



STEVE SISOLAK
Governor
JAMES DEVOLLD
Chair, Nevada Tax Commission
MELANIE YOUNG
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

Web Site: <https://tax.nv.gov>
1550 College Parkway, Suite 115
Carson City, Nevada 89706-7937
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE
4600 Kietzke Lane
Building L, Suite 235
Reno, Nevada 89502
Phone: (775) 687-9999
Fax: (775) 688-1303

LAS VEGAS OFFICE
Grant Sawyer Office Building, Suite 1300
555 E. Washington Avenue
Las Vegas, Nevada 89101
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada 89074
Phone: (702) 486-2300
Fax: (702) 486-3377

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Dear Taxpayer,

This letter serves as a reminder that cigarettes and other tobacco products (OTP) are highly regulated products. Manufacturers, retailer dealers, and wholesale dealers must comply with all the provisions found in Nevada Revised Statutes (NRS) Chapter 370 and Nevada Administrative Code (NAC) Chapter 370. Violations of Chapter 370 may result in seizure of product, civil penalties, gross misdemeanor charges, and the suspension and/or revocation of your license. It is the responsibility of the license holder to know and follow all Nevada laws and regulations related to tobacco.

The Department of Taxation (Department) has encountered many issues in the field regarding maintenance and retention of records. Failure of a tobacco licensee to maintain records on premises can result in seizure of product, issuance of civil penalties, and the suspension and/or revocation of your license. If a tobacco licensee would like to keep their records at a different location other than the business address, they must get prior authorization from the Department. Please review NRS 370.255, NRS 370.470 and NRS 370.480 for more details.

Effective January 1, 2020, the definition of OTP is amended to include vapor and alternative nicotine products. Included, but not limited in the definition of vapor products are, the components of such products or devices (cartridges, atomizers, customizers, hookah pen etc.), even if sold separately. Alternative nicotine products are taxable *only* if they are made with synthetic nicotine. If the alternative nicotine product contains nicotine derived from tobacco, currently these products are not taxable as OTP. Please review NRS 370.0318 and NRS 370.054

The Department would like to provide clarification of the definition of "Wholesale Price" as there seems to be some confusion:

- **For in-state wholesalers**, if the product purchased is finished and ready to sell as received, taxes are due upon receipt of that product based on the price paid for that product, including shipping, transportation, advertising, cost of materials used, labor costs, etc., before any reductions or discounts are given. This includes if a product is on an invoice, but the vendor did not change the wholesaler for that product, tax is still due on the normal price of that product.
- **For out-of-state wholesalers**, tax is due when product is sold to a retailer or ultimate consumer in Nevada and is based on the price paid for that product, including shipping, transportation, advertising, cost of materials used, labor costs, etc., before any reductions or discounts are given.
- **For wholesalers who manufacture OTP**, taxes are based upon what the product is sold for before any discounts or other reductions is made. If the in-state wholesaler has a retail license at the same location as the wholesale license, the tax is due based on what the wholesaler sells the product to a retailer or consumer for before any discounts or reductions are made.

Effective January 1, 2020, the imposition of OTP tax was changed. Taxes are imposed at the time the first in-state wholesale dealer receives the finished product whether the product is purchased from an unlicensed or another out-of-state licensed wholesaler, OR at the time an out-of-state wholesaler sells OTP to a retailer or ultimate consumer who resides in Nevada. If an out-of-state wholesaler is selling to unlicensed companies in Nevada, the taxes are owed by the out-of-state wholesaler as it is illegal to sell product for which tax has not been or will not be paid pursuant to NRS 370.450. Additionally, OTP tax is no longer collected from a wholesaler's customers. The tax is now directly on the wholesaler upon receipt or sale, depending on where the wholesaler's business resides and their business structure. Lastly, it is

against NAC 370.150 to line item OTP tax on sales made to retailers. Please review NRS 370.440, NRS 370.450, NRS 370.460 and NAC 370.150 for more details.

Please be aware that it is illegal to sell cigarettes and/or OTP, including vapor and alternative nicotine products, to a company who does not hold the correct tobacco licensing in Nevada with the Department. This means:

- All retailers **must** purchase their cigarettes and OTP from licensed wholesalers found on the lists of Licensed Cigarette Wholesale and OTP Wholesale Accounts on the Department's website.
- All wholesalers must ensure their customers have tobacco licensing with the Department prior to making sales to them by checking the lists of Licensed Cigarette Wholesale, OTP Wholesale and Tobacco Retail Accounts found on the Department's website.
- All manufacturers must ensure their customers are included on the list of Licensed Cigarette Wholesale Accounts found on the Department's website.

The lists can be found at: https://tax.nv.gov/Forms/Cigarette_and_Other_Tobacco_Products_Tax_Forms/.

Please note that the legal authorities cited above are available on the official website of Nevada Legislature, <https://www.leg.state.nv.us/NRS/NRS-370.html> and <https://www.leg.state.nv.us/NAC/NAC-370.html>.

If you have any questions, please contact the Department at 775-684-2165 or email taxation-adminMSA@tax.state.nv.us.

Sincerely,

Nevada Department of Taxation