

CHAPTER 232
TOBACCO TAX

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

701—232.1(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 9040C, IAB 3/19/25, effective 4/23/25]

701—232.2(453A) Permits.

232.2(1) Generally. If the person holds a valid cigarette permit of any kind, the permit will be issued without cost if all other requirements for the permit are met, but the permit must still be obtained. A tobacco retailer is required to obtain a retail cigarette/tobacco permit.

232.2(2) Distributor permit.

a. Every person operating as a tobacco distributor as defined in Iowa Code section 453A.42 must obtain a tobacco distributor's permit.

b. In any distribution scheme whereby tobacco products are imported into this state for sale, there must be at least one distributor.

EXAMPLE 1: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. manufacturer's plant, both are performing the functions of a distributor; Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state, and Retailer, Inc. is causing tobacco products to be brought into this state from without the state for the purpose of sale. Therefore, at least one of the parties must obtain a distributor permit.

EXAMPLE 2: Manufacturer, Inc. is in the business of processing tobacco products in the state of North Carolina. Retailer, Inc. is in the business of selling tobacco products at retail in the state of Iowa. If Manufacturer, Inc. ships tobacco products directly to Retailer, Inc., f.o.b. retailer's place of business, Manufacturer, Inc. is acting as a distributor and Retailer, Inc. is not. Manufacturer, Inc. is selling tobacco products without this state and shipping them directly to a retailer in this state. Retailer, Inc. is not causing tobacco products to be brought into this state from without the state. Therefore, in this example, Manufacturer, Inc. must obtain a distributor permit.

232.2(3) Subjobber's permit.

a. Every person, other than persons permitted as tobacco distributors, operating as a tobacco subjobber, as defined in Iowa Code section 453A.42, must obtain a tobacco subjobber's permit.

b. A single subjobber's permit is sufficient for the subjobber's entire activities within the state because it is not issued for each place of business.

This rule is intended to implement Iowa Code section 453A.44.

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701—232.3(453A) Distributor bond.

232.3(1) Generally. A bond in the amount of \$1,000 is required to be posted before a distributor's permit can be issued, regardless of whether or not the distributor is permitted and bonded as a cigarette permittee.

232.3(2) Aggregation. If the distributor has a cigarette permit of any kind and is required to post a bond thereunder, the amount of the cigarette bond(s) and the tobacco bond(s) may be aggregated to reach a single bond requirement, and the distributor may provide a single bond in the aggregate amount provided the bond may be used to discharge either a cigarette tax liability or a tobacco tax liability. Rule 701—230.4(453A) provides more information about bonds.

This rule is intended to implement Iowa Code section 453A.44.

[ARC 9040C, IAB 3/19/25, effective 4/23/25]

701—232.4(453A) Tax on tobacco products.

232.4(1) Generally. The tax on tobacco products is to be paid once, either upon distribution by a distributor or upon use or storage by a consumer. The tax is in addition to any occupation or privilege tax or permit fees imposed by any city or county.

232.4(2) Distributor responsibility. The tax as specified in Iowa Code section 453A.43(1)“a” is imposed when a distributor does any of the activities as listed in Iowa Code section 453A.43(1)“e.”

232.4(3) Consumer responsibility.

a. If the tax under Iowa Code section 453A.43(1) is not paid under the circumstances identified in Iowa Code section 453A.43(1)“e,” the consumer is responsible for the tax specified in Iowa Code section 453A.43(2) based upon the cost to the consumer of the tobacco products used or stored by the consumer.

b. The tax does not apply to the use or storage of tobacco products in the circumstances identified in Iowa Code section 453A.43(2)“e.”

c. The exceptions do not apply to tobacco products subject to the tax imposed upon distributors.

232.4(4) Discounted tobacco products.

a. *Generally.* A tobacco product sold by manufacturers to distributors that is discounted is taxed at the highest wholesale sales price for that product.

b. *Discounted tobacco products.* A tobacco product is discounted when, compared to an identical product on the price list, the tobacco product has a lower wholesale sales price.

(1) Tobacco products are identical if they are sold as the same package size on the price list, irrespective of whether such tobacco is flavored, adulterated, or mixed with any other ingredients; the price printed on the box; the manufacturer’s suggested retail price provided to the retailer; the stock keeping unit or universal product code or similar codes used by the manufacturer; the type of packaging used; the name of the product as marketed; the geographic distribution; the target customer; or the length of the time of the promotion.

