

# Guidelines for US Distributors

Shenzhen IVPS Technology Co., Ltd. (hereinafter referred to as “the Company”), a manufacturer of Electronic Nicotine Delivery Systems (ENDS) based in China, distributes products in the United States through third-party distributors. Provided below are our distributor guidelines for maintaining compliance with applicable U.S. laws and regulations. To the extent that the Company’s distributors have sub-distributors, the Company recommends these guidelines to such sub-distributors, at the discretion of its distributors.

## Compliance with Federal, State and Local Laws

All Company distributors are obligated to maintain compliance with all applicable Federal, State and Local laws and regulations, including:

- The Federal Food, Drug and Cosmetic Act (FDCA) – see below
- State and Local Health Codes
- State and Local Licensing and Tax Programs – see attached summary
- State and Local Laws and Regulations Applicable to Distribution of the Company’s Products

With respect to the FDCA, as amended by the Family Smoking Prevention and Tobacco Control Act, Company distributors that also engage in the manufacturing of Company products in the United States by, for example, repacking, relabeling, or filling semi-closed devices or pods with e-liquid, are also considered “manufacturers” who must, among other requirements, register their U.S. manufacturing establishments with and submit product lists to the Food and Drug Administration (FDA), pursuant to Section 905 of the FDCA.

In addition, such distributor-manufacturers must (1) submit ingredient reports to FDA for any products made or derived from tobacco, or made with consumable ingredients that are burned, aerosolized or ingested during tobacco product use, such as e-liquids filled into the Company’s semi-closed devices and pods; (2) submit health documents to FDA for such e-liquids, (3) comply with FDCA’s adulteration and misbranding provisions, and applicable tobacco product manufacturing practices (TPMP).

All distributors, whether manufacturers or not, must also:

Enter into a written agreement with the Company to do business, which shall include an indemnification provision negotiated by the parties.

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1. Sell only to people who are old enough (at least 18 years old throughout the United States and possibly older in certain states or other localities) confirmed using valid ID for any face-to-face transactions with consumers. If sales are made online, age should be verified using reputable age-verification software such as AgeMatch (Veratad), Agechecker.net or Bluecheck.
2. Not give out free samples to individual consumers,
3. Not bundle the Company's product with e-liquids without the Company's express permission.
4. Not bundle the Company's products with any food, beverage, drug or other consumable products.
5. Only provide samples to businesses in quantities sufficient to advance a business purpose and only with written assurances from the recipient that the product will be used for business purposes and not further distributed or sold;
6. Not modify any Company labels or advertising without express written permission.
7. Agree to abide by all FDA and state law requirements regarding advertising and marketing of tobacco products, and indemnify and hold harmless Company for any violations of such laws.
8. Agree not to market the Company's products for anything other than recreational adult vaping or as directed by the Company (i.e., no "off label" uses).
9. Ensure that it does not make, allow others within its control to make, or publicize or publish or distribute, any marketing materials, statements or claims, including but not limited to product review videos and articles (regardless of online or offline), without prior written authorization by Company regarding Company's products;
10. Obtain appropriate product liability and other insurance and include Company as an additional insured when applicable.
11. Not make any health or therapeutic claims, including smoking cessation claims, about the Company's products;
12. Not make any claims that the Company's products: (i) present a lower risk of disease or is less harmful than another tobacco product; or (ii) contain a reduced level of, or is free from, a substance, or that exposure to a substance is reduced or eliminated.

Distributors are responsible for adherence to all other FDCA requirements and this non-exhaustive list may be modified from time-to-time to aid distributors in identifying obligations under the FDCA. If you are unsure of your obligations under the FDCA or whether a particular action complies with the law, please contact us immediately.

## Other Distributor Requirements

- Maintain all facilities where the Company's products are manufactured or stored in a manner that ensures the health and safety of the product (see non-exhaustive list below); maintain written procedures in accordance with the same
- Provide timely and recurring certifications of the above to the Company

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- Supply the Company with any requested or required documentation demonstrating compliance with the same
- Timely notify the Company in the event of:
  - (1) any notice of inspection;
  - (2) the results of any such inspection;
  - (3) any notice of violation resulting from the same; and
  - (4) plans to take corrective actions
- Timely notify the Company in the event of any deviation from typical production processes (*e.g.*, damaged or lost materials; materials kept outside of normal operating conditions; carrier issues)
- Timely notify the Company in the event of any consumer complaints received
- Agree that the distributor shall not sub-contract any responsibilities delegated to the distributor without the express, written permission of the Company
- Agree that the distributor shall indemnify the Company for any losses related to non-compliance with these provisions

## Health and Safety Requirements

The following is a non-exclusive list for all facilities where the Company's products are manufactured or stored.

