

ARTICLE 8.1. CIGARETTE TAX

Rule 1. General Provisions

45 IAC 8.1-1-1 Covered transactions; intent of act

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-1

Sec. 1. The cigarette tax imposed by this act (IC 6-7-1) is on the person or company who first sells, uses, consumes, handles or distributes cigarettes within Indiana. It is therefore a tax upon the sale or use of cigarettes and must be initially collected by the person or company engaged in the business of selling cigarettes in Indiana as a distributor. (*Department of State Revenue; Reg. 6-7-1-1(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-2 Distribution of sample packages; collection of tax by manufacturer

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1

Sec. 2. Sample packages of cigarettes may not be distributed in this State without Indiana cigarette tax stamps of the proper denomination affixed to the package. The tax on sample packages of 4 or less cigarettes may with authorization from the Department be paid by the manufacturer once a month on a reporting basis. (*Department of State Revenue; Reg. 6-7-1-1(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-3 Exemption; sales to United States government

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1

Sec. 3. A distributor making sales or other dispositions of cigarettes to the United States Government, its agencies and instrumentalities, does not incur tax liability with respect to such sales or other disposition of cigarettes, and need not affix tax stamps to individual packages of cigarettes so sold or otherwise disposed of.

Distributors making sales or other dispositions of cigarettes in this State to individuals, private stores or concessionaires located upon Federal areas, and engaged in the business of selling cigarettes, do incur tax liability and must affix tax stamps of proper denomination to each individual package of cigarettes before delivery thereof pursuant to a sale or other disposition. (*Department of State Revenue; Reg. 6-7-1-1(030); filed Aug. 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-4 "Cigarette" defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-2

Sec. 4. Regulatory definition of "cigarette" is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-2(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-5 "Individual package" defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-3

Sec. 5. Regulatory definition of "individual package" is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-3(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-6 "Person" or "company" defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-4

Sec. 6. Regulatory definition of “person” or “company” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-4(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-7 “Department” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-5

Sec. 7. Regulatory definition of “department” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-5(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-8 “Distributor” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-6

Sec. 8. Regulatory definition of “distributor” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-6(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-9 “Retailer” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-7

Sec. 9. Regulatory definition of “retailer” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-7(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1800*)

45 IAC 8.1-1-10 “Consumption”, “consumer”, “consume” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-8

Sec. 10. Regulatory definition of “consumption”, “consumer”, “consume” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-8(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-11 “Stamps” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-9

Sec. 11. Regulatory definition of “stamps” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-9(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-12 “Counterfeit stamps” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-10

Sec. 12. Regulatory definition of “counterfeit stamps” is used synonymously with the Act. (*Department of State Revenue; Reg. 6-7-1-10(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-13 “Drop shipment” defined

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-11

Sec. 13. Regulatory definition of “drop shipment” is used synonymously with the Act. (*Department of State Revenue; Reg.*

6-7-1-11(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801)

45 IAC 8.1-1-14 Covered transactions; date of sale or use

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-13

Sec. 14. The cigarette tax levy was assessed and imposed on and after July 1, 1947. (*Department of State Revenue; Reg. 6-7-1-13(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-15 Common carriers; duty to file on prescribed forms

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-13.5

Sec. 15. The Department is authorized to supply the necessary forms to common carriers of cigarettes. These common carriers will file with the Department the required information on cigarettes they have taken possession of because the cigarettes were damaged, lost or stolen in transit, or not accepted by the consignee and where they were not returned to the manufacturer. Such forms would be submitted when the Department so designates. (*Department of State Revenue; Reg. 6-7-1-13.5(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-16 Stamp or metered impressions; evidence of tax payment

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-14

Sec. 16. Payment of the tax imposed by the Act (IC 6-7-1) shall be evidenced by a stamp or meter impression affixed to or on individual cigarette packages.

