



Tobacco Tax Section



Uniformity Guide

FTA Tobacco Tax Section Regions

Central

Illinois
Indiana
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
Oklahoma
South Dakota
Wisconsin

Western

Alaska
Arizona
California
Colorado
Hawaii
Idaho
Montana
Nevada
New Mexico
Oregon
Texas
Utah
Washington
Wyoming

Northeast

Connecticut
Delaware
District of Columbia
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York City
New York State
Pennsylvania
Rhode Island
Vermont
Virginia

Southern

Alabama
Arkansas
Florida
Georgia
Kentucky
Louisiana
Mississippi
North Carolina
Puerto Rico
South Carolina
Tennessee
West Virginia

Benefits of the FTA Tobacco Tax Section Activities

The FTA Tobacco Tax Section, with the help of FTA staff and the Uniformity Committee, will develop and foster a unique and effective partnership between industry and state, federal, and foreign governments regarding tobacco tax administration and enforcement. The result of this partnership, should be an international network of information established that covers most everything related to tobacco taxation. This information will be made available to the states through, FTA Tobacco Tax Section regional, national, and Uniformity Committee meetings, Tax Exchange, the list serve, and the FTA Web site found at www.taxadmin.org. Whenever possible, information will contain current and historical cigarette and tobacco tax data that facilitates statistical analysis and research on legal, communications, enforcement, and technology issues.

The overall benefits for states participating in FTA Tobacco Tax Section projects and utilizing its resources is reduced tax evasion, improved compliance, minimized administrative costs, increased training for audit and enforcement staff, and easy access to quality information. The FTA Tobacco Tax Section won't dictate procedures for states to follow, but rather will provide guidance for states to use at their discretion when it comes to cigarette and tobacco tax enforcement and administration.

An environment of open communication and cooperation exists among industry and all levels of government. This reduces costs for all partners, minimizes the burden on the cigarette and tobacco industry, controls administrative costs, and fosters a combined effort to control evasion and level the playing field in the cigarette and tobacco arena.

The Uniformity Committee

Mission Statement

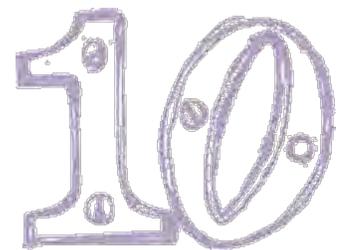
Provide an opportunity for government and industry to partner for the efficient and effective reporting and remittance of tobacco taxes, to minimize tobacco tax evasion, and to act as an information resource to stakeholders.

Goals

1. Implement all aspects of the 10-Point Plan.
2. Foster communication between and among levels of government, industry, and related associations and interest groups and their representatives.
3. Encourage coordination of efforts among stakeholders in audit and enforcement.
4. Encourage sharing of information among enforcement, revenue, attorneys general and federal agencies in areas related to tobacco and tobacco revenue.
5. Educate the tobacco community in areas of audit and enforcement techniques, reporting requirements, and how to identify actual and potential evasion schemes.
6. Encourage active participation by stakeholders in Uniformity meetings and inform stakeholders on how the goals of Uniformity are designed to work for all members of the tobacco community.
7. Encourage uniformity in reporting definitions and forms.
8. Prepare for change by staying informed on emerging topics and trends by assuring personnel are fully informed to allow for ease of transition and by being open to new ideas and methods for revenue reporting and remittance.

The 10-Point Plan

1. Adopt/implement uniform reporting guidelines for all states.
2. Adopt/implement uniform definitions and forms.
3. Incorporate the Federal Employer Identification number (FEIN), Social Security number (SSN), or Canadian Federal Business number (BN) as a reference for reporting information between jurisdictions.
4. Promote licensing of all persons that handle tobacco.
5. Adopt/implement procedures to achieve total accountability of tobacco.
6. Utilize uniform electronic reporting standards for tobacco information.
7. Promote workshops for audit and investigative techniques to identify tax evasion schemes and ensure regulatory compliance.
8. Review and establish Memorandums of Understanding to promote and share information that will facilitate tobacco tax compliance
9. Utilize third party information on the movement of tobacco.
10. Encourage states to establish and adequately maintain a compliance staff dedicated to tobacco tax enforcement.



Organization and Responsibility

The Federation of Tax Administrators Tobacco Tax Section Uniformity Committee has four subcommittees. Each committee is assigned areas of responsibility from the 10-Point Plan.

Communication and Legislation (Points #1, 4, 8 & 10)

- Promote uniform filing, licensing and exchange agreements with states through the use of common definitions, guidelines and forms.
- Review legislation affecting the tobacco industry.
- Publications
Uniformity Project Booklet
Brochure

Compliance (Points #5, 7 & 9)

Educate and advise stakeholders by:

- Publicizing case studies and best practices
- Acting as a liaison to law enforcement
- Involving stakeholders at all levels
- Establishing a clearinghouse of effective tools to combat tobacco tax evasion
- Encouraging states to educate staff on accounting and distribution processes.

Forms (Points #2 & 3)

Monitor the use of approved uniform forms, sub-schedules, and evaluate the purpose and need for new forms as they're requested.

