

Compliance Alert -

Proper Procedures for Possessing or Selling Electronic Cigarettes (Vapes) Containing Hemp



Compliance Problem

The Illinois Department of Revenue (IDOR) is aware that some:

- retailers are possessing and selling electronic cigarettes containing hemp or any other substance (*i.e.*, Kratom, caffeine, etc.) in which the Tobacco Products Tax has not been paid;
- distributors are not collecting and remitting Tobacco Products Tax to IDOR on sales of electronic cigarettes containing hemp or any other substance; and
- distributors and retailers are not properly registered with IDOR to possess or sell electronic cigarettes containing hemp or any other substance.

Electronic cigarettes are not limited to solutions or substances containing nicotine.

Solution

All electronic cigarettes containing hemp or any other substance sold to a retailer or consumer is subject to the Tobacco Products Tax.

Retailers must verify if the distributor has paid the Tobacco Products Tax by reviewing the distributor-to-retailer sales invoice. The invoice should include the distributor's license number and reflect whether the tax has been paid on electronic cigarettes containing hemp or any other substance. Retailers can confirm if the distributor license number is valid and active by using the **Verify a Registered Business** link at mytax.illinois.gov.

Retailers must retain a copy of the invoice in their records.

Important: Distributors and retailers must review their records and invoices to determine whether the Tobacco Products Tax for prior months has been reported and paid to IDOR.

For compliance with the Tobacco Products Tax Act of 1995, you must file Form TP-1, Uniform Tobacco Products Tax Return, to include the receipt and sale transactions involving electronic cigarettes containing hemp or any other substance, and pay any Tobacco Products tax due for **all** months. Previously filed returns will need to be amended to include electronic cigarettes containing hemp or any other substance transactions. To amend a previously filed Form TP-1 or amended return, you must file Form TP-1-X, Amended Tobacco Products Tax Return. Distributors who amend to correctly report electronic cigarettes containing hemp or any other substance will need to reissue distributor-to-retailer sales invoices that properly show the Tobacco Products Tax was paid.

Any retailer that purchases electronic cigarettes containing hemp or any other substance from an out-of-State, unlicensed distributor, or that has in its inventory electronic cigarettes containing hemp or any other substance in which the Tobacco Products Tax has **not** been paid must register as a Tobacco Products Distributor and remit the tax. Register electronically using MyTax Illinois at mytax.illinois.gov.

Licensed distributors are required by law to keep books and records showing all purchases, receipts, invoices, losses through any cause, sales, and distributions, including tax-free purchases and taxable sales to retail stores with proof of Form TP-1 being submitted and tax paid. Records must be retained for at least three and one-half years.

Effective **November 12, 2026**, the **Illinois Hemp Act** (410 ILCS 707), will regulate how hemp and hemp products can be made, sold, and handled in Illinois. Retailers will no longer be allowed to sell vapes containing hemp in Illinois. Businesses should watch for official updates over the next few months.

Background

The Tobacco Products Tax Act of 1995 imposes a tax on persons engaged in business as a distributor of tobacco products. The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision, or by any municipal corporation.

Electronic cigarettes containing hemp or any other substance are taxable under the Tobacco Products Tax Act.

The Tobacco Products Tax Act defines an “electronic cigarette” as follows:

- any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;
- any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or
- any solution or substance, whether or not it contains nicotine, intended for use in the device.

“Electronic cigarette” 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. 35 ILCS 143/10-5.

“Electronic cigarette” does not include:

- 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, cartridge, or container 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.

Hemp is specifically excluded from the definition of cannabis pursuant to the Cannabis Regulation and Tax Act, “Cannabis’ does not include industrial hemp as defined and authorized under the Industrial Hemp Act.” 410 ILCS 705/1-10.

The Industrial Hemp Act defines “hemp” as “the plant *Cannabis sativa* L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis and includes any intermediate or finished product made or derived from industrial hemp.” 505 ILCS 89/5.

The federal PACT Act regulates the mailing of cigarettes and smokeless tobacco products to consumers through the U.S. Postal Service, and adds new requirements for registration, reporting, delivery, and recordkeeping. On December 27, 2020, Congress amended the definition of “cigarette” in the PACT Act to include “electronic nicotine delivery systems”, which means any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device. Persons selling electronic cigarettes containing hemp or any other substance are subject to the PACT Act. See the Bureau of Alcohol, Tobacco, Firearms and Explosives website for additional information on the **PACT Act**.

Questions

See IDOR’s website at tax.illinois.gov or scan the QR code provided for detailed registration and Tobacco Products Tax information. See 86 Ill. Adm. Code 660 for additional information on the Tobacco Products Tax Act of 1995.

For specific registration questions, contact the Central Registration Division at REV.CRD@Illinois.gov or call 217-785-3707 weekdays between 8:00 a.m. and 4:30 p.m.

Call 800-CHEAT-11 (800-243-2811) to report suspected tax crime or related violations on electronic cigarettes containing hemp or any other substance.

Note: If agents are unavailable when you call, you may leave a message. If you leave a message and require a response, please leave your contact information including a phone number where we can reach you. You can find more information on the **Report Tax Fraud and Related Violations** webpage.