(2) The manufacturer’s characterization of the tobacco product on the price list is a consideration to determine if a tobacco product is discounted, but it is not controlling.

(3) Examples of discounted tobacco products include but are not limited to prepriced cigars and reduced-price multipacks of tobacco products where the manufacturer sells an identical product on the price list at a higher wholesale sales price.

EXAMPLE 1: Manufacturer, Inc. sells XYZ Product cigars in 25-count packages as both a prepriced product and a regular-priced product. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for the prepriced product is listed as \$480 and the wholesale sales price for the regular-priced product is listed as \$605. The prepriced XYZ Product is a discounted cigar product and shall be taxed at the higher wholesale sales price of \$605.

EXAMPLE 2: Manufacturer, Inc. sells ABC Product cigars in 25-count packages. ABC Product is prepriced at \$.99 and \$1.19. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for ABC Product at \$.99 is listed as \$346 and the wholesale sales price for ABC Product at \$1.19 is listed as \$360. ABC Product cigars, at both prepriced price points, shall be taxed at the higher wholesale sales price of \$360.

EXAMPLE 3: Manufacturer, Inc. sells H Product cigarillos in two 30-count packages as prepriced products and as “save on two” products. Prepriced H Product includes 2/\$.99 and 2/\$1.49. Manufacturer, Inc. provides a price list to Distributor, Inc. where the wholesale sales price for H Product at 2/\$.99 is listed as \$190, the wholesale sales price for H Product at 2/\$1.49 is listed as \$207, and the wholesale sales price for H Product as “save on two” is listed as \$350. H Product cigarillos shall be taxed at the highest wholesale sales price of \$350.

EXAMPLE 4: Manufacturer, Inc. sells multipacks of J Product cigarillos. The J Product multipacks are sold as five-packs, and some of the five-packs are labeled as “five for the price of three.” The wholesale sales price of the five-packs of J Product that are not labeled as discounted have a higher wholesale sales price than the five-packs of J Product that are labeled as “five for the price of three.” The five-packs labeled as “five for the price of three” shall be taxed at the higher wholesale sales price of J Product five-packs that are not labeled as discounted.

This rule is intended to implement Iowa Code sections 453A.42(18) and 453A.43.

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701—232.5(453A) Tax on little cigars. All provisions applicable to cigarettes concerning rate, imposition, payment method, reporting, and affixing of stamps apply equally to little cigars, as defined in Iowa Code section 453A.42. The tax on little cigars is to be paid on the purchase of stamps by cigarette distributors or cigarette manufacturers who hold valid permits.

This rule is intended to implement Iowa Code sections 453A.42 and 453A.43.

[ARC 9040C, IAB 3/19/25, effective 4/23/25]

701—232.6(453A) Distributor returns.

232.6(1) Generally. Every distributor permitted under Iowa Code section 453A.44 must file monthly returns.

a. Due date. Returns are due no later than the 20th day of the month following the month covered by the return. For example, a return covering the month of May 2025 would be due no later than June 20th, 2025.

b. Remittances. Remittances for the amount due minus the applicable discount are to be included with the monthly returns.

c. Discount. Permitted tobacco distributors filing returns under Iowa Code section 453A.46 are entitled to deduct a discount equal to 3.5 percent from the remittance for the tax due. For example, if the amount of tax due was \$100, then the distributor would be entitled to deduct \$3.50 from the tax due and would remit \$96.50 to the department.

232.6(2) In-state distributors.

a. Permitted tobacco distributors with a place of business in Iowa must file the form(s) prescribed by the department as the monthly distributor return.

b. Return information. Information to be included in the return includes but is not limited to:

(1) Distributor's name, address, and permit number.

(2) An accounting of the acquisition of tobacco products subject to tax. For each acquisition, the return must provide:

1. Date received.

2. Date and number of invoice.

3. Seller information.

4. Manufacturer's gross list price.

(3) Claims for credit for any tobacco products destroyed, returned to manufacturer, or exported.

1. Claims for credit are to be completed on the form prescribed by the department.

2. Claims for credit may also be completed via GovConnectIowa.

(4) Certification of the person responsible for completing the return.

232.6(3) Out-of-state distributors.

a. Permitted tobacco distributors, with no place of business in Iowa, must file the prescribed form by the department as the monthly distributor return.

b. Return information. Information to be provided in the return includes but is not limited to:

(1) Distributor name, address, and permit number.

