

# Information for Texas Tobacco Retailers



**SUSAN COMBS • Texas Comptroller of Public Accounts**

If you sell cigarettes, cigars or tobacco products to consumers in Texas, you must have a retailer's permit. The laws governing tobacco taxes can be found in Chapters 154 and 155 of the Texas Tax Code.



**Together we can stop minors from buying tobacco.**

## Guidelines for Texas Retailers Selling Cigarettes, Cigars and Tobacco Products

Any person (including a partnership, corporation or other entity) who sells cigarettes, cigars and/or tobacco products to consumers in Texas must have a retailer's permit and a sales tax permit. This includes owners of coin-operated cigarette/tobacco products vending machines and any person who sells cigarettes on the Internet, by telephone or via mail order. The laws governing cigarette and tobacco taxes are in Chapters 154 and 155 of the Texas Tax Code; sales tax laws are in Tax Code Chapter 151.

Retailers must buy cigarettes and tobacco products from Texas permitted distributors and wholesalers and should not buy these products from other retailers. All retail sales of cigarettes, cigars and other tobacco products are subject to state and local sales taxes.

### PERMITS

A seller must apply for and receive a cigarette, cigar or tobacco product retailer permit from the Comptroller for each place of business, including each storage location, vehicle and vending machine from which cigarettes, cigars and/or tobacco products are to be sold. The law does not allow a seller to sell, keep or store for sale cigarettes, cigars and tobacco products at a residence or public storage facility. The only exception to the storage restriction is for tobacco products manufacturer's representatives. Retailer permits are non-transferable and non-assignable.

New retailer permits are valid from the date of issuance, and the Comptroller will send renewal notices to all permit holders before the expiration date. Renewals are valid

for two years, beginning June 1 of each even-numbered year, and all retailer permits expire on May 31 of each even-numbered year.

A \$180 fee for each retailer is due at the time of application. The Comptroller will prorate the fee for permits issued after June 1 of each even-numbered year. A renewal fee is due on or before May 31 of each even-numbered year. A penalty of \$50 may be assessed for failing to file for renewal or for failing to pay on time.

Both the retailer permit and the sales tax permit must be on public display in each place of business. Retailer permits and/or decals for vehicles and vending machines must be posted conspicuously.

### HOW TO APPLY

To receive a retailer permit, complete a Texas Application for Retailer Cigarette, Cigar and/or Tobacco Products Taxes Permit (AP-193). If you do not have a sales tax permit, complete application AP-201.

The applications are available online at [www.window.state.tx.us/forms/](http://www.window.state.tx.us/forms/). You can also visit a local Comptroller field office, email us at [tax.help@cpa.state.tx.us](mailto:tax.help@cpa.state.tx.us) or call us at **1-800-862-2260**. Ask for packet number 400 if you are a retailer.

### PERMIT DENIAL, SUSPENSION OR REVOCATION

The Comptroller may, after notice and opportunity for a hearing, deny a permit if a business location is not adequate to protect cigarettes and/or tobacco products or if the applicant, managing employee, officer, director, stockholder (10 percent or more) or partner failed to disclose pertinent information, or previously violated provisions

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In the event of a cigarette tax increase, each retailer with 2,000 or more cigarettes in stamped packages must report its inventory on the day the increase goes into effect and pay the additional tax.

of the cigarette tax and/or cigars and tobacco products tax law.

The Comptroller may, after notice and opportunity for a hearing, revoke or suspend a permit if the retailer violates cigarette tax and/or tobacco products tax law or administrative rules.

## RECORDS

Retailers must collect, report and remit sales tax on all sales of cigarettes, cigars and tobacco products monthly, quarterly or yearly, depending on the volume of sales. For more information, see Rule 3.286, Seller's and Purchaser's Responsibilities.

