

HAWAII ADMINISTRATIVE RULES

TITLE 18

DEPARTMENT OF TAXATION

CHAPTER 245
CIGARETTE TAX STAMPING

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This is an unofficial compilation of the Hawaii Administrative Rules.

- HRS §245-1 §18-245-1 Definitions.** As used in this chapter:
- “Cigarette package” means an individual sealed package of 20 cigarettes originating from the manufacturer and bearing the health warning required by law.
- “Department” means the department of taxation.
- “License” means a license granted under chapter 245, HRS, that authorizes the holder to engage in the business of a wholesaler or dealer of cigarettes or tobacco products in the state.
- “Licensee” means the holder of a license granted under chapter 245, HRS.
- “Minor” means a person under the age of eighteen.

“Peddle” means the act of any person, including employees or agents, who engage in business in one locality or traveling from place to place, whether on foot, from a stand, wagon, pushcart, or motor vehicle carrying, conveying, or transporting goods, wares, food, merchandise, or other kinds of property and offering or exposing the same for sale, or making sales and delivering, any goods, wares, food, merchandise, or other kinds or property to purchasers.

“Sale” includes every act of selling.

“Sell” means to:

- (1) Solicit and receive an order for;
- (2) Have, keep, offer or expose for sale;
- (3) Deliver for value or deliver in any other way than purely gratuitously;
- (4) Peddle;
- (5) Keep with intent to sell; and
- (6) Traffic in.

“Stamp” means a stamp printed, manufactured, or made by authority of the department, as provided in chapter 245, HRS, that is issued, sold, or circulated by the department, that is placed on the bottom of a cigarette package, and by the use of which designates that the tax levied under chapter 245, HRS, has been paid.

“Stamping indicia” means any indicia or mark made by authority of the department, as provided in chapter 245, HRS, that is issued, sold, or circulated by the department, that is placed on the bottom of a cigarette package, and by the use of which designates that the tax levied under chapter 245, HRS, has been paid. [Eff 12/16/2000] (Auth: HRS §245-42) (Imp: HRS §§245-1, 245-42)

HRS §245-23 §18-245-2 Preparation and sale of stamps. The department shall prescribe, prepare, and furnish stamps of such design, specifications, denominations and quantities as may be necessary for the payment of the tax imposed by section 245- 3, HRS, and may provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design. In lieu of stamps, the department may also allow the use of other stamping indicia implemented through the use of computers or machines or any other device. [Eff 12/16/2000] (Auth: HRS §§245-23, 245-42) (Imp: HRS §245-23)

TOBACCO WHOLESALE AND DEALER LICENSE

HRS §245-2 §18-245-2-1 License; renewal of license; notification of change. (a) It shall be unlawful for any person to engage in the business of a wholesaler or dealer in cigarettes or tobacco products upon which a tax is required to be paid under chapter 245, HRS, in the State without first having received a license issued by the department of taxation; provided that this rule shall not be construed to supersede any other law relating to licensing of persons in the same business.

(b) The license shall be issued by the department upon application, in such form and manner as shall be required by the department, including the payment of a fee as allowed by law, and shall be renewable annually on July 1 for the twelve months ending the succeeding June 30.

(c) The annual renewal fee and completed renewal application shall be submitted on or before the department’s prescribed deadline. Unless renewed, all wholesaler or dealer licenses expire at the time provided by law.

(d) In the event of any change in the information provided in the application for a license or documentation provided in the application process, each licensed wholesaler or dealer shall notify the department, in writing, within ten days of the change. Notice to licensed wholesalers or dealers, as required by law, shall be deemed met if notice is sent to the address on file with the department.

