NCDOR
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B-A-102 Instructions
Monthly Vapor and Alternative Nicotine Products Excise Tax Return

General Instructions

The Form B-A-102, Monthly Vapor and Alternative Nicotine Products Excise Tax Return is required to be filed by wholesale dealers and retail dealers who first acquire, receive, or handle vapor and alternative nicotine products in this State. Transactions for other tobacco products (excluding vapor and alternative nicotine products) must be reported on Form B-A-101, Monthly Other Tobacco Products Excise Tax Return (excluding vapor and alternative nicotine products).

Complete all information at the top of Form B-A-102 including Application for Period, Legal Name (first 35 characters), Trade Name, Physical Address *(As Shown on Tobacco License)*, City, State, Zip Code, State of Domicile, FEIN or SSN, NCDOR ID number for the place of business, Contact Person, Phone Number, Fax Number, and Email Address.

This return and payment (if applicable) are due on or before the 20th day of the month following the month in which the taxable sales and other activities occur. A return must be filed even if no tax is due. A return is filed when it is received by the Department or postmarked by the due date. If the due date falls on a Saturday, Sunday, or state holiday, the return and payment must be received by the department or must be postmarked on the next business day. This also applies to returns when no tax is due.

If the return and full payment are not submitted timely, the discount deduction will be disallowed. A failure to file penalty will be assessed when returns are not received by the due date of the return, based upon the amount of tax due on the return. A penalty of five percent (5%) per month (up to twenty-five percent (25%) maximum), will be assessed for each month the return is late. A failure to pay penalty of five percent (5%) of the amount of tax due and not paid will be assessed when the payment is not received by the due date of the return. In addition, interest will be charged at a daily rate from the date the tax is due until the date the tax is paid. The interest rate is subject to change every six months; therefore, the rates should be verified on the Department's website at the following address: **ncdor.gov**.

Amended Returns: Prior period adjustments are not allowed on current returns. If you must amend a previously filed Form B-A-102 Monthly Vapor and Alternative Nicotine Products Excise Tax Return, you must file a new Form B-A-102, Monthly Vapor and Alternative Nicotine Products Excise Tax Return, showing the corrected amounts for the amended period. Additionally, you must also mark the return as amended by filling in the circle indicating an amended return.

Invoicing Requirements: Sales invoices of wholesale dealers and retail dealers, whether resident or nonresident, liable for the tax shall indicate payment of the excise tax on vapor and alternative nicotine products by the wording "North Carolina Other Tobacco Products Tax Paid." All sales invoices of wholesale dealers and retail dealers shall show the point of origin and mode of transportation for all shipments into this State. All invoices for vapor products issued by manufacturers must state the amount of consumable vapor product in milliliters.

Tax Basis for Vapor and Alternative Nicotine Products: Vapor products are taxed at the rate of five cents (5¢) per fluid milliliter of consumable product. Alternative nicotine products are taxed at the rate of ten cents (10¢) per container containing up to 20 units, and at the rate of one-half cent (1/2¢) per unit for any amount in a container containing over 20 units.

Schedule A. Computation of Excise Tax Due on Vapor and Alternative Nicotine Products

NOTE: Round milliliters to the nearest whole number.

Line 1. Number of Milliliters of Vapor Products Sold/Purchased During the Month

Enter the total in milliliters for all the vapor products sold/purchased during the month. Attach copies of invoices or equivalent information.

Line 2. Number of Milliliters of Vapor Products Sold Outside of North Carolina

Enter the total in milliliters for all the vapor products sold outside North Carolina during the month. Attach copies of invoices or equivalent information.

Line 3. Number of Milliliters of Vapor Products Sold to the Federal Government or Its Instrumentalities

Enter the total in milliliters for all the vapor products sold to the Federal Government or Its instrumentalities during the month. Attach copies of invoices or equivalent information.

Line 4. Number of Other Exempt Milliliters of Vapor Products

The allowable exemptions to be used on this line are:
- A sample Vapor Product, distributed without charge
- A Manufacturer's Option
- Modified risk tobacco products

Manufacturer's Option - A manufacturer who is not a retail dealer and who ships other tobacco products to either a wholesale dealer or a retail dealer licensed under Article 2A, may upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the tax on tobacco products imposed by Article 2A, but is not relieved from filing a report.

Modified Risk Tobacco Products - A tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

Tax Rate Reduction:

- 50% - for a modified risk tobacco product issued a risk modification order by the United States Food and Drug Administration (FDA) under 21 U.S.C. § 387k(g)(1). Complete and attach Form B-A-MR50, Schedule of Modified Risk Tobacco Products - 50% Risk Modification Order.
- 25% - for a modified risk tobacco product issued an exposure modification order by the FDA under 21 U.S.C. § 387k(g)(2). Complete and attach Form B-A-MR25, Schedule of Modified Risk Tobacco Products - 25% Exposure Modification Order.

The manufacturer must substantiate that a product qualifies as a modified risk tobacco product by providing the Department a copy of the order issued by the United States Food and Drug Administration verifying the product as a modified risk tobacco product. Once the manufacturer provides the order to the Department, the wholesale dealer or retailer dealer may claim the tax rate deduction on the first day of the next calendar month.

Enter the total milliliters of vapor for: (1) sample vapor product, distributed without charge; and (2) vapor product sold under the Manufacturer's Option during the month. Attach copies of all invoices or equivalent information. For Modified Risk Tobacco Products, enter the Total from Part 3A from the B-A-MR25 Schedule of Modified Risk Tobacco Products - 25% Exposure Modification Order or the B-A-MR50 Form B-A-MR50, Schedule of Modified Risk Tobacco Products - 50% Risk Modification Order.

