SALES OF CIGARETTES AND TOBACCO PRODUCTS IN CALIFORNIA

A Guide for Wholesalers and Distributors

State Board of Equalization

April 2017
The California Cigarette and Tobacco Products Licensing Act requires all sellers of cigarettes and tobacco products to be licensed with the State Board of Equalization (BOE):

- Retailers
- Wholesalers
- Distributors
- Importers
- Manufacturers
“As of June 9, 2016, California state law expanded the definition of “tobacco products” to include, but is not limited to:

- A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco, pipe tobacco, shisha, or snuff (does not include cigarettes). Tobacco products also include electronic cigarettes.
“Electronic cigarettes” means any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited to eCigarettes, eCigars, ePipes, vape pens, or eHookahs. Electronic cigarettes include any component, part, or accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine for a single price.

Electronic cigarettes also include any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form.

Effective April 1, 2017, these newly defined “tobacco products” are also subject to excise tax.
What is not considered a tobacco product?

- Tobacco products do not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use (for example, a nicotine patch).

- Electronic cigarettes do not include any device not sold in combination with any liquid or substance containing nicotine or other accessory not used in the operation of the device if sold separately.
Electronic Smoking Devices

All retailers of electronic smoking or “vaping” devices such as e-cigarettes are required to possess a BOE-issued cigarette and tobacco products license as of January 1, 2017.

eCigarettes and other nicotine delivery devices sold in combination with nicotine are subject to excise tax.
STATE LICENSE
Apply for a license online at www.boe.ca.gov/elecsrv/ereg.

Pay all applicable license fees.

Must have and display license before you can sell.

Applications may take 7-10 days to process.

Upon approval of your application, a BOE email is sent to you with your license and other important information.

There may be a local tobacco license required, separate from the BOE license.
Which license do you need?

- **Retailer license (LRQ):**
  - Allows you to sell only to legal-aged consumers.
  - Annual fee of $265 per location.
  - Valid for 12 months; renewed annually; renewal reminder sent 60 days in advance.

- **Wholesaler license (LWQ):**
  - Allows you to obtain and sell tax-paid tobacco products to retailers and other wholesalers.
  - Annual fee of $1,200 per location.
  - Valid for a calendar year (Jan – Dec); renewal reminder emailed in October.

- **Distributor license (LDQ):**
  - Allows you to sell tax-paid tobacco products to retailers, wholesalers, and other distributors.
  - Annual fee of $1,200 per location.
  - Valid for a calendar year (Jan – Dec); renewal reminder emailed in October.
  - Security deposit required.
### License:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Old Application Fee (On or before June 8, 2016)</th>
<th>New Application Fee (On or After June 9, 2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retailer</td>
<td>$100 per location</td>
<td>$265 per location</td>
</tr>
<tr>
<td>Wholesaler/Distributor</td>
<td>$1,000 per location</td>
<td>$1,200 per location</td>
</tr>
</tbody>
</table>

### Renewal:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Old Renewal Fee (On or before December 31, 2016)</th>
<th>New Renewal Fee (On or After January 1, 2017)</th>
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</thead>
<tbody>
<tr>
<td>Retailer</td>
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<td>$265 per location</td>
</tr>
<tr>
<td>Wholesaler/Distributor</td>
<td>$1,000 per location</td>
<td>$1,200 per location</td>
</tr>
</tbody>
</table>
A tobacco Retailer is a person who sells cigarettes or other tobacco products (OTP) directly to the public from a retail location.

A retailer is not allowed to sell cigarettes or other tobacco products (OTP) to other retailers, wholesalers or distributors.
Retailer’s License

- A separate license is required for each location.
- New locations must be added to your seller’s permit (SR) before a cigarette and tobacco product license (LRQ) can be activated for that location.
- A license is not assignable or transferable.
- A BOE tobacco license is separate from a local city or county tobacco license that may also be required.
A Retailer can purchase tax-paid cigarette and OTP inventory only from a BOE-licensed Distributor or Wholesaler. A Retailer cannot purchase cigarettes or OTP from other Retailers or unlicensed person.

**Example:** A mini-mart cannot purchase cigarettes or OTP from the retail grocery store down the street.

“Tax-paid” means that the California excise taxes have been paid on the cigarettes and OTP. Voter-approved Proposition 56 raised the excise tax on cigarettes as of April 1, 2017, by $2.00 per pack of 20.