### Grounds:

- Maintain outside that is free of weeds, grass and bushes that might harbor pests
- Avoid standing water inside and outside of facility
- Ensure adequate lighting
- Prevent nesting of rodent and birds near access points (doors, windows, etc.)

### Facilities:

- Ensure adequate ventilation and climate control
- Ensure adequate restrooms and handwashing facilities
- Maintain personal hygiene policies
- Maintain separate eating and smoking/vaping areas

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- Maintain adequate waste disposal procedures
- Maintain a pest-control program
- Conduct periodic cleaning

## Equipment:

- Ensure equipment is maintained in precise, calibrated, functional, and clean/sanitary conditions
- Prevent buildup of debris and take steps to avoid cross-contamination
- Ensure that employees are properly trained and certified on the proper use of equipment

## Storage:

- Ensure that storage locations are properly labeled
- Maintain an inventory control system (*e.g.*, Quality Management Systems, First-in-first-out, etc.)

## Safety:

- Facility should conduct routine audits to ensure:
  - Prevention of access by minors
  - Prevention of tampering
  - Prevention of access by unauthorized individuals

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## State Law Summary for Distributors

The below chart summarizes the licensing and vapor tax requirements in those states that have adopted them so far (e.g., Alaska, Arkansas, California, Delaware, Iowa, Minnesota, Pennsylvania, Utah and West Virginia).<sup>1</sup> These may apply to distributors doing business in these states. Distributors should confirm their own obligations and comply. Relevant state law definitions are provided at the end of the table.

State/ Jurisdiction	Type of Permits/Licenses Required	Vapor Specific Excise Tax	Additional Comments
Arkansas	See <a href="http://www.atc.arkansas.gov/forms">http://www.atc.arkansas.gov/forms</a>	N/A - tobacco product tax does not apply to vapor	<b>Online sales directly to consumers is prohibited.</b> Sales can only be made to licensed Arkansas entities, and consumers can only purchase products in face-to-face transactions in retail locations.

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<sup>1</sup> Please keep in mind that the chart in Exhibit A identifies taxes that are specifically designed to be imposed on e-liquids and vapor products, rather than general sales and use tax obligations, which are applied more broadly to goods and services. Moreover, although some information relating to unique labeling, age-verification and other legal requirements may be indicated for a few states in the chart, please note that the chart is not intended to be a complete summary of all such laws, beyond tax and licensing requirements.

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<p>California</p>	<p>Tobacco Product Manufacturer’s License (for California-based manufacturers)</p> <p>Tobacco Product Distributor’s License</p> <p>Seller’s Permit</p> <p>Local Business Permit</p>	<p>65.08% of the wholesale cost of the product for any product sold in combination with nicotine.(Proposition 56)</p> <p><b>Note: Does not apply to out-of-state online retailer/distributor</b></p>	<p>California manufacturers will need:</p> <ul style="list-style-type: none"> <li>• Seller’s Permit</li> <li>• Tobacco Products Manufacturer’s Tax Account</li> <li>• Tobacco Products Manufacturer’s License Account</li> <li>• Tobacco Products Distributors Tax Account</li> <li>• Cigarette and Tobacco Products Distributors License Account</li> <li>• Cigarette and Tobacco Products Retailer’s License Account (if retail sales are made from the California locations)</li> <li>• <b>Note: None of these apply to out-of-state online retailer/distributor</b></li> </ul> <p>The Proposition 56 tax applies to the first “distribution” of the product in the state (i.e., the first sale, use, consumption, or the placing in vending machine or retail stock of an untaxed product in the state). Only licensed distributors can possess untaxed products. For more information see: <a href="https://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm">https://www.cdtfa.ca.gov/industry/cigarette-and-tobacco-products.htm</a>.</p> <p>Proposition 65 requires warning statements on products distributed in the state:</p> <p> <b>WARNING:</b> This product can expose you to chemicals including formaldehyde, which is known to the State of California to cause cancer, and nicotine, which is known to the State of California to cause birth defects or other reproductive harm. For more information, go to <a href="http://www.P65Warnings.ca.gov">www.P65Warnings.ca.gov</a>.</p>
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Delaware	May need to obtain either or both a Wholesale Dealer and Retailer Dealer License; <b>need to confirm with Delaware authorities.</b>	\$0.05/mL for nicotine-containing e-liquids; responsibility to pay tax falls onto the first person taking possession of the product in Delaware.	<p>Tax must be paid by the first person who takes possession of the product in the state, unless the person has proof that such taxes have already been paid.</p> <p><b>Confirm license obligations with the state.</b></p> <p>Additional info:  <a href="https://revenue.delaware.gov/information/faqs_cig.shtml">https://revenue.delaware.gov/information/faqs_cig.shtml</a></p>
Indiana	E-Liquid Manufacturing Permit for manufacturers  <a href="https://www.in.gov/atc/2714.htm">https://www.in.gov/atc/2714.htm</a>	N/A	<p>Labels on products sold in Indiana must include:</p> <ul style="list-style-type: none"> <li>• Indiana permit no.</li> <li>• Identifiable and trackable code</li> <li>• Manufacturing date</li> </ul>