(e) Any person or entity that operates as a wholesaler or dealer, and also sells cigarettes or other tobacco products to consumers at retail, shall obtain a separate retail tobacco permit. [Eff 04/26/2007] (Auth: HRS §245-2) (Imp: HRS §245-13)

HRS §245-2 §18-245-2-2 Notice of revocation, suspension, or declination to renew. (a) Before the department may revoke or suspend a license or decline to renew a license, the department shall mail a notice of its intention to revoke, suspend, or decline to renew the license to the licensee at its last known address appearing in the records of the department (unless the department has been notified by the U.S. Postal Service that the address is invalid and there is no forwarding address for the licensee); provided, that this section shall not apply to automatic forfeiture based on the failure to file an application within the period provided by chapter 245 or any rule adopted under chapter 245.

(b) In the event the department is unable to provide notice by mail as provided in subsection (a), the department may give notice of its intention to revoke, suspend, or decline to renew a license by publishing the notice once in each of two successive weeks (two total publications) in a newspaper of general circulation published in the

State; provided, that this section shall not apply to automatic forfeiture based on the failure to file an application within the period provided by chapter 245 or any rule adopted under chapter 245.

(c) The department may revoke, suspend, or decline to renew the license whenever the department finds that the applicant or licensee has failed to comply with chapter 245 or any rule adopted under chapter 245, or for any other good cause. If a person or entity whose license is revoked, suspended, or not renewed disputes the department's actions the aggrieved party may petition the director in writing, within 60 days of the date of the notice, setting forth reasons why revocation, suspension, or declination to renew the license should not occur.

(d) In the petition, the licensee may provide information, to which the department may give due consideration, regarding mitigation measures taken by the licensee to abide by the requirements of any federal, state, or county law pertaining to the sale, acquisition, possession, stamping, distribution, transportation, or importation, of cigarettes or tobacco products.

(e) The department may consider single or multiple federal, state, or county violation(s) pertaining to the unlawful sale, acquisition, possession, stamping, distribution, transportation, importation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit stamps, or other tobacco products in violation of federal, state, or county law in determining the appropriate action to be taken.

(f) Revocation, suspension, or declination to renew a license shall have no effect on liability for payment of taxes, fees, penalties, or interest incurred or imposed. [Eff 04/26/2007] (Auth: HRS §245-2) (Imp: HRS §245-13)

HRS §245-2 §18-245-2-3 Good cause to suspend, revoke, or decline to renew a wholesaler or dealer license.

(a) In addition to any other acts or conditions provided by law, the department may suspend or, after hearing, revoke or decline to renew any license, whenever the department finds that the applicant or licensee has failed to comply with chapter 245 or any rule adopted under chapter 245, or for any other good cause. Good cause includes instances where an applicant or licensee has:

- (1) Submitted a false or fraudulent application or intentionally provided a false statement in an application;
- (2) Possessed or displayed a false or fraudulent license or retail tobacco permit;
- (3) Failed to meet or maintain the conditions and requirements necessary to qualify for the granting of a license or retail tobacco permit;
- (4) Procured a wholesaler or dealer license or retail tobacco permit through fraud, misrepresentation, or deceit;
- (5) Aided and abetted a person or entity that does not possess a license or retail tobacco permit to directly or indirectly perform activities requiring a license or retail tobacco permit;
- (6) Instances of noncompliance, violation, or conviction of any law directly pertaining to the sale, importation, acquisition, possession, stamping, distribution, transportation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit tax stamps, or other tobacco products in violation of county, state, or federal law;
- (7) Intentionally failed to make accessible for inspection any records of the licensee or permittee for the purpose of determining compliance with chapter 245 to any representative of the department or the attorney general; or
- (8) Failed to comply with applicable tax obligations.

(b) In assessing whether good cause exists when considering a revocation, suspension, or declination to renew a license based upon a person's or entity's employee's violation(s) of §709-908, HRS, the department may consider whether the sale of the tobacco product to the minor was an isolated incident, and if not, the extent to which the person or entity acted in reckless disregard of the risk that tobacco products would be sold to minors.