Line 5. Total Number of Exempt Milliliters of Vapor Products Sold

Add Lines 2 through 4. Enter the result.

Line 6. Total Number of Milliliters of Vapor Products Sold/Purchased in Taxable Transactions During the Month

Line 1 minus Line 5. Enter the result.

Line 7. Excise Tax Due on Vapor Products

Multiply Line 6 by $0.05. Enter the result.

Line 8. Excise Tax Due on Alternative Nicotine Products

Enter the result from Schedule B, Line 7.

Line 9. Total Excise Tax Due on Vapor and Alternative Nicotine Products

Add Line 7 and Line 8. Enter the result.

Line 10. Penalty

Payment of the Failure to File Penalty is required with any return filed after the date the return is due. If this return is late, the penalty is 5% per month or any fraction thereof, with a maximum of 25% of the tax that is due. Payment of the Failure to Pay Penalty is required with any payment received after the date the return is due. If the payment is late, the penalty is 5% of the tax that is due.

Line 11. Interest

Payment of interest is required when payment on any return, with tax due, is late. The interest rate is subject to change every six months; therefore, you should verify the rate on the Department's website at the following address: **ncdor.gov**.

Line 12. Total Payment Due

Add Lines 9 through 11. Enter the result.

This is the amount due to be paid with the return. Your payment should equal the amount on Line 12 on the return. Make checks or money orders payable to the North Carolina Department of Revenue and include your NCDOR ID number on your check or money order. **Payments must be drawn on a U.S. (domestic) bank and payable in U.S. dollars.**

Schedule B. Computation of Excise Tax Due on Alternative Nicotine Products

Line 1. Number of Containers of Alternative Nicotine Products Sold/Purchased in Taxable Transactions

Enter the result from Schedule C, Total of Column D.

Line 2. Excise Tax on Units Less Than or Equal to 20 in Each Container

Multiply Line 1 by $0.10. Enter the result.

Line 3. Units Greater Than 20 per Container

Enter the result from Schedule C, Total of Column G.

Line 4. Excise Tax on Units Greater Than 20 in Each Container

Multiply Line 3 by $0.005. Enter the result.

Line 5. Excise Tax on Alternative Nicotine Products

Add Line 2 and Line 4. Enter the result.

Line 6. Discount

If return with full payment is timely filed, multiply Line 5 by 2%; otherwise, enter zero.

A wholesale dealer or a retail dealer who is primarily liable for the excise taxes imposed on Alternative Nicotine Products, who files a timely report and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required and the expense of furnishing a bond.

Line 7. Total Excise Tax Due on Alternative Nicotine Products

Line 5 minus Line 6. Enter the result here and on Schedule A, Line 8.

Schedule C. Detail Schedule for Excise Tax on Alternative Nicotine Products

Copies of all invoices must be attached. Only one alternative product per line, items cannot be combined. If additional lines are needed, complete a supplemental Schedule C and enter the total of all items on Schedule B.

Column (A). Alternative Nicotine Product Description as Shown on Invoice

Enter the description for each Alternative Nicotine Product (ANP) as shown on the invoice.

Column (B). Number of Containers Sold or Purchased

Enter the total number of containers sold or purchased for each Alternative Nicotine Product. Sales made outside of North Carolina and exempt transactions should be reported in Column C.

Column (C). Number of Exempt Containers Sold

Enter the total number of containers for each alternative nicotine product that were sold in exempt transactions. This includes containers sold in the following transactions:

- A sample product, distributed without charge
- A Manufacturer's Option
- Modified Risk Tobacco Products

Manufacturer's Option - A manufacturer who is not a retail dealer and who ships other tobacco products to either a wholesale dealer or a retail dealer licensed under Article 2A, may upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the tax on tobacco products imposed by Article 2A, but is not relieved from filing a report.

Modified Risk Tobacco Products - A tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

Tax Rate Reduction:

- 50% - for a modified risk tobacco product issued a **risk modification** order by the United States Food and Drug Administration (FDA) under 21 U.S.C. § 387k(g)(1). Complete and attach Form B-A-MR50, Schedule of Modified Risk Tobacco Products - 50% Risk Modification Order.

- 25% - for a modified risk tobacco product issued an **exposure modification** order by the FDA under 21 U.S.C. § 387k(g)(2). Complete and attach Form B-A-MR25, Schedule of Modified Risk Tobacco Products - 25% Exposure Modification Order.

The manufacturer must substantiate that a product qualifies as a modified risk tobacco product by providing the Department a copy of the order issued by the United States Food and Drug Administration verifying the product as a modified risk tobacco product. Once the manufacturer provides the order to the Department, the wholesale dealer or retailer dealer may claim the tax rate deduction on the first day of the next calendar month.

Enter the total alternative nicotine for: (1) sample products distributed without charge; and (2) products sold under the Manufacturer's Option during the month. Attach copies of all invoices or equivalent information. For Modified Risk Tobacco Products, enter the Total from Part 3B from the B-A-MR25 Schedule of Modified Risk Tobacco Products - 25% Exposure Modification Order or the B-A-MR50 Form B-A-MR50, Schedule of Modified Risk Tobacco Products - 50% Risk Modification Order.

Column (D). Total Taxable Containers Sold/Purchased

Column B minus Column C and enter the result for each line. Total all items in the column and enter the result in "Total of Column D" and on Schedule B, Line 1.

Column (E). Number of Units in Each Container

Enter the number of units in each container.

Column (F). Number of Units Greater Than 20 per Container

Enter the result of Column E minus 20. If the result is negative, enter zero.

Column (G). Total Units with Greater Than 20 per Container

Multiply Column D by Column F and enter the result for each line. Total all items in the column and enter the result in "Total of Column G" and on Schedule B, Line 3.