



Electronic Cigarette Frequently Asked Questions

These FAQ's are a supplement for Informational Bulletin [FY 2019-29, New Tax Requirements for Electronic Cigarettes](#).

1. Who is considered a retailer of electronic cigarettes? Who is considered a distributor of electronic cigarettes?

A retailer is a person engaged in the business of selling tangible personal property at retail and filing returns and remitting the Retailers' Occupation Tax (commonly referred to as "sales tax") to the Illinois Department of Revenue (IDOR). Illinois law requires retailers making sales of electronic cigarettes to obtain cigarette and tobacco products retailer license. See Question 2 below.

A distributor of tobacco products, including electronic cigarettes, is any of the following:

- any manufacturers or wholesalers in Illinois in the business of selling, exchanging, or distributing tobacco products to retailers or consumers in Illinois;
- out-of-state manufacturers or wholesalers in the business of selling, distributing, shipping, or transporting tobacco products to retailers or consumers in Illinois, as long as they maintain a place of business in Illinois; or
- any retailer who receives tobacco products on which the tax has not been or will not be paid by a distributor, which means ***some registered retailers also need to register as distributors***.

Distributors are responsible for filing tax returns and remitting Tobacco Products Tax. A Tobacco Products Distributor's License must be obtained if your business activities fall into one of these three categories.

2. I am a retailer that sells electronic cigarettes and liquid used to refill electronic cigarettes. I am presently registered to remit Retailers' Occupation Tax. Do I need to obtain any other licenses from IDOR?

Yes. You need to obtain a cigarette and tobacco products retailer license (commonly referred to as a CT or CTR license) to sell electronic cigarettes. Retailers must pay an annual license fee of \$75 per retail location. This fee must be submitted electronically with your initial license application. You must submit this annual renewal fee of \$75 electronically using [MyTax Illinois](#).

You also must obtain a distributor's license for Tobacco Products Tax if your business activities fall into one of the three categories listed in Question 1 above.

3. If I sell electronic cigarettes at retail, do I need to obtain a cigarette and tobacco products retailer license if I do not also sell cigarettes or tobacco products?

Yes. Electronic cigarettes are considered tobacco products and are taxable under the Tobacco Products Tax Act of 1995.

4. What should I do if I am presently selling electronic cigarettes at retail but have not yet obtained a cigarette and tobacco products retailer license?

Illinois law requires you to register electronically to receive a cigarette and tobacco products retailer license. If you are presently selling electronic cigarettes at retail, you should already be registered with IDOR as a retailer. You can log in to [MyTax Illinois](#) to apply for a license.

If you have not yet registered as a retailer with IDOR, see Question 9 below.

5. Who is liable for the Tobacco Products Tax on electronic cigarettes and is responsible for collecting and remitting the tax?

Tobacco products distributors are liable for reporting and paying the Tobacco Products Tax on sales of electronic cigarettes to retailers. [86 Ill. Adm. Code 660.5\(a\)](#). Sales made to other registered distributors are not taxable. Illinois law permits distributors to pass the cost of the tax on to the retailer.

6. I am a retailer and buy my electronic cigarettes and other products from out-of-state suppliers. Am I liable for the Tobacco Products Tax?

Yes. A retailer that buys electronic cigarettes from out-of-state suppliers or from persons that have not paid the Tobacco Products Tax on the electronic cigarettes must obtain a tobacco products distributor's license and pay this tax on the electronic cigarettes to IDOR. [86 Ill. Adm. Code 660.28](#). See Question 9 below for information on how to register with IDOR.

7. I have several vape stores. Each store buys electronic cigarettes from out-of-state suppliers. Does each store need a tobacco products distributor license?

Yes. You must obtain a separate tobacco products distributor license for each location where product is received from an unlicensed distributor. If you receive all shipments at one location and then self-distribute to other stores you own, then you must obtain a license only for the store receiving the shipments.

8. Which licenses are required for persons who manufacture liquid for use in electronic cigarettes and sell the liquid directly to consumers, and how do these persons determine the wholesale price when calculating the Tobacco Products Tax?