- **Cigarettes** – .1435 cents per cigarette / $2.87 excise tax per pack of 20 cigarettes.
- **OTP** – 27.3% excise tax rate for July 1, 2016 through June 30, 2017.
A tobacco Wholesaler is anyone who sells for resale cigarettes or OTP and is not a Distributor by definition.

A Wholesaler resells tax-stamped cigarettes and tax-paid OTP.

“Stamped” cigarette packs have a valid California tax stamp applied, which represents $2.87 cents in excise taxes.

A Wholesaler cannot be in possession of untaxed cigarettes or OTP and cannot purchase their products directly from an importer or manufacturer.
As a Wholesaler you must obtain the following BOE permit/license before you can make any cigarette or OTP sales:

- SR – Seller’s permit
- LWQ – Cigarette & Tobacco Products Licensing Act of 2003—Wholesaler’s License

When you register for a Wholesaler cigarette and tobacco license with the BOE, we will also assign you one or both of the following accounts, depending on the type of products you sell:

- CW – Cigarette Wholesaler permit
- TW – Tobacco Wholesaler permit
CW Permit –
- Wholesaler permit required if selling cigarettes.
- Requires you to report your beginning inventory of stamped cigarettes, the amount purchased, and the amount sold.
- The amounts are reported by carton and filed monthly.
- These are informational reports only.

TW Permit –
- Wholesaler permit required if making sales of OTP.
- No reporting requirements.
LWQ License –

- Separate license for each location; $1,200 per location.
  - License not required for a storage location where no sales or shipments are being made; this type of location is registered with the BOE as a sub-location and no fee is charged.

- Valid for a calendar year and is not transferrable.

- A BOE tobacco license is separate from a local city or county tobacco license that may also be required

- A Wholesaler’s license will not be issued if the location is not registered with an active seller’s permit (SR).

- If you also want to make retail sales of cigarettes and OTP, you must obtain a Retailer’s license in addition to your Wholesaler’s license.
A cigarette and tobacco Distributor is anyone who sells or possesses for distribution cigarettes or OTP.

A Distributor may possess untaxed cigarettes and OTP. Products may be purchased directly from an importer or manufacturer.

A cigarette Distributor may purchase unstamped cigarettes, affix them with California cigarette tax stamps, and resell the stamped product to California distributors, wholesalers and retailers.

A tobacco Distributor may purchase untaxed OTP, pay the excise tax, and resell the tax-paid OTP.
As a Distributor you must obtain the following BOE permits/license before you can make any cigarette or OTP sales:

- SR – Seller’s permit
- LDQ – Cigarette & Tobacco Products Licensing Act of 2003—Distributor’s License

When you register for a Distributor cigarette and tobacco license with the BOE, we will also assign you one or both of the following accounts, depending on the type of product you sell:

- CR – Cigarette Distributor permit
- CP – Tobacco Distributor permit
CR Permit –

- Distributor permit required if selling cigarettes.
- Permit required to purchase California cigarette tax stamps.
- Requires you to report your monthly levels of stamped and unstamped cigarettes:
  - beginning inventory,
  - amount purchased during the month, and
  - the end-of-month inventory.
- Amounts are reported in “sticks.”
- These are informational reports only, due on or before the 25th day of the following month.
CP Permit –

- Distributor permit required if selling OTP.
- Requires you to report wholesale cost of all OTP:
  - distributed,
  - any exemptions (primarily interstate or foreign commerce sales), and
  - the total amount of tax due.
- Tax is due on or before the 25th day of the following month in which the OTP is purchased or when distributed (as selected by licensee during registration).
LDQ License –

- Separate license for each location.
- $1,200 per location.
  - License not required for a storage location where no sales or shipments are being made; this type of location is registered with the BOE as a sub-location and no fee is charged.

- Valid for a calendar year and is not transferrable.

- A BOE tobacco license is separate from a local city or county tobacco license that may also be required.

- A Distributor’s license will not be issued if the location is not registered with an active seller’s permit (SR).

- If you also want to sell cigarettes or OTP at retail, you must obtain a Retailer’s license in addition to your Distributor’s license.