

CHAPTER 231
CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE
NICOTINE PRODUCTS OR VAPOR PRODUCTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/23/30

701—231.1(453A) Definitions. Terms have the same meaning as defined in Iowa Code chapters 421B, 453A, 453C, 453D, and 453E and rule 701—230.1(453A).

This rule is intended to implement Iowa Code chapters 421B, 453A, 453C, 453D, and 453E.
[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.2(453A) Permits required. Every person selling or distributing cigarettes or using or consuming untaxed cigarettes within the state of Iowa must first obtain the appropriate permit.

231.2(1) Distributor's permit. If a distributor performs any other function that requires a permit, a separate permit must be obtained. If a person is not performing the functions of a distributor, a permit will not be issued.

231.2(2) Wholesaler's permit. A “sale or distribution” of cigarettes connotes a transfer of cigarettes from one person or entity to another person or entity. Therefore, an intraentity transfer is not a transaction that qualifies as a function of a wholesaler. If a person is not performing the functions of a wholesaler, a permit will not be issued.

EXAMPLE: The XYZ Grocery Chain has a warehouse in Des Moines where stamped cigarettes are stored. The stamped cigarettes are purchased from a permitted distributor. XYZ transfers the cigarettes to its retail outlets across the state for the purpose of making retail sales and makes no other sales. The storage of stamped cigarettes and the retail sale of cigarettes are not functions of a wholesaler. Therefore, XYZ would not be eligible for a wholesaler's permit.

231.2(3) Cigarette vendor's permit. The duplicate permit applies to additional places of business from which the cigarette vendor conducts operations and not to those places of business where the cigarette vending machines are installed for retail sales.

EXAMPLE: A cigarette vendor owns three warehouses from which the vendor supplies cigarettes to 100 vending machines located at various retail establishments. The total permit cost for the vendor would be \$110 (\$100 for a regular permit plus \$10 for two duplicate permits at \$5 each).

231.2(4) Retail permits.

a. Location. Retail permits valid only for the location described in the permit and a retailer must obtain a separate permit for each place of business owned or operated by the retailer.

b. Local jurisdiction. The power to grant the retail permit is discretionary with the city council or board of supervisors, and uniform, nondiscriminatory limits may be placed on the issuance of the retail permit. The city or county must submit a copy of any retail permit issued within 30 days of issuance.

c. Mobile retailers. If a cigarette retailer sells cigarettes from a mobile concession vehicle, the vehicle itself is considered a place of business.

(1) If a retailer is selling cigarettes from a mobile concession vehicle within the area of several permit-issuing authorities, the retailer must obtain a permit from each authority.

(2) The retailer is operating a single place of business within the jurisdiction of the several authorities and is, therefore, subject to regulation by each.

(3) The location described on the permit shall include identification of the vehicle and the address of the permanent place of business from which the vehicle is dispatched. If the vehicle is traded in for a new vehicle, the exchange provisions of subrule 231.2(5) shall apply.

231.2(5) Exchange of permits. If a permittee changes the location of an operation requiring a permit but remains within the jurisdiction of the same entity that granted the original permit, the permittee may exchange the invalid permit (valid only for the location described in the permit) for a valid permit free of charge, without the partial payment-partial refund process described in Iowa Code section 453A.13(4).

EXAMPLE 1: City Bar and Grill sells cigarettes at retail and has obtained a retail cigarette permit from the city of Des Moines. The establishment is moved across the street but remains within the city limits of

Des Moines. The retail permit is valid only for the location described in the permit, and therefore, the original permit is no longer valid. However, since the establishment has remained within the jurisdiction of the entity that granted the original permit, Des Moines, the original, presently invalid permit may be exchanged for a valid permit with a new location description at no cost.

EXAMPLE 2: Same as Example 1, except the new location of City Bar and Grill is outside the corporate limits of Des Moines and within the unincorporated area of Polk County. City Bar and Grill would have to surrender the old permit to the city of Des Moines and obtain a new permit from Polk County with the schedules set forth in this rule applying.

This rule is intended to implement Iowa Code sections 453A.13, 453A.16, 453A.17, and 453A.23.
[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.3(453A) Bond requirements.

231.3(1) The amount of the bond required for each permit shall be as follows:

- a. Distributor permit: \$2,500.
- b. Wholesaler permit: \$2,500.
- c. Vendor permit: \$1,000.
- d. Railway car retail permit: \$500.
- e. Manufacturer permit: \$5,000.
- f. Distributing agent permit: \$2,500.
- g. Retail permit: \$0.