- Definitions and terms

Technology (Point #6)

- Develop and maintain a standard electronic filing and remittance process
- Facilitate and encourage the implementation of the standard electronic filing and remittance process
- Educate non-technical staff on how to use the standard electronic filing and remittance process
- Work with TIGERS to establish uniform standards for electronic reporting.

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Introduction

The Importance of Uniformity

Cigarette and tobacco taxes are a vital part of every state's revenue base, providing funding for a wide variety of programs. Uniformity makes it easier to ensure that each state is getting the fairest share of the revenue it deserves.

Evasion and Lack of Uniformity

Although there are many similarities, each state has its own unique set of tax laws, tax rates, reporting forms, definitions, exemptions, and compliance methods. These differences can create problems in tax administration, regulation of cigarette and tobacco movement, enforcement efforts, exchange of information among state revenue agencies, and provide incentives for some to evade state cigarette and tobacco taxes.

Some states have traditionally ignored compliance efforts for cigarette and tobacco taxes. Until recently, cigarette and tobacco taxes were considered to be a minor part of the total state revenue, and it was commonly thought there were no real evasion issues. However, as state legislatures struggle to maintain government services with increasingly tighter budgets cigarette and tobacco taxes are receiving more attention. State and federal tobacco tax rates have steadily increased over the past ten years, providing a greater incentive for tax evaders to circumvent vital revenues and, at the same time, increase the tax burden on legitimate businesses.

Why States Adopt the Uniformity Recommendations

Uniformity offers the best method for reducing inefficiencies in state cigarette and tobacco tax administration and combating tax evasion.

Adopt/implement uniform reporting guidelines

The Uniformity Committee assists in establishing uniform reporting guidelines among the states for exchanging information on the movement of cigarette and tobacco products. Uniform reporting guidelines are a critical tool since each state has its own unique set of tax laws, tax rates, reporting forms, definitions, exemptions, and compliance methods.

Purpose

Uniform forms make it easier for industry to comply with filing requirements. Taxpayers filing in more than one state or taxing jurisdiction can find it much easier to comply by using uniform forms.

Uniform forms can be used for states to share information with other states.



Adopt/implement uniform definitions and forms

The 10-Point Plan emphasizes the need to use uniform definitions of terms and standard forms by state taxing authorities and the cigarette and tobacco industry to promote clear understanding and facilitate improved communications.

Purpose - Definitions

To develop clear and concise definitions dealing with cigarette or tobacco distribution and taxation that can be used and understood by federal and state governments as well as industry representatives. This allows the advancement of uniformity through a clear understanding of universally used terms.

All definitions presented to the Uniformity Committee for approval and ultimately to the Federation of Tax Administrators for adoption, are presented as model definitions for use by state taxing authorities.

These definitions are not in any way intended to be construed as legal, legislative, or technical definitions and may be modified at the discretion of the user.

Procedures for Adding, Deleting, or Modifying a Definition

Action By	Step	Action
Anyone	1	Submit in writing term to be defined, deleted, or modified to the Chairperson of the FTA Tobacco Tax Section Uniformity Committee, along with an explanation of why the term should be defined, deleted, or modified and provide a suggested definition, if available. The name of a contact person should be included with submission.
Uniformity Chairperson	2	Receives the requested action and logs the request. If the request is to define a term, the Chairperson will verify that no definition exists. Copies the request and forwards to the Forms Subcommittee.
Forms Subcommittee	3	Reviews the request and assembles suggestions for discussion with the requestor(s)/representative.
Forms Subcommittee	4	Proposes definition, modification, or deletion of term.
Uniformity Chairperson	5	Places the proposed definition, modification, or deletion on the agenda of the next Uniformity Committee meeting for formal adoption.
Uniformity Committee	6	Discuss the requested action and accept or reject the definition as added, deleted, or modified.
Uniformity Chairperson	7	If accepted - send, the accepted change to the Federation of Tax Administrators (Tobacco Tax Coordinator) to prepare a resolution and update the FTA definition list. If rejected - the proposed definition, modification, or deletion is returned to the original requestor along with an explanation of the rejection.

Acronyms

ATF	Bureau of Alcohol, Tobacco, Firearms, and Explosives
BOL	Bill of Lading
CCTA	Contraband Cigarettes Trafficking Act
FDA	Food and Drug Administration
FET	Federal Excise Tax
LET	Local Excise Tax
MSA	Master Settlement Agreement
NPM	Non-Participating Manufacturer (MSA related)
OPM	Original Participating Manufacturer (MSA related)
OTP	Other Tobacco Products (other than cigarettes)
PACT	Prevent All Cigarette Trafficking Act
RYO	Roll-Your-Own Tobacco
SET	State Excise Tax
SPM	Subsequent Participating Manufacturer
TTB	Alcohol and Tobacco Tax and Trade Bureau

Definitions

These definitions are terms generally used by tobacco tax administrators and industry, and are meant to inform users, promote understanding, and to facilitate discussion between the participants. The definitions are not intended to be legal or to include all-encompassing meanings of the defined terms.

