



NCDOR

**NORTH
CAROLINA
DEPARTMENT
OF REVENUE**

**Excise Tax Division
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, North Carolina 27640-0001
www.ncdor.gov**

Important Notice: Regarding Delivery Sales of Certain Tobacco Products

During the 2019 legislative session, Session Law 2019-169 enacted N.C.G.S. 105-113.4F concerning delivery sales of tobacco products (other than cigars) to North Carolina tobacco consumers through the internet or other remote sales methods. This applies to delivery sellers regardless of whether the delivery seller is located inside or outside North Carolina.

A “delivery sale” is defined as a sale of tobacco products to a consumer (an individual who purchases, receives, or possesses tobacco products for personal consumption and not for resale) in which either of the following apply:

- a. The consumer submits the order for the sale by telephone, mail, the Internet or other online service or application, or when the seller is otherwise not in the physical presence of the consumer when the consumer submits the order or
- b. The tobacco products are delivered via mail or a delivery service (a person engaged in the commercial delivery of letters, packages, or other containers).

Effective October 1, 2019, N.C.G.S. 105-113.4F requires a delivery seller (a person that makes a delivery sale), to do all of the following with respect to a delivery sale:

- 1) Obtain a license from the Department pursuant to the requirements of Article 2A of Chapter 105 before accepting an order;
- 2) Comply with the age verification requirements in N.C.G.S. 14-313(b2);
- 3) Report, collect, and remit to the Department all taxes levied on tobacco products as set out in Article 2A and Article 5 of Chapter 105.

Further, all State laws that apply to tobacco product retailers in this State shall also apply to delivery sellers.

Filing Requirements – N.C.G.S. 105-113.4F(c) requires that a delivery seller who has made a delivery sale, or shipped or delivered tobacco products in connection with a delivery sale, during the previous month shall, not later than the tenth (10) day of each month, file with the Department a memorandum or a copy of the invoice for every delivery sale made during the previous month. A delivery seller who complies with 15 U.S.C. § 376 with respect to tobacco products covered by that section is considered to have complied with the filing requirements.

In order to help delivery sellers comply with this new requirement, the Department has established Form B-A-10, Report of Delivery Sales of Certain Tobacco Products (other than cigars), for purpose of reporting delivery sales made into North Carolina. This new form will require the following information:

- The name, address, telephone number, and e-mail address of the consumer;
- The type and the brand, or brands, of tobacco products that were sold;
- The quantity of tobacco products that were sold.

The new Form B-A-10, along with instructions for completing the form, are available on the Department's website at: www.ncdor.gov.

NOTE: Any person who violates this new law is subject to the following penalties:

- For the first violation, a penalty of one thousand dollars (\$1,000).
- For a subsequent violation, a penalty not to exceed five thousand dollars (\$5,000).

Questions regarding this notice may be directed to the Excise Tax Division at telephone number (919) 707-7500 or toll free (877) 308-9092.

If a written response would require the Department to interpret the law in a manner not specifically addressed in a statute, regulation, or Departmental or IRS publication, the person requesting the written response must follow the procedure (and pay the required fee) for requesting a private letter ruling available on the Department's website at the following address:

<https://www.ncdor.gov/documents/nc-481-request-written-determination>.