231.3(2) If a person is required to obtain more than one type of permit, the bond requirements shall be cumulative and additional bonds or a single bond equal to the total aggregate requirements must be obtained. More information on the required form of the bond is contained in rule 701—230.4(453A).

This rule is intended to implement Iowa Code sections 453A.14, 453A.17, and 453A.23.
[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.4(453A) Cigarette tax—attachment—exclusivity of tax—exemption.

231.4(1) *Attachment.* The fact that the tax is eventually paid will not relieve the person's standing prior in the chain of distribution of the sanctions for distributing untaxed cigarettes if the tax should have been paid sooner by said person.

231.4(2) *Exclusivity of tax.* No other occupation or excise tax may be imposed by any political subdivision of the state. However, this provision does not apply to occupation or excise taxes imposed by the state.

231.4(3) *Sales exempt from tax.*

a. *Generally.* Sales of cigarettes that the state is prohibited from taxing under the Constitution or the laws of the United States or under the Constitution of this state are exempt from the tax. If the sale is exempt from the tax, stamps must not be attached. No refund will be issued for stamps that are attached to cigarette packages that are later sold exempt.

b. *Sales to the federal government.* Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A nor pay the tax imposed thereunder. However, individuals who have purchased or obtained cigarettes from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.6(2), 453A.36(1), and 453A.37.

c. *Sales by or to Indians.* Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements of which they are tribal members are exempt from the tax. The Indian sellers are subject to the recordkeeping requirements of Iowa Code chapter 453A. The cigarettes must be purchased by the Indian seller with the tax included in the purchase price. The tax exemption is allowed to the Indian purchaser by the purchaser's filing a claim for refund of the tax paid or to the tribe of which the Indian purchaser is a member by the tribe's filing a claim for refund of the tax paid by the tribe on cigarettes sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.6.
[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.5(453A) Cigarette tax stamps.

231.5(1) *Purchase of stamps from the department.* The stamps shall be sent to the purchaser through the United States Postal Service by registered mail or similar delivery service at the department's expense. The purchaser may request alternate methods of transmission, but such methods shall be at the expense of the purchaser. Regardless of the method used to send the stamps, title transfers to the purchaser at the time the department delivers the stamps to the carrier.

231.5(2) *Purchase of stamps from authorized bank.* The permittee shall furnish the bank with a requisition form prescribed by the department. The director may require such payments to be by cashier's check or certified check as to any individual distributor or manufacturer. The authorized bank shall be notified in writing by the department of any such requirement. Distributors or manufacturers that elect to purchase stamps from authorized banks shall advise the department in writing of the authorized bank so elected. The distributor or manufacturer may not purchase from any other bank other than the one so selected but may still purchase stamps directly from the department. Rule 701—231.6(453A) provides more information on restrictions on the sale of cigarette tax stamps placed on authorized banks. Rule 701—231.9(453A) provides more information on refunds relating to cigarette tax stamps.

This rule is intended to implement Iowa Code sections 453A.6, 453A.7, 453A.8, 453A.10, 453A.28, and 453A.35.

[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.6(453A) Banks authorized to sell stamps—requirements—restrictions.

231.6(1) *Authorization.* The director has the discretion to allow the sale or distribution of stamps through authorized banks as defined in Iowa Code section 524.103. The authorization of a bank to sell stamps is not a mandatory direction but may be utilized by the director to enhance the efficiency of the tax stamp distribution system. The director will consider the following nonexhaustive list of factors to determine whether or not to authorize a bank to sell stamps:

- a. Geographical location in relation to distributors or manufacturers requesting alternative purchase locations,
- b. The anticipated volume of stamps to be purchased by the requesting distributors or manufacturers,
- c. Access to transportation systems, and
- d. Prior experience with the bank.

231.6(2) *Sale of stamps.* An authorized bank may sell cigarette stamps only to distributors or manufacturers holding valid permits who have "elected" (as per subrule 231.5(2)) to purchase stamps from that bank. The department shall furnish each bank with a list of all such distributors or manufacturers who have so elected, and the bank shall not sell stamps to persons not on the list. The bank must receive payment in full, less the discount, before selling stamps. A bank is not authorized to accept credit memorandums from distributors or manufacturers.

231.6(3) *Stamp inventory.* Each bank shall keep an adequate inventory of stamps on hand to supply distributors or manufacturers assigned to said bank for at least six weeks. Stamps will be shipped freight prepaid to the bank from the department or from the supplier of the stamps. The supplier of the stamps shall advise the department at once by mail of a shipment to a bank and the bank shall advise the department at once by mail of the receipt of the stamps. Each bank shall store stamps in a secure vault.

