

NOTICE-UNTAXED CIGARETTE SALES

New Jersey residents are not permitted to possess unstamped cigarettes, counterfeit stamped cigarettes, or cigarettes stamped by another state. There is no exemption for small quantities under the law.

A consumer who purchases cigarettes from another state or stamping jurisdiction is expected to notify the Division and pay New Jersey's Cigarette Tax and Sales and Use Tax in full. Sales and Use Tax should be calculated on the purchase price and Sales and Use Tax will not be assessed on the Cigarette Tax otherwise due on the purchase. This process is known as self-disclosure.

New Jersey residents who possess unstamped cigarettes, counterfeit stamped cigarettes, or cigarettes stamped by another state are also subject to additional penalties as set forth by N.J.S.A. 54:40A-25 which states that: "Any wholesale dealer or retail dealer who violates the provisions of section four hundred six of this act, and any consumer who fails to report and remit the tax due..., shall be liable to a penalty of not more than twenty-five dollars (\$25) for each individual carton of unstamped or illegally stamped cigarettes in the dealer's possession, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section six hundred one of this act."

The Appellate Division of the New Jersey Superior Court has upheld the imposition of taxes, penalties and interest on cigarettes purchased via the Internet after the taxpayer rejected demands for payment and failed to take advantage of a tax amnesty that was offered. The taxpayer had purchased the cigarettes on the Internet from an out-of-state unlicensed seller of unstamped cigarettes. The dealer, who did not remit taxes to the Director of the New Jersey Division of Taxation, notified the Director of the taxpayer's purchasers, as required by federal law. Gary Mosher v. Director, New Jersey Division of Taxation, New Jersey Superior Court, Appellate Division, Dkt. No. A-2515-02T3, 2-17-2004; cert denied in Gary Mosher v. Director, New Jersey Division of Taxation, 180 N.J. 354:851 A.2d648, (2004).

A New Jersey resident is not permitted to possess or transport untaxed cigarettes within New Jersey and this state is fully authorized to assess taxes, penalties and interest on cigarettes purchased outside of New Jersey.

Therefore, when a New Jersey resident is in possession of unstamped cigarettes purchased from the Internet, by phone or mail order, he is subject to interest and penalties for not paying the New Jersey Cigarette Tax and Sales and Use Tax and the cigarettes are subject to confiscation.

If you have purchased untaxed cigarettes and want to report and remit the Cigarette Tax and Sales and Use Tax due on those cigarette purchases, please contact our Cigarette Tax Group at 609 633-9000.

(revised 7/11)