

## **Tax on Vapor Products Frequently Asked Questions**

### **1. Who is liable for the excise tax on vapor products?**

The wholesale dealer or the retail dealer who first acquires or otherwise handles vapor products and electronic cigarettes is liable for the tax. If you receive vapor products from someone other than a Louisiana Authorized Tobacco Wholesaler you may be responsible for the tax.

### **2. Who is a “Louisiana Authorized Tobacco Wholesaler?”**

A listing of Louisiana authorized tobacco wholesalers may be found on the Office of Alcohol and Tobacco Control’s website at <http://www.atc.rev.state.la.us/authorized-tobacco-wholesalers.php>.

### **3. Who is a retail dealer?**

A retail dealer is every person other than a wholesale dealer who sells or offers for sale a consumable vapor product irrespective of quantity or the number of sales.

### **4. What is a vapor product?**

Any noncombustible product containing nicotine or other substances that employ a heating element, power source, electronic circuit, or other means, regardless of shape or size that can be used to produce vapor from nicotine in a solution or other form. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

### **5. What is a consumable vapor product?**

A consumable vapor product is any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used. This includes, but is not limited to, prefilled tanks used in rechargeable and non-rechargeable [disposable] vapor products and the end liquid product blended for sale to the consumer.

### **6. How much is the excise tax on consumable vapor products?**

The excise tax on vapor products is at the rate of five cents (\$.05) per milliliter of consumable nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

### **7. When is the excise tax on vapor products and electronic cigarettes effective?**

The excise tax on vapor products and electronic cigarettes is effective August 1, 2015.

**8. Is the excise tax calculated on the liquid nicotine content in the vapor product or on the entire consumable vapor product itself?**

The tax is calculated on the entire consumable vapor product.

**9. Is a consumable vapor product that contains zero nicotine subject to the excise tax?**

No. The consumable vapor product must contain nicotine for it to be subject to the tax.

**10. Do I need to receive a license from the Department before I sell vapor products?**

A permit is required from the Louisiana Office of Alcohol and Tobacco Control according to Louisiana Revised Statute 26:902. A wholesale dealer needs a permit for each wholesale place of business operated by the wholesale dealer and the wholesale permit fee is \$75 per year. Retail dealers need a permit for each retail outlet and the retail permit fee is \$25 per year. Retail dealers also need to be registered with the Louisiana Department of Revenue for the purpose of remitting sales tax on retail transactions and to remit the vapor product excise tax if they buy any non-tax-paid product.

**11. How do I apply to get a permit from the Office of Alcohol and Tobacco Control?**

Permit applications and information required by the Office of Alcohol and Tobacco Control can be found on their website at <http://www.atc.rev.state.la.us/>.

**12. As a retail dealer, will I need to provide the Department a bond to be licensed to sell vapor products?**

A surety bond will not be required at this time of retail dealers selling vapor products. The Department will periodically review the sufficiency of whether a bond is needed and may require a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes.

**13. What form do I fill out to remit the tax on the consumable vapor products?**

Retail dealers purchasing vapor products from someone other than a Louisiana authorized tobacco wholesaler are required to complete a vapor product tax return (See enclosed). This form is to be submitted on a monthly basis and is due twenty (20) days after the end of the month covered by the report.

Registered wholesale dealers are to complete Form R-5604 -Tobacco Tax Return on a monthly basis. The return is due twenty (20) days after the end of the month covered by the report. The form is mailed to all registered wholesale dealers.

**14. How do I obtain a tax form to report the tax on the consumable vapor products? Can I file or pay the excise tax on vapor products electronically?**

A vapor product tax return is included with this correspondence. You may make copies of the form as needed. The form is also available under Excise Taxes for 2015 on the Department's website at <http://revenue.louisiana.gov/Forms/ForBusinesses>. Currently there are no electronic filing or payment options available. The paper return should be submitted by mail along with a check for the amount due.