These persons must obtain a tobacco products distributor license and a cigarette and tobacco retailers' license under the Tobacco Products Tax Act and also register as a retailer under the Retailers' Occupation Tax Act.

When a manufacturer sells directly to a consumer, the manufacturer is responsible for the tax based on what it paid for the products used in the tobacco product sold to the consumer. For purposes of computing your tax as a distributor, the wholesale price is your cost to manufacture the product. [86 Ill. Adm. Code 660.5\(d\)\(3\)](#).

9. How do I register as a tobacco products distributor or a cigarette and tobacco products retailer?

You may register with IDOR electronically using [MyTax Illinois](#) or complete a paper Form REG-1, Illinois Business Registration Application, which is available on our website at [tax.illinois.gov](#). However, as noted in Question 4 above, Illinois law requires you to register electronically to receive a cigarette and tobacco products retailer license.

Taxpayers with active MyTax Illinois accounts can register for new tax types by simply logging into their MyTax Illinois accounts and selecting "Register for New Tax Accounts."

Contact our Central Registration Division at **217 785-3707** for information or assistance with registering your business.

10. Are there any additional registration and bonding requirements to obtain a tobacco products distributor license?

When registering with IDOR, distributors must file a bond of at least \$1,000, the minimum bond amount. After the first year, the bond amount is equal to three times the distributor's average monthly Tobacco Products Tax liability or \$50,000, whichever is less. IDOR reviews bonds while completing license renewals and on a biannual basis and notifies distributors when their bond requirement changes.

11. How does a retailer also licensed as a tobacco products distributor calculate its Tobacco Products Tax liability?

The tax rate for electronic cigarettes under the Tobacco Products Tax Act is 15 percent of the wholesale price of products sold or otherwise disposed of during the month. For purposes of computing your tax as a distributor on purchases of electronic cigarettes on which the tax has not been paid or will not be paid by another licensed distributor, the wholesale price is the invoice price paid by you to an unlicensed distributor or other supplier of electronic cigarettes before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers, distributors or other suppliers are considered part of the wholesale price subject to tax. [86 Ill. Adm. Code 660.5\(d\)\(1\)](#). Note that retail sales of electronic cigarettes are also subject to Illinois Retailers' Occupation Tax.

12. What form is used to report the Tobacco Products Tax on electronic cigarettes?

Form TP-1, Tobacco Products Tax Return, is used to report and pay Tobacco Products Tax. Form TP-1 must be filed electronically, and the tax must be paid electronically. Distributor license holders can use [MyTax Illinois](#) to file Form TP-1 and pay the tax. IDOR also has the ability to receive and process Form TP-1 via third party software.

13. When is Form TP-1, Tobacco Products Tax Return, due?

Form TP-1 is due on the 15th of the month following the month the product was sold. If the due date falls on a weekend or a state observed holiday, your return and payment are due the next business day.

14. What “electronic cigarettes” are subject to the Tobacco Products Tax?

“Electronic cigarette” means:

- any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation, except for
 - any device designed solely for use with cannabis that contains a statement on the retail packaging that the device is designed solely for use with cannabis and not for use with tobacco or
 - any device that contains a solution or substance that contains cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act;
- any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device, except for any cartridge or container of a solution or substance that contains cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act; or
- any solution or substance, regardless of whether it contains nicotine, intended for use in the device, except for any solution or substance that contains cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act or the Cannabis Regulation and Tax Act.

This definition includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any component or part that can be used to build the product or device.

Essentially, the device, juice, and cartridges or pods are all taxable.

15. Are the batteries, coils, and cotton that are used in vape devices taxable under the Tobacco Products Tax Act?

Yes, in some cases, but they are not always taxable. If items sold by a vape shop to consumers are generally available from other retailers and can be used for purposes other than for use in a device, the items would not be taxable under the Tobacco Products Tax Act. For example, if the same cotton product sold at a vape store is sold by a drug store for general use, it would not be taxable under the Act. If the same batteries or coils you sell at a vape store can be purchased from a hardware store for general use and other application, they are not taxable under the Act. However, if the packaging or product description states the items are for use in a vape device, or the products are designed, produced and marketed by the manufacturer for use in a specific device and cannot be used in other products or for other purposes, they are taxable under the Act.