Payment of the tax imposed by the Act (IC 6-7-1) on books, and sets of cigarette papers, wrappers, or tubes, made or prepared for the purpose of making cigarettes, shall be evidenced by the proper denomination of stamps affixed to the package containing such books, sets, wrappers or tubes. (*Department of State Revenue; Reg. 6-7-1-14(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-17 Registration requirements

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-15; IC 6-7-1-16

Sec. 17. The Department issues registration certificates upon the terms and conditions found in IC 6-7-1-16 and Regulation 6-7-1-16(010) [45 IAC 8.1-1-25]. (*Department of State Revenue; Reg. 6-7-1-15(b)(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-18 Distributor's registration certificate; revocation or suspension

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-15

Sec. 18. After notice and a hearing, the Department may revoke, cancel or suspend the registration certificate of any distributor for any violation of the provisions of the Act [IC 6-7-1], or for noncompliance with the provisions thereof, or for noncompliance with any lawful rule or regulation promulgated by the Department. The action of the Department taken in any such case shall be subject to judicial review.

In the event a certificate is revoked or suspended, no refund of registration fees will be allowed.

In the event a distributor's certificate is suspended, such suspension shall mean the loss of all rights under the license for the period of the suspension.

The length of revocation or suspension will be at the Department's discretion. (*Department of State Revenue; Reg. 6-7-1-15(b)(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1801*)

45 IAC 8.1-1-19 Conduct of hearings; investigations

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 4-21.5; IC 6-7-1; IC 6-8.1-1; IC 6-8.1-5-4

Sec. 19. Hearings shall be held at such place as the Department may designate.

Hearings may be held by the Department or any officer or employee of the Department designated by the Commissioner of the Indiana Department of Revenue. For this purpose the Department or such officer or employee of the Department may examine books, papers or memoranda bearing upon the sale or other disposition of cigarettes by such distributor, and may require the attendance of such registered distributor, or any officer or employee of such distributor, or any person having knowledge of the facts, and may take testimony and require proof, for the information of the Department.

In the conduct of any investigation, or hearing, under the Act [IC 6-7-1] or this regulation [45 IAC 8.1], neither the Department nor any officer or employee thereof, shall be bound by the technical rules of evidence, and no informality in the proceedings, or in the manner of taking testimony, shall invalidate any rule, order, decision or regulation made, approved or confirmed by the Department.

For additional information in regards to the Department's administrative procedures see IC 6-8.1-1. (*Department of State Revenue; Reg. 6-7-1-15(b)(030); filed Aug 4, 1982, 3:02 pm: 5 IR 1802*)

45 IAC 8.1-1-20 Display of tax stamps on individual packages of cigarettes

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-14

Sec. 20. Approved tax stamps furnished and sold by the Department must be physically affixed to individual packages of cigarettes. Provision is also made in the Act [IC 6-7-1] so that stamps may be "affixed" by tax meters.

Tax stamps shall be securely attached to each individual package of cigarettes so as to be clearly visible.

Tax stamps must be placed on each individual package originally sold to consumers as distinguished from the carton or larger containers of cigarettes. (*Department of State Revenue; Reg. 6-7-1-15(d)(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1802*)

45 IAC 8.1-1-21 Meter as alternate to stamps

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-15

Sec. 21. Upon application, the Department may authorize the use of tax stamp imprinting machines and meters for the purpose of imprinting tax stamps on individual packages of cigarettes.

All meters are under the direct control of the Department and all transfer assignments of anything pertaining thereto must first be authorized by the Department.

All repairs to either the machine or the meter are strictly prohibited except by a duly authorized representative of the manufacturer or the Department. Requests for service should be directed to the nearest branch office of the manufacturer.

Meter machine ink imprints on all packages must be clear and legible. All dies and other equipment must be serviced and cleaned according to the instructions issued by the manufacturer of the machines. Any failure of any distributor to maintain meters in such condition as to insure clear and legible imprints may be penalized by the Department by suspension of the certificate of registration for such period or periods as the Department may deem proper.

All distributors of cigarettes using meter stamping machines shall submit their requests for settings on forms furnished for that purpose by the Department.