(c) In determining good cause the department may consider:

- (1) The nature, circumstances, extent, and gravity of the violation;
- (2) With respect to the licensee, the degree of culpability and any history of prior compliance or prior violations of tobacco enforcement or tax laws; and
- (3) Such other matters as justice may require or as the department deems relevant.

(d) Revocation, suspension, or declination to renew a license shall have no effect on liability for payment of taxes, fees, penalties, or interest incurred or imposed. [Eff 04/26/2007] (Auth: HRS §245-2) (Imp: HRS §245-13)

HRS §245-2 §18-245-2-4 Demand for a hearing. Any person or entity whose application for the issuance, renewal, reinstatement, or restoration of a license has been denied by the department, shall be entitled to a hearing; provided that a demand for a hearing is filed with the department within sixty days of the date of the notice informing the applicant of the denial of application, suspension, or revocation; and provided further that this section

shall not apply to a denial based on the failure to file an application within the period provided by chapter 245 or any rule adopted under chapter 245. [Eff 04/26/2007] (Auth: HRS §245-2) (Imp: HRS §245-13)

HRS §245-2 §18-245-2-5 Proceedings upon demand for hearing on action taken relating to a wholesaler or dealer license. (a) If a demand for a hearing is filed within the time prescribed, the department shall order a hearing pursuant to procedures complying with chapters 91 and 245, HRS.

(b) For purposes of proceedings relating to action taken upon a tobacco wholesaler or dealer license, the director shall conduct the hearings, shall render the decision, and shall issue such orders and take such actions as may be required; provided that the director may designate an agent who shall be the presiding officer, conduct the hearings, and make recommendations in writing to the director, which recommendations shall include recommendations as to findings of fact and conclusions of law. The director shall then render the decision as to findings of fact and conclusions of law and shall issue such orders and take such actions as may be further required.

(c) In all such proceedings, the director's authorized agent shall have the power to give notice of the hearing, arrange for the administration of oaths, examine witnesses, certify official acts, rule on offers of proof, receive relevant evidence, regulate the course and conduct of the hearing, including regulating the manner of any examination of a witness to prevent harassment or intimidation and ordering the removal of disruptive individuals, and perform such other duties necessary for the proper conduct of the hearing.

(d) The director's authorized agent shall take a verbatim record of the evidence presented at any hearing by any reasonable means within the agent's discretion, including an audio recording. The director's authorized agent may engage the services of a stenographer, or someone similarly skilled, to take a verbatim record of evidence presented at any hearing. Any party may request a certified transcript of the proceedings. The party making the request for the services of a stenographer or certified copies of the hearing shall be responsible for the relevant fees.

(e) A director's authorized agent shall be disqualified from deciding a contested matter if the agent:

- (1) Has a substantial financial interest, as defined in section 84-3, HRS, in a business or other undertaking that will be directly affected by the decision of the contested case;
- (2) Is related within the third degree by blood or marriage to any party to the proceeding or any party's representative or attorney;
- (3) Has participated in the investigation preceding the institution of the contested case proceedings or has participated in the development of the evidence to be introduced in the hearing; or
- (4) Has a personal bias or prejudice concerning a party that will prevent a fair and impartial decision involving that party.

(f) If a director's authorized agent is absent or otherwise unable to proceed with the agent's duties associated with a contested case or hearing, the director may designate another representative to serve as a substituting presiding officer without abatement of the proceedings.

(g) No person shall communicate with the director's authorized agent regarding matters to be decided by the agent with the intent, or the appearance of intent, to influence the decision of the agent, unless all of the parties to the proceedings are given notice of the communication and an opportunity to also communicate. The director's authorized agent shall disclose any ex parte communications or attempts at ex parte communications on the record and allow all parties the opportunity to respond, refute, or comment on any such communication. [Eff 04/26/2007] (Auth: HRS §245-2, HRS § 245-12) (Imp: HRS §245-13)

RETAIL TOBACCO PERMIT

HRS §245-2.5 §18-245-2.5-1 Retail tobacco permit. (a) Beginning December 1, 2006, every person or entity engaged in the retail sale of cigarettes or other tobacco products upon which a tax is required to be paid under chapter 245, HRS, shall obtain a retail tobacco permit.

