

property or the displacement of persons, including displacements caused by Department rehabilitation and demolition activities. The Department believes that it is extremely unlikely that the rules would bring about a change in the average costs associated with housing or with the affordability of housing because the rulemaking is related to relocation assistance involving the acquisition of real property or the displacement of persons, including displacements caused by rehabilitation and demolition activities.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments establish provisions related to relocation assistance involving the acquisition of real property or the displacement of persons, including displacements caused by Department rehabilitation and demolition activities. The Department believes that it is extremely unlikely that the rules proposed for readoption with amendments would bring about a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with amendments establish provisions related to relocation assistance involving the acquisition of real property or the displacement of persons, including displacements caused by Department rehabilitation and demolition activities. The existing rules had no impact on racial and ethnic community criminal justice and public safety in New Jersey and the Department believes that it is extremely unlikely that the rules proposed for readoption with amendments will have any impact on pretrial detention, sentencing, probation, or parole policies concerning adults or juveniles in the State. Therefore, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:6.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

16:6-1.3 Incorporation by reference

Pursuant to N.J.S.A. 27:7-72 et seq., the Department adopts and incorporates by reference 42 U.S.C. §§ 4601 et seq., Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The Federal regulations can be found at [<http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=bd45f92844d4bea927907062777ac2500&mc=true&tpl=/ecfrbrowse/Title49/49subtitleA.tpl>] [<https://www.ecfr.gov/current/title-49/subtitle-A>].

SUBCHAPTER 3. ADMINISTRATION OF RELOCATION ASSISTANCE

16:6-3.1 General provisions

(a) Information relating to the Department's right-of-way acquisition and relocation policies is located at [the following: <http://www.state.nj.us/transportation/eng/#Manuals>] [https://nj.gov/transportation/eng/documents/BDC/pdf/ROW_Acquisition_Manual_20190913.pdf].

(b) (No change.)

(c) FHWA will not reimburse a State regulatory relocation requirement that exceeds the Federal relocation limits, **unless approved in advance**.

(d) (No change.)

(e) If **FHWA approves** amounts above the Federal standards [are authorized], the overage will require the utilization of State funds or LPA funds. [Authorization to exceed Federal standards including, but not limited to, last resort housing,]

(f) **All relocation payments** must be properly documented and the payments must be justified as reasonable, necessary, and reflecting a public good.

SUBCHAPTER 4. APPEALS

16:6-4.1 Appeal of agency determination

(a)-(c) (No change.)

(d) A **displaced** person has the right to be represented by legal counsel or other representative in connection with the appeal, but solely at the **displaced** person's own expense. The **displaced** person shall be permitted to inspect and request copies of all materials pertinent to the appeal, except materials that are classified as privileged by the agency. The agency may impose reasonable conditions on the **displaced** person's right to inspect, consistent with applicable laws. Copying fees shall be in accordance with N.J.S.A. 47:1A-5 and copies will be provided upon full payment of the copying fees, by check or money order, made payable to "New Jersey Department of Transportation."

(e)-(i) (No change.)

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Cigarette Tax Act Rules

Proposed Readoption with Amendments: N.J.A.C. 18:5

Proposed Repeals: N.J.A.C. 18:5-5.10 and 5.11

Authorized By: Marita R. Sciarrotta, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:40A-20 and 54:50-1.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-065.

Submit written comments by August 2, 2024, to:

Mary Richmond-Michael
Administrative Practice Officer
Division of Taxation
3 John Fitch Way—8th Floor
PO Box 240
Trenton, NJ 08695-0240
Email: Tax.RuleMakingComments@treas.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 18:5 was scheduled to expire on June 5, 2024. As the Division of Taxation (Division) submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to December 2, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division of Taxation has reviewed the rules proposed for readoption with amendments and repeals and has determined that, as amended, as set forth and summarized in this rulemaking, they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. N.J.A.C. 18:5-1.1, Words and phrases defined, supplements the statutory definitions set forth at N.J.S.A. 54:40A-2, but the statutory definitions will control if there are ambiguities or conflicts between the two. The Division proposes to readopt the rules with amendments that are necessary in order to make the rules consistent with the Cigarette Tax Act (Act), as amended.

