



## **Kansas Department of Revenue**

**September 22, 2011**

**Revenue Ruling No. 19-2011-02**

### **Requirements for the Maintaining Cigarette and Other Tobacco Product Invoices**

This revenue ruling clarifies the statutes and regulations as they pertain to invoices including the accessibility, retention and the required information to be listed on the invoice.

Effective as of the date of this revenue ruling, the Department is requiring that any holder of a license issued under the Kansas Cigarette and Tobacco Products Act, K.S.A. 79-3301 *et seq.*, maintain and have the required invoices available, either by presenting the physical records or allowing access to an electronic duplicate of the invoice, at the time of the inspection.

This ruling is applicable to all cigarette and tobacco products licenses issued by the Department of Revenue, including: Cigarette Retail Dealer, Vending Machine Operator, Show, Carnival, Catering Temporary, Cigarette Wholesale Dealer, Salesperson, and Distributor licenses.

The following information provides guidance for Cigarette Retail Dealers, Vending Machine Operators, Cigarette Wholesale Dealers, Salesperson, Distributors and other cigarette and tobacco product license holders on the Department of Revenue's requirements surrounding cigarette and tobacco product invoices.

#### **Cigarette Retail Dealer, Vending Machine Operator, and Show, Carnival, Catering and Temporary Licenses**

- Anyone selling cigarettes in or into the state to end consumers must hold a license issued by the Department of Revenue (K.S.A. 79-3301(e) and K.S.A. 79-3303(a)).
- A Cigarette Retail Dealer, Vending Machine Operator and other retail licensee must purchase cigarettes from a Kansas Licensed Wholesale Dealer.
- All cigarettes purchased and invoiced must comply with the law of the State including the requirements that the cigarettes:
  - bear the appropriate Kansas tax indicia,
  - are compliant with the Kansas Attorney General's Directories, and
  - meet the Fire Standards Compliant requirements.
- Every cigarette purchase from a wholesale dealer must be invoiced, and a copy of the invoice must accompany the cigarettes.

- A Cigarette Retail Dealer, Vending Machine Operator and other retail license are required to maintain invoices for its purchases (K.S.A. 79-3316(a)).
- Invoices must be maintained at the licensed premises or at the centralized location if more than one retail dealer location is owned.
- The required invoices must be available for inspection upon demand of the Director or representative thereof. During an inspection of the licensed premises, the Director, or representative thereof, must be able to inspect the required invoices.
- Invoices must be available for inspection either by presenting the physical invoices or by accessing an electronic copy of the invoice at the time of the request.
- ‘Available for inspection’ means each licensed Cigarette Retail Dealer, Vending Machine Operator or other retail licensee must present the required documents at the time of the inspection by either:
  - keeping a physical copy of the invoice at the local retail dealer location, or
  - having access to the invoices stored electronically at that particular licensed location or at a central location (whether in state or out of state) so the issued invoices can be viewed at the time of the inspection.
- Invoices and records pertaining to the sale of cigarettes must be retained and maintained for a period of three years (K.S.A. 79-3321(g) and K.S.A. 79-3316(d)).
- Each invoice must contain the following information (KSA 79-3316(c)):
  - Wholesale dealer name, address and license number;
  - Retail dealer name, address and license number;
  - The date of the transaction;
  - An itemized list of cigarettes purchased including, but not limited to, the brand, quantity, and cost.
- Administrative action may be taken if the licensee fails to have the required invoices accessible at the time of the inspection (K.S.A. 79-3321(e)).

### **Cigarette Wholesale Dealers**

- Anyone who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and/or salesperson for the purpose of resale in the state is required to be licensed under the Cigarette and Tobacco Products Act as a dealer (K.S.A. 79-3301(e) and K.S.A. 79-3301(bb)).
- A wholesale dealer who sells cigarettes to a licensed retail dealer must comply with the applicable laws and regulations, including:
  - Selling cigarettes packages that bear the appropriate Kansas tax indicia,
  - Selling cigarette brands that are compliant with the Attorney General’s Directories,
  - Selling cigarettes that meet the Fire Standard Compliance requirements, and
  - Providing an invoice showing the sale of cigarettes.
- All sales of cigarettes by dealers require an invoice, and a copy of the invoice must accompany the cigarettes (K.S.A. 79-3316(a)).
- A Wholesale Dealer is required to maintain invoices of its sale of cigarettes.
- The required invoices shall be made available upon demand of the Director or representative thereof. The Director, or representative thereof, must be able to inspect the required invoices, directly or by computer, at the time of the inspection of the licensed location.
- Invoices must be available for inspection at the licensed place of business or at a centralized location of the dealer if the dealer has more than one place of business in the state (K.S.A. 79-3316(d)).

