



STATE OF WEST VIRGINIA

Department of Revenue
State Tax Department

Earl Ray Tomblin
Governor

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State Tax Commissioner

ADMINISTRATIVE NOTICE 2016-21

CIGARETTE TAX CREDIT PURCHASE BOND COMPUTATION

CALCULATION OF AVERAGE WHOLESALE PRICE OF INVENTORIES OF TOBACCO PRODUCTS OTHER THAN CIGARETTES FOR TOBACCO RETAILERS

Cigarette Tax Credit Purchase Bond Computation

The provisions of 110-17-4.5.1 Code of State Rules read as follows:

4.5.1. A wholesaler may obtain a continuous Cigarette Tax Credit Purchase Bond to allow the purchase of cigarette stamps on credit. The terms of credit shall be payment on the third purchase or within thirty days (whichever comes first) with no more than two requisitions on credit simultaneously. **The total amount of tax due on the two requisitions shall be no more than one-half (1/2) the amount of the total bond.** After approval of the bond by the Attorney General, an annual notice of renewal is the only requirement. Any surety issuing a bond shall be released and discharged from all liability on the bond after the expiration of sixty days from the date the surety filed, by certified mail, with the Tax Commissioner a written request to cancel the bond. This cancellation does not relieve, release or discharge the surety from liability already accrued, or which accrues before the expiration of the sixty day period. The bond shall be conditioned upon compliance with the provisions of W. Va. Code §11-17-1 et seq., including the filing of the returns and payment of all applicable taxes.

Emphasis added.

It is the determination of the Tax Department that the above quoted language "*The total amount of tax due on the two requisitions shall be no more than one-half (1/2) the amount of the total bond*" means that -- the total amount of tax due on each of the aforementioned requisitions shall be no more than one-half (1/2) the amount of the total bond for each based on the mean amount thereof. The total amount thereof for the two requisitions, in the aggregate, shall therefore be limited to not more than 100% of the amount of the total bond.

This limitation is calculated in the aggregate and based on an average (mean) of 2 requisitions.

Example 1: If there is only one requisition outstanding and the amount thereof is 60% of the amount of the total bond, then a second requisition would be limited to 40% of the amount of the total bond.

Example 2: If there is only one requisition outstanding and the amount thereof is 100% of the amount of the total bond, then a second requisition would **not** be authorized.

Example 3: If there is only one requisition outstanding and the amount thereof is 20% of the amount of the total bond, then a second requisition would be limited to 80% of the amount of the total bond.

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Calculation Of Average Wholesale Price Of Inventories Of Tobacco Products Other Than Cigarettes For Tobacco Retailers

Effective on and after July 1, 2016, the tobacco products excise tax rate on tobacco products other than cigarettes is increased from seven percent to twelve percent of the wholesale price of each item, an increase of five percent. The legislation, Senate Bill 1012, also requires wholesalers, dealers, vending machine operators and retail dealers to take an inventory all cigarettes, stamps and tobacco products on hand on July 1, 2016, to file a report of the inventory with the Tax Commissioner, and to remit any additional tax due under the increased rate within sixty days.

For purposes of this Notice the term "retailers' purchase price" means and is limited to the price at which the retailer purchased each tobacco product item other than cigarettes from a wholesaler, wholesale dealer, subjobber or subjobber dealer.

For purposes of this Notice the term "retail price" means and is limited to the price at which the retailer sells each tobacco product item other than cigarettes to a consumer or to any person for any purpose other than resale.

For tobacco retailers only -- In order to determine the amount of additional tax due under the new rate, tobacco retailers will calculate the wholesale price of tobacco products other than cigarettes in their possession on July 1, 2016, either:

(1) By using the actual wholesale price of each item resold to the retailer. When using this method, a taxpayer must keep sufficient documentation from the wholesaler showing the actual wholesale price.

(2) By subtracting twenty percent from the "retailers' purchase price" of each item.

For Example:

$$\$3.00 \text{ "retailers' purchase price"} \times 0.20 = \$0.60$$

$$\$3.00 - \$0.60 = \underline{\$2.40 \text{ Calculated Wholesale Price}}$$

(3) Or, at the election of the retailer, by subtracting twenty percent from the "retail price" of each item.

For Example:


$$\$3.00 \text{ retail price} \times 0.20 = \$0.60$$

$$\$3.00 - \$0.60 = \underline{\$2.40 \text{ Calculated Wholesale Price}}$$

From the calculated wholesale price, the retailer will calculate, report and remit the additional five percent, the amount of increase in the tobacco products excise tax.

Notice of this determination will be filed in the West Virginia Register.

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Mark W. Matkovich
Tax Commissioner