At the end of a definition if you see the term “Refer also to...” there is another word or term that may be directly related or has basically the same definition.

At the end of a definition if you see the term “See also...” there is another word or term that may be confused with the current definition but the definitions and meaning do differ.

Acquisition Date – The date a taxable product was received at a physical facility after a change in physical possession of taxable product.

Additive- Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

Adjustments and/or Tax Credits – Adjustments that can only be shown and deducted as a monetary adjustment because of their nature other than physical inventory adjustments (i.e. bad debt allowances,). (See also “Book Adjustment/Physical Variance”)

Agent – A person normally licensed or registered and designated through legislation as the agent to collect and remit tax on behalf of a taxing jurisdiction. Agents may be referred to as a licensed wholesaler, licensed manufacturer, licensed distributor, supplier, dealer, exporter, importer, and/or sub-Jobber. Agents typically file tax or information returns.

ATF – The Bureau of Alcohol, Tobacco, Firearms and Explosives which is a United States Department of Justice agency. The ATF among other things conducts criminal investigations involving illegal cigarette trafficking which can violate the CCTA, PACT Act, and other money laundering violations involving untaxed cigarettes and tobacco products.

Basic Cost – The invoice cost of a taxable product to a wholesaler or a retailer exclusive of any discounts, rebates, or off-invoice allowances. (May also be referred to as “invoice cost”.)

Beginning Inventory – Physical Inventory of taxable product at the beginning of a reporting period. (Also referred to as “Opening Untaxed Inventory”)

Bill of Lading (BOL) - A document issued by a common carrier representing the delivery and physical transfer of a taxable product from a consignor to a consignee. A bill of lading defines the contract for transportation between the shipper and carrier and also serves as a document of title and a receipt for the goods. (See also “Freight Bill”)

Book Adjustment/Physical Variance – An adjustment to books, records, or computerized inventories itemizing changes in physical inventory volume, of a taxable product, with no physical movement of the product. (See also “Adjustments and/or Tax Credits”)

Brand Family - A type of cigarette or tobacco product distinguished by unique attributes. These unique attributes can be the tobacco used, tar and nicotine content, flavoring used, size, filtration, packaging, logo, registered trademark, brand name, identifiable pattern of colors, or any combination of such attributes. Examples of brands may include Marlboro, Camel, Kool, Salem, Winston, etc.

Brand Style – A type of cigarette distinguished by unique attributes within a brand family. These unique attributes can be the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging. Examples, of descriptors of styles, include but are not limited to “menthol”, “lights”, “kings”, and “100s”.

Carton – A container used to contain and convey multiple “original packages” available for sale to consumers.

Cigar – These definitions are taken from the Combined Federal Regulation (27 CFR parts 40.11. It mirrors the definitions in the law (26 USC 5701)

Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (2) of the definition for cigarette).

Large cigars. Cigars weighing more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

Cigarette – Generally recognized as any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Some states may also include in their definitions:

- (A) product that (includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.
- (C) little cigars
- (D) rolling tubes/papers
- (E) product that meets the definition of the term “cigarette” in section 3(1) of the Federal Cigarette Labeling and Advertising Act

Cigarette Tobacco - any product that consists of loose tobacco that is intended for use by consumers in a cigarette. (Refer also to “Roll-Your-Own Tobacco”)

Closing (or Ending) Inventory – The physical Inventory of taxable product at the end of a reporting period. Inventory can either be considered “unverified” and “verified” depending on whether or not a state agency verified the physical inventory.

Commerce – The buying and selling of taxable product, as between cities, states, tribes, or nations. Taxable product delivered out of a state by or for a seller constitutes interstate commerce. Taxable product delivered within a state by or for a seller constitutes intrastate commerce. (Refer also to “Export”.)

Compensation Allowances – Authorized commissions, discounts, or compensation provided to a distributor for acting on behalf of the state authorities in the collection of the taxes due on taxable tobacco products e.g. allowances for affixing tax stamps or filing and or paying a tax return timely. Also see “Merchandising Allowances/Discounts”.

Common Carrier – A person that engages in the commercial transportation of taxable products that are not owned by a person. Types of commercial common carriers may include rail, marine vessel, aircraft and truck. (Refer also to “Transport Vehicle”).

Common Carrier BOL Number – The identification number on the Bill of Lading issued by the common carrier for transportation of taxable products. It is a receipt from the carrier for the physical transfer of taxable products. A freight bill is an invoice for the transportation provided and is based on the bill of lading and other information used to determine the rate for the transportation charges. They are sometimes combined into a "Combination bill of lading and freight bill".

Common Carrier ID – A unique identifying number assigned to a common carrier by a regulatory agency such as the U.S. Department of Transportation.

Consignee – The person to whom the taxable product is delivered by a carrier.

Consignor– The person that hires the carrier to transport the taxable product

Consumer – A person that consumes or uses a taxable cigarette or other tobacco product

Contraband Cigarettes – May be defined as any of the following: **(1)** cigarettes that do not bear the required tax stamp for the appropriate jurisdiction; or **(2)** cigarettes for which the required federal taxes have not been paid; or **(3)** cigarettes that bear a counterfeit tax stamp; or **(4)** any cigarettes which may not be legally possessed for resale; or **(5)** counterfeit cigarettes.

