

STATE OF HAWAII—DEPARTMENT OF TAXATION
INSTRUCTIONS FOR FORM M-110
CIGARETTE AND TOBACCO PRODUCTS TAX RETURN

General Instructions

Form M-110 is used to report and pay the cigarette and tobacco taxes monthly on the imports of cigarettes and tobacco products.

Form M-110 MUST be filed electronically at hitax.hawaii.gov.

Cigarette Tax

Section 245-3, Hawaii Revised Statutes (HRS), imposes the cigarette tax at the rate of \$.16 per cigarette for sales, use, or possession of cigarettes on and after July 1, 2011.

Tobacco Tax

Section 245-3, HRS, imposes the tobacco tax as follows:

- For sales, use, or possession of tobacco products (other than cigarettes, large cigars, and little cigars) on and after September 30, 2009, the tax is imposed at the rate of 70% of the wholesale price of the tobacco products.
- For sales, use, or possession of large cigars of any length on and after September 30, 2009, the tax is imposed at the rate of 50% of the wholesale price of the large cigars.
- For sales, use, or possession of little cigars on and after July 1, 2011, the tax is imposed at the rate of \$.16 per little cigar.

Definition of Certain Terms Used in Chapter 245, HRS

“**Cigarette**” means any roll for smoking made wholly or in part of tobacco, irrespective of the size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

“**Large cigar**” means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco and weighs more than four pounds per thousand.

“**Little cigar**” means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco, other than natural leaf tobacco, and weighs not more than four pounds per thousand rolls.

“**Tobacco products**” means tobacco in any form other than cigarettes or little cigars, that is prepared or intended for consumption or for personal use by humans, including large cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco.

“**Use**” means the exercise of any right or power incident to ownership or possession, other than the sale, or the keeping or retention for the purpose of sale.

“**Wholesale price,**” in addition to any other meaning of the term, means in the case of a tax upon the use of tobacco products, or upon a sale not made at wholesale: (1) If made by a person who during the month preceding the accrual of the tax made substantial sales to retailers of like tobacco products, the average price of the sales, and (2) If made by any other person, the average price of sales to retailers of like tobacco products made by other taxpayers in the same county during the month preceding the accrual of the tax.

Who Must File

Unlicensed individuals who import cigarettes and/or tobacco products for personal use from an unlicensed seller located outside of Hawaii must file Form M-110. “Unlicensed” means that the person or seller does not have a Hawaii Cigarette and Tobacco License. For example, if you are an individual and you buy cigarettes or tobacco products online or through a catalog from an unlicensed seller located outside of Hawaii and import those products into Hawaii for your own use, then you are required to report and pay the cigarette and tobacco taxes on those products.

If you are required to file Form M-110, you must also file Form G-26, Use Tax Return, to report and pay the use tax on cigarettes and tobacco products imported for consumption. See the discussion on page 2.

Electronic Funds Transfer (EFT)

Section 231-9.9, HRS, authorizes the Department to require those taxpayers whose tax liability for a particular tax exceeded \$100,000 during the past year to pay that tax by EFT instead of by check. The Department

reviews the filing records of taxpayers and will mail notices to taxpayers who met this criterion. Any taxpayer who does not meet the criterion may still voluntarily pay by EFT. For more information on paying taxes by EFT, see tax.hawaii.gov/eservices/ and Tax Information Release Nos. 95-6 and 99-1.

IMPORTANT: A penalty of 2% of the total tax will be assessed if a taxpayer who is required to make payments by EFT does not do so without reasonable cause. If an EFT payment is dishonored, a \$25 service fee will be assessed.

When to File

Form M-110 must be filed on or before the 20th day of each month, showing the cigarettes and tobacco products imported into Hawaii during the preceding calendar month. If the due date falls on a Saturday, Sunday, or legal holiday, file by the next regular workday.

The official U.S. Post Office cancellation mark will be considered primary evidence of the date of filing of tax documents and payments. Hawaii has adopted the Internal Revenue Code provision to allow documents and payments delivered by a designated private delivery service to qualify for the “timely mailing treated as timely filing/paying rule.” The Department will conform to the Internal Revenue Service listing of designated private delivery services and type of delivery services qualifying for the “timely mailing treated as timely filing/paying rule.” Timely filing of mail which does not bear a U.S. Post Office cancellation mark will be determined by reference to other competent evidence.

Where to File

Form M-110 MUST be filed electronically at hitax.hawaii.gov.

You may also mail Form M-110 and your payment to:

Hawaii Department of Taxation
P. O. Box 259
Honolulu, HI 96809-0259

Where To Get Forms, Instructions, and Publications

Forms, publications, and other documents, such as copies of Tax Information Releases and Administrative Rules issued by the Department, are available on the Department’s website at tax.hawaii.gov or you may contact a customer service representative at:

Voice: 808-587-4242
1-800-222-3229 (Toll-Free)

Telephone for the Hearing Impaired:
808-587-1418
1-800-887-8974 (Toll-Free)

Fax: 808-587-1488

Mail: Taxpayer Services Branch
P. O. Box 259
Honolulu, HI 96809-0259

Penalty and Interest

Late Filing of Return — The penalty for failure to file a return on time is assessed on the tax due at a rate of 5% per month, or part of a month, up to a maximum of 25%.