231.6(4) *Reports and remittances.* Each bank authorized to sell stamps shall forward to the department the invoices, requisitions, and remittances for stamps sold on a daily basis. Each bank shall forward to the department, on the first working day of each month, an inventory report that shall minimally include as to the prior month: the quantity of stamps on hand at the beginning of the month, the quantity of stamps received during the month, the quantity of stamps sold as to each distributor or manufacturer, the quantity of stamps on hand at the end of the month and the signature of the person responsible for the stamps.

231.6(5) *Audit.* For the purpose of auditing for the end of the fiscal year, no bank shall sell cigarette stamps on the days from June 25 through June 30. With or without notice, the department or a representative designated by the department may take an inventory of stamps and audit stamp sales.

231.6(6) *Records.* Each bank must retain all records of inventory, stamp receipts, and stamp sales for a period of three years.

231.6(7) Termination of authorization. The director may terminate the authorization of a bank to sell stamps if the bank has failed to comply with the provisions of this rule or Iowa Code chapter 453A or if the director deems it desirable for the efficient distribution of stamps.

a. Notice of termination shall be sent to the bank by certified mail. The bank may appeal the termination determination by filing an appeal pursuant to 701—Chapter 7 within 30 days of notice of termination.

b. A bank may voluntarily terminate the sale of stamps by giving the department 90 days' written notice.

c. Upon termination, the bank must immediately return all stamps and present a final accounting, along with any remittances, to the department.

This rule is intended to implement Iowa Code sections 453A.8, 453A.12, and 453A.25.

[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.7(453A) Reports. Whenever “cigarette” is used in this rule, it also includes taxable “little cigars.”

231.7(1) In-state distributors not exporting cigarettes. Every distributor with a place of business in Iowa where cigarettes are stamped and that is not engaged in exporting cigarettes from this state shall submit any forms required by the department.

a. All required forms must be completed before the report will be considered “filed” and may require but not be limited to the following information:

- (1) Distributor’s name, permit number and address;
- (2) Amount of Iowa revenue purchased during the month;
- (3) Quantity of cigarettes on hand at the end of the month;
- (4) Amount of revenue on hand at the end of the month;
- (5) Purchases of cigarettes during the month and as to each purchase, the seller’s name, the date of purchase, the invoice number, and the quantity purchased;
- (6) An inventory report as to out-of-state revenue;
- (7) Quantity of cigarettes returned to the factory along with supporting documents;
- (8) Certification of the person responsible for making the report;
- (9) Inventory accounting for cigarettes; and
- (10) Inventory accounting for revenue.

b. The quantity of cigarettes distributed or stamped should be equal to the tax equivalent of the revenue used. Any discrepancy must be adequately explained.

231.7(2) In-state distributors exporting cigarettes. Every distributor with a place of business in Iowa where cigarettes are stamped that also engages in exporting cigarettes from this state shall file the forms required by the department. The forms must be complete before the forms will be considered filed.

231.7(3) Out-of-state distributors. Every distributor stamping cigarettes only without the state shall file the forms required by the department and shall include but not be limited to:

- a.* The distributor’s name, address and permit number;
- b.* An itemized statement of Iowa revenue purchased;
- c.* An inventory accounting of Iowa revenue;
- d.* A detailed schedule of cigarette distribution in Iowa and as to each distribution, the date, the name of purchaser or receiver, the purchaser’s address and the quantity of cigarettes distributed; and
- e.* The certification of the person responsible for making the report.

231.7(4) Manufacturers and other persons. The monthly reports for manufacturers and other persons shall contain such information as the director deems necessary.

This rule is intended to implement Iowa Code section 453A.15.

[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.8(453A) Manufacturer’s samples and replacement packages.

231.8(1) Free samples. Iowa Code section 453A.39 provides an exclusive method for manufacturers to distribute free sample packages of cigarettes or little cigars. In addition to the requirements under Iowa Code section 453A.39, the cigarettes or little cigars must also be clearly marked “sample” and contain an

acknowledgment that the tax was paid on each carton containing free samples. The tax to be paid must be computed on a per cigarette basis rather than a per package basis.

231.8(2) Distributor affidavit. The department will stamp the distributor's affidavit containing the remittance and return a copy of the affidavit to the distributor as the acknowledgment that taxes have been paid on the samples.

a. After receiving the acknowledgment, and before the sample cigarettes are distributed, each distributor is requested to stamp the cartons of free samples with a stamp containing the distributor's name, permit number and the words "IOWA STATE TAX PAID."

b. In the event the distributor needs acknowledgment sooner, the distributor may request that the department acknowledge by telephone and follow up with the affidavit acknowledgment at a later date.

c. In the event sample cigarettes must be returned to the manufacturer for some reason, a refund of the taxes previously paid will be made to the distributor that actually remitted the tax to the department. The refund will be made in the same manner as for regular cigarettes by the distributor filing the appropriate forms with the department.