(2) Accounting of sales of tobacco products in Iowa that are subject to tax, including:

1. Date of sale.

2. Invoice number.

3. Purchaser name and address.

4. Manufacturer's gross list price.

(3) Certification of the person responsible for completing the return.

This rule is intended to implement Iowa Code sections 453A.46 and 453A.47.

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701—232.7(453A) Credits and refunds of taxes. Credits for tobacco products destroyed, returned to manufacturers, or exported are provided for in subrule 232.6(1). If the credits exceed the average monthly tax liability of the distributor, based upon the prior 12 tax periods, a refund may be issued.

Credits and refunds to a consumer who paid the tax pursuant to Iowa Code section 453A.43(2) are allowed for the same reasons and upon the same basis as credits and refunds to distributors.

This rule is intended to implement Iowa Code section 453A.47.
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701—232.8(453A) Consumer's return.

232.8(1) Generally. Consumers or any person who is not a permitted tobacco distributor who obtains or possesses tobacco products on which the tax under Iowa Code section 453A.43 has not been paid is responsible for reporting and remitting tax on those tobacco products. Consumers must file a distributor tax return for any month the person is responsible for paying the tax.

232.8(2) Due date. Returns are due no later than the 20th day of the month following the month covered by the return. For example, if the return is covering the month of April 2025, the return is due no later than May 20, 2025.

232.8(3) Manner of return. Returns are to be completely filled out, excepting that the consumer will not have a permit number and so should indicate on the form that the permit number is not applicable to them.

- a. The full amount of tax due must accompany the return when filed.
- b. The discount provided under Iowa Code section 453A.46(1) for permitted distributors does not apply to consumers.
- c. Returns can be filed electronically via GovConnectIowa or mailed to the department.

232.8(4) Penalties. Penalties provided in Iowa Code section 453A.46 for permitted distributors apply equally to consumers required to file a return.

This rule is intended to implement Iowa Code sections 453A.43, 453A.46, and 453A.49.
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701—232.9(453A) Transporter's report.

232.9(1) Generally. All transportation of tobacco products into this state is to be reported to the director within 30 days of the importation.

232.9(2) Reports. Reports are to include but not to be limited to the following information:

- a. Description of the products imported,
- b. Name and address of seller or consignor,
- c. Date of import,
- d. Name and address of purchaser or consignee,
- e. Point of origin,
- f. Point of destination.

232.9(3) Out-of-state distributors. Permitted tobacco distributors that have a place of business outside of the state where tobacco products are shipped from do not need to file a separate transportation report permit. This information will be included within the distributor reports filed by the distributor.

232.9(4) Common carriers. Common carriers transporting tobacco products into this state need only report shipments to places other than public warehouses permitted under the provisions of Iowa Code chapter 554. Transporter reports filed by common carriers are due no later than the tenth day following the month of importation. For example, if a common carrier transported tobacco products during August 2025, its transporter report is due no later than September 10, 2025.

232.9(5) Other transportation. All other transportation of tobacco products into this state by persons other than out-of-state distributors and common carriers is to be reported to the department except:

- a. The importation of tobacco products by a consumer in sufficiently small quantities to be exempt from the tax as identified in Iowa Code section 453A.45(5), or
- b. The importation by a consumer of tobacco products if the consumer is responsible to report and pay the tax under Iowa Code sections 453A.43(2) and 453A.46(6).

This rule is intended to implement Iowa Code section 453A.45.
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701—232.10(453A) Free samples. Persons responsible for the distribution of samples of tobacco products in the state are responsible for paying the amount of tobacco tax due on those samples and filing a return. The tax due is based on the usual wholesale price of these products.

This rule is intended to implement Iowa Code sections 453A.43, 453A.46, and 453A.49.
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701—232.11(453A) Sales exempt from tax.

232.11(1) *Sales to the federal government.*

a. Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A or pay the tax imposed thereunder.

b. Individuals who have purchased or obtained tobacco products from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.43(2) and 453A.50.

232.11(2) *Sales by or to Indians.*

a. 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.

b. Indian sellers are subject to the recordkeeping requirements of Iowa Code chapter 453A.

c. Tobacco products are to be purchased by the Indian seller with the tax included in the purchase price.

d. 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 tobacco products sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.43(4).

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