

State of New Mexico
Taxation and Revenue Department
TOBACCO PRODUCTS TAX RETURN



WHO MUST FILE: Persons manufacturing or acquiring tobacco products in New Mexico for distribution in the ordinary course of business are required to file Form RPD-41192, *Tobacco Products Tax Return*, and pay the tobacco products tax on all tobacco products acquired or manufactured. Certain deductions and exemptions apply. The first purchaser pays the tobacco products tax at a rate of 25% of the value of the tobacco product received, acquired or manufactured. Amended effective tax year 2019, Section 7-12A-3 NMSA 1978 specifies rates for cigars, little cigars, e-liquid, and closed system cartridges. See the instructions for definitions.

NOTE: Tobacco products subject to the tobacco products tax include tobacco products acquired or manufactured and given for consumption. For example, tobacco products acquired to be given out as part of a promotion are included in Column 1 on Form RPD-41192.

REPORT PERIOD: _____
Beginning (mm/dd/ccyy) Ending (mm/dd/ccyy)

| | |
|--------------------------|--------------|
| NAME: | FEIN: |
| STREET/BOX: | CRS: |
| CITY, STATE, ZIP: | |

| | A. Acquired | B. O/S Sales (-) | C. Exempt (-) | D. Product Value/Units | E. Tax rate | F. Total |
|---|----------------|---------------------|------------------|------------------------------|---|-------------|
| 1. Cigars 1a. \$1.99 and under 1b. \$2.00 and over | | | | | 25% (0.25) of product value | |
| | | | | | \$0.50 per cigar | |
| 2. Little Cigars | | | | | \$0.10 per little cigar | |
| 3. E-Liquid | | | | | 12.5% (0.125) of product value | |
| 4. Closed System Cartridges | | | | | \$0.50 per 5mL (or less) cartridge | |
| 5. Other | | | | | 25% (0.25) of product value | |

Mail this form, tobacco payment voucher and payment to: New Mexico Taxation and Revenue Department, P.O. Box 25123, Santa Fe, NM 87504-5123. Make the check or money order payable to New Mexico Taxation and Revenue Department. For assistance call (505) 827-0764.

| | |
|---|--|
| 6. Total tax remitted (Add F1 through F5) | |
| 7. Penalty | |
| 8. Interest | |
| 9. Total due | |

| | |
|---|---------------------|
| I declare I have examined this form and to the best of my knowledge and belief it is true, correct, and complete. | |
| Authorized signature _____ | Date _____ |
| Phone number _____ | Email address _____ |

Mail to: Taxation and Revenue Department, P.O. Box 25123, Santa Fe, NM 87504-5123

STATE OF NEW MEXICO - TAXATION AND REVENUE DEPARTMENT
TOBACCO PRODUCTS TAX RETURN INSTRUCTIONS

NEW LEGISLATION

Effective July 1, 2019, new legislation amends the Definitions in Section 7-12A-2 1978 and the Imposition of Rates of Tax; denomination as "tobacco products tax"; date of payment of tax due in Section 7-12A-3 1978.

For the manufacture or acquisition of tobacco products in New Mexico, not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges, to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed an excise tax at the rate of twenty-five percent of the product value of the tobacco products.

For the manufacture or acquisition of **cigars** in New Mexico to be distributed in the ordinary course of business there is imposed an excise tax at a rate of 25% of the product value of the cigar, not to exceed \$0.50 per cigar.

For the manufacture or acquisition of **little cigars** in New Mexico to be distributed in the ordinary course of business there is imposed an excise tax at a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars.

For the manufacture or acquisition of **e-liquid** in New Mexico to be distributed in the ordinary course of business there is imposed an excise tax at a rate equal to 12.5% of the product value of the e-liquid.

For the manufacture or acquisition of **closed system cartridges** in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of \$0.50 per closed system cartridge of 5mL or less.

WHO MUST FILE

Persons manufacturing or acquiring tobacco products in New Mexico for distribution in the ordinary course of business are required to file *Form RPD-41192, Tobacco Products Tax Return*. The tobacco products tax return and payment are due on or before the 25th day of the month following the close of the calendar month when the taxable event occurs.

INSTRUCTIONS FOR COMPLETING THIS FORM: Complete all information requested on the form. Verify your company's federal employer identification number (FEIN) and your CRS identification number, the name of the business and mailing address. Verify the report period in which the tobacco products were manufactured, purchased, or received if the products are acquired for consignment sale, from any person outside of New Mexico. A report period is from the first day of the month to the

last day of the calendar month. See the line instructions to complete lines 1 through 9. Check the amended box at the bottom of the form if you are amending a previously filed return. Sign, date, and enter your phone number and E-mail address on the return. NOTE: Tobacco products subject to the tobacco products tax include tobacco products acquired or manufactured and given for consumption. For example, tobacco products acquired to be given out as part of a promotion are included in Column 1 of Form RPD-41192.

LINE INSTRUCTIONS:

Rows 1 through 5. Using the line instructions for columns A through E, enter the information for all tobacco products included in this report.

