LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2007-03

RE: Increase in the Cigarette Tax on September 30, 2007

Act 316, Session Laws of Hawaii 2006 (Act 316), increased the excise tax per cigarette sold in Hawaii. *For more information, see Department of Taxation Announcement No. 2006-13.*

Section 245-3, Hawaii Revised Statutes, was amended by increasing the excise tax per cigarette by one cent per year to the following amounts:

9.00 cents per cigarette on and after September 30, 2007;
10.00 cents per cigarette on and after September 30, 2008;
11.00 cents per cigarette on and after September 30, 2009;
12.00 cents per cigarette on and after September 30, 2010;
13.00 cents per cigarette on and after September 30, 2011.

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 orange;[1] new violet tax stamps will be issued to implement the increase in the tax rate.[2] *This announcement discusses the procedures for handling the increase in the price of the tax stamps by either returning unused rolls of stamps for credit or paying the difference for purposes of the September 30, 2007 tax increase. Subsequent increases will be addressed in subsequent announcements before each increase in tax becomes effective.*

I. Impact on Consumers

Consumers will see cigarette packs with orange stamps and cigarette packs with violet stamps. It is legal for retailers to continue to sell cigarette packs with the orange stamps on or after September 30, 2007, under certain circumstances described immediately below.

[1] The orange stamps (with a denominated value of $1.60) have been sold from September 1, 2006, and prior to that blue stamps (with a denominated value of $1.40) were sold, beginning June 1, 2004.

[2] The denominated value of the violet stamp will be $1.80.

II. Impact on Retailers

Retailers may continue to sell cigarette packs stamped with the current orange tax stamps if: (1) the retailers have the cigarette packs with orange stamps affixed in their inventory as of September 30, 2007; or (2) the cigarette packs with orange stamps affixed were received from licensed wholesalers and dealers on or after September 30, 2007. Retailers may have to explain to consumers the reason for the different colored stamps.

Act 316 does not require retailers, who purchase cigarettes from licensed wholesalers and dealers, to collect the increase in cigarette taxes on September 30, 2007, as the tax is imposed on wholesalers and dealers. However, if wholesalers and dealers pass on the additional tax to the retailers, they may pass on the additional tax to customers.

III. Impact on wholesalers and dealers

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

Act 316 requires every wholesaler and dealer to pay a tax of 9 cents per cigarette for each cigarette sold, used, or possessed on or after September 30, 2007 (and increasing thereafter pursuant to the schedule provided on page 1 of this Announcement).

In order to avoid wholesalers and dealers returning unused orange stamps and cigarette packs with orange stamps, all wholesalers and dealers must file Form M-107 (Rev. 2007), Cigarette Tax Stamps Floor Stock return. The purpose of Form M-107 is to collect the difference in price between the new violet stamp and current orange stamp for every unused or affixed stamp in the wholesaler/dealer's ending inventory on September 29, 2007 ($1.80 per pack/$0.09 per cigarette versus $1.60 per pack/$0.08 per cigarette).

Once the floor stock return Form M-107 has been filed and the difference in the tax has been paid, the orange stamps may be used until depleted, allowing wholesalers and dealers to affix orange stamps to cigarette packs on or after September 30, 2007. The stamp fee imposed under section 245-26, HRS,[3] and the discount provided under section 245-22, HRS, [4] will be

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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."

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 violet stamps will be available for purchase from First Hawaiian Bank beginning September 29, 2007. The price of a roll of violet stamps will be: $27,351.00.

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:

• 12.5% (($1.80 - $1.60)/$1.60) if their cigarette tax stamp deferred payment agreement was approved when the cigarette tax was 8 cents per cigarette.

No increase in bond coverage is necessary for the September 30, 2007 rate increase. However, all requests by stamp purchasers to increase the amount of deferred payment purchases must be provided in writing and sent to the following address:

Licensing Section
Taxpayer Services Branch
Department of Taxation
PO Box 259
Honolulu, Hawaii 96809

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 on or after September 30, 2007.

Current forms and other tax information are available at the Department's website at: www.hawaii.gov/tax. On Oahu, forms may be ordered by calling the Department's Forms Request Line at: (808) 587-7572. Persons who are calling from outside of Oahu may call: 1-800-222-7572 (toll-free) to receive forms by mail or by fax.



KURT KAWAFUCHI
Director of Taxation

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

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[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.