(b) Beginning March 1, 2007, it shall be unlawful for any person or entity engaged in the retail sale of cigarettes or other tobacco products upon which a tax is required to be paid under chapter 245, HRS, to sell, possess, keep, acquire, distribute, or transport cigarettes or other tobacco products for retail sale unless a retail tobacco permit has been issued to the retailer under this section and the retail tobacco permit is valid and in effect.

(c) The retail tobacco permit shall be issued by the department upon application by the retailer in the form and manner prescribed by the department, and the payment of any fee allowed by law. Permits shall be valid for one year, from December 1 to November 30, and renewable annually. Whenever a retail tobacco permit is defaced, destroyed, or lost, or the permittee relocates the permittee's business, the department may issue a duplicate retail tobacco permit to the permittee for a fee, as allowed by law.

(d) A separate retail tobacco permit shall be obtained for each place of business owned, controlled, or operated by a retailer. A retailer that owns or controls more than one place of business may submit a single application

for more than one retail tobacco permit. Each retail tobacco permit issued shall clearly describe the place of business where the operation of the business is conducted.

(e) Any person or entity that operates as a dealer or wholesaler and also sells cigarettes or other tobacco products to consumers at retail shall acquire a separate retail tobacco permit.

(f) A retail tobacco permit shall be nonassignable and nontransferable from one person or entity to another person or entity. A retail tobacco permit may be transferred from one business location to another business location after an application has been filed with the department requesting the transfer and approval has been obtained from the department.

(g) A retail tobacco permit issued under this section shall be displayed at all times in a conspicuous place at the place of business requiring the retail tobacco permit.

(h) Any sales of cigarettes or tobacco products made through a cigarette or tobacco product vending machine are subject to the terms, conditions, and penalties of this chapter. A retail tobacco permit need not be displayed on a cigarette or tobacco product vending machine if the retail tobacco permit holder is the owner of the cigarette or tobacco product vending machine and the cigarette or tobacco product vending machine is operated at the location described in the retail tobacco permit.

(i) A vehicle from which cigarettes or tobacco products are sold is considered a place of business and requires a retail tobacco permit. Retail tobacco permits for a vehicle shall be issued bearing a specific motor vehicle identification number and are valid only when physically carried in the vehicle having the corresponding motor vehicle identification number. Retail tobacco permits for vehicles shall not be moved from one vehicle to another. [Eff 04/26/2007] (Auth: HRS §245-2.5) (Imp: HRS §245-13)

HRS §245-2.5 §18-245-2.5-2 Renewal of retail tobacco permit; notification of change. (a) The annual renewal fee and completed renewal application shall be submitted on or before the department's prescribed deadline. Unless renewed, all retail tobacco permits expire at the time provided by law.

(b) In the event of any change in the information provided in the application for a retail tobacco permit, or documentation provided in the application process, each retail permit holder shall notify the department, in writing, within ten days of the change. Notice to retail permit holders, as required by law, shall be deemed met if notice is sent to the address on file with the department. [Eff 04/26/2007] (Auth: HRS §245-2.5) (Imp: HRS §245-13)

HRS §245-2.5 §18-245-2.5-3 Notice of revocation, suspension, or declination to renew a retail tobacco permit. (a) Before the department may revoke or suspend a retail tobacco permit or decline to renew a retail tobacco permit, the department shall mail its notice of intention to revoke, suspend, or decline to renew the retail tobacco permit to the permittee at its last known address appearing in the records of the department (unless the department has been notified by the U.S. Postal Service that the address is invalid and there is no forwarding address for the licensee or permittee); provided, that this section shall not apply to the automatic forfeiture based on the failure to file an application within the period provided by chapter 245 or any rule adopted under chapter 245.

