

(2) When a salesman, acting as a representative of a cigarette manufacturer, exchanges fresh cigarettes for dried or damaged cigarettes, he shall accept and receive only dried or damaged cigarettes of the brands manufactured by his employer and he shall prepare and deliver with the fresh cigarettes a true and correct invoice as set forth in sub. (1).

(3) When a salesman, acting as a representative of a cigarette manufacturer, or when a permittee exchanges dried or damaged cigarettes to a distributor for return to the manufacturer and receives fresh cigarettes in exchange therefor, he shall prepare a true and correct invoice as set forth in sub. (1). Each carton of such dried or damaged cigarettes shall contain only cigarettes of one brand and pack. Such cartons shall be packed so that the tax stamps on the dried or damaged cigarettes are exposed for inspection and the distributor shall refuse to receive or accept any cigarettes not so packed.

(4) A clearly legible copy of all invoices evidencing a sale or exchange of cigarettes must be retained by each of the parties to the transaction for a period of at least 2 years from the date of the invoice, in groups covering a period of one month each.

History: Cr. Register, November, 1971, No. 191, eff. 12-1-71.

**Tax 9.51 Samples.** (ss. 139.31 and 139.33, Stats.) (1) Cigarettes shipped into this state by manufacturers to their representatives, including advertising agencies and airlines, for the purpose of free samples must be accompanied by a memo invoice stating brands and number of cigarettes. Such memos must be retained by the representative for the statutory period of 2 years.

(2) Manufacturers may ship free sample cigarettes in quantities of 400 or less to consumers, such as employees or stockholders.

(3) All such sample cigarettes described in subs. (1) and (2) must bear the legend: "Applicable state tax paid. Not for resale." All such cigarettes are subject to Wisconsin cigarette use tax. Such tax paid by the manufacturer shipping or causing such cigarettes to be shipped into this state shall be remitted no later than the 15th day of the month following such shipment. Along with the applicable tax remitted each manufacturer shall submit a list of persons to whom cigarettes were shipped indicating the amount of cigarettes shipped to each person.

History: 1-2-56; r. cr. Register, November, 1971, No. 191, eff. 12-1-71.

**Tax 9.56 Branch offices.** (s. 139.34 (4), Stats.) Separate sets of records are required for each branch or place at which a wholesale cigarette business is operated.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75.

**Tax 9.61 Warehousing of cigarettes.** (s. 139.34 (8), Stats.) Out-of-state persons, firms, or corporations having permits to engage in the sale of cigarettes in the state of Wisconsin may warehouse either stamped or unstamped merchandise in properly licensed warehouses located in the state of Wisconsin. No such person, firm, or corporation shall affix stamps to merchandise while it is stored in such licensed warehouse.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75.

**Tax 9.67 Cigarette tax credit.** (s. 139.32 (6), Stats.) (1) The term "cigarette tax stamp" shall be construed to mean any of the authorized indicia

of cigarette tax payment including water transfer stamps, heat applied stamps and metered impressions. The term "cigarette tax stamp purchase" shall be construed to mean the purchase of any of such authorized indicia of cigarette tax payment, by a distributor, to be affixed or applied to cigarette packages.

(2) Each distributor desiring to make cigarette tax stamp purchases on credit shall file with the department of revenue a bond drawn in favor of the state of Wisconsin in an amount equal to 125% of the gross value of the credit desired. The bond shall be executed by a surety company licensed to do business in this state and shall provide that the liability shall not be affected by the revocation of any license or by partial recovery upon the bond or by the execution of any new bond.

(3) The credit extended for any cigarette tax stamp purchase under a surety bond will become due and payable:

(a) Upon request for another cigarette tax stamp purchase on credit.

(b) Upon formal demand by the department of revenue.

(c) In any event, not later than 30 days from the date on which credit was extended on any such cigarette tax stamp purchase.

(4) The department of revenue reserves the right to investigate the the financial stability of the applicant and his surety company, and the right to deny credit to any permittee when there is any question of ability to pay as herein required.

(5) The privilege granted to any distributor of making cigarette tax stamp purchases on credit may be cancelled or revoked at any time at the discretion of the department of revenue.

History: Cr. Register, November, 1957, No. 23, eff. 12-1-57; am. Register, February, 1960, No. 50, eff. 3-1-60; r. and recr., Register, August, 1961, No. 68, eff. 9-1-61; am. Register, June, 1975, No. 234, eff. 7-1-75.

**Tax 9.68 Ownership and name changes.** (s. 139.34 (4), Stats.) (1) GENERAL. Under s. 139.34 (4), Stats., a cigarette permit is not transferable to another person. This section clarifies when a new cigarette permit is required, as the result of an ownership or name change, or both.

(2) OWNERSHIP CHANGES. (a) When there is a change in ownership of a business, the new owner shall apply for a new permit using form CTP-129, except as provided in par. (c). The new owner shall notify the department not later than 10 days prior to the change.

(b) A new permit shall be obtained by using form CTP-129 when there is a change in type of ownership such as between a sole proprietorship, partnership, corporation or other form of ownership, except as provided in par. (c).

Example: A new permit is required if: 1) A sole proprietorship or partnership incorporates.  
2) A sole proprietorship is sold to a different sole proprietor.  
3) A sole proprietorship becomes a partnership.  
4) A partner in a partnership leaves the partnership or a partner is added to the partnership.

5) The federal employer identification number of a business changes.

(c) A new permit is not required for a change in the ownership of a corporation unless either of the following occurs:

Register, September, 1991, No. 429

1. A corporation is merged with another corporation, the merged corporation ceases to exist, and the surviving corporation does not have a valid permit.

2. The federal employer identification number of a corporation changes.

(3) **NAME CHANGE.** (a) A permittee shall notify the department of a name change at least 10 days prior to the change and the permittee shall retain the same permit number.

(b) A rider, verifying the name change, such as one filed by a permittee's insurance company at the request of the permittee, shall be submitted and attached to the security documents on file with the department. If no security is on file or a rider is not filed with the department, new security shall be deposited as required under s. Tax 9.67, under the new name, and the old security shall be returned to the permittee.

**Note:** Copies of Form CTP-129 may be obtained by writing or calling Wisconsin Department of Revenue, Excise Tax Bureau, P.O. Box 8905, Madison, WI 53708, (608) 266-6701.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91.