

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivisions First and Fourteenth of section 171, and section 475 (not subdivided) of the Tax Law, and subdivision (10) of section 1399-oo of the Public Health Law, the Commissioner of Taxation and Finance hereby makes and adopts the following amendments to the Tobacco Products Tax Regulations, as published in Article 3 of Subchapter I of Chapter I of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Section 1. A new section 89.4 is added to such regulations, to read as follows:

Section 89.4 Supplemental schedule for distributors of tobacco products that import, cause to be imported, or manufacture roll-your-own tobacco. (Tax Law, sections 473-a, 475; Public Health Law, art. 13-G, sections 1399-oo and 1399-pp).

(a) The Tobacco Escrow Funds Act (Public Health Law, art. 13-G), as amended by Chapter 272 of the Laws of 2006, requires tobacco product manufacturers that do not participate in the Tobacco Master Settlement Agreement to make annual escrow payments based on units sold as measured, in part, by excise taxes on roll-your-own tobacco. Roll-your-own tobacco is any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. In order to provide information on roll-your-own tobacco, as part of the tobacco products tax return required by section 473-a of the Tax Law, those distributors of tobacco products that import, cause to be imported, or manufacture roll-your-own tobacco must complete and file a schedule, as prescribed by the department, to account for the quantity of roll-your-own tobacco imported or caused to be imported into New York State, or manufactured in New York State. Such schedule must contain the following information:

(1) a listing of each supplier of roll-your-own tobacco that the distributor imported or caused to be imported into New York State;

(2) for each supplier listed, a listing of all the brands of roll-your-own tobacco imported or caused to be imported from such supplier and the quantity in pounds and ounces of each brand of roll-your-own tobacco imported or caused to be imported by the distributor;

(3) for each brand of roll-your-own tobacco listed for each supplier, the name of the manufacturer of such brand;

(4) if a distributor manufactures roll-your-own tobacco, a listing of all the brands of roll-your-own tobacco product the distributor manufactured in New York State along with the quantity of each brand; and

(5) any other information as may be required by the department.

(b) The distributor must maintain complete and accurate records to support the information reported on the schedule required by subdivision (a) of this section.

(c) The failure of a tobacco products distributor to comply with the provisions of this section by not furnishing the schedule required by this section, or by not furnishing complete and accurate information as required by such schedule, constitutes grounds for cancellation of the appointment as a distributor or suspension or revocation of a license under article 20 of the Tax Law.

DATED: Albany, New York
April 22, 2008

Robert L. Megna
Commissioner of Taxation and Finance