Counterfeit Cigarettes - **(1)** cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the owner of the trademark rights in the cigarette brand or a person that is directly or indirectly authorized by such owner; or cigarettes imported into the United States, or otherwise distributed, in violation of any federal law; or **(2)** cigarettes that have false manufacturing labels.

Counterfeit Other Tobacco Products - **(1)** Other tobacco products that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the owner of the trademark rights in the tobacco product brand or a person that is directly or indirectly authorized by such owner; or tobacco products imported into the United States, or otherwise distributed, in violation of any federal law; or **(2)** other tobacco products that have false manufacturing labels.

Contraband Cigarettes Trafficking Act (CCTA) – A federal law dealing with trafficking of contraband cigarette and tobacco products (18 USC Chapter 114).

Credits/Refunds – Allowable reduction in tax liability based on certain criteria having been met. Credits or refunds may be issued for damaged tax stamps; tax stamps (or tax paid) on unusable or unsalable product; or stamped (or tax paid) product that was returned to a manufacturer.

Delivery – A physical transfer and/or change of legal ownership of a taxable product.

Delivery Date – Refer also to “Acquisition Date”.

Destination Jurisdiction - Any state, territory, foreign country, jurisdiction, territory, or sovereign nation to which any taxable cigarettes or other tobacco products are directed for delivery into any storage facility, receptacle, container, or any type of transportation equipment for purpose of resale or use.

Distributor - A person who acquires and distributes cigarettes or other tobacco products, whether domestic or imported, from the original manufacturer or any other person for the purpose of reselling that product. (Refer also to "Wholesaler".)

Drop Shipment – Any delivery of a taxable product received by a consignee when payment for the taxable product is made to the shipper or seller by or through a person other than the consignee.

Exempt Sales – The sale, gift, or exchange of taxable product that is not subject to cigarette and/or tobacco tax in accordance with jurisdictional legislation, regulations, or other authority.

Exempt Sales Type – Possible various types of tax-exempt sales may include:

1. Export sales
2. Federal government sales
3. Indian sales
4. Military sales
5. Research sales other than for marketing purposes
6. Sales between wholesalers and distributors as regulated by that jurisdiction legislation or regulatory body.

Export – The shipment or delivery of a taxable product to a location outside the country from which the product originated. Taxable product delivered out of a country by or for a seller constitutes exportation by the seller. (Refer also to "Commerce".)

Exporter - Any person engaged in the practice of transferring taxable product from one country to another country.

Federal Excise Tax (FET) – An excise tax that is levied by the United States federal government.

Filtered Cigar – See "Cigar".

Free Trade Zone – A U.S. Customs regulated area within which goods may be received and stored without payment of duty, tariffs, taxes etc.

Freight Bill – A freight bill is an invoice for the transportation provided and is based on the bill of lading and other information used to determine the rate for the transportation charges. They are sometimes combined into a "Combination bill of lading and freight bill". (See also "Bill of Lading (BOL)".)

Illicit Trade - Any practice or conduct prohibited by law which relates to the production, shipment, receipt, possession, distribution, sale, or purchase of cigarettes or other tobacco products including any practice or conduct intended to facilitate such activity.

Import – The shipment or delivery of taxable product to a location inside the country when the product originated from a location outside the country. Taxable product delivered into a country by or for the purchaser constitutes importation by the purchaser. (Refer also to "Commerce".)

Importer - A person that causes the import of taxable products into a country from another country. (Counterpart of "Exporter".)

Importer Number – Specific number assigned to an Importer by the Tobacco Tax Trade Bureau (TTB) for payment of federal excise tax.

Indian Tribe - an Indian or Alaskan Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 USC 479a. (See section 4(e) of the Indian Self-Determination and Education Assistance Act.)

Interstate Commerce – The shipment or delivery of taxable product to a location outside the state from which the shipment originated. Taxable product delivered out of a state by or for a seller constitutes interstate commerce. (Refer also to “Export”.)

Intrastate Commerce – The shipment or delivery of taxable product to a location within the state from which the shipment originated. Taxable product delivered within a state by or for a seller constitutes intrastate commerce. (Refer also to “Export”.)

Inventory – The taxable product that is physically stored at a location.

Inventory Adjustment – Refer also to “Book Adjustment/Physical Variance”.

Invoice - An invoice or bill is a commercial document issued by a seller to the buyer, indicating the accountable product(s), quantity(s), and agreed price(s) for products or services the seller has provided the buyer. An invoice indicates the buyer must pay the seller, according to the payment terms.

For a seller, an invoice is a sales invoice. For a buyer, an invoice is a purchase invoice. The document indicates not only the buyer and seller, but the invoice terms and the money owed or owing.

Large Cigar – See “Cigar”.

Local Excise Tax (LET) – An excise tax that is levied by a city, county, municipality, jurisdiction, borough, etc.

