



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: Modified Risk Tobacco Products

During the 2018 legislative session, Session Law 2018-5 added N.C.G.S. § 105-113.4E regarding modified risk tobacco products and an associated tax reduction. This statute became effective June 12, 2018.

N.C.G.S. § 105-113.4E defined the term “modified risk tobacco product” as 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. A modified risk tobacco product allows for a tax reduction of either 50% or 25% based on whether the United States Food and Drug Administration issues either a “risk modification order” or an “exposure modification order.”

On October 22, 2019, the United States Food and Drug Administration issued a risk modification order for eight tobacco products that are manufactured by Swedish Match USA, Inc. To view the tobacco products that were issued the modified risk order, please click on the following address: <https://www.fda.gov/tobacco-products/advertising-and-promotion/modified-risk-orders>.

The manufacturer will be providing documentation to the Department, including the modification order issued by the United States Food and Drug Administration to substantiate that the 8 tobacco products referenced above qualify as a modified risk tobacco product. Once received by the Department, wholesaler dealers and retail dealers can proceed to take the tax reduction on Form B-A-101, Monthly Other Tobacco Products Return on the first day of the following calendar month that the Department received the documentation. The wholesaler dealers and retail dealers will need to provide the modification order with their first return only to substantiate the rate reduction. Form B-A-101 along with instructions for completing the form, are available on the Department’s website at: www.ncdor.gov.

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>.