A retailer's records must be kept open for inspection for at least four years, and with respect to records related to a retailer's claim, longer than four years during any period when tax, penalty or interest may be assessed, collected or refunded by the Comptroller or while an administrative hearing or judicial proceeding is pending. Retailers are required to produce contemporaneous records and supporting documentation for transactions in question, to enable verification of claims related to the amounts of tax, penalty or interest to be assessed, collected or refunded in an administrative hearing or judicial proceeding. A retailer's records must be made available for inspection and copying upon request by the Comptroller's office or the Attorney General's Office. A retailer whose place of business is a vehicle must designate a permanent place of business where records are kept.

Required records include:

- the total gross receipts from sales of items subject to sales tax, including receipts, invoices and shipping manifests;
- name and address of the shipper or carrier and the mode of transportation;
- shipping records (or copies), including invoices, bills of lading, waybills, freight bills and express receipts;
- date and name of the place of origin of the cigarette and tobacco product shipment;
- date and name of the place of arrival of the cigarette and tobacco product shipment;
- statement of the number, kind and price paid for cigarettes and tobacco products, including cigarettes in stamped and unstamped packages;
- name, address, permit number and tax identification number of the seller;

- the net weight as listed by the manufacturer for each individual can or package of tobacco products (other than cigars);
- resale and exemption certificates for sales tax purposes; and
- any other information required by the Comptroller's office.

Each retailer must keep all suppliers' purchase invoices. These must include all information listed under required records.

## CIGARETTE TAX INCREASES

In the event of a cigarette tax increase, each retailer with 2,000 or more cigarettes in stamped packages must report its inventory on the day the increase goes into effect and pay the additional tax. The report and tax payment must be sent to the Comptroller within 30 days of the effective date of the tax increase.

There are no similar requirements for increases in the cigars and tobacco products tax.

## CIGARETTE AND TOBACCO PRODUCTS WARNING NOTICE AND OTHER REQUIREMENTS

Retailers must post cigarette and tobacco products warning notice signs or stickers where they can be easily seen by customers and employees and close to the location where the cigarettes and tobacco products are sold.

The warning notice signs (96-536) and stickers (96-537) are available in both Spanish and English. The law requires posting the English version of the warning sign and sticker. Please contact us at 1-800-252-5555 to request them. They are also available on our website at [www.window.state.tx.us/taxinfo/taxpubs/index.html#cig](http://www.window.state.tx.us/taxinfo/taxpubs/index.html#cig).

Employees must complete a Cigarette and Tobacco Products Retail Employee Notification form (Form 69-117) within 72 hours of their employment. The form is available online at [www.window.state.tx.us/taxinfo/taxforms/69-117.pdf](http://www.window.state.tx.us/taxinfo/taxforms/69-117.pdf). Retailers must keep notification forms for 60 days after an employee leaves employment.

Retailers are responsible for complying with all other legal requirements, such as requesting identification from customers under the age of 27. For more information on these requirements, see the Underage Smoking Provisions – Regulatory Information section of our website at [www.window.state.tx.us/taxinfo/cig\\_tob/regulatory.html](http://www.window.state.tx.us/taxinfo/cig_tob/regulatory.html).



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## **PREMISES INSPECTION**

The Comptroller can conduct unannounced inspections of sales records and the premises at business locations where cigarettes and tobacco are stored, sold, exchanged or offered for sale.

## **VIOLATIONS**

There are criminal and civil penalties for violations of the law governing taxes on cigarettes, cigars and tobacco products.

## **REQUIREMENTS FOR TEXAS RETAILERS WHO ALSO SELL CIGARETTES ON THE INTERNET AND BY TELEPHONE OR MAIL ORDER**

Texas retailers who offer cigarettes for sale by telephone or mail order, or via the Internet, and who deliver or cause to be delivered those cigarettes to a customer in Texas, must comply with the following requirements when making a delivery sale.

## **REQUIREMENTS FOR DELIVERY SALES**

### **Age Verification**

Before mailing or shipping cigarettes, the retailer must reliably establish that the prospective customer is at least 18. To do this, the retailer must get a signed statement showing the purchaser's address and date of birth, and confirming the purchaser's wish to receive mailings from a tobacco company. The statement also must include an acknowledgement that the buyer understands that signing another person's name is illegal and that the purchase of cigarettes by anyone under 18 is illegal.