License (or Permit) – A legal document issued by a regulatory agency on which person is granted authority to manufacture, import, sell, distribute or export taxable product.

Little Cigar – See “Cigar”.

Manifest - A document that lists several shipments contained within a trailer for delivery by a common carrier.

Manufacturer – Any person who manufactures, fabricates, assembles, processes, or labels a finished taxable product.

Master Settlement Agreement (MSA) – Signed in November of 1998, this civil settlement between participating tobacco manufacturers and participating states exempts the tobacco manufacturers from tort liability from state governments in exchange for a combination of yearly payments to the states and voluntary restrictions on advertising and marketing tobacco products.

Merchandising Allowances/Discounts – Generally any number of incentives that are offered by a manufacturer for timely payment of invoices, volume purchases, promotional purchases, etc. (Also see “Compensation Allowances”.)

Non-Participating Manufacturer (NPM) – Any tobacco product manufacturer who is not a participating manufacturer to the Master Settlement Agreement. NPMs place a MSA-specified amount of funds into a qualified escrow account for each year they sell cigarettes or cigarette equivalents into a settling state.

Original Package – Any individual packet, box, or other container used to contain and convey cigarettes or other tobacco products to the consumer. This definition of original package does not include multiple packages within a carton. (See also “Carton”.)

Original Participating Manufacturer (OPM) – A tobacco product manufacturer who is a participant or signatory in the Master Settlement Agreement. Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, and R.J. Reynolds Tobacco Company and the respective successors of each of these companies are the original signatories to the Master Settlement Agreement.

Person – Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company; or a receiver, trustee, or guardian or other representative appointed by order of any court; or any city, town, county, or other political subdivision or Indian tribe. Additionally, whenever used, the term “person” as applied to partnerships and associations, shall mean the partners or members thereof. As applied to limited liability company, and as applied to corporations the term “person” shall mean the officers, member agents, or employees of the limited liability company, and as applied to corporations the term “person” shall mean the officers, agents, or employees.

Point of Delivery – The specific address of delivery, including but not limited to customer name, street, city, state, and zip code, to which transfer of ownership, and possession of taxable cigarette and other tobacco products takes place.

Point of Taxation – The instance in the distribution of a taxable product when a tax is levied and applied as regulated by a taxing authority.

Reporting Period – For the purpose of cigarette and other tobacco products tax inventory and/or tax reporting, the reporting period is on a monthly, quarterly, or other basis as may be deemed necessary by statute or regulation.

Retail Location - Any location which may require licensing or other authorization by state or local statutes from which taxable product is sold to an end user for personal use or consumption. A retail location may include, but is not limited to, a place, store, booth, concession, truck, vehicle, or vending machine.

Retailer – Any person who operates a retail location and engages in the sale or making transfers of ownership of, or title to, taxable products to a purchaser for use or personal consumption and not for resale in any form.

Roll-Your-Own Tobacco (RYO) - Any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. (May also be referred to as “Cigarette Tobacco”).

Sale – In addition to its ordinary meaning, any transfer, gift exchange, barter, or other disposition of a taxable product. In every case where such a taxable product is exchanged, given or otherwise disposed of, it shall be deemed to have been sold.

Sample – a tobacco product distributed at no cost for the purpose of promoting the product.

Settling State – Any state or territory that has signed the MSA. The settling states do not include Mississippi, Florida, Texas and Minnesota.

Shipping Container – The case, box, parcel, or other container in which cartons or packages of cigarettes or other tobacco products are placed for shipment or transportation from one place to another. “Shipping container” does not include a package in which retail sales of cigarettes or other tobacco products are normally made or intended to be made.

Small Cigar – See “Cigar”.

Smokeless Tobacco - Any non-combustible tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

State Excise Tax (SET) – An excise tax that is levied by a state.

Subsequent Participating Manufacturer (SPM) – A tobacco product manufacturer who is not one of the original participants of the Master Settlement Agreement but has since signed the agreement.

Stamp - A stamp or other indicia that is printed, manufactured, or made under the authorization of a taxing authority that is sold, issued, or circulated and used to pay cigarette or other tobacco products taxes.

Stamping Device – Machinery or hand held device by which tax stamps are applied to a taxable product.

Sub-jobber – A person, other than a manufacturer or distributor, who is engaged in the distribution of tax-paid cigarettes and other tobacco products to retailers for resale. Sub-jobbers sell taxable products to retailers, ultimate consumers, or they operate vending machines. Sub-jobbers are a category of wholesaler or distributor, but are unique in that they acquire their inventory from someone else who has paid all taxes due. Some states also include sub-jobbers in their definition of a distributor.

Taxable Product – Cigarettes and other tobacco products (OTP) that are subject to federal, state, or local excise taxes.

Tobacco Product Manufacturer - Any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution in the United States.