The content of the subchapters in this chapter may be summarized as follows:

Subchapter 1 sets forth definitions.

Subchapter 2 sets forth the imposition of the cigarette tax.

Subchapter 3 pertains to revenue tax stamps.

Subchapter 4 pertains to refunds and the redemption of tax stamps.

Subchapter 5 pertains to reports.

Subchapter 6 states what type of license is required to sell cigarettes.

Subchapter 7 sets forth the records to be kept.

Subchapter 8 pertains to the subject of assessments.

Subchapter 9 sets forth the procedures for the release of a cigarette tax lien.

Subchapter 10 sets forth the treatment of cigarettes sold through vending machines.

Subchapter 11 pertains to transportation of unstamped cigarettes.

Subchapter 12 sets forth the penalties.

The proposed amendments will increase ease of use and consistency throughout the chapter. These rules were originally promulgated to clarify and interpret various provisions of the cigarette tax law. The purpose for the proposed amendments is to reflect the State's public policy and to explain the application of the cigarette tax statute.

N.J.A.C. 18:5-3.2 is amended to remove a reference to tax stamps and the tax rate for cigarette packs that contain 25 cigarettes because cigarettes are now only sold in packs of 20 in New Jersey.

N.J.A.C. 18:5-3.3 is amended to add the four-digit zip code postal designation.

N.J.A.C. 18:5-3.4 is amended for clarity and to delete a reference to "percent" because these discounts are not expressed as a percentage.

N.J.A.C. 18:5-3.5 is amended to provide for the current method of purchasing cigarette tax stamps.

N.J.A.C. 18:5-3.6 is amended to provide for the current method of purchasing cigarette tax stamps on a credit basis.

N.J.A.C. 18:5-5.7 and 5.8 are amended to provide updated form designations.

N.J.A.C. 18:5-5.9 is amended for clarity, to provide updated monthly report form designations, and to clarify that both resident and nonresident wholesalers are to use the same form.

N.J.A.C. 18:5-5.10 is proposed for repeal because it is no longer necessary based on the revisions made to N.J.A.C. 18:5-5.9 that state that there is one monthly report form designation to be used by both resident and nonresident wholesalers.

N.J.A.C. 18:5-5.11 is proposed for repeal because the Division no longer requires carrier reports.

N.J.A.C. 18:5-5.14(b) is proposed for deletion, as the Division only needs one original copy of each report.

N.J.A.C. 18:5-5.16 is amended to change the heading, state that the Division only requires the filing of one original copy of each report, and to add the four-digit zip code postal designation.

N.J.A.C. 18:5-6.5(a) is amended to correct the form designation.

N.J.A.C. 18:5-6.6(c) is amended to state that the distributor's bond shall be filed with the Distributor's Cigarette Tax Stamp Credit Bond Form that is included with the Cigarette Tax Distributor/Wholesaler License Application Packet.

N.J.A.C. 18:5-6.8(c) is amended to provide to correct the form designation that wholesale dealers are required to file with their bonds.

As the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments will continue to provide taxpayers with guidance in complying with the Cigarette Tax Act, will continue the orderly administration and collection of the tax, will provide taxpayers with an interpretation of specific provisions of the Cigarette Tax Act and accurately reflect the Division's current policy, and will provide guidance and clarification to taxpayers and their advisers. The rules proposed for readoption with amendments have a direct impact on cigarette retail dealers, wholesalers, and distributors. The State's social policy is to protect the health of New Jersey residents. The revenues from the tax are used partially for social programs, such as smoking cessation programs, as well as for other State programs and functions of government.

Economic Impact

The rules proposed for readoption with amendments are expected to have no adverse economic impact on cigarette vendors or purchasers. The costs of compliance vary with each taxpayer, and are based upon choices made by the taxpayer regarding the management of the taxpayer's specific business. The revenues from the tax are used partially for social programs such as smoking cessation programs, as well as for other State programs and functions of government.