(b) In the event the department is unable to provide notice by mail as provided in subsection (a), the department may give notice of its intention to revoke, suspend, or decline to renew a retail tobacco permit by publishing the notice once in each of two successive weeks (two total publications) in a newspaper of general circulation published in the State); provided, that this section shall not apply to the automatic forfeiture based on the failure to file an application within the period provided by chapter 245 or any rule adopted under chapter 245.

(c) The department may revoke, suspend, or decline to renew the retail tobacco permit whenever the department finds that the applicant or permittee has failed to comply with chapter 245 or any rule adopted under chapter 245, or for any other good cause. If a person or entity whose retail tobacco permit is revoked, suspended, or not renewed disputes the department's actions the aggrieved party may petition the director in writing, within 60 days of the date of the notice, setting forth reasons why revocation, suspension, or declination to renew the retail tobacco permit should not occur.

(d) In the petition, the permittee may provide information, to which the department may give due consideration, regarding mitigation measures taken by the permittee to abide by the requirements of any federal, state, or county law pertaining to the sale, acquisition, possession, stamping, distribution, transportation, or importation, of cigarettes or tobacco products.

(e) The department may consider single or multiple federal, state, or county violation(s) pertaining to the unlawful sale, acquisition, possession, stamping, distribution, transportation, importation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit stamps, or other tobacco products in violation of federal, state, or county law in determining the appropriate action to be taken.

(f) Revocation, suspension, or declination to renew a retail tobacco permit shall have no effect on liability for payment of taxes, fees, penalties, or interest incurred or imposed. [Eff 04/26/2007] (Auth: HRS §245-2.5) (Imp: HRS §245-13)

HRS §245-2.5 §18-245-2.5-4 Good cause to suspend, revoke, or decline to renew a retail tobacco permit. (a)

In addition to any other acts or conditions provided by law, the department may suspend or, after hearing, revoke or decline to renew any retail tobacco permit whenever the department finds that the applicant or permittee has failed to comply with chapter 245 or any rule adopted under chapter 245, or for any other good cause. Good cause includes instances where an applicant, or permittee has:

- (1) Submitted a false or fraudulent application or intentionally provided a false statement in an application;
- (2) Possessed or displayed a false or fraudulent license or retail tobacco permit;
- (3) Failed to meet or maintain the conditions and requirements necessary to qualify for the granting of a license or retail tobacco permit;
- (4) Procured a wholesaler or dealer license or retail tobacco permit through fraud, misrepresentation, or deceit;
- (5) Aided and abetted a person or entity that does not possess a license or retail tobacco permit to directly or indirectly perform activities requiring a license or retail tobacco permit;
- (6) Instances of noncompliance, violation, or conviction of any law directly pertaining to the sale, importation, acquisition, possession, stamping, distribution, transportation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit tax stamps, or other tobacco products in violation of county, state, or federal law;
- (7) Intentionally failed to make accessible for inspection any records of the licensee or permittee for the purpose of determining compliance with chapter 245 to any representative of the department or the attorney general; or
- (8) Failed to comply with applicable tax obligations.

(b) In assessing whether good cause exists when considering a revocation, suspension, or declination to renew a retail tobacco permit based upon a person's or entity's employee's violation(s) of §709-908, HRS, the department may consider whether the sale of the tobacco product to the minor was an isolated incident, and if not, the extent to which the person or entity acted in reckless disregard of the risk that tobacco products would be sold to minors.

(c) In determining "good cause" the department may consider:

- (1) The nature, circumstances, extent, and gravity of the violation;
- (2) With respect to the permittee the degree of culpability and any history of prior compliance or prior violations; and
- (3) Such other matters as justice may require or as the department deems relevant.

