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June 2, 2004

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2004-01

RE: Increase in the Cigarette Tax After June 30, 2004

Act 246, Session Laws of Hawaii 2002 (Act 246), Relating to the Cigarette and Tobacco Tax, increases the tax on cigarettes from 6.5 cents per cigarette to:

- 7 cents per cigarette sold after June 30, 2004.

The tax is collected by the Department of Taxation (Department) when cigarette and tobacco wholesalers and dealers purchase cigarette tax stamps and place the stamps on cigarette packs prior to distribution. The current cigarette tax stamps are pink;[1] new blue tax stamps will be issued to implement the increase in the tax rate.[2]

I. Impact on Consumers

Consumers will see cigarette packs with pink stamps and cigarette packs with blue stamps. It is legal for retailers to continue to sell cigarette packs with the pink stamps on or after July 1, 2004, under certain circumstances described immediately below.

II. Impact on Retailers

Retailers may continue to sell cigarette packs stamped with the current pink tax stamps if: (1) the retailers have the cigarette packs with pink stamps affixed in their inventory as of July 1, 2004; or (2) the cigarette packs with pink stamps affixed were received from licensed wholesalers and dealers on or after July 1, 2004. Retailers may have to explain to consumers the reason for the different colored stamps.

Act 246 does not require retailers, who purchase cigarettes from licensed wholesalers and dealers, to collect the increase in cigarette taxes on July 1, 2004, as the tax is imposed on wholesalers and dealers. Retailers may pass on the additional tax to consumers when wholesalers and dealers pass on the additional tax to the retailers.

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[1] The pink stamps (with a denominated value of $1.30) have been sold from June 2, 2003, and prior to that yellow stamps (with a denominated value of $1.20) were sold, beginning October 1, 2002.

[2] The denominated value of the blue stamp will be $1.40.

III. Impact on wholesalers and dealers

A. Filing of a Cigarette Tax Stamps Floor Stock Return; Use of Blue Stamps

Act 246 requires every wholesaler and dealer to pay a tax of 7 cents per cigarette for each cigarette sold, used, or possessed after June 30, 2004.

In order to avoid wholesalers and dealers returning unused pink stamps and cigarette packs with pink stamps, all wholesalers and dealers must file Form M-107 (Rev. 2004), Cigarette Tax Stamps Floor Stock Return. The purpose of the floor stock return is to collect the difference in price ($1.40 per pack vs. $1.30 per pack, or $.07 per cigarette vs. $.065 per cigarette) between the blue stamp (new stamp) and pink stamp (current stamp) for every unused or affixed stamp in the wholesalers and dealers' ending inventory on June 30, 2004. Once the floor stock return has been filed and the difference in the tax has been paid, the pink stamps may be used until depleted. Wholesalers and dealers, therefore, may affix pink stamps to cigarette packs after June 30, 2004, after filing the floor stock return and paying the difference in tax rates. The stamp fee imposed under section 245-26, HRS,[3] and the discount provided under section 245-22, HRS,[4] will be applicable to the difference in the tax reported on the floor stock return. Please note that the floor stock returns are subject to audit.

The blue stamps will be available for purchase from First Hawaiian Bank beginning June 1, 2004. The price of a roll of blue stamps will be: $1.4182 x 15,000 = $21,273.00.

B. Purchasing Stamps on a Deferred Payment Plan

Wholesalers and dealers purchasing stamps on a deferred payment plan may increase the amount of their deferred payment purchases by the following:

- 7.7% (($1.40 - $1.30)/$1.30) if their cigarette tax stamp deferred payment agreement was approved when the cigarette tax was 6.5 cents per cigarette, or
- 16% (7.7% plus 8.3% (see Announcement No. 2003-71)) if their cigarette tax stamp deferred payment agreement was approved when the cigarette tax was 6 cents per cigarette, or

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[3] Section 245-26(a), HRS, provides: "Stamps shall be sold at their denominated values, plus a stamp fee of 1.7 percent of the denominated value of each stamp sold, composed of the aggregate of: (1) .2 percent of the denominated value of the stamp to pay for the cost to the State of providing the stamps, with such amount to be deposited to the credit of the department of taxation's cigarette tax stamp administrative special fund; and (2) 1.5 percent of the denominated value of the stamp to pay for the cost of enforcing the stamp tax, with such amount to be deposited to the credit of the department of the attorney general's tobacco enforcement fund; provided that the department of taxation by rule may modify the stamp fee to reflect actual costs incurred by the State in providing the stamps."

[4] Section 245-22(e), HRS, allows stamps to be sold with a 0.4 percent discount to defray the cost of affixing the stamps incurred by vendors. The Department may adjust the discount by rule. The discount is effective beginning September 1, 2001.

- 36% (7.7% plus 28.3% (see Announcement No. 2003-7)) if their cigarette tax stamp deferred payment agreement was approved when the cigarette tax was 5 cents per cigarette.

No increase in bond coverage is necessary for the July 1, 2004 rate increase.

The Department has revised the cigarette and tobacco tax forms to reflect the increase in the tax rate for sales, use, or possession of cigarettes after June 30, 2004. Current forms and other tax information are available at the Department's website at: www.state.hi.us/tax. On Oahu, forms may be ordered by calling the Department's Forms Request Line at: 587-7572. Persons who are not calling from Oahu may call: 1-800-222-7572 (toll-free) to receive forms by mail or by fax.



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HRS Section Explained: HRS Sections 245-3, 245-22, and 245-26.