Jobs Impact

The rules proposed for readoption with amendments are not expected to have an impact on the creation or loss of jobs in the State. The rules proposed for readoption with amendments only affect the administration of the cigarette tax, and no rules related to the creation or loss of jobs in the State have been proposed.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking authority is granted by the operative provisions of the New Jersey Cigarette Tax Act, N.J.S.A. 54:40A-1.1 through 12.7, and is not subject to any Federal requirements or standards.

Agriculture Industry Impact

The rules proposed for readoption with amendments are not anticipated to have any impact upon the agricultural industry because the rulemaking deals with the cigarette tax.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments apply to all taxpayers subject to the Cigarette Tax Act, including some that are "small businesses" within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-17. The rules proposed for readoption with amendments govern the administration of the Act, N.J.S.A. 54:40A-1 through 66, which imposes a tax on cigarettes. The Division anticipates that the rules proposed for readoption with amendments will not increase small businesses' capital costs or their need for certain professional services. There are no exemptions from, or differentiation in, the requirements for large or small businesses, in conformity with applicable statutes.

Every person subject to the Act is required to keep receiving records, accounts payable and receivable ledgers, and sales records. These records are to be complete and accurate records of all the information required in this chapter regarding all transactions in cigarettes (cash or charge) and of all transactions involving warehouse receipts in New Jersey.

The rules proposed for readoption with amendments do not impose additional reporting, recordkeeping, or compliance requirements beyond those already in place. Taxpayers will not require the services of professional advisors to comply with the rules, however taxpayers may want to consult with professional advisors to determine if the proposed readoption with amendments applies to their situation.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not result in a change in the average costs associated with housing or on the affordability of housing and would have no impact on any aspect of housing because the rulemaking deals with the New Jersey tax on cigarettes.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan, because the rulemaking has nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere else in the State of New Jersey. The rulemaking deals with the New Jersey cigarette tax.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:5.

Full text of the proposed amendments and repeals follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 3. REVENUE TAX STAMPS

18:5-3.2 Types of stamps available; denominations
(a) (No change.)

[(b) Heat decalcomania tax stamps applied by machine in denominations of \$3.375 are sold only in multiples of 7,200 stamps.]

[(c)] (b) Heat decalcomania tax stamps applied by hand in denominations of \$2.70[, and \$3.375] are sold in blocks of individual sheets of 100 stamps and only multiples of 1,000 stamps.

18:5-3.3 Purchase of stamps; location

Decalcomania tax stamps are available and may be purchased only at the Division of Revenue and Enterprise Services, PO Box 252, Trenton, NJ [08646] **08646-0252**.

18:5-3.4 Purchase of stamps; discount allowed

[(a) The following discounts shall be allowed on all sales of cigarette revenue tax stamps] **A discount of .00166667 is allowed on all sales of hand-applied cigarette revenue tax stamps in denominations of \$2.70, when the number purchased is 1,000 stamps or more, or in multiples of 30,000 stamps for machine-applied stamps when sold** to licensed distributors, provided the distributor is in compliance with all of the provisions of the Act and this chapter[.].

[1. A discount of .00166667 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$2.70, when the number purchased is 1,000 stamps or more, or in multiples of 30,000 stamps for machine applied stamps.

2. A discount of .00133333 percent is allowed on all sales of hand applied cigarette revenue tax stamps in denominations of \$3.375, when the number purchased is 1,000 stamps or more, or in multiples of 7,200 stamps for machine applied stamps.]

18:5-3.5 Purchase of stamps; noncredit basis

Licensed distributors may make noncredit purchases of [heat applied] **heat-applied** tax stamps by [telephoning their order to the Division of Revenue and Enterprise Services, 609-984-2029 or 609-984-3723 and mailing a money order or check to the Division of Revenue and Enterprise Services, PO Box 250, Trenton, NJ 08646.] **submitting an electronic order with payment to the Division of Revenue and Enterprise Services. The Division of Revenue and Enterprise Services will communicate directly with licensed distributors on acceptable forms of electronic orders and payments.** Once ordered, the stamps will be mailed to the purchaser.