(d) Revocation, suspension, or declination to renew a retail tobacco permit shall have no effect on liability for payment of taxes, fees, penalties, or interest incurred or imposed. [Eff 04/26/2007] (Auth: HRS §245-2.5) (Imp: HRS §245-13)

HRS §245-2.5 §18-245-2.5-5 Demand for a hearing. Any person or entity whose application for the issuance, renewal, reinstatement, or restoration of a retail tobacco permit has been denied by the department, shall be entitled to a hearing; provided that a demand for a hearing is filed with the department within sixty days of the date of the notice informing the applicant of the denial of application, suspension, or revocation; and provided further that this section shall not apply to a denial based on the failure to file an application within the period provided by chapter 245 or any rule adopted under chapter 245. [Eff 04/26/2007] (Auth: HRS §245-2.5) (Imp: HRS §245-13)

HRS §245-2.5 §18-245-2.5-6 Proceedings upon demand for hearing on action taken relating to a tobacco retail permit. (a) If a demand for a hearing is filed within the time prescribed, the department shall order a hearing pursuant to procedures complying with chapters 91 and 245, HRS.

(b) For purposes of proceedings relating to action taken upon a retail tobacco permit, the director shall conduct the hearings, shall render the decision, and shall issue such orders and take such actions as may be required; provided that the director may designate an agent who shall be the presiding officer, conduct the hearings, and make recommendations in writing to the director, which recommendations shall include recommendations as to findings of fact and conclusions of law. The director shall then render the decision as to findings of fact and conclusions of law and shall issue such orders and take such actions as may be further required.

(c) In all such proceedings, the director's authorized agent shall have the power to give notice of the hearing, arrange for the administration of oaths, examine witnesses, certify official acts, rule on offers of proof, receive relevant evidence, regulate the course and conduct of the hearing, including regulating the manner of any examination of a witness to prevent harassment or intimidation and ordering the removal of disruptive individuals, and perform such other duties necessary for the proper conduct of the hearing.

(d) The director's authorized agent shall take a verbatim record of the evidence presented at any hearing by any reasonable means within the agent's discretion, including an audio recording. The director's authorized agent may engage the services of a stenographer, or someone similarly skilled, to take a verbatim record of evidence presented at any hearing. Any party may request a certified transcript of the proceedings. The party making the request for the services of a stenographer or certified copies of the hearing shall be responsible for the relevant fees.

(e) A director's authorized agent shall be disqualified from deciding a contested matter if the agent:

- (1) Has a substantial financial interest, as defined in section 84-3, HRS, in a business or other undertaking that will be directly affected by the decision of the contested case;
- (2) Is related within the third degree by blood or marriage to any party to the proceeding or any party's representative or attorney;
- (3) Has participated in the investigation preceding the institution of the contested case proceedings or has participated in the development of the evidence to be introduced in the hearing; or
- (4) Has a personal bias or prejudice concerning a party that will prevent a fair and impartial decision involving that party.

(f) If a director's authorized agent is absent or otherwise unable to proceed with the agent's duties associated with a contested case or hearing, the director may designate another representative to serve as a substituting presiding officer without abatement of the proceedings.

(g) No person shall communicate with the director's authorized agent regarding matters to be decided by the agent with the intent, or the appearance of intent, to influence the decision of the agent, unless all of the parties to the proceedings are given notice of the communication and an opportunity to also communicate. The director's authorized agent shall disclose any ex parte communications or attempts at ex parte communications on the record and allow all parties the opportunity to respond, refute, or comment on any such communication. [Eff 04/26/2007] (Auth: HRS §245-2.5, HRS § 245-12) (Imp: HRS §245-13)

HRS §245-22 §18-245-3 Method and manner of affixing stamps. Stamps or stamping indicia shall be securely affixed to the bottom of each cigarette package in such a manner that the stamps or stamping indicia are clearly visible, legible and complete. [Eff 12/16/2000](Auth: HRS §§245-22, 245-42)(Imp: HRS §245-22)