16. For retailers that sell electronic cigarettes at retail to persons in Illinois and to persons outside of Illinois, are all these sales taxable under the Tobacco Products Tax Act?

The Tobacco Products Tax is imposed on the distributor, not the retailer. The distributor is liable for tobacco tax on all sales made to Illinois retailers. The distributor remits the tax to IDOR. Generally, the distributor passes the tax on to the retailer. The retailer may seek reimbursement of the tax from the consumer.

Sales of electronic cigarettes by retailers to persons in Illinois are taxable under the Retailers' Occupation Tax Act. Sales of electronic cigarettes by retailers to out-of-state customers are not taxable under the Retailers' Occupation Tax Act if the electronic cigarettes are shipped by you to an address outside of Illinois. If the electronic cigarettes are picked up by an out-of-state retailer, the electronic cigarettes are taxable under the Retailers' Occupation Tax Act unless the out-of-state retailer provides a resale certificate.

Sales by distributors to out-of-state retailers are not taxable under the Tobacco Products Tax Act if the electronic cigarettes are shipped by the distributor to an address outside of Illinois or are picked up by an out-of-state retailer. [86 Ill. Adm. Code 660.30\(b\), 660.30\(c\)](#).

17. Are sales of electronic cigarettes made by distributors to other persons for the purposes of resale taxable under the Tobacco Products Tax Act?

No. However, you must obtain a resale certificate from the purchaser. See [86 Ill. Adm. Code 660.30\(g\)](#) for the requirements of a resale certificate.

18. Must persons that only make sales of electronic cigarettes and that do not make retail sales obtain a tobacco products distributor license or a cigarette and tobacco products retailer license?

No. Wholesalers that are not registered and licensed as distributors with IDOR but claim to only sell electronic cigarettes in such a way that their sales are not taxable under the Tobacco Products Tax Act (e.g., resale or to exempt purchasers) are advised to register with IDOR as a reseller so that they are able to provide distributors with resale certificates when purchasing the electronic cigarettes that will be resold. [86 Ill. Adm. Code 660.15\(c\)](#), [660.30\(a\)](#).

19. Can retailers that donate or make sales of electronic cigarettes to military organizations claim an exemption from Tobacco Products Tax on the sales or donations?

The Tobacco Products Tax Act does not apply to sales or other disposition of electronic cigarettes to the United States Government or any entity of the United States Government. For instance, sales of tobacco products to U.S. Veterans' Hospitals and U.S. Military personnel through officially recognized agencies physically located at military bases are exempt from the tax imposed by the Act. [86 Ill. Adm. Code 660.30\(d\)](#). Other dispositions are subject to tax.

20. Are samples of electronic cigarettes subject to Tobacco Products Tax?

Yes. The Tobacco Products Tax is imposed on electronic cigarettes sold or otherwise disposed of. This includes samples. [86 Ill. Adm. Code 660.20](#).

21. Must an out-of-state wholesaler selling electronic cigarettes to Illinois retailers obtain a tobacco products distributor license?

If you have a physical presence in Illinois, yes. Any manufacturer or wholesaler engaged in the business of selling tobacco products from outside of Illinois who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in Illinois must register to become a distributor if the manufacturer or wholesaler has or maintains within Illinois, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within Illinois under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

22. Can retailers of electronic cigarettes get reimbursed from IDOR for the Tobacco Products Tax paid to a distributor for electronic cigarette inventory that the retailer has destroyed?

No. The tax is imposed on the distributor. The retailer did not remit the Tobacco Products Tax, but rather reimbursed the distributor for the tax the distributor paid. The distributor may file for a credit for electronic cigarettes on which it paid tax and subsequently destroys. This can include merchandise returned to the distributor by the retailer.