



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

SN 2005(1)

25 Sigourney Street
Hartford CT 06106-5032

SPECIAL NOTICE

**2004 Legislation Affecting Tobacco Product Manufacturers,
Licensed Cigarette Distributors and Licensed Cigarette Dealers, and
Licensed Distributors for Tobacco Products Tax Purposes**

Purpose: This Special Notice describes 2004 legislation affecting licensed cigarette distributors, licensed cigarette dealers, licensed distributors for tobacco products tax purposes, and participating and nonparticipating tobacco product manufacturers.

Effective Date: As indicated below.

Statutory Authority: Conn. Gen. Stat. §12-293a(c), as amended by 2004 Conn. Pub. Acts 201, §8, and Conn. Gen. Stat. §§4-28k to 4-28r, inclusive, as added by 2004 Conn. Pub. Acts 218, §§1 to 8, inclusive.

Definitions: As used in this Special Notice:

Tobacco product manufacturer means any tobacco product manufacturer, as defined in Conn. Gen. Stat. §4-28h.

Participating manufacturers means and includes the original participating manufacturers and subsequent participating manufacturers.

Original participating manufacturers means Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, and R.J. Reynolds Tobacco Company, and the respective successors of each of them.

Subsequent participating manufacturer means a tobacco product manufacturer that becomes a signatory to the Master Settlement Agreement (MSA) but was not an original participating manufacturer.

Nonparticipating manufacturer means any tobacco product manufacturer that is not a participating manufacturer.

Master Settlement Agreement (MSA) means the agreement that 46 states (including the state of Connecticut), the District of Columbia, the

Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Territory of Guam, the Territory of American Samoa, and the Territory of the Virgin Islands have entered into with the original participating manufacturers. Under the MSA, the parties settled and resolved all claims by the settling states directly or indirectly based on the sale, distribution, manufacture, development, advertising, and marketing of tobacco products by the participating manufacturers.

Brand family means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors (including but not limited to *menthols*, *lights*, *kings*, and *100s*).

Stamper means a person that under Chapter 214 of the Connecticut General Statutes may lawfully purchase unstamped packages of cigarettes and affix Connecticut cigarette tax stamps to the packages.

Connecticut Directory means the directory that lists each tobacco product manufacturer which has completed and submitted to DRS a current and accurate **Form TPM-1, Certification of Compliance and Affidavit by Nonparticipating Manufacturer**, or **Form TPM-2, Certification for Listing in Connecticut Directory**, as the case may be, and all brand families reported on the form and that is posted by the Department of Revenue Services (DRS) on its Internet web site at www.ct.gov/DRS.

Part 1. Legislation Affecting Licensed Cigarette Distributors

Customer Reports No Longer Required: Effective June 3, 2004, licensed cigarette distributors will no longer be required to report annually the names and addresses of their customers. (Names and addresses of customers had been reported by filing **Form AU-758, Cigarette Distributor's Annual List of**

Customers.) An annual report covering calendar year 2004 will not be required.

Effective June 3, 2004, licensed cigarette distributors will no longer be required to report monthly the names and addresses of persons who have become their customers or who are no longer their customers. (Names and addresses of new or former customers had been reported by filing **Form AU-759, Cigarette Distributor's Monthly List of Customer Changes.**) A monthly report covering June 2004 or any subsequent month will not be required.

Part 2. Legislation Affecting Participating Manufacturers

Annual Certification Now Required From Participating Manufacturers: Each participating manufacturer whose cigarettes are sold in Connecticut (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) is now required to complete and submit Form TPM-2 to DRS no later than April 30 of each year. A participating manufacturer is also required to send a copy of the completed Form TPM-2 to the Attorney General no later than April 30 of each year. In completing Form TPM-2, a participating manufacturer is required to identify by brand family all of the cigarettes that it intends to sell to consumers within Connecticut, whether directly or through a distributor, dealer, or similar intermediary or intermediaries, and seeks to have included in the Connecticut Directory. Only the brands identified may be included in the Connecticut Directory. The due date for the first Form TPM-2 required to be submitted is April 30, 2005.

On or about March 31, 2005, DRS will mail a blank Form TPM-2 to participating manufacturers. Form TPM-2 will also be posted by DRS on its Internet web site on or about March 31, 2005. DRS will not include or retain in the Connecticut Directory the name or brand families of any participating manufacturer that has failed to complete and submit a current and accurate Form TPM-2.

A participating manufacturer shall, 30 days prior to any addition to or modification of its brand families, execute and deliver a supplemental Form TPM-2 to DRS. A participating manufacturer is also required to send a copy of the supplemental Form TPM-2 to the Attorney General 30 days prior to the addition or modification.

Records: Each participating manufacturer will be required to maintain and to make available to DRS for a period of five years all invoices and documentation of sales and any other information

relied upon in completing Form TPM-2 unless otherwise required by law to maintain them for a longer period of time. Each participating manufacturer will also be required to retain samples of the packaging or labeling of each of its brand families.