HRS §245-22 §18-245-4 Adherence of stamps. Stamps or stamping indicia shall be affixed in such manner as to adhere securely to the bottom of each cigarette package. If the cigarette packages are wrapped in or covered by some substance to which the stamps or stamping indicia do not readily adhere, such wrapper or covering must be roughened or treated so that stamps or stamping indicia will adhere securely thereto.[Eff 12/16/2000](Auth: HRS §§245-22, 245-42)(Imp: HRS §245-22)

HRS §245-33 §18-245-5 Refund or credit for unused stamps. The department will refund or credit to a licensee who purchased stamps the denominated value of any unused stamps which are returned to the department or the financial institution designated to sell stamps, in accordance with section 231-23, HRS, provided the licensee provides a receipt for the purchase of the stamps. [Eff 12/16/2000](Auth: HRS §§245-33, 245-42)(Imp: HRS §245-33)

HRS §245-32 §18-245-6 Refund or credit for cigarettes shipped outside of the State for sale or use outside the State. (a) Whenever any cigarette packages upon which stamps have been placed have been shipped to a point outside the State where they are resold or otherwise consumed or used outside the State, the licensee shall be entitled to a refund or credit of the denominated value of stamps placed on such cigarette packages, in accordance with section 231-23, HRS.

(b) To receive this refund or credit, the licensee shall provide:

- (1) Evidence that stamps were placed upon the cigarette packages; and
- (2) Either a certificate from the entity to whom the cigarette packages are resold or received for use or consumption, prescribed by the department, or alternative documentation which establishes that the licensee has shipped the cigarette packages to a point outside the State where they will be resold, consumed, or used outside the State. [Eff 12/16/2000](Auth: HRS §§245-32, 245-42)(Imp: HRS §245-32)

HRS §245-3 §18-245-7 Refund or credit for casualty loss. (a) The department shall refund or credit to a licensee who purchased stamps, the denominated value of stamps placed on cigarette packages which thereafter become the subject of a casualty loss deduction allowable under chapter 235, HRS, in accordance with section 231-23, HRS.

- (b) To receive this refund or credit, the licensee shall provide:
- (1) Evidence that the stamps were placed upon the cigarette packages; and
 - (2) The state income tax return which evidences that these cigarette packages subsequently became the subject of a casualty loss deduction allowed under chapter 235, HRS. [Eff 12/16/2000](Auth: HRS §§245-3, 245-42)(Imp: HRS §245-3)

HRS §245-11 §18-245-8 Requirements for refund or credit. No credit or refund shall be allowed under sections 18-245-5, 18-245-6, or 18-245-7, unless the claim for the credit or refund is filed as follows:

- (1) If a monthly return is timely filed, or is filed within five years after the date prescribed for filing the monthly return, then the credit or refund must be claimed within five years after the date the monthly return was filed or the date prescribed for filing the monthly return, whichever is later.
- (2) If a monthly return is not filed, or is filed more than five years after the date prescribed for filing the monthly return, a claim for credit or refund must be filed within:
 - (A) Five years after the payment of the tax; or
 - (B) Five years after the date prescribed for the filing of the monthly return, whichever is later. [Eff 12/16/2000](Auth: HRS §§245-11, 245-42)(Imp: HRS §§245-32, 245-33, 245-3)

HRS §245-25 §18-245-9 Authorization of designee to purchase stamps for licensee; revocation of authorization. (a) The department shall sell stamps only to persons holding licenses as required by section 245-2, HRS, or their designee. A designee may purchase stamps provided that:

- (1) Written authorization is made naming the designee and identifying the designee by means of a signature or any other means of identification the department or designated bank may require;
- (2) The written authorization and means of identification as required in section (a)(1) is delivered by certified mail or hand delivery to the stamp sales location at which the designee will be purchasing the stamps; and
- (3) Only a person who is not a minor is eligible to be a designee to purchase the stamps.