18:5-3.6 Purchase of stamps on a credit basis

All purchases of [heat applied] **heat-applied** tax stamps shall be made [through telephone] **by submitting an electronic order** to the Division of Revenue and Enterprise Services[, 609-984-2029 or 609-984-3723 and mailing a money order or check to the Division of Revenue and Enterprise Services, PO Box 250, Trenton, NJ 08646]. **The Division of Revenue and Enterprise Services will communicate directly with licensed distributors on acceptable forms of electronic orders.** Once ordered, the stamps will be mailed [out] **to the purchaser** or picked up at the Division of Revenue and Enterprise Services, 33 West State Street, Trenton, NJ 08608.

SUBCHAPTER 5. REPORTS

18:5-5.7 Resident distributors' report

(a) Every licensed resident distributor is required to file a monthly report on Form [RCD-1] **CR-1**. The following schedules must accompany the return, when applicable:

- 1.-4. (No change.)
- [5. Schedule E;]
- [6.] **5.** (No change in text.)
- [7.] **6.** Schedule [GR] **G**.

18:5-5.8 Nonresident distributors' report

(a) Every licensed nonresident distributor is required to file a monthly report on Form [NRCD-1] **CNR-1**. The following schedules must accompany the return, when applicable:

1. Schedule [B] **A**;
2. Schedule [E] **B**;
3. Schedule [F] **D**; and
4. Schedule [GNR] **G**.

18:5-5.9 [Resident wholesale and retail] **Wholesale** dealers' report

[(a)] Every licensed [resident] wholesale [and retail] dealer, other than licensed distributors, that deals in stamped cigarettes of [states other than] New Jersey, is required to file a monthly report on Form [RCW-1] **CWIP-1**, unless the Director permits otherwise. **Schedule R must accompany the return, when applicable.** [The following schedules must accompany the return, when applicable:

1. Schedule B;
2. Schedule C; and
3. Schedule H.]

[18:5-5.10 Nonresident wholesale and retail dealers' report

Every licensed nonresident wholesale and retail dealer, other than licensed distributors, is required to file a monthly report on Form NRCW-1, unless the Director permits otherwise. Schedule R must accompany the return, when applicable.

18:5-5.11 Carrier reports

(a) Every railroad and steamship company, including the Pullman Company, that sells unstamped cigarettes in its cars or on its boats in the State of New Jersey is required to file a monthly report on Form CTR-1.

(b) This report must be accompanied by a remittance for the full amount of all taxes due computed at the rate specified in N.J.A.C. 18:5-2.3.]

18:5-5.10 and 5.11 (Reserved)

18:5-5.14 Time for filing reports

[(a)] All tax reports required must be filed with the Division of Taxation, together with all supporting schedules, on or before the 20th day of each calendar month following the month being reported upon.

[(b)] All reports (including supporting schedules) must be submitted in duplicate.]

18:5-5.16 [Number of reports required] **Mailing address**

[(a) An original and two copies of all required tax reports and all required schedules are to be prepared.]

[(b)] (a) The original [and one] copy of all required reports and all required schedules are to be filed with the Division of Taxation, PO Box 187, Trenton, NJ [08695] **08695-0187**.

[(c)] (b) (No change in text.)

SUBCHAPTER 6. LICENSES

18:5-6.5 Distributor's license

(a) Each distributor is to apply for a distributor's license on Cigarette Tax Form [CD-1] **CWD-1**.

(b)-(c) (No change.)

18:5-6.6 Licensed distributor files bond

(a)-(b) (No change.)

(c) The bond is to run concurrently with the distributor's license and be filed on [Cigarette Tax Distributor/Wholesaler License Application Packet CWD-P] **the Distributor's Cigarette Tax Stamp Credit Bond form with the Division of Revenue and Enterprise Services.**

18:5-6.8 Wholesale dealer files bond

(a)-(b) (No change.)

(c) The bond is to run concurrently with the wholesale dealer's license and be filed on Cigarette Tax Form [CD-3] **CWD-3**.