed all returns and paid all taxes to the state.

Section 30142 would also be amended to remove provisions not related to the security requirements for purchasing cigarette tax stamps on a deferred basis. This proposal would make no changes to security requirements for cigarette distributors that purchases tax stamps on a deferred payment basis.

Section 30141 of the Revenue and Taxation Code is amended to read:

30141. ~~Every applicant for a license as a distributor shall file with the board, security in the amount and form as the board prescribes. The board, whenever it deems necessary to insure compliance with this part, may require any person subject thereto, to place with it that security as the board may determine, in the form and amount as the board prescribes.~~ Any security in the form of cash, insured deposits in banks or savings and loan institutions, or a bond or bonds duly executed by an admitted surety insurer, payable to the state, conditioned upon faithful performance of all the requirements of this part and expressly providing for the payment of all taxes, penalties, and other obligations of the person arising out of this part shall be held by the board in trust to be used solely in the manner provided in this section.

The amount of the security may be increased or decreased by the board. Security held by the board shall be released after a three-year period in which the person has filed all returns and paid all tax to the state or any amount of tax required to be collected and paid to the state within the time required.

The board shall require additional security, in the form and amount provided in Section 30142, for a distributor desiring to defer payments for stamps or meter register settings.

Section 30142 of the Revenue and Taxation Code is amended to read:

30142. ~~(a) The board shall fix the amount of the security required of any distributor and may increase or reduce the amount at any time. A minimum security in the amount of one thousand dollars (\$1,000) shall be furnished by every distributor that is required to be licensed.~~

~~(b) Except as provided in subdivision (d), if~~ (a) If a distributor desires to defer payments for stamps or meter register settings, as provided in Article 2 (commencing with Section 30166) of Chapter 3.5, the board shall require a security as follows:

(1) If a distributor elects, under Section 30168, to make payments on a monthly basis, the board shall require a security equal to not less than 70 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

(2) If a distributor elects, under Section 30168, to make payments on a twice-monthly basis, the board shall require a security equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

(3) If a distributor elects, under Section 30168, to make payments on a weekly basis, the board shall require a security equal to not less than 25 percent of the amount and no

more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

~~(e)~~ (b) The security required by the board pursuant to subdivision (b) may be in the form of any of the following, in the amount required by paragraph (1) or (2) of subdivision (b):

- (1) Cash, or a cash equivalent.
- (2) A surety bond.

~~(d)~~ (c) Upon authorization by the board, no additional security shall be required for a distributor that desires to defer payments for stamps or meter register settings, as provided in Article 2 (commencing with Section 30166) of Chapter 3.5, if the distributor's average monthly purchase of stamps or meter register settings for the previous 12 months does not exceed seventy-two thousand (72,000) stamps or meter register settings and if the distributor meets all of the following:

- (1) Has been licensed under this part for a minimum of five years.
- (2) Has not been delinquent in the filing of any reports or returns required under this part for the preceding three consecutive years.
- (3) Has not been delinquent in the payment of any tax under this part, or for any other tax or fee administered or collected by the board, for the preceding three consecutive years.
- (4) Provides to the board and updates, as necessary, an electronic mail address for the purpose of receiving payment information, including, but not limited to, amounts owing for stamps and meter register settings purchased.
- (5) Any other criteria the board may require.