

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 810
Department or Agency: Alabama Department of Revenue
Rule No.: 810-7-1-.33
Rule Title: Procedure for Reporting and Payment of State and State-Administered Heated Tobacco Products Tax
Intended Action: New

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Cameran Clark
Cameran Clark

Date

Friday, June 20, 2025

REC'D & FILED
JUN 20, 2025
LEGISLATIVE SVC AGENCY

ALABAMA DEPARTMENT OF REVENUE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Revenue

RULE NO. & TITLE: 810-7-1-.33 Procedure for Reporting and Payment of
State and State-Administered Heated Tobacco Products Tax

INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION:
Pursuant to the passage of Act 2025-448, this rule is being promulgated to provide guidance to wholesalers and retailers regarding the heated tobacco products tax.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:
A public hearing will be conducted at 1:30 P.M. on Tuesday, August 5, 2025 via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at Taxpolicy@revenue.alabama.gov or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to Cameran Clark, Secretary of the Alabama Department of Revenue, 375 South Ripley Street, Montgomery, Alabama 36104 at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also may present their views during the web-conference.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Tuesday, August 5, 2025

CONTACT PERSON AT AGENCY:
Nicci Adams
Alabama Department of Revenue
375 South Ripley Street
Montgomery, Alabama 36104
(334) 242-1380

Cameran Clark

Cameran Clark

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

Procedure for Reporting and Payment of State and State-Administered Heated Tobacco Products Tax.

1. Payment of tax. The license or privilege tax specified in §40-25-2, Code of Ala. 1975, on heated tobacco products must be paid on all purchases or receipts by any qualified wholesale distributor or retailer and any other person, firm, corporation, club, or association within the State of Alabama when received for the purpose of selling, storing, or distributing heated tobacco products.

2. Purchase of Stamps. State and state-administered county heated tobacco products tax must be paid by affixing stamps. To obtain state and state-administered county heated tobacco products revenue stamps, each wholesaler or distributor must complete and submit to the department an order for heated tobacco products stamps via the department's online portal. State orders must be on the cash or consignment basis. County orders must be on the cash basis only.

3. Discount. A discount, in the amount of that allowed on the purchase of state stamps, is allowed on heated tobacco products stamp purchases made by qualified wholesalers with a tobacco stamping permit ONLY.

4. Retention of Records. A report, on a form prescribed by the department, must be filed with the department on or before the twentieth day of each calendar month showing the receipts of heated tobacco products for the preceding calendar month. A copy of the report must be maintained by the taxpayer, along with proper documentation which adequately differentiates and substantiates the amount of tax paid, and all deductions, exemptions, or credits claimed for each reporting period. Failure to receive a report does not relieve the taxpayer from filing a report on or before the due date.

5. Loss of Discount. The full amount of tax due and the required report must be paid and filed with the department, in the manner and time allowed above without any offset being allowed, except for heated tobacco products returned to the manufacturer for credit as described herein. Insufficient tax payments or reports not timely filed will result in the loss of discount previously allowed and imposition of applicable penalties and interest.

6. Return of Product to Manufacturer. If the heated tobacco products are unfit for use, consumption, or unsaleable, before or after distribution, the qualified wholesalers whose heated tobacco products are returned to the manufacturer or destroyed by

the manufacturer's representative will be allowed a refund. The following documents are required to substantiate credits:

- a. An original affidavit from the manufacturer,
- b. credit memorandum,
- c. an authentic credit invoice or memorandum initiated by the qualified wholesaler to the purchaser of said products,
- d. a copy of the qualified wholesaler's invoice to the manufacturer, and
- e. other documentation as required by the department.

7. Exempt Sales. Sales exempted from the heated tobacco products tax by law are to be excluded from the taxable measure in the month that the sales occur.

8. Local County Heated Tobacco Tax. Act 2025-448 levies an additional county tax in the counties that have a local tobacco tax on heated tobacco products at half the state rate that will be collected by the wholesaler, jobber, semijobber, or registered retailer from the purchaser at the time of purchase.

9. Monthly Reports. Every manufacturer, distributor (including a delivery seller), and importer must file a report with the department concerning all sales, releases, and deliveries of heated tobacco products to qualified wholesalers, retailers, and consumers of this state made or authorized by such manufacturer, distributor (including a delivery seller), or importer during the preceding calendar month. Such manufacturer, distributor (including a delivery seller), or importer will file a report each month showing all shipments of heated tobacco products from a point outside this state into this state during the preceding calendar month.

a. Entities required to file monthly manufacturers' reports will provide the following information concerning each sale, release, or delivery:

1. Name and address of purchaser.
2. Invoice date.
3. Invoice or document number.
4. Quantity of heated tobacco products purchased per the invoice.

5. Information pertaining to cancellation of invoices.
6. Gross billing appearing on the invoice.
7. The distributor's permit or registration number issued by the department.
8. Any additional information as required by the department.

b. Entities required to file monthly Jenkins Act reports will provide the following information concerning each sale, release, or delivery:

1. Name and address of purchaser.
2. Invoice date.
3. Invoice or document number.
4. Brand of heated tobacco products.
5. Number of heated tobacco products purchased.
6. Shipper's name.
7. Shipper's address.
8. Shipper's phone number.
9. Any additional information required by the department relating to the federal Jenkins Act, as amended.

c. Each manufacturer, distributor (including a delivery seller), or importer will file monthly reports with the department no later than the 10th date of the month, covering shipments of heated tobacco products made during the previous calendar month.

d. The report data must be submitted in the format prescribed by the department. Manufacturers, distributors (including delivery sellers), and importers may submit the data via paper form or electronically.

10. Interstate Commerce. A person who sells, transfers, or ships for profit heated tobacco products in interstate commerce, whereby such heated tobacco products are shipped into a State, locality, or Indian country of an Indian tribe taxing the sale or use of heated tobacco products, or who advertises or offers for such a sale, transfer, or shipment must register to distribute

heated tobacco products into Alabama and obtain a registered agent for service of process if located outside the State of Alabama. The information included on the registration document must be in the format prescribed in the registration form.

Author: Sandy Donaldson

Statutory Authority: §§ 40-1-44, 40-2A7(a)(5), 40-2A-11, 40-25-1, 40-25-2(a), and 40-25-2(g), Code of Ala.1975, and the Jenkins Act, as amended by the PACT Act of 2009

History: New Rule: Published _____; effective _____.