231.8(3) Replacement packages. A manufacturer wants to respond to a customer complaint by replacing a package of 20 cigarettes purchased by the customer with another package of 20 cigarettes.

a. The replacement package must be clearly marked with the words "COMPLIMENTARY. NOT FOR SALE. ALL APPLICABLE STATE TAXES PAID."

b. The manufacturer may pay the tax directly to the department by submitting an affidavit to the department containing the number of replacement packages sent into the state during the previous month, along with the remittance. The number of replacement packages and remittance may be submitted as part of the manufacturer's affidavit required under Iowa Code section 453A.39.

This rule is intended to implement Iowa Code sections 453A.1, 453A.13, 453A.16, 453A.22, 453A.31, and 453A.39.

[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.9(453A) Refund of tax—unused and destroyed stamps.

231.9(1) Refunds of unused stamps and destroyed stamps.

a. Refunds shall be issued for unused stamps that are returned to the department for any reason by a person entitled to receive a refund. This includes:

(1) Unused stamps unaffixed at the close of the business day next preceding the effective date of a decrease in the tax rate that are in excess of the unstamped cigarette inventory on hand as of that date.

(2) Stamps that are recalled by the director for purposes of effectuating a change of design of the stamps.

(3) Stamps that have been lost through destruction, since destroyed stamps have not been used. For purposes of this rule, destruction means destruction by fire, flood, other act of God as defined in 701—subrule 10.7(1), or other destruction not reasonably anticipated or foreseen and outside the control of the person seeking the refund. The claim for refund must be supported by proof of the fact of the loss and proof of the quantity of the loss. The claim must be filed within 30 days of the loss.

b. Refunds will not be issued for stamps that are lost (misplaced) or stolen because it is the distributor's or manufacturer's responsibility to maintain proper control over cigarette tax stamps.

c. Banks that are authorized to sell stamps or meter settings are not authorized to issue a refund; the stamps must be returned to the department and a refund will be issued only by the department.

231.9(2) Return of used stamps.

a. Refunds shall be issued for stamps that have been affixed to cigarettes that have become unfit for use or consumption or unsaleable. This refund is available to any permitted distributor or manufacturer upon proof that the cigarettes were returned to the manufacturer of the cigarettes.

b. The proof required shall be an affidavit from the distributor setting forth to whom the cigarettes were returned and verifying that cigarette stamps had been affixed thereto. An affidavit from the manufacturer to which the cigarettes were returned verifying the information must also be included.

231.9(3) Cigarettes that have been destroyed.

a. The tax shall be returned on cigarettes that have been destroyed after the tax stamps have been affixed to the person stamping the cigarettes. No refund is allowed for lost or stolen cigarettes.

b. The person claiming the loss must be able to prove the fact of the loss and quantity of the loss. The claim, on the form required by the department and accompanied by proof of the loss and proof of the quantity of the loss, must be filed with the department no later than 30 days following the date the loss occurred.

c. The amount of the refund shall be the face value of the stamps less the applicable discount allowed purchasers of tax stamps.

231.9(4) *No credit in lieu of a refund.* There are no statutory provisions to allow a credit in lieu of a refund of taxes paid for returned or destroyed cigarette stamps.

This rule is intended to implement Iowa Code section 453A.8.

[ARC 9039C, IAB 3/19/25, effective 4/23/25]

701—231.10(453A) Delivery sales of alternative nicotine products or vapor products.

231.10(1) *Delivery sale permit for out-of-state retailers.* An out-of-state retailer that has applied and otherwise qualifies for a delivery sale permit will be issued the permit for the retailer's principal place of business.

231.10(2) *Sales and use tax permit.* A retailer holding a delivery sale permit must also have an Iowa sales or use tax permit. A retailer holding a delivery sale permit must collect and remit all Iowa sales and use tax due, including any applicable local option sales tax, on all sales in Iowa.

231.10(3) *Bond required.* A bond of \$1,000 is required to obtain a delivery sale permit.

231.10(4) *Prohibited delivery sales.* All delivery sales of cigarettes and tobacco products to consumers in Iowa are prohibited.

This rule is intended to implement Iowa Code sections 453A.47A, 453A.47B, and 453A.47C.

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