Tobacco Trade Bureau (TTB) – A federal agency charged with regulating and overseeing the alcohol, tobacco, and firearm trade in the United States. The Alcohol and Tobacco Tax and Trade Bureau, shortened to Tax and Trade Bureau, or TTB, is a bureau of the United States Department of the Treasury. Some of the functions of the TTB include auditing alcohol, tobacco, firearms, and ammunition excise tax cases; ensuring fair and proper revenue collection due the federal government; conducting investigations of suspected alcohol and/or tobacco tax evasion cases; promoting voluntary compliance by monitoring the domestic tobacco trade and ensuring compliance with the tax laws relating to alcohol, tobacco and firearms. Within TTB is the Advertising, Labeling, and Formulation Division (ALFD) which implements and enforces a broad range of statutory and compliance provisions of the Internal Revenue Code (IRC) and the Federal Alcohol Administration Act.

Transporter – A person who transports taxable product from a manufacturer, importer, or storage and/or distribution facility by means of a transport truck, aircraft, railroad car, or marine vessel. (Refer also to “Common Carrier”)

Transport Truck/Vehicle - A vehicle used to transport taxable product.

TTB Importer Permit Number – The unique number assigned by TTB to each importer.

Units Sold – The precise definition of “Units Sold” varies from state to state. It generally refers to the number of cigarettes (in many cases this includes RYO) on which a nonparticipating manufacturer must pay escrow.

U.S. Customs Entry Number - The tracking/registration number assigned by U.S. Customs which identifies the specific importer, name of the district port of entry, product description, product manufacturer information, and other pertinent information specific to entry into the United States.

Vending Machine – Any mechanical device by which taxable product is sold or dispensed in its original package. Some states consider a vending machine as a separate “retailer”.

Validated Losses – Taxable product losses which can be significantly documented including documented loss due to fire, flood, or third party theft.

Wholesaler – Any person engaged in the business of selling cigarettes or other tobacco products to authorized, registered, and/or licensed wholesalers, distributors, or retailers for the purpose of resale.



Uniform Forms

Purpose - Forms

Uniform reports and schedules serve two purposes. First, uniform reports and schedules provide a uniform mechanism for industry and government to record cigarette and tobacco tax transactions. Second, the forms facilitate information exchange between states by ensuring each state collects similar data.

If a manufacturer uses all of the forms, that entity can account for all cigarette and tobacco transactions by reporting the same type of data in a similar format for each state's cigarette and tobacco tax reports. Having standardized reporting provides the industry a better understanding of what is required and they will be better able to comply with each state's requirements. State's using standardized forms will more likely to receive the data it needs from all taxpayers in a desirable format.

The following pages contain forms that have been approved by the FTA Tobacco Section Uniformity Committee for use by all states and industry.

PA-1: State CIGARETTE PACT Act Report for _____

(identify the state)

Part 1 - Identify Your Business

Name (please print)				Reporting Period (MM/YYYY)	State Identification Number
Location Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory	Federal Employer Identification Number (FEIN)
Mailing Address	City	State/Province	Zip Code/Postal Code	Country/Territory	Email Address

Part 2 - Identify Your Sales

Customer Name*	Address*	Sales Price (\$)**	Brand Family*	Invoice Date	Invoice Number	Total Cigarettes* (no. of sticks)
Total						

Part 3 - Identify Your Delivery Service - Required for Delivery Sellers ONLY

Delivery Service Name*	Address*	Phone Number*
		()
		()

*Required by PACT Act / **Delivery Sellers Only

Part 4 - Sign Below

DECLARATION: I declare under penalties of perjury that I have examined this report and all attachments and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature of Responsible Party	Responsible Party's Name (please print)	Title	Phone Number ()	Date
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GENERAL INFORMATION**What is the PACT Act?**

On June 29, 2010, the Prevent All Cigarette Trafficking Act (PACT Act) went into effect. This federal law amends the Jenkins Act, 15 U.S.C. Chapter 10A, which governs the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco. The PACT Act revised definitions in the Jenkins Act, provided new requirements for registration, reporting, recordkeeping, and increased penalties for criminal violations. The PACT Act also generally prohibits mailing cigarettes and smokeless tobacco through the U.S. Postal Service.

What tobacco products are covered under the PACT Act?

Cigarettes and smokeless tobacco are covered.

According to 18 U.S.C. 2341 and 26 U.S.C. 5702, cigarettes include:

- Any roll of tobacco wrapped in paper or in any substance not containing tobacco.
- Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by, consumers as a cigarette as described in the bullet above.
- Roll-your-own tobacco.

Smokeless tobacco includes:

- Tobacco products that are non-combustible (primarily various forms of chewing tobacco, snuff, snus, etc.)

Who must file this report?

You must file this report if you advertise, offer for sale, sell, transfer, or ship (for profit) cigarettes in interstate commerce. These cigarettes must be shipped into another state, locality, or Indian nation that taxes the sale or use of cigarettes.

When do I file?

The report is due no later than the 10th day of each calendar month for the previous calendar month's shipments.

Definitions

Common Carrier - Any person (other than a local messenger service or the U.S. Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

Consumer - A consumer is any person who purchases cigarettes or smokeless tobacco. This does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

Delivery Seller - A person who makes delivery sales.