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Iowa	<p>Delivery Sellers Permit</p> <p>Iowa Sales/Use Tax Permit</p>	<p>No vapor excise tax, but delivery sellers must collect both sales and use tax.</p> <p>Delivery sellers must also pay a \$1,000 bond.</p>	<p>Delivery Sellers permit required for online sales to Iowa consumers (products for personal consumption); application form: <a href="https://goo.gl/B3WDMh">https://goo.gl/B3WDMh</a>.</p> <p>Sellers may register for an Iowa sales/use tax permit: <a href="https://tax.iowa.gov/please-read-you-register-your-business">https://tax.iowa.gov/please-read-you-register-your-business</a></p> <p>Additional info: <a href="https://tax.iowa.gov/vapor-alternative-nicotine-products—requirements-delivery-sellers">https://tax.iowa.gov/vapor-alternative-nicotine-products—requirements-delivery-sellers</a></p> <p>Age-Verification</p> <ul style="list-style-type: none"> <li>• Must verify purchaser at least 18 via established database or obtaining valid ID</li> <li>• Must use delivery method that requires signature of 18+</li> </ul>

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Kansas	Consumable Material Tax Registration Certificate  Form EC-1: <a href="https://www.ksrevenue.org/pdf/ec1.pdf">https://www.ksrevenue.org/pdf/ec1.pdf</a>	\$0.05/mL – applies to both nicotine and non-nicotine e-liquids	Tax applies to “any liquid solution or other material that is depleted as an electronic cigarette is used.”  The consumable material tax is to be paid by the out-of-state distributor who first brings or causes to be brought into Kansas consumable material (e-liquid) for sale in Kansas; makes, manufactures, or fabricates consumable material in Kansas for sale in Kansas; or, ships or transports consumable material to retail dealers in Kansas to be sold by those retail dealers.  More info (monthly forms, etc.) available at: <a href="https://www.ksrevenue.org/faqs-taxcig.html">https://www.ksrevenue.org/faqs-taxcig.html</a>

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Louisiana	N/A	<p>\$0.05/mL of consumable nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used. <b>This does not apply to online retailers as out-of-state company with no “nexus” in Louisiana.</b></p>	<p>The Louisiana wholesale dealer or the retail dealer who first acquires or otherwise handles vapor products and electronic cigarettes is liable for the tax. If you receive vapor products from someone other than a Louisiana Authorized Tobacco Wholesaler you may be responsible for the tax.</p> <p>Internet retailer dealers with no nexus in Louisiana are not required to report and remit taxes on Internet sales. However, the purchaser is required to report and remit tax on the purchases.</p> <p>All invoices for consumable vapor products sold to Louisiana customers must include the amount of consumable vapor product sold stated in milliliters.</p> <p>FAQ on Vapor Products:  <a href="http://www.revenue.louisiana.gov/Faq/QuestionsAndAnswers/54">http://www.revenue.louisiana.gov/Faq/QuestionsAndAnswers/54</a></p> <p>[Pending Legislation] - HB239 would change the definition of “vapor products” which currently only includes noncombustible products “that can be used to produce vapor from nicotine in a solution or other form,” to include noncombustible products “that can be used to produce vapor from nicotine <b>or other substances.</b>” (Emphasis added.) See <a href="http://www.legis.la.gov/legis/BillInfo.aspx?i=233535">http://www.legis.la.gov/legis/BillInfo.aspx?i=233535</a>.</p>
Minnesota	Tobacco Products Distributor License	95% of the wholesale sales price of the tobacco product is imposed	Nonresidents who ship or transport tobacco products to retailers in Minnesota must hold a Distributor's License; licenses for tobacco