Failure to Pay Tax After Filing Timely Return — The penalty for failure to pay the tax after filing a timely return is 20% of the tax unpaid within 60 days of the prescribed due date.

Failure to Pay by EFT — The penalty for failure to pay by EFT for taxpayers who are required to pay by EFT is 2% of the total tax.

Failure to File Electronically — Form M-110 MUST be filed electronically unless you obtain a waiver. (Use Form L-110 to apply for a waiver.) The penalty for failure to file electronically is 2% of the total tax.

Interest — Interest at the rate of 2/3 of 1% per month or part of a month shall be assessed on unpaid taxes and penalties beginning with the first calendar day after the date prescribed for payment, whether or not that first calendar day falls on a Saturday, Sunday, or legal holiday.

Signature

The return must be signed and dated by a person who is authorized to sign Form M-110.

Change of Address

If your mailing address changes, you must notify the Department of the change by completing Form ITPS-COA, Change of Address Form. Failure to do so may prevent your address from being updated, any refund due to you from being delivered (the U.S. Postal Service is not permitted to forward your State refund check), and delay important notices or correspondence to you regarding your return.

Specific Instructions

Line (3) — Enter the wholesale value of tobacco products imported for use.

Line (5) — Enter the wholesale value of large cigars imported for use.

Line (11) — Attach your check or money order for this amount payable to “Hawaii State Tax Collector” in U.S. dollars drawn on any U.S. bank to Form M-110. Write “M-110” and the filing period on your check or money order. DO NOT SEND CASH.

Use Tax (To be reported on Form G-26)

Chapter 238, HRS, levies the use tax on the landed value of property, services, or contracting that are imported into Hawaii, regardless if at the time of importation, the property, services, or contracting is owned by the importer, purchased from a seller that does not have a general excise tax license, or however acquired, and used in the State.

“Landed value” means the value of imported cigarettes and tobacco products which is the fair and reasonable cash value of the cigarettes and tobacco products when they are received by the purchaser in Hawaii. It includes the purchase price, shipping and handling fees, insurance costs, and customs duty. It does not include sales tax paid to another state.

For more information about the Hawaii Use Tax, refer to the following Department publications: Tax Facts No. 95-1 and An Introduction to the Use Tax brochure.

These publications may be viewed at our website: tax.hawaii.gov.

Use Form G-26, Use Tax Return, to report and pay the use tax monthly on the imports of cigarettes and tobacco products. The following instructions are numbered to correspond to the line items of Form G-26.

Form G-26, Line (a) — Use the Worksheet below to calculate the landed value of cigarettes and tobacco products imported into Hawaii.

Form G-26, Line (e) — Enter the landed value of cigarettes and tobacco products imported into counties imposing a county surcharge. Section 238-2.6, HRS, allows a county in Hawaii to impose a county surcharge on state tax of not more than 0.5% of the value of property, services, or contracting taxable under chapter 238, HRS, that is imported from out-of-state into a county imposing the tax.

Form G-26, Line (k) — Section 238-3(i), HRS, allows a credit against the Hawaii use tax for the combined amount of sales or use taxes imposed by and paid to another state (or any subdivision thereof) on property, services or contracting before it is imported into Hawaii. Accordingly, a taxpayer may receive a credit up to the amount of Hawaii use tax due (4% of the landed value of the cigarettes and tobacco products plus the amount of any county surcharge) for any sales or use taxes paid by the taxpayer to another state upon the purchase or use of the cigarettes and tobacco products. The calculation of the credit shall not include any other taxes paid to other states. The amount of credit also shall not exceed the amount of use tax imposed by Hawaii on the cigarettes and tobacco products.

Form G-26, Line (p) — Attach your check or money order for this amount payable to “Hawaii State Tax Collector” in U.S. dollars drawn on any U.S. bank to Form G-26.

USE TAX COMPUTATION WORKSHEET FOR LANDED VALUE OF CIGARETTES AND TOBACCO PRODUCTS

1. Cost of the cigarettes and tobacco products. (Usually the invoice price paid by the purchaser, including any retail sales tax paid to another state or local government.) _____
2. Freight charges. _____
3. Insurance costs. _____
4. Customs duty (if any). _____
5. Any other charges incident to landing the cigarettes and tobacco products in Hawaii. _____
6. Total costs. (Add lines 1 through 5.)..... _____
7. Retail sales tax paid to another state or local government. _____
8. Other adjustments. (Attach schedule)..... _____
9. Add line 7 and line 8. _____
10. **Landed value of cigarettes and tobacco products.** (Line 6 minus line 9.) Enter here and on Form G-26, column (a)..... _____