All requests for meter settings shall be in units of 100 and must not exceed 99,900. (*Department of State Revenue; Reg. 6-7-1-15(d)(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1802*)

45 IAC 8.1-1-22 Tampering with meter

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 35-50-3-3

Sec. 22. A person who knowingly tampers with the printing or recording mechanism in a metered tax stamping machine commits a Class B misdemeanor.

As provided in IC 35-50-3-3: A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars (\$1,000.00). (*Department of State Revenue; Reg. 6-7-1-15(d)(030); filed Aug 4, 1982, 3:02 pm: 5 IR 1802*)

45 IAC 8.1-1-23 Requirement to display stamps in vending machines

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1

Sec. 23. Owners and operators of cigarette vending machines, shall load all packages of cigarettes so that if any packages are visible while in the machine, the stamps affixed thereto are clearly visible.

Vending machines shall have the name and address of the owner and of the operator, if not the same, conspicuously displayed on the front of the machine. (*Department of State Revenue; Reg. 6-7-1-15(d)(040); filed Aug 4, 1982, 3:02 pm: 5 IR 1802*)

45 IAC 8.1-1-24 Authorization of financial institutions to recharge meters

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-15.1

Sec. 24. The Department may authorize certain banking institutions to act as the Department's agent in selling tax stamps and setting tax meters. (*Department of State Revenue; Reg. 6-7-1-15.1(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1803*)

45 IAC 8.1-1-25 Bonding of registrant

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-16

Sec. 25. Upon application for a registration certificate a distributor must file a bond in form and with surety therefor approved by the Department of Revenue.

If a registrant shall be convicted of a violation of any of the provisions of the Act [*IC 6-7-1*], or if his certificate shall be revoked and no review is had [*sic.*] of the order of the revocation, or if on review thereof the decision is adverse to the registrant, and the registrant refuses to pay any taxes, damages, fines, penalties, or costs adjudged against him by reason of a violation of any of the provisions of the Act [*IC 6-7-1*], the Department may institute a suit upon such bond in the name of the State of Indiana for the entire amount of such liability and costs. Said suit upon the bond shall be in addition to any other remedy provided for in the Act [*IC 6-7-1*]. (*Department of State Revenue; Reg. 6-7-1-16(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1803*)

45 IAC 8.1-1-26 Purchase of tax stamps and metering units

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-17

Sec. 26. The Department will not sell tax stamps to any but registered distributors and such others who established their need therefor by written statement satisfactory to the Department.

Registered distributors shall be agents of the Department to affix stamps.

Sales of tax stamps and/or meter units shall be made by the Department to registered distributors, subject to the discount prescribed by law, which discount shall be allowed at the time of purchase of the stamps or meter units. All other purchasers must pay full face value.

Distributors after meeting the Department's requirements for a credit bond and after authorization from the Department will pay for the tax stamps or meter units within 30 calendar days from the date of the purchase.

The payment date will be determined by a legible U. S. Postmark applied by the U.S. Postal Services, or a payment made in person at the Office of the Indiana Cigarette Tax Division. (*Department of State Revenue; Reg. 6-7-1-17(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1803*)

45 IAC 8.1-1-27 Responsibilities of distributor and retailer to affix stamps

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-18

Sec. 27. Registered distributors must affix the proper stamp or stamps to each individual package of cigarettes before delivering such cigarettes pursuant to a sale of *[sic.]* other disposition.

Retailers who may receive unstamped cigarettes have the duty to make certain that stamps are affixed immediately on each individual package. (*Department of State Revenue; Reg. 6-7-1-18(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1803*)

45 IAC 8.1-1-28 Exception to stamping requirements for items in interstate commerce

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-18; IC 6-7-1-19.5

Sec. 28. The tax imposed by the Act *[IC 6-7-1]* upon distributors of cigarettes within this State does not apply to cigarettes which are shipped from within this State to a point, outside the State, not to be returned to this State. Distributors need not affix tax stamps to the individual packages of cigarettes that are sold and shipped outside the State. The burden of proof, however, is at all times upon the Indiana distributor to show that such cigarettes actually went into interstate commerce. (*Department of State Revenue; Reg. 6-7-1-18(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1803*)

