

Territory of Hawaii  
Department of the Tax Commissioner

Tobacco Tax Memorandum No. 1, To All Dealers Liable to the Tobacco Tax

Under Act 1 of the Special Session Laws of 1957 the rate of tax is 20%, effective July 1, 1957. This rate is to be applied whether the tax falls upon the sale or upon the use of tobacco products. The special rate formerly applicable to the use of tobacco products has been eliminated.

Under Act 1, Sp. S. L. 1957 and Act 34, S. L. 1957, effective July 1, 1957 neither "wholesale purchase price" nor "retail price" enters into the tax base of the tobacco tax. (Formerly, wholesale purchase price was the tax base in the case of a dealer subject to the tobacco tax who made sales other than wholesale sales. "Retail price" was the tax base when the tax fell upon the use of the tobacco products, for example, in the case of products used for demonstration purposes.) Under the amended law "wholesale price" is the tobacco tax base in all cases.

If the dealer is exclusively a wholesaler, this change affects him only insofar as he uses tobacco products instead of selling them. If the dealer is both a wholesaler and retailer, or if he is exclusively a retailer, this change affects him to a greater degree.

Act 34 defines "wholesale price." The application of Act 34 is explained below.

1. Dealer who is exclusively or partly a wholesaler.

As to sales made at wholesale, the tax base remains the actual wholesale price upon the wholesale sale involved.

As to instances of use of tobacco products, or sales not made at wholesale (for example, over the counter retail sales or vending machine sales), the tax base is, in the case of a dealer regularly making large quantity sales at wholesale during the month preceding the month involved (i.e., sales to chain stores) the average price of those sales. In other cases the tax base will be that determined by the Tax Commissioner, the same as in the case of a dealer who is not a wholesaler (see part 2 below).

2. Dealer who is not a wholesaler.

In cases of use or sale by such a dealer, the tax base is the average wholesale price in the same county during the month preceding the tax month involved. This average wholesale price will be determined by the Tax Commissioner from time to time, based on large quantity sales to retailers (i.e., sales to chain stores). The average wholesale price will be determined for tobacco products grouped in categories. Records must be kept in such manner as to provide for payment of the tax on the proper amount according to the category. These categories are as follows:

Regular size cigarettes.  
King size and filter tip cigarettes.  
Chewing tobacco, pipe tobacco, and snuff.  
Domestic cigars.

The average wholesale price for each category, as determined by the Tax Commissioner, will be expressed in terms of percentage of mark-up to be added to the wholesale purchase price prevailing at the time that the taxable sale or use occurs. The wholesale purchase price to which this percentage mark-up is to be added is less cash discount.

Until determination of the average wholesale price by the Tax Commissioner, dealers may subject to later adjustment, compute their tax base at manufacturers list price, or in other words by adding to wholesale purchase price the difference between wholesale purchase price and manufacturer's list price.

These returns will be subject to adjustment to reflect the determination of average wholesale price when made.

Dated: Honolulu, Hawaii, July 5, 1957.

  
EARL W. FASE, TAX COMMISSIONER