- ‘Available for inspection’ means that the Wholesale Dealer must, at the time of the inspection, either:
  - provide a physical copy of the invoice at the licensed location, or
  - allow access to the invoices stored electronically
- Invoices and records pertaining to the sale of cigarettes must be retained and maintained for a period of three years (K.S.A. 79-3321(g) and K.S.A. 79-3316(d)).
- Each invoice must contain the following information (KSA 79-3316(c)):
  - Wholesale dealer name, address and license number;
  - Retail dealer name, address and license number;
  - The date of the transaction;
  - An itemized listed of cigarettes sold including, but not limited to, the brand, quantity, and cost.
- Administrative action may be taken if the licensee fails to have the required invoices accessible at the time of the inspection or for any non-compliant invoice (K.S.A. 79-3321(e)).

### **Salesperson**

- Anyone who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and/or other licensees for the purpose of resale in the state is required to be licensed under the Cigarette and Tobacco Products Act (K.S.A. 79-3301(e)).
- A Salesperson who sells cigarettes to a licensed retail dealer must comply with all applicable laws and regulations, including:
  - Selling cigarettes packages that bear the appropriate Kansas tax indicia,
  - Selling cigarette brands that are compliant with the Attorney General’s Directories,
  - Selling cigarettes that meet the Fire Standard Compliance requirements, and
  - Providing an invoice for the sale of cigarettes.
- All sales of cigarettes by dealers require an invoice and the invoice must accompany each sale of cigarettes (K.S.A. 79-3316(a), K.S.A. 79-3304(a)(7) and K.A.R. 92-5-3).
- Each invoice must contain:
  - The name of the salesperson and license number;
  - The name of the wholesale dealer from whom the salesperson acquired the invoiced cigarettes;
  - The name, address and license number of the retail dealer purchasing the cigarettes;
  - The date of sale; and,
  - An itemization of the products sold and all prices and discounts.
- The required invoices must be made available upon demand of the Director or representative thereof. The Director, or representative thereof, must be able to inspect the physical invoices or an electronic copy of the invoices at the time of the inspection.
- Invoices and records pertaining to the sale of cigarettes must be retained for a period of three years (K.S.A. 79-3321(g) and K.S.A. 79-3316(d)).
- Administrative action may be taken if the licensee fails to maintain and have available the required invoices or any non-compliant invoice.

## **Distributor**

- Any person engaged in the business of selling or dealing in tobacco products as a distributor must be licensed.
- Pursuant to K.S.A. 79-3371, a Distributor must pay the appropriate excise tax on all tobacco products that are either:
  - brought into the state for sale,
  - made, manufactured or fabricated in the state for sale in the state, or,
  - shipped or transported to retailers in the state and sold by those retailers.
- Pursuant to K.S.A. 79-3377, a Distributor is required to maintain complete and accurate records at each licensed place of business, including itemized invoices of:
  - Tobacco products held, purchased, manufactured, brought in or caused to be brought into the state or shipped or transported to retailers in this state; and,
  - all sales of tobacco products made, except sales to an ultimate consumer.
- The records, including invoices and other pertinent papers and documents relating to the purchase, sale and disposition of all tobacco products, must be available for inspection by the Director or representative thereof.
- Itemized invoices are required when tobacco products are transferred, sold or distributed to any retailer even those retail locations owned or controlled by the licensed distributor.
- Invoices showing the sale of tobacco products must contain:
  - an itemization of the tobacco products sold,
  - the seller's name and address and Distributor's license number,
  - the purchaser's name and address,
  - the date of sale, and
  - all prices and discounts.
- The Distributor must keep and preserve all required invoices, books, records and other papers and documents for a period of at least three years after the date of the documents or the date of the entries thereof appearing in the records.
- Invoices, either a physical or electronic copy, shall be available for inspection by authorized agents or employees of the director at the distributor's place of business at the time of the inspection.
- Administrative action may be taken if the licensee fails to maintain and have available the required invoices or any non-compliant invoice.

Failure to comply with the applicable statutes, regulations and/or this ruling can result in administrative action for violation of the cigarette and tobacco products laws.

Refusing to allow such record inspection by a duly authorized agent or employee of the director shall be grounds for revocation of the license.

The agents and representatives designated by the Director of Taxation, including the Cigarette and Tobacco Enforcement Team, will verify compliance with the provisions of the applicable statutes, regulation and this ruling.

This revenue ruling replaces and supersedes all prior advice, revenue rulings and rulings that have been issued regarding this issue.

Additional copies of this revenue ruling, forms or publications are available from our web site, **[www.ksrevenue.org](http://www.ksrevenue.org)**. If you have any questions about Kansas cigarette and tobacco products laws or reporting requirements, please contact the Kansas Department of Revenue via e-mail at [miscellaneous.tax@kdor.ks.gov](mailto:miscellaneous.tax@kdor.ks.gov) or call (785) 368-8222 choose option 5 followed by option 4. Address a written inquiry to Customer Relations, Cigarette Tax, Kansas Department of Revenue, 915 SW Harrison, Topeka, KS 66625-5000.

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