45 IAC 8.1-1-29 Distributor's records

Authority: IC 6-7-1-15; IC 6-8.1-3-3

Affected: IC 6-7-1-19

Sec. 29. Every registered distributor of cigarettes shall keep complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, copies of bills of sale and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes. Such books, records, papers and documents shall be kept at the location of the registered certificate unless approval is given by the Department in writing to have such records kept at another location, and at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. Such books, records, papers and documents shall be preserved for a period of at least three (3) years after the date of said documents, or the date of the entries thereof appearing in such records. (*Department of State Revenue; Reg. 6-7-1-19(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1803*)

45 IAC 8.1-1-30 Distributor's reports

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-19

Sec. 30. Every distributor in Indiana shall, on or before the 15th day of each calendar month, file a return with the Department showing the quantity of cigarettes manufactured, brought in or caused to be brought in from out of the State, or purchased during the preceding calendar month, and the quantity of cigarettes sold or otherwise disposed of during the calendar month. The return shall be made upon forms furnished and prescribed by the Department and shall contain such other information as the Department may reasonably require.

Every out of state distributor holding an Indiana registration certificate shall likewise file, on or before the 15th day of each calendar month, a return with the Department showing the following:

- (1) The Indiana cigarette stamps and the individual package of cigarettes, cigarette papers, wrappers, and tubes, stamped with Indiana stamps or meter impressions, on hand at the beginning of the month. The purchases of Indiana stamps made during the month and the stamps and stamped items on hand at each month.
- (2) A detailed list of stamped cigarettes, cigarette papers, wrappers or tubes distributed to any person or company in Indiana during the month.
- (3) A detailed list of unstamped cigarettes, cigarette papers, wrappers and tubes distributed to registered distributors in

Indiana.

(4) A copy of each cigarette credit issued to any customer.

Where a distributor under this Act [IC 6-7-1] keeps his books and records and conducts his entire accounting system on a basis of thirteen equal accounting periods annually, permission may be granted to such distributor upon formal request therefor to file returns within fifteen days after the end of each of the respective thirteen periods. (*Department of State Revenue; Reg. 6-7-1-19(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1804*)

45 IAC 8.1-1-31 Additional reports for transactions in interstate commerce

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-19; IC 6-7-1-19.5

Sec. 31. Indiana distributors claiming exemption from the tax on cigarettes on the ground that shipment or deliveries were made in interstate commerce shall, within ten days after the first day of each month file with the Department the following:

- (1) the name and address of all persons receiving such shipment or deliveries in such foreign state;
- (2) the kind and quantity of the sales; and
- (3) the date of delivery: as shown by delivery data in distributor's possession of the following description:
 - (a) A waybill, bill of lading or other evidence of shipment issued by a common carrier; or
 - (b) An insurance receipt or registry receipt issued by the United States Postal Department.
 - (c) A trip sheet signed by the seller's delivery agent and showing the signature and address of the person outside the State who received the goods delivered.

(*Department of State Revenue; Reg. 6-7-1-19(030); filed Aug 4, 1982, 3:02 pm: 5 IR 1804*)

45 IAC 8.1-1-32 Counterfeit stamps; penalty

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-21; IC 35-50-2-6

Sec. 32. The use of counterfeit stamps by a distributor constitutes a Class C felony.

Indiana Code 35-50-2-6 provides, "A person who commits a Class C felony shall be imprisoned for a fixed term of five (5) years with not more than three (3) years added for aggravating circumstances or not more than three (3) years subtracted from mitigating circumstances; in addition, he may be fined not more than ten thousand dollars (\$10,000.00)." (*Department of State Revenue; Reg. 6-7-1-21(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1804*)

45 IAC 8.1-1-33 Affixing counterfeit or previously used stamps; penalty

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-21

Sec. 33. A person who knowingly affixes counterfeit or previously used cigarette stamps commits a Class C felony.