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	<p>for sales to in-state businesses</p> <p>See <a href="https://mn.gov/licensing/a-z/?id=1083-231589#/list/applid//filterType//filterValue//page/1/sort/order/">https://mn.gov/licensing/a-z/?id=1083-231589#/list/applid//filterType//filterValue//page/1/sort/order/</a></p>	<p>when the distributor: 1) brings, or causes to be brought, into the state from outside the state tobacco products for sale; 2) manufactures products in state; or 3) ships or transports tobacco products to retailers in Minnesota to be sold by those retailers. Minnesota Code 297F.05 (<a href="https://www.revisor.mn.gov/statutes/?id=297F.05">https://www.revisor.mn.gov/statutes/?id=297F.05</a>)</p>	<p>products distributor costs \$200 per licensing period. Minnesota Code 297F.03 (<a href="https://www.revisor.mn.gov/statutes/?id=297F.03">https://www.revisor.mn.gov/statutes/?id=297F.03</a>)</p> <p>Out of state retailers must register. Minnesota Code 297F.031 (<a href="https://www.revisor.mn.gov/statutes/?id=297F.031">https://www.revisor.mn.gov/statutes/?id=297F.031</a>)</p> <p>Taxes must be paid in Minnesota on sales of products containing or derived from tobacco (e.g., nicotine derived from tobacco) to in-state retailers not licensed as distributors <b>and possibly on sales to consumers (to the extent an online retailer chooses to pay taxes on such consumer sales).</b></p> <p>Consumers who purchase products subject to the tax directly from out-of-state retailers must pay the tax directly through the “Tobacco Consumer Use Tax”, provided that the out-of-state distributor has not already paid the tax. See: <a href="http://www.revenue.state.mn.us/businesses/tobacco/Documents/ecigarette_flyer.pdf">http://www.revenue.state.mn.us/businesses/tobacco/Documents/ecigarette_flyer.pdf</a>.</p> <p>Sales Records/Reporting Requirements: Monthly sales reports must be filed by distributors. <a href="http://www.revenue.state.mn.us/Forms_and_Instructions/ct301t.pdf">http://www.revenue.state.mn.us/Forms_and_Instructions/ct301t.pdf</a></p> <p>Additional information available at: <a href="http://www.revenue.state.mn.us/businesses/tobacco/Pages/e-Cig.aspx">http://www.revenue.state.mn.us/businesses/tobacco/Pages/e-Cig.aspx</a></p>
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North Carolina	<p>Wholesale Dealers License; applies to online retailers if shipping to NC other than through a common carrier (mail or FedEx, etc.).</p> <p>Form B-A-2:  <a href="http://www.dorncc.com/downloads/to_bacco.html">http://www.dorncc.com/downloads/to_bacco.html</a>.</p>	<p>\$0.05/mL (consumable mL of nicotine containing products only).  <b>This does not appear to apply to online retailers that are out-of-state.</b></p>	<p>To the extent that <b>an online retailer</b> delivers products to North Carolina retail or wholesale dealers, through means other than a common carrier such as the U.S. mail, FedEx or UPS, you will need to obtain a wholesale dealer license from the state.</p> <p>Out-of-state online retailers are not be liable for the excise tax, however, as that applies to the first dealer that acquires or otherwise handles the consumable vapor products in North Carolina.</p> <p>See FAQ on Tax on Vapor Products:  <a href="https://files.nc.gov/ncdor/documents/faq/evapor_faq.pdf?IdIju6XlaeFdAnFkPiZ7R7XbxelrK7jc">https://files.nc.gov/ncdor/documents/faq/evapor_faq.pdf?IdIju6XlaeFdAnFkPiZ7R7XbxelrK7jc</a>.</p>