(b) The written authorization shall continue in effect until written notice of revocation of the authority by the licensee is delivered by certified mail or by hand delivery to the stamp sales location at which the designee has been purchasing the stamps. [Eff 12/16/2000](Auth: HRS §§245-25, 245-42)(Imp: HRS §245-25)

HRS §245-26 §18-245-10 Deferred-payment purchase. Every licensee desiring to purchase stamps on a deferred-payment basis may apply to the department. Upon receipt of the completed application and the required bond, the department shall give written authorization to the licensee for the amount of deferred-payment purchases. The department shall set the maximum amount of deferred-payment purchases allowed. The maximum amount of deferred-payment purchases allowed shall be the cost of stamps needed for the largest amount of cigarette sales in one month during the preceding twelve months. [Eff 12/16/2000](Auth: HRS §§245-26, 245-27, 245-42) (Imp: HRS §§245-26, 245-27)

HRS §245-27 §18-245-11 Deferred-payment purchase; bonds. (a) Every licensee requesting payment for stamps on a deferred-payment basis shall execute a bond with a surety company licensed in this State in an amount to be determined by the department. The department may increase or reduce the amount of bond at any time, but in no event shall the amount of the bond be greater than one hundred per cent of the maximum amount of deferred-payment purchases allowed.

(b) When a licensee fails to make a timely payment for a deferred-payment purchase, the department may immediately file a claim for execution of the bond with the appropriate surety company. [Eff 12/16/2000](Auth: HRS §§245-27, 245-42)(Imp: HRS §245-27)

HRS §245-24 §18-245-12 Purchase of stamps through a designated bank; method of payment; bonds for returned business checks; accounts at the designated bank. Licensees shall purchase stamps through a bank designated to sell stamps by the department. Licensees may pay for the stamps with cash, certified check, cashiers check or business check. Upon return of a business check for any reason, the licensee shall be assessed a fee as determined by the bank. Upon return of a business check for insufficient funds, the licensee shall be required to execute a bond with a surety company licensed in this State in an amount to be determined by the bank. The designated bank may require licensees purchasing stamps to open an account with the bank unless an account is already established at the bank. [Eff 12/16/2000] (Auth: HRS §§245-24, 245-42)(Imp: 42 HRS §245-24)

HRS §245-34 **§18-245-13** **Transfer of stamps.** Licensees may not sell, exchange, or transfer unaffixed stamps without prior written approval by the department. The request for written approval shall be accompanied by documentation signed by both the party transferring the stamps and the party receiving the stamps with the following information:

- (1) Names and addresses of the parties transferring the stamps and receiving the stamps;
- (2) Serial numbers of the stamps involved;
- (3) Number of stamps involved and dollar amount of the stamps involved;
- (4) Reason for the transfer; and
- (5) Any other information the department may require. [Eff 12/16/2000](Auth: HRS §§245-34, 245-42)(Imp: HRS §245-34)

HRS §245-41 **§18-245-14** **Reporting requirement for missing shipments of stamped cigarettes and damaged or otherwise unusable stamps.** Licensees must report to the department of the attorney general, information on missing shipments of stamped cigarettes and damaged stamps or stamps which have become unusable, within twenty-four hours of the discovery that the shipments are missing or the stamps have been damaged or have become unusable. Licensees shall report the following information to the department of the attorney general on missing shipments of stamped cigarettes and damaged or otherwise unusable stamps:

- (1) Name and address of licensee;
- (2) Serial numbers of the stamps involved;
- (3) Number of stamps involved and dollar amount of the stamps involved;
- (4) In the case of missing shipments, the name and address of the entity to whom the stamped cigarettes were shipped to; and
- (5) Any other information the department of the attorney general may require. [Eff 12/16/2000] (Auth: HRS §245-42)(Imp: HRS §§245-41, 245-42)

CIGARETTE TAX STAMPING

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