See Regulation 6-7-1-21(010) [45 IAC 8.1-1-32] for the provisions of a Class C felony. (*Department of State Revenue; Reg. 6-7-1-21(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1804*)

45 IAC 8.1-1-34 Record keeping violations; penalty

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-22; IC 35-50-3-4

Sec. 34. Failure to keep accurate records results in the commission of a Class C misdemeanor.

Indiana Code 35-50-3-4 provides, "A person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars (\$500.00)." (*Department of State Revenue; Reg. 6-7-1-22(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1804*)

45 IAC 8.1-1-35 Other violations; penalty

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-23; IC 35-50-3-3

Sec. 35. Any other violation of any provision in the Act [IC 6-7-1] for which no other provision for punishment has been made commits a Class B misdemeanor.

Indiana Code 35-50-3-3 provides, "A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars (\$1,000.00)." (*Department of State Revenue; Reg. 6-7-1-23(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-36 Seizure of property; resale by department; redemption

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-24

Sec. 36. Unstamped cigarettes subject to the tax are subject to seizure by the Department. The unstamped cigarettes with any receptacle or vending machine become property of the State.

The Department may sell the seized property at a public auction or allow the violator to redeem the seized property by payment of the tax due together with a fifty percent (50%) penalty and the costs incurred in the proceeding. (*Department of State Revenue; Reg. 6-7-1-24(a)(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-37 Selling unstamped cigarettes; penalty

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-24; IC 35-50-3-2

Sec. 37. The sale or holding for sale of unstamped cigarettes results in the commission of a Class A misdemeanor.

Indiana Code 35-50-3-2 provides, "A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000.00)." (*Department of State Revenue; Reg. 6-7-1-24(b)(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-38 Search warrants for untaxed cigarettes

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-25

Sec. 38. When the Department has reason to believe that any cigarettes are being transferred in violation of the Act [IC 6-7-1], prior to any search the Department is required to obtain a search warrant from a court of competent jurisdiction.

The Department may seize cigarettes without tax stamps attached if they are in plain view. (*Department of State Revenue; Reg. 6-7-1-25(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-39 Mutilated stamps; replacement

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-27

Sec. 39. Where stamps or stamped individual packages of cigarettes have become mutilated or otherwise unfit for use, distributors shall notify the Department and upon verification that said stamps have not evidenced a taxable transaction, replacement stamps will be supplied or a refund will be issued. (*Department of State Revenue; Reg. 6-7-1-27(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-40 Unused stamps; refund

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-27

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Sec. 40. Sales and transfers of Indiana Cigarette Revenue Stamps by one registered cigarette distributor to another registered cigarette distributor are not permitted unless authorization is given in writing by the Department to make such sale and transfer.

Where, at the time of terminating his business as a registered distributor in this State, a registered distributor has on hand unaffixed Indiana Cigarette Revenue Stamps, they may be returned to the Department and a refund will be given.

Cigarettes sold by registered distributors to other registered distributors must not be accompanied by loose stamps. Unless the packages of cigarettes sold have Cigarette Revenue Stamps affixed thereto, the sale should be completed without Cigarette Revenue Stamps entering into the transaction. (*Department of State Revenue; Reg. 6-7-1-27(020); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-41 Procuring or inducing tax evasion; unlawful advertising

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-35; IC 6-7-1-36

Sec. 41. It shall be unlawful to:

(1) Procure or induce the evasion of the Cigarette Tax,

(2) Advertise, print, publish or otherwise offer to sell cigarettes within or into Indiana without payments of the Indiana Cigarette Tax.

(*Department of State Revenue; Reg. 6-7-1-35(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1805*)

45 IAC 8.1-1-42 Falsified reports; penalty

Authority: IC 6-8.1-3-3

Affected: IC 6-7-1-36; IC 35-50-3-4

Sec. 42. The making of false tax reports or false statements in any reports with the intent to defraud the State or evade the payment of the Cigarette Tax shall result in a Class C misdemeanor.

As provided in Indiana Code 35-50-3-4, a person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars (\$500.00). (*Department of State Revenue; Reg. 6-7-1-36(010); filed Aug 4, 1982, 3:02 pm: 5 IR 1806*)

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