Part 3. Legislation Affecting Nonparticipating Manufacturers

More Information Now Required From Nonparticipating Manufacturers: Each nonparticipating manufacturer whose cigarettes are sold in Connecticut, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, is now required to complete and submit Form TPM-2, to DRS not later than April 30 of each year. A nonparticipating manufacturer is also required to send a copy of the completed Form TPM-2 to the Attorney General not later than April 30 of each year. In completing Form TPM-2, a nonparticipating manufacturer is required to identify by brand family all of the cigarettes that it intends to sell to consumers within Connecticut, whether directly or through a distributor, dealer, or similar intermediary or intermediaries, and seeks to have included in the Connecticut Directory. Only the brands identified may be included in the Connecticut Directory.

A nonparticipating manufacturer shall, 30 days prior to any addition to or modification of its brand families, execute and deliver a supplemental Form TPM-2 to DRS. A nonparticipating manufacturer is also required to send a copy of the supplemental Form TPM-2 to the Attorney General 30 days prior to the addition or modification.

2004 Conn. Pub. Acts 218, §2(d), also requires each nonparticipating manufacturer to either:

- Register to do business in Connecticut (as a foreign corporation or as a foreign general partnership, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership) under Title 33 or 34 of the Connecticut General Statutes, **or**
- Appoint and continually engage the services of an agent in Connecticut to serve as agent for service of process.

A nonparticipating manufacturer choosing to appoint and continually engage the services of an agent in Connecticut to serve as its agent for service of process shall complete and submit **Form TPM-4, Notice of Appointment of Registered Agent and**

Registered Agent's Statement, to the Attorney General not later than April 30, 2005.

A nonparticipating manufacturer is still required to complete and submit Form TPM-1, to the Attorney General not later than April 30 of each year. A nonparticipating manufacturer is now also required to complete and submit **Form TPM-3, Brand Families Unit Sales Schedule**, to the Attorney General not later than April 30 of each year. In completing Form TPM-3, a nonparticipating manufacturer is required to provide:

- A list of its brand families and the number of units of each brand family sold to consumers within Connecticut, whether directly or through a distributor, dealer, or similar intermediary or intermediaries, during the preceding calendar year, **and**
- A list of its brand families sold to consumers within Connecticut, whether directly or through a distributor, dealer, or similar intermediary or intermediaries, to date during the current calendar year.

On or about March 31, 2005, DRS will mail a blank Form TPM-1, Form TPM-2, and Form TPM-3 to those nonparticipating manufacturers which either:

- Applied for and secured a cigarette manufacturer's license (For more information, see **Announcement 2004(8), Applying for a Cigarette Manufacturer's License**), **or**
- Filed Form TPM-1 for calendar year 2003, **or**
- Were reported by stampers as selling cigarettes to consumers within Connecticut, whether directly or through a distributor, dealer, or similar intermediary or intermediaries during calendar year 2004.

These forms will also be posted by DRS on its Internet website on or about March 31, 2005. DRS will not include or retain in the Connecticut Directory the name or brand families of any nonparticipating manufacturer that has failed to complete and submit a current and accurate Form TPM-1, Form TPM-2, Form TPM-3, and, if required, Form TPM-4.

Records: Each nonparticipating manufacturer will be required to maintain, and to make available to DRS for a period of five years, all invoices and documentation of sales and any other information relied upon in completing Form TPM-1, Form TPM-2 or Form TPM-3, unless otherwise required by law to maintain them for a longer period of time. Each nonparticipating manufacturer will also be required to retain samples of the packaging or labeling of each of its brand families.

Part 4. Legislation Affecting Licensed Cigarette Dealers And Licensed Cigarette Distributors, And Participating And Nonparticipating Manufacturers

Directory: No later than July 1, 2005, DRS will develop and post on its Internet web site a directory (the Connecticut Directory) listing each tobacco product manufacturer that has completed and submitted a current and accurate Form TPM-2 and all brand families listed on the form. DRS will issue an Announcement once the Connecticut Directory is posted on the DRS Internet web site and will send the Announcement to the electronic mail address provided by each stamper.

DRS will not include or retain in the Connecticut Directory the name or brand families of any manufacturer which has failed to complete and submit a current and accurate Form TPM-2.

DRS will also not include or retain in the Connecticut Directory any brand family of a nonparticipating manufacturer if DRS concludes:

- All escrow payments required under Conn. Gen. Stat. §§4-28h to 4-28j, inclusive, for any period for any brand family, whether or not listed on Form TPM-3, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General, **or**
- Any outstanding final judgment, including interest, for a violation of Conn. Gen. Stat. §§4-28h to 4-28j, inclusive, has not been fully satisfied for the brand family and the manufacturer, **or**
- The manufacturer either is not registered to do business in Connecticut (as a foreign corporation or as a foreign general partnership, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership) under Title 33 or 34 of the Connecticut General Statutes or has not

appointed and continually engaged the services of an agent in Connecticut to serve as agent for service of process.

Sales of Unlisted Brand Families Prohibited:

It will be unlawful for any person to sell, offer, possess for sale, or distribute in Connecticut cigarettes of a tobacco product manufacturer or brand family not included in the Connecticut Directory.

