

STATE OF HAWAII
DEPARTMENT OF TAXATION

Tobacco Tax Memorandum No. 2 (Effective November 1, 1957)

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. Categories of tobacco products.

Each dealer who is subject to tax upon the sale or use of tobacco products must, unless the actual wholesale price is the tax base because the tobacco products are sold by the dealer at wholesale, keep records and account for the tobacco products subject to tax, segregated according to the various types that command a different "wholesale price".

Tobacco products may be grouped in the following categories for the purpose of keeping the required records and accounting for the proper amount of tax. These categories are:

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

If the foregoing categories are not used, then every kind or make of tobacco product that commands a different "wholesale price" constitutes a separate type which must be segregated on the dealer's records and separately accounted for.

2. 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 Director of Taxation, the same as in the case of a dealer who is not a wholesaler (see part 3 below).

3. Dealer who is not a wholesaler.

In cases of use or sale by such a dealers 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 Director of Taxation for each of the above listed categories, from time to time. The determination of the average wholesale price of cigarettes will be based on large quantity sales to retailers (i.e., sales to chain stores).

The average wholesale price for each category, as determined by the Director of Taxation, will be expressed in terms of the amount to be added to the wholesale purchase price, i.e., list price less cash discount, prevailing at the time that the taxable sale or use occurs.

Commencing November 1, 1957 until further notice the amount to be added to wholesale purchase price to determine the tax base or average wholesale price for each of the above listed categories, is as follows:

Regular size cigarettes.) Add the amount of the difference between
King size cigarettes.) the wholesale purchase price and the manu-
Filter tip cigarettes.) facturer's list price, so as to compute
the tax base at manufacturer's list price.

Chewing tobacco, pipe tobacco and snuff--If the wholesale purchase price of the tobacco products in this category is reasonably expected to be less than \$5,000 per year, the dealer may use as the tax base manufacturer's list price, adding to wholesale purchase price the amount of the difference between wholesale purchase price and manufacturer's list price. If the wholesale purchase price of the tobacco products in this category handled by any one dealer is reasonably expected to be \$5,000 or more per year the dealer shall report this fact to the Director of Taxation who will redetermine the amount to be added to wholesale purchase price in computing the tax bases and will notify all dealers of this redetermination which shall then be put into effect by all dealers.

Domestic cigars--Add 10% to the wholesale purchase price, so as to compute the tax base at 110% of wholesale purchase price.

4. Effective date.

This memorandum applies to the sale or use of tobacco products in November, 1957 and thereafter until further notice. Tobacco Tax Memorandum No. 1, 1957 is applicable only to the period ending October 31, 1957.

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EARL W. FASE, DIRECTOR OF TAXATION