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<p>Pennsylvania</p>	<p>Tobacco Products License (License Type – OTP Manufacturer) to sell to in-state retailers</p> <p>Form REV-663:  <a href="http://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/Documents/Other%20Tobacco%20Products/rev-663.pdf">http://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/Documents/Other%20Tobacco%20Products/rev-663.pdf</a>.</p>	<p>40% of retailer’s purchase price (amount paid by retailer to manufacturer or dealer)</p> <p>40% floor tax for in-state retailers</p>	<p>Tax applies to nicotine and non-nicotine e-liquids, vapor devices, and certain device components and parts, including lithium-ion batteries, wires, cables, tanks, coils, atomizers, etc., but <i>not</i> generic batteries charges, cables or other accessories.</p> <p>Online retailers are required to collect the tax from in-state retailers and/or individual consumers when the product is purchased. If an online retailer does not have a license, tax liability falls to the consumer (who becomes an unclassified importer).</p> <p>The tax amount must be stated on individual invoices, and there is a requirement to report taxes collected monthly.</p> <p>Link to register new product tax account: registering for a new tobacco product tax account at <a href="http://etides.state.pa.us">etides.state.pa.us</a>.</p> <p>There is a potential argument that application of PA tax on out-of-state businesses is unconstitutional (please let us know if you have any questions about this).</p> <p><b>Additional Information:</b></p> <p><a href="http://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/OTPT/Documents/tobacco_products_tax_qa.pdf">http://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/OTPT/Documents/tobacco_products_tax_qa.pdf</a>.</p>
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Utah	Electronic Cigarette Product License  Form TC-69 license application: <a href="http://tax.utah.gov/forms/current/tc-69.pdf">http://tax.utah.gov/forms/current/tc-69.pdf</a>	N/A	<p>Utah authorities confirmed that out-of-state manufacturers who merely deliver products to Utah businesses are required to obtain a license (this is considered selling products “in Utah”).</p> <p>Online sales to consumers are prohibited. Utah Code 76-10-105.1 expressly prohibits the sale of e-cigarettes except in a face-to-face exchange unless the purchaser is a business with a valid Utah Tobacco or e-cigarette license or the sale is taking place in a certain physical location that is prohibited to people under 19.</p> <p>Nicotine content in e-liquid products must be below 360mg per container and the concentration of nicotine should be below 24mg per mL of liquid product. Utah Administrative Rule R384-415.5</p> <p>Labeling Requirements: <a href="http://utahtobaccolaws.org/ecigarette-sales/">http://utahtobaccolaws.org/ecigarette-sales/</a>.</p>

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Washington	<p>Washington State Liquor and Cannabis Board Business License</p> <p>Vapor Product Delivery Sales for online direct to consumer sales:  <a href="http://bls.dor.wa.gov/vapordelivery.aspx">http://bls.dor.wa.gov/vapordelivery.aspx</a></p>	N/A	<p>Retailers, distributors and delivery sellers of vapor products (including nicotine and non-nicotine e-liquids) must obtain a license from the Washington State Liquor and Cannabis Board (LCB) in order to conduct business in Washington. See <a href="https://lcb.wa.gov/vape/vapor-products-law">https://lcb.wa.gov/vape/vapor-products-law</a>.</p> <p>A Vapor Product Delivery Sales endorsement is required for each location of a business, regardless whether located inside or outside Washington, from which retail sales orders for vapor products are taken from Washington consumers by means of telephone or other voice transmissions, by mail or other delivery services, or the Internet or other online services; or from which vapor products are delivered to Washington consumers by use of the mails or other delivery services. See <a href="http://bls.dor.wa.gov/vapordelivery.aspx">http://bls.dor.wa.gov/vapordelivery.aspx</a>.</p> <p>A Vapor Product Distributor endorsement is required for each location of a business that purchases vapor products and conducts wholesale sales or distribution to vapor product retailers for resale to consumers. See <a href="http://bls.dor.wa.gov/vapordistributor.aspx">http://bls.dor.wa.gov/vapordistributor.aspx</a>.</p>

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West Virginia	Business Registration Certificate	<p>\$0.075/mL; only applies to nicotine and non-nicotine e-liquid sales directly to consumers (online sales).</p> <p>E-liquid mixing kits are to be taxed at the same rate in accordance with the amount e-liquid that can be produced from the kit or its components.</p> <p>Businesses importing untaxed e-liquids into WV are liable for the tax (whoever first acquires it).</p>	<p>Manufacturers who sell e-liquids directly to consumers, must obtain a business registration certificate before selling e-liquids in WV. See <a href="https://tax.wv.gov/Business/BusinessRegistration/Pages/BusinessRegistration.aspx">https://tax.wv.gov/Business/BusinessRegistration/Pages/BusinessRegistration.aspx</a>.</p> <p>All invoices for e-liquids sold to WV customers must include the amount of e-liquid sold stated in milliliters.</p> <p>Registered wholesale dealers, including manufacturers that sell directly to <i>retailers</i>, are to complete Form TPT-709 West Virginia Tobacco Products Tax Report on a monthly basis.</p> <p>Internet retailers selling tax-not-paid e-cigarette liquid in West Virginia to consumers are required to register as a retail dealer and report Internet sales and remit the appropriate amount due on TPT