- A violation will be a Class A misdemeanor (imprisonment not to exceed 1 year or a fine not to exceed \$2,000, or both).
- A violation will also be an unfair and deceptive trade practice under Conn. Gen. Stat. 42-110b.
- Any such cigarettes will also be deemed contraband goods subject to seizure.

Part 5. Legislation Affecting Licensed Cigarette Distributors That Are Stampers

More Information Required From Stampers:

Each stamper will be required:

- To provide to DRS and to update as necessary an electronic mail address. The stamper will fulfill this requirement by completing and submitting **Form TPM-5, Stamper E-mail Registration Form**, to DRS; **and**
- To retain samples of the packaging or labeling of each brand family to which the stamper affixes Connecticut cigarette tax stamps; **and**
- To maintain, and to make available to DRS for a period of five years, all invoices and documentation of purchases and sales of all nonparticipating manufacturer cigarettes and any other information relied upon in completing **Schedule H, Cigarette Packages Stamped During the Month**.

DRS has revised *Schedule H* to **Form CT-15, Monthly Stamp and Cigarette Report, Resident Distributor**, or **Form CT-15A, Monthly Stamp and Cigarette Report, Nonresident Distributor**, so it provides space for the stamper to list, by brand family, the total number of cigarettes for which the stamper affixed Connecticut cigarette tax stamps during the preceding month. With respect to cigarettes for which a stamper affixed Connecticut cigarette tax stamps during January 2005 or thereafter, the stamper must use the January 2005 revision of *Schedule H* (and not the May 2002 revision of *Schedule H*). (The revision date appears in

the upper left hand corner of *Schedule H*.) No later than April 1, 2005, the January 2005 revision of *Schedule H* will be posted on the DRS Internet web site. DRS will mail a supply of the January 2005 revision of *Schedule H* to stampers, who will be required to re-file *Schedule H* for January and February 2005, using the January 2005 revision of *Schedule H*.

Stamping of Unlisted Brand Families Prohibited:

Effective July 1, 2005, it is unlawful for a stamper to affix a Connecticut cigarette tax stamp to a package of cigarettes of a tobacco product manufacturer or brand family not included in the Connecticut Directory.

- A violation will be a Class A misdemeanor.
- A violation will also be an unfair and deceptive trade practice under Conn. Gen. Stat. 42-110b.
- The Attorney General, on behalf of DRS, may seek an injunction to restrain a threatened or actual violation, and if DRS is the prevailing party, DRS will be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.
- After notice and a hearing, DRS may revoke or suspend the cigarette distributor's license of a stamper determined to have committed a violation.
- DRS may also impose a civil penalty in an amount not to exceed 500% of the retail value of the cigarettes, or \$5,000, whichever is greater.

Part 6. Legislation Affecting Only Licensed Distributors For Tobacco Products Tax Purposes

Schedule E To Be Revised: DRS has revised *Schedule E, Roll-Your-Own Tobacco Products Purchased, Acquired or Shipped Into Connecticut During the Month*, to **Form OP-300, Tobacco Products Tax Return**, so it provides space for the distributor to list, by brand family, the total quantity (by net weight) of roll-your-own tobacco not previously subject to the Connecticut tobacco products tax, and purchased, acquired, or shipped into Connecticut during the preceding month. With respect to roll-your-own tobacco purchased, acquired, or shipped into Connecticut during January 2005 or thereafter, the distributor must use the January 2005 revision of *Schedule E* (and not the December 2000 revision of *Schedule E*). (The revision date appears in the upper left hand corner of *Schedule E*.) No later

than April 1, 2005, the January 2005 revision of *Schedule E* will be posted on the DRS web site. DRS will mail a supply of the January 2005 revision of *Schedule E* to distributors, who will be required to re-file *Schedule E* for January and February 2005, using the January 2005 revision of *Schedule E*.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS.

For Further Information on the Cigarette Taxes or the Tobacco Products Tax or This Special Notice: For further information on the cigarette taxes or the tobacco products tax or this Special Notice, call the Excise Taxes Unit at **860-541-3224**, Monday through Friday, 8:00 a.m. to 5:00 p.m.

For More Information on the Required Annual Escrows: For more information on the annual escrows which are required to be made by nonparticipating manufacturers under Conn. Gen Stat. §§4-28h to 4-28j, inclusive, call the Office of the Attorney General, at **860-808-5270** during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday; or write to:

Office of the Attorney General
State of Connecticut
Finance Department
PO Box 120
55 Elm Street
Hartford CT 06141-0120

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at **www.ct.gov/DRS**
 - **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu. Only forms (not publications) are available through TAX-FAX.
 - **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.
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Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to file sales and use taxes, business use tax, room occupancy tax, estimated corporation business tax, business entity tax, or withholding tax returns over the Internet. Visit the DRS Web site at **www.ct.gov/DRS** and click on *File/Register OnLine*.
 - **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at **www.ct.gov/DRS** and click on *File/Register OnLine*.
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