### **Disclosure**

The retailer must first send to the prospective purchaser a notice that the sale of cigarettes to anyone under 18 years of age is prohibited; that cigarette sales are restricted to those who can provide verifiable proof of age as shown above; and that cigarette sales are taxable. The notice also must include an explanation of how the tax on the delivery sale has been or will be paid.

### **Shipping**

The shipping documents in a delivery sale order must include conspicuous placement

of the following statement: "CIGARETTES: TEXAS LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER 18 YEARS OF AGE AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES."

The retailer must use a mailing or shipping method that requires an adult, who is at least 18 years of age and lives at the address, to sign for delivery after providing proof of age with a government-issued photo ID. The retailer also must provide the delivery service evidence of full compliance with the requirements for tax collection.

The shipping requirements apply whether the retailer delivers the cigarettes or uses a third party for delivery.

## **Registration and Reporting**

Before making a delivery sale or shipping cigarettes, the retailer must file a statement with the Texas Comptroller's office giving its name and trade name, business locations, telephone number and email address.

For all delivery sales in a month, the retailer must give the Comptroller's office information on each sale, including the name, address, telephone number and email address of the buyer, as well as the brand and quantity of cigarettes sold.

Retailers must report this information by the 10th of the following month.

## **TAX COLLECTION**

A retailer who makes a delivery sale must collect all applicable state taxes and remit them to the Comptroller's office. Texas retailers can purchase only stamped packages of cigarettes from permitted distributors and wholesalers. The presence of a valid tax stamp on each cigarette package indicates the state cigarette excise tax has been paid. A retailer must collect, report and remit the sales tax on all cigarettes sold on the Internet or by telephone or mail order and delivered to a purchaser in Texas.

Retailers must post cigarette warning signs where they can be easily seen by customers and employees and close to the location where the cigarettes are sold.

For more information about Cigarettes, Cigars and Tobacco Products taxes, see the frequently asked questions on our website at [www.window.state.tx.us/taxinfo/cig\\_tob/faqcigreg.html](http://www.window.state.tx.us/taxinfo/cig_tob/faqcigreg.html).

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## COMPTROLLER OFFICES PROVIDE CONVENIENT, COURTEOUS HELP NEAR YOU...

(If you have problems contacting an office, please call 1-800-252-5555 or visit us online at [www.window.state.tx.us](http://www.window.state.tx.us))

### Abilene

209 South Danville Drive, Ste C-202  
79605-1464  
325-695-4323

### Amarillo

Park West Office Centre, Building A  
7120 I-40 West, Ste 220 79106-2519  
806-358-0148

### Austin

Central Services Building, Suite 180  
1711 San Jacinto Blvd 78701-1416  
512-463-4865