Delivery Sale - Any sale of cigarettes or smokeless tobacco to a consumer if –

- the consumer orders by telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or
- the cigarettes or smokeless tobacco products are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or
- the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

Interstate Commerce - The term “interstate commerce” includes commerce between any place in a State and any place outside of that State, commerce between a State and Indian Country in the State, or commerce between points in the same State but through any place outside of the State or through any Indian Country. The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

Person - The term “person” means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

INSTRUCTIONS**Part 1***Identify Your Business*

Provide your business name, location and mailing address, reporting period, Federal Employer Identification Number (FEIN), email address and your State Identification Number for the state you are shipping into. If you do not hold a license, permit, registration or other Identification Number in the state you are shipping into, write NONE in that field.

Part 2*Identify Your Sales*

Provide your customer's name, address, sales price, brand family, Invoice date, Invoice number and total sticks of cigarettes sold. Do not report cigarettes in cases, cartons, or packs.

Part 3 - FOR DELIVERY SELLERS ONLY. Please see definition of delivery seller and delivery sales above.

Provide your delivery service name, address and phone number.

Part 4

Sign and date the form and provide the name, title and phone number of the responsible party.

PA-2: State TOBACCO PACT Act Report for _____

(identify the state)

Part 1 - Identify Your Business

Name (please print)				Reporting Period (MM/YYYY)	State Identification Number
Location Address (number and street)	City	State/Province	Zip Code/Postal Code	Country/Territory	Federal Employer Identification Number (FEIN)
Mailing Address	City	State/Province	Zip Code/Postal Code	Country/Territory	Email Address

Part 2 - Identify Your Sales

Customer Name*	Address*	Type	Brand Family*	Invoice Date	Invoice Number	Quantity*	RYO Total Weight*	OTP Total Weight**	Retail Sales Price (\$)**	Manufacturer's/ Wholesale List Price**
Totals										

Part 3 - Identify Your Delivery Service - Required for Delivery Sellers ONLY

Delivery Service Name*	Address*	Phone Number*
		()
		()

*Required by PACT Act / **Delivery Sellers Only

Part 4 - Sign Below

DECLARATION: I declare under penalties of perjury that I have examined this report and all attachments and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature of Responsible Party	Responsible Party's Name (please print)	Title	Phone Number ()	Date
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GENERAL INFORMATION

What is the PACT Act?

On June 29, 2010, the Prevent All Cigarette Trafficking Act (PACT Act) went into effect. This federal law amends the Jenkins Act, 15 U.S.C. Chapter 10A, which governs the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco. The PACT Act revised definitions in the Jenkins Act, provided new requirements for registration, reporting, recordkeeping, and increased penalties for criminal violations. The PACT Act also generally prohibits mailing cigarettes and smokeless tobacco through the U.S. Postal Service.

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- Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by, consumers as a cigarette as described in the bullet above.
- Roll-your-own tobacco.

Smokeless tobacco includes:

- Tobacco products that are non-combustible (primarily various forms of chewing tobacco, snuff, snus, etc.)

Who must file this report?

You must file this report if you advertise, offer for sale, sell, transfer, or ship (for profit) roll-your-own and/or smokeless tobacco in interstate commerce. The roll-your-own and/or smokeless tobacco must be shipped into another state, locality, or Indian nation that taxes the sale or use of roll your-own and/or smokeless tobacco.

When do I file?

The report is due no later than the 10th day of each calendar month for the previous calendar month's shipments.

Definitions

Common Carrier - Any person (other than a local messenger service or the U.S. Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

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Delivery Seller - A person who makes delivery sales.

Delivery Sale - Any sale of cigarettes or smokeless tobacco to a consumer if –

- the consumer orders by telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

- the cigarettes or smokeless tobacco products are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or
- the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

Interstate Commerce - The term "interstate commerce" includes commerce between any place in a State and any place outside of that State, commerce between a State and Indian Country in the State, or commerce between points in the same State but through any place outside of the State or through any Indian Country. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

Manufacturer's/Wholesale List Price - "Manufacturer's sales price" or "Wholesale list price" generally means the invoice price, including all federal excise taxes, at which the seller of the tobacco product sells the tobacco product to customers, excluding any discounts or other reductions based on the method of payment of the invoice or on time of payment of the invoice. The excise tax rate in some states is based upon the wholesaler's gross receipts, which includes their customer mark-up. Check with the specific state into which the tobacco products are being shipped if you have questions about that state's specific definitions or tax base.

Person - The term "person" means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

INSTRUCTIONS

Part 1

Identify Your Business

Provide your business name, location and mailing address, reporting period, Federal Employer Identification Number (FEIN), email address and your State Identification Number for the state you are shipping into. If you do not hold a license permit, registration, or other Identification Number in the state you are shipping into, write NONE in that field.

Part 2

Identify Your Sales

Provide your customer's name, address, type of tobacco product (see types below), brand family, Invoice date, Invoice number, quantity, total weight, retail sales price and manufacturer's/wholesale list price (see definition above).

Tobacco Types:

1 = Snuff 2 = Chew 3 = Roll your own tobacco (RYO) 4 = Other (e.g., snus, orbs, dissolvables, etc.)

Part 3 – FOR DELIVERY SELLERS ONLY. Please see definition of delivery seller and delivery sales above.

Provide your delivery service name, address and phone number.

Part 4

Sign and date the form and provide the name, title and phone number of the responsible party.

Incorporate identification numbers

As part of the 10-Point Plan, states are encouraged to incorporate the Federal Employer Identification Number (FEIN), Social Security Number (SSN), or Canadian Federal Business Number (BN) as a reference for reporting and exchanging information between jurisdictions.

Purpose

To provide a common identifier for the jurisdictions to share information and properly identify all entities shown on the schedules.

The FEIN, SSN, or BN number is a common identifier and is required on all reporting information exchanged between jurisdictions.

Promote licensing of all persons

It is important that every state promote licensing of all persons that handle tobacco.

Purpose

Jurisdictions can meet three objectives by licensing all resellers or entities who obtain taxable product:

- 1) Track tax-free cigarettes and/or other tobacco products to the ultimate sale.
- 2) Achieve full accountability of tax-free cigarettes and/or other tobacco products.
- 3) Regulate tax-free purchases and enforce collections. This enforcement effort is enhanced through licensing and bonding procedures. This is especially important for out-of-state purchasers who receive cigarettes and/or other tobacco products for export.



Adopt/implement procedures to achieve total accountability

States should adopt/implement procedures to achieve total accountability of cigarettes and tobacco to include:

- a. Types of cigarettes and tobacco they wish to account for and/or tax.*
- b. Schedules of accountability for cigarettes and tobacco which may be subject to tax.*
- c. An audit of the required returns and schedules filed with the states.*
- d. Reporting of sticks (for cigarette) as required by the uniform reporting guidelines.*

Purpose

To develop clear and concise procedures and forms dealing with cigarette and tobacco distribution and taxation that can be used and understood by both government and industry. Following standard procedures and using universal terms and forms will pave the way for further advancing uniformity.

Requiring total accountability of all cigarettes and tobacco movement and inventory in each state provides states the ability to better account for potential tax liabilities.



Utilize uniform electronic reporting standards

Allow for uniform electronic reporting systems by adopting standards for all electronic data exchange.

The committee facilitates and encourages all taxing jurisdictions - federal, state/ provincial and local taxpayers alike, to comply with this point.

The technology subcommittee plans to adopt standards for reporting and incorporate into such standards the various codes adopted by the Uniformity Committee for reporting product type, entity identification, mode of transport and locations of points of origin and destination of cigarette and tobacco movements, as well as specific cigarette and tobacco tax information.

Currently a number of states have plans for mandatory or voluntary electronic reporting programs for cigarette and tobacco taxes. The more uniform the methods employed in such reporting, the better it is for all taxpayers and taxing jurisdictions involved. Besides making tax reporting more efficient, uniformity in methods and standards also facilitates the sharing of the detailed information contained in the tax reports among taxing jurisdictions, and it enables taxpayers to better respond to the requirements of the taxing authorities.

To achieve this goal, the FTA Tobacco Tax Section technology subcommittee will work with TIGERS. TIGERS is the FTA-sponsored source for electronic data interchange format standards for tax and revenue administration. Information about TIGERS and these standards can be found at www.statemef.com.

The technology subcommittee will be developing and adopting TIGERS-approved uniform standards for:

- Tax information filing (filer submission of reports to tax authorities)
- Tax information exchange (exchange of information between tax authorities)
- Tax return data acknowledgment and error notification

The technology subcommittee also recommends that state tax administrators adopt the standard TIGERS Internet filing gateway interface for cigarette and tobacco taxpayers.



Promote audit and investigation workshops to identify tax evasion

Audit and investigation workshops are essential to the training of taxing authorities' staff to ensure proper compliance.

Purpose

To help identify and educate compliance staff of current schemes and tactics used to evade cigarette and tobacco taxes.

Review and establish MOUs to promote and share information

A key element to tax administration and enforcement is to know your resources. The Uniformity Committee strongly recommends each state's governmental liaison to review and establish Memorandums of Understanding (MOU's) to promote and share information that will facilitate cigarette and tobacco tax compliance.

Purpose

To provide for ease of sharing information between taxing jurisdictions, it is necessary to keep MOU's up to date. MOU's should clearly and concisely define what is covered under each the agreement to ensure taxing jurisdictions can share information needed to verify proper tax compliance.

Utilize third party information

Third party reports are a critical link and are often the only clue to missing or fraudulent reported tax liabilities of the taxpayer.

Purpose

To track cigarette and tobacco movement and verify the accuracy of data reported by taxpayers.



Encourage States to establish a tobacco compliance staff

Tobacco compliance staffs are critical to ensure the proper collection of cigarette and tobacco taxes. A state without ample compliance staff is vulnerable to tobacco tax evasion and avoidance schemes.

Purpose

To provide a level playing field for all members of the cigarette and tobacco industry that have a responsibility to register and report cigarettes and tobacco taxes to taxing jurisdictions and to ensure that there is fair and equitable administration, enforcement, and collection of taxes amongst each state.