Col. A. Acquired. Enter the number of units (lines 1b, 2 and 4) or product value (lines 1a, 3 and 5) of all tobacco products acquired for distribution during the report period. Manufacturers of tobacco products located in New Mexico must enter the product value of the tobacco products that have completed the production process and are available for distribution. Other businesses located in New Mexico must enter the product value of all tobacco products that were acquired on consignment from a source outside New Mexico or purchased from a source outside New Mexico. See the definition of product value below.

Col. B. O/S Sales. Enter the number of units (lines 1b, 2 and 4) or product value (lines 1a, 3 and 5) of the tobacco products included in Column A that are sold and shipped or given and shipped to a person in another state. The Department may require proof of out-of-state sales. Include only those products that are shipped during the reporting month or set aside for shipment to the out-of-state purchaser. If the product is sold or given to an out-of-state purchaser after the reporting month in which the tobacco product was acquired, submit an amended Tobacco Products Tax Return for the month in which the tobacco product was acquired and Form RPD-41318, *Application for Refund of Tobacco Products Tax*, to claim the refund. Proof is required.

Col. C. Exempt. Enter the number of units (lines 1b, 2 and 4) or product value (lines 1a, 3 and 5) of the tobacco products included in Column A that are sold to the United States or any agency or instrumentality thereof or the State of New Mexico or any political subdivision thereof. "Agency or instrumentality" does not include agents or instrumentalities of the United States either for a particular purpose or when acting in a particular capacity. The terms also do not include corporate agencies or instrumentalities. Also exempted from the tobacco products tax are sales to the governing body or to any enrolled tribal member licensed by the governing body of any Indian nation, tribe or pueblo for use or sale on that reservation or pueblo

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grant. If an exempt sale occurs after the reporting month in which the tobacco product was acquired, submit an amended Tobacco Products Tax Return for the month in which the tobacco product was acquired and Form RPD-41318, *Application for Refund of Tobacco Products Tax*, to claim the refund. Proof is required.

Col. D. Total taxable value. Subtract the sum of Columns B and C from Column A.

Col. E. Taxable rate. This is the rate that is used to compute the tax on each tobacco product.

Col. F. Total. For each tobacco product, compute the tax by multiplying the amount in Column D by the rate in Column E and enter in Column F.

Line 6. Total tax remitted. Add the amounts from Columns F1 through F5 and enter here.

Line 7. Penalty. Add penalty if the entity fails to file timely or to pay the amount on line 6 when due. Calculate the penalty by multiplying the amount on line 6 by 2%, then by the number of months or partial months for which the return or payment is late, not to exceed 20% of the tax due. Penalty for failure to file or pay on time may not be less than \$5.00.

Line 8. Interest. Interest accrues daily on the unpaid principal of tax due and can change on a quarterly basis. The effective annual and daily interest rates are posted on the Department's web page at <http://www.tax.newmexico.gov/Individuals/penalty-interest-rates.aspx> or can be obtained by contacting the Department.

Line 9. Total due. Enter the sum of lines 6, 7 and 8. Pay this amount.

DEFINITIONS:

Tobacco product means any product, other than cigarettes, cigars and little cigars, made from or containing tobacco, e-liquid, e-cigarettes, and closed system cartridges.

Product value means the amount paid for the tobacco product, net of any discounts taken and allowed, or in the case of tobacco products received on consignment or to be given as gifts for consumption, the value of the tobacco products received. In the case of tobacco products manufactured and sold in New Mexico, product value is the proceeds from the sale by the manufacturer.

Cigar means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand (0.0045 lb).

Little cigar means a roll for smoking made wholly or in part of tobacco, using an integrated cellulose acetate or other similar

filter, and weighing not more than four and one-half pounds per thousand (0.0045 lb).

E-liquid means liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis.

Closed system cartridge means a single-use pre-filled disposable cartridge containing five milliliters (5mL) or less of e-liquid for use in an e-cigarette.

E-cigarette means a any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, or any other product, name or descriptor. E-cigarette does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act.

OTHER REQUIREMENTS:

Retention of records. Businesses selling tobacco products must maintain file copies of invoices of sale and purchase for three years from the end of the year the sale or purchase was made. The invoices shall indicate the date of sale or purchase of the tobacco products, quantity of tobacco products sold or purchased, the price received or paid and the name and address of the purchaser or seller. All invoices may be inspected by the Department along with any stock of tobacco products in the possession of the purchaser or seller. Failure to retain the invoices may result in penalties not less than \$50 or more than \$500 upon conviction.

Registration. Businesses selling tobacco products must obtain a New Mexico CRS identification number. To obtain a CRS identification number submit Form ACD-31015, *Application for Business Tax Identification Number*, to the Department. The form can be downloaded from the web site. Visit <http://www.tax.newmexico.gov/forms-publications.aspx> then select **Register Your Business** from the **Business Taxes** folder.

Obtaining a refund of tobacco product tax. To obtain a refund of tobacco products tax paid on tobacco products destroyed or returned to the seller as spoiled or otherwise unfit for sale or consumption, submit Form RPD-41318, *Application for Refund of Tobacco Products Tax*. Proof is required. Visit <http://www.tax.newmexico.gov/forms-publications.aspx>. Select **Other NM Business Taxes**, then **Cigarette and Tobacco** from the **Business Taxes** folder.