

Taxability of Hemp and Nicotine Products

Tennessee Tobacco Tax

Tennessee imposes a tax on the privilege of selling cigarettes and other tobacco products ("OTP"). Cigarette is defined as:

- 1) All rolled, shredded, or cut tobacco, or any substitute therefore, wrapped in paper, or substitute therefore, and
- 2) All rolled, shredded or cut tobacco, or any substitute therefore, wrapped in homogenized tobacco wrapper, and:
 - (a) Being within customary cigarette sizes and
 - (b) Marketed in cigarette type packages.

Cigarettes are taxed at \$.62 cents per pack of 20.

OTP is defined as "cigars ... manufactured tobacco and snuff of all descriptions whether made of tobacco or any substitute for tobacco." OTP is taxed at 6.6% of the wholesale cost.

Tobacco Substitutes

A wide variety of new products that do not contain tobacco are being introduced in Tennessee. Some of these products contain nicotine, while others do not. Some of these products are packaged to look like tobacco products, while others are packaged in new and unique ways. In light of these various new products, it is unclear what constitutes a tobacco substitute for purposes of the tobacco tax.

The Department will not apply the tobacco tax to these non-tobacco products without statutory clarification on what is considered a tobacco substitute.

Hemp Cigarettes and Herbal Cigarettes

Hemp cigarettes and herbal cigarettes are cigarettes that contain either smokable hemp or other

smokable herb material and are wrapped in paper or a paper substitute. These products generally do not contain tobacco.

Hemp cigarettes and herbal cigarettes that do not contain tobacco are not subject to the tobacco tax. However, if hemp cigarettes or herbal cigarettes contain any tobacco, those products are subject to the tobacco tax.

E-Cigarettes and Vape Devices

E-cigarettes and vape devices transform a liquid into its gaseous form, allowing the user to inhale and ingest the vapor. The liquid that is vaporized does not contain tobacco. Rather, the liquid cartridges used in these devices can contain a variety of compounds, including nicotine.

E-cigarettes and vape devices are not subject to the tobacco tax because these products do not contain tobacco.

Other Nicotine Products

Additional nicotine products include smokeless oral nicotine pouches and nicotine gum. These products do not contain tobacco are not subject to the tobacco tax.

For More Information

Visit www.tn.gov/revenue. Click on Revenue Help to search for answers or to submit an information request to one of our agents.

References

Tenn. Code Ann. §§ 67-4-1001(2)(A), -1005,