### Beaumont

6440 Concord Road  
77708-4315  
409-899-4650

### Brownsville

1900 North Expressway, Suite C-1  
78521-1563  
956-542-8426

### Bryan

1713 Broadmoor Drive, Suite 300  
77802-5220  
979-776-5200

### Corpus Christi

400 Mann Street, Suite 600  
78401-2047  
361-882-1234

### Dallas Northeast

9221 LBJ Freeway, Suite 100  
75243-3429  
972-792-5800

### Dallas Southwest

7222 South Westmoreland Road  
Suite 100 75237-2983  
972-709-4357

### Denton

400 South Carroll Blvd, Ste 1000  
76201-5929  
940-891-4790

### El Paso

401 East Franklin Avenue, Suite 160  
79901-1209  
915-533-0506

### Fort Worth

4040 Fossil Creek Boulevard, Ste 100  
76137-2747  
817-847-6201

### Houston Northwest

1919 North Loop West, Suite 510  
77008-1354  
713-426-8200

### Houston Southwest

7011 Harwin, Suite 186  
77036-2151  
713-783-1665

### Laredo

1202 East Del Mar Boulevard, Suite 1  
78041-2400  
956-722-2859

### Lubbock

6202 Iola Avenue, Suite 900-B  
79424-2733  
806-783-0316

### Lufkin

306 Harmony Hill Drive, Suite A  
75901-5759  
936-634-2621

### McAllen

3231 North McColl Road  
78501-5538  
956-687-9227

### Odessa

4682 East University Boulevard  
Suite 200 79762-8104  
432-550-3027

### San Angelo

3127 Executive Drive  
76904-6801  
325-942-8364

### San Antonio Northeast

3300 Nacogdoches Road, Suite 105  
78217-3373  
210-646-0399

### San Antonio Northwest

9514 Console Drive, Suite 102  
78229-2042  
210-616-0067

### San Antonio Southwest

1121 Southwest Military Drive  
Suite 103 78221-1672  
210-924-6434

### Sherman

One Grand Centre Building, Ste 110  
1800 Teague Drive 75090-2672  
903-893-0692

### Tyler

3800 Paluxy Drive, Suite 300  
75703-1661  
903-534-0333

### Victoria

2208 Leary Lane, Suite 200 77901  
PO Box 3546 77903  
361-575-2874

### Waco

801 Austin Avenue, Suite 810  
76701-1937  
254-752-3147

### Wichita Falls

925 Lamar Street, Suite 1900  
76301-3414  
940-761-4141

## We're Here To Help! *Call Toll-Free!*

If you have questions or need information on a specific tax, please call our toll-free numbers:

#### 1-800-252-5555

911 Emergency Service/Equalization  
Surcharge  
Automotive Oil Fee  
Battery Fee  
Boat and Boat Motor Sales Tax  
Customs Broker  
Fireworks Tax  
Mixed Beverage Tax  
Off-Road, Heavy-Duty Diesel  
Equipment Surcharge  
Oyster Fee  
Sales and Use Taxes  
Telecommunications Infrastructure Fund

#### 1-800-531-5441

Cement Tax  
Inheritance Tax  
Local Revenue  
Miscellaneous Gross Receipts Taxes  
Oil Well Servicing Tax  
Sulphur Tax

#### 1-800-531-5441, ext. 3-3630

WebFile Help

#### 1-800-252-1381

Bank Franchise  
Franchise Tax

#### 1-800-252-7875

Spanish

#### 1-800-531-1441

Fax on Demand (Most frequently  
requested Sales and Franchise tax  
forms)

#### 1-800-252-1382

Clean Vehicle Incentive Program  
Manufactured Housing Tax  
Motor Vehicle Sales Surcharge,  
Rental and Seller Financed Sales Tax  
Motor Vehicle Registration Surcharge

#### 1-800-252-1383

Fuels Tax  
IFTA  
LG Decals  
Petroleum Products Delivery Fee  
School Fund Benefit Fee

#### 1-800-252-1384

Coastal Protection  
Crude Oil Production Tax  
Natural Gas Production Tax

#### 1-800-252-1387

Insurance Tax

#### 1-800-252-1385

Coin Operated Machine Tax  
Hotel Occupancy Tax

#### 1-800-252-1386

Certificates of Account Status/Good  
Standing  
Officer and Director Information

#### 1-800-862-2260

Cigarette and Tobacco

#### 1-888-4-FILING (1-888-434-5464)

TELEFILE: To File by Phone

#### 1-800-252-1389

GETPUB: To Order Forms and Publications

#### 1-800-654-FIND (1-800-654-3463)

Treasury Find

#### 1-800-321-2274

Unclaimed Property Claimants  
Unclaimed Property Holders  
Unclaimed Property Name Searches  
512-463-3120 in Austin

#### 1-877-44RATE4 (1-877-447-2834)

Interest Rate

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Austin, Texas 78711-1440

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512-475-0900 (FAX).