**15. I have multiple locations; can I file one consolidated return for all locations?**

Yes, as long as the first seven digits of your Louisiana tax identification numbers are the same for all locations. If your Louisiana tax identification numbers do not begin with the same seven digits, you will be required to file separately for those locations.

**16. How do I round if I have a fraction of milliliters after I have totaled the amount of consumable vapor products that are subject to the tax?**

Rounding is to be performed AFTER calculating the grand total of all liquid consumable vapor products. If you have a fraction of .5 milliliters or above of consumable vapor products, please round up to the nearest whole milliliter. If you have a fraction of less than .5 milliliters of consumable vapor products, please round down to the nearest whole milliliter. Example #1: Selling 6 units at 0.4ml per unit would equal 2.4ml total or 2.0ml rounded down for tax purposes. Example #2: Selling 9 units at 0.4ml per unit would equal 3.6ml total or 4.0ml rounded up for tax purposes.

**17. I am a convenience store in Louisiana that buys all my consumable vapor products from a licensed wholesale dealer. Do I need to be licensed by the Department?**

Since you are buying tax-paid consumable vapor products, you are not required to file and pay the excise tax on vapor products. You do need a tobacco retail dealer permit from the Louisiana Office of Alcohol and Tobacco Control and you need to be registered with the Department of Revenue for the remission of sales tax. If at any time you buy non-tax paid consumable vapor products, you would be liable for the excise tax and must be registered with the Department to pay that tax. If you wish to not be liable for the excise tax, make sure that you are buying tax-paid consumable vapor products. Asking the seller for a license or making sure the excise tax is applied to the invoice is an indication that the consumable vapor products you are buying are already tax paid. A listing of authorized tobacco wholesale dealers may be found on the Office of Alcohol and Tobacco Control's website at <http://www.atc.rev.state.la.us/authorized-tobacco-wholesalers.php>.

**18. I currently manufacture the consumable vapor product in Louisiana. Do I have to pay the tax on the pure liquid nicotine before it is mixed to become a consumable product?**

No. The excise tax applies after the liquid nicotine is mixed to be a consumable product and can be depleted as a vapor product is used.

**19. I currently manufacture the consumable vapor product that is sold to Louisiana customers. Is there specific information that must be included on customer invoices?**

Yes. All invoices for consumable vapor products sold to Louisiana customers must include the amount of consumable vapor product sold stated in milliliters.

**20. Can a wholesale dealer or a retail dealer pay the tax based on sales or purchases of consumable vapor products?**

Wholesale dealers are to pay the tax based on the quantity of product purchased for sale in Louisiana. Retail dealers who obtain non-tax-paid product or who manufacture the consumable vapor product are to pay the tax on the consumable vapor product purchased and/or produced for sale in Louisiana.

**21. I need to return some vapor product back to the manufacturer. What do I need to do?**

A wholesale dealer or retail dealer who is primarily liable for the vapor products tax and is in possession of stale or otherwise unsalable vapor products upon which the tax has been paid may return the products to the manufacturer and deduct the quantity so returned on their tax report. An affidavit from the manufacturer listing the vapor products returned to the manufacturer must accompany the return on which credit is claimed.

**22. I am an internet retail dealer and I believe I have nexus with Louisiana. How do I report the tax on the consumable vapor products?**

Retailers with nexus in Louisiana are required to report Internet sales and remit the appropriate amount due. A business is deemed to have nexus if it or any of its affiliates has a presence in Louisiana. Nexus is created if your company or any of its affiliates maintain a temporary or permanent presence of people (employees, service people or independent sales/service agents) or property (inventory, offices, warehouses) in Louisiana.

**23. I am an internet retail dealer with no nexus in Louisiana. How do I report the tax on the consumable vapor products?**

Retailers with no nexus in Louisiana are not required to report and remit taxes on Internet sales. However, the purchaser is required to report and remit tax on the purchases.