



TAX ON VAPOR PRODUCTS FREQUENTLY ASKED QUESTIONS

MAY 21, 2015

1. Who is liable for the excise tax?

The wholesale dealer or the retail dealer who first acquires or otherwise handles the consumable vapor products is liable for the excise tax.

2. What is a vapor product?

Any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. 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.

3. What is a retail dealer?

A retail dealer is a person who sells a consumable vapor product to the ultimate consumer of the product.

4. What is a wholesale dealer?

A wholesale dealer is a person who acquires consumable vapor products for sale to another wholesale dealer or to a retail dealer. Most manufacturers are licensed as wholesale dealers.

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 pre-filled tanks used in rechargeable and non-rechargeable (disposable) vapor products.

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

An excise tax is levied on vapor products at the rate of five cents (\$.05) per fluid milliliter of consumable product. There is no excise tax on non-consumable vapor product.

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

The excise tax is calculated on the entire consumable vapor product.

8. 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 excise tax.

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

A wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of twenty five dollars (\$25.00) for the license. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of ten dollars (\$10.00) for the license. A “place of business” is a place where a wholesale dealer or where a retail dealer makes vapor products or a wholesale dealer or retail dealer receives or stores non-tax-paid vapor products.

10. How do I apply to get a license from the Department?

Please fill out Form B-A-2 (Application for Cigarette Distributor’s License and Tobacco Products (Other than Cigarettes)). The form can be found on the Department’s website at <http://www.dornnc.com/downloads/tobacco.html>.

11. When is the excise tax on consumable vapor products effective in North Carolina?

The excise tax on consumable vapor products is effective on June 1st 2015.

12. What is the filing frequency and when is the due date?

The filing frequency is monthly and the due date of the return is by the 20th day of the month following the end of the filing period.

13. Will I need to provide the Department a bond or an irrevocable letter of credit to be licensed to sell vapor products?

No. However, the Department may require a bond or an irrevocable letter of credit from a wholesale dealer or retail dealer based on noncompliance, which includes being delinquent on filing returns. The Department will periodically review the sufficiency of whether a bond is needed and may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes.

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

Taxpayers liable for the tax must submit Form B-A-101 (Monthly Other Tobacco Products Excise 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 can be found on the Department's website at <http://www.dornrc.com/downloads/tobacco.html>.

15. I currently do not see a version of Form, B-A-101 (Monthly Other Tobacco Products Excise Tax Return) that includes the new vapor products tax. What should I do?

The Department will update Form, B-A-101 (Monthly Other Tobacco Products Excise Tax Return) prior to July 1, 2015, which is the first day a taxpayer can file the new vapor products tax. The June 2015 tax return is due on or before July 20, 2015.

16. Is a wholesale dealer or retail dealer allowed to deduct the discount of two percent (2%) from the amount due on the Form B-A-101 (Monthly Other Tobacco Products Excise Tax Return) for the sale of consumable vapor products?

No. The statute only allows a discount for tobacco products and not vapor products.

17. I currently have a wholesaler license and/or a retail dealer license. Do I need to obtain a new license to sell vapor products?

No. You do not need a new license as your current license will suffice for that place of business. If you do open a new business location that sells vapor products, then you would be required to obtain a new license for that location if you are considered a wholesale dealer or a retail dealer.

18. I currently manufacture the consumable vapor product in North Carolina. Do I need to obtain a license?

Yes. The Department licenses manufacturers as wholesale dealers and requires them to obtain for each place of business a continuing tobacco products license and pay a tax of twenty five dollars (\$25.00) for the license. A “place of business” is a place where a wholesale dealer or where a retail dealer makes vapor products or a wholesale dealer or retail dealer receives or stores non-tax-paid vapor products.

19. I currently manufacture the consumable vapor product in North Carolina. Am I responsible for paying the excise tax and providing shipping reports?

A manufacturer who is not a retail dealer and who ships vapor products to either a licensed wholesale dealer or licensed retail dealer may apply to the Secretary to be relieved of paying the excise tax. Absent of this application or if a North Carolina manufacturer sells to a non-licensed wholesale dealer or non-licensed retail dealer, the North Carolina manufacturer would be responsible for the excise tax. A North Carolina manufacturer licensed as a wholesale dealer must submit Form B-A-101 (Monthly Other Tobacco Products Excise Tax Return) on a monthly basis. In addition, a North Carolina manufacturer must provide a shipping report to show the volumes of consumable vapor products shipped upon the public highways, roads, or streets of this State. This shipping report can be sent in when the North Carolina manufacturer sends in their monthly Form B-A-101 (Monthly Other Tobacco Products Excise Tax Return). A manufacturer can send a letter to the Department to be relieved of paying the excise tax to the following address:

North Carolina Department of Revenue
Excise Tax Division
PO Box 25000
Raleigh, North Carolina 27640-0950

20. I currently manufacture the consumable vapor product outside North Carolina, but ship the product to wholesale dealers in North Carolina. Do I need to obtain a license?

If you are shipping the vapor products via your own transportation, then yes, you would need to obtain a license. However, if you ship the vapor products via common carrier, you would not need to obtain a license.

21. I currently manufacture the consumable vapor product outside North Carolina and ship the vapor products into North Carolina via common carrier or on my own trucks. Am I responsible for providing shipping reports?

If you are shipping the vapor products via common carrier or on your own trucks, you must provide a shipping report to show the volumes of consumable vapor products shipped upon the public highways, roads, or streets of this State.

22. I currently manufacture the consumable vapor product in North Carolina. Can I sell the consumable vapor product to a non-licensed wholesale dealer or retail dealer?

Yes. The North Carolina manufacturer would be responsible for the excise tax on the consumable vapor products and must submit Form B-A-101 (Monthly Other Tobacco Products Excise Tax Return).

23. I currently manufacture the consumable vapor product in North Carolina. 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 as used.

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

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

25. I just opened up a vapor shop. What do I need to do?

The retail dealer who first acquires or otherwise handles non tax-paid consumable vapor products is liable for the excise tax. A retail dealer will need to obtain a retail dealer license from the Department. The Department will also require a bond or a letter of credit. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of ten dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer or where a retail dealer makes consumable vapor products or a wholesale dealer or retail dealer receives or stores non-tax-paid vapor products. Please fill out Form B-A-2 (Application for



Cigarette Distributor's License and Tobacco Products (Other than Cigarettes)) to obtain a license. The form can be found on the Department's website at <http://www.dornnc.com/downloads/tobacco.html>.

26. I own a vapor shop and I also manufacture the consumable vapor products at my place of business. What do I need to do?

You will only need a retail dealer license for this place of business. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of ten dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer or where a retail dealer makes vapor products or a wholesale dealer or retail dealer receives or stores non-tax-paid vapor products. Please fill out Form B-A-2 (Application for Cigarette Distributor's License and Tobacco Products (Other than Cigarettes)) to obtain a license. The form can be found on the Department's website at <http://www.dornnc.com/downloads/tobacco.html>.

27. I own a vapor shop and I also manufacture the consumable vapor products at a separate location.

You will need to obtain a wholesale dealer license for the place of business that manufactures the consumable vapor products. You will also be required to obtain a retail dealer license for the vapor shop that sells to the ultimate consumer. A "place of business" is a place where a wholesale dealer or where a retail dealer makes vapor products or a wholesale dealer or retail dealer receives or stores non-tax-paid vapor products. Please fill out Form B-A-2 (Application for Cigarette Distributor's License and Tobacco Products (Other than Cigarettes)). The form can be found on the Department's website at <http://www.dornnc.com/downloads/tobacco.html>.

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

No. Since you are buying tax-paid consumable vapor products, you are not required to be licensed or file and pay the excise tax on Form B-A-101 (Monthly Other Tobacco Products Excise Tax Return). If at any time, you buy non-tax paid consumable vapor products, you would be liable for the excise tax and must be licensed as a retail dealer with the Department. If you wish to not be liable for the excise tax, please 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.

29. On June 1, 2015, do I need to pay tax on the inventory I have on hand?

No. There is no floor tax due on the inventory since the Department considers this a new tax and not a tax increase.

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

It is your decision on whether you would like to pay on purchases or sales of the consumable vapor products. Once you have chosen the best method for your business, please file accordingly on your first return. If you wish to change the method, please contact the Department at (919) 754-2631.

31. 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 apply to the Secretary for refund of the tax. The refund of taxes paid can be filed on Form, B-A-101R (Application for Other Tobacco Products Excise Tax Refund for North Carolina Tax-Paid Other Tobacco Products Returned to Manufacturer) and shall be accompanied by a written certificate signed under penalty of perjury or an affidavit from the manufacturer listing the vapor products returned to the manufacturer by the applicant.

32. On Form B-A-101, 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 performed AFTER calculating the grand total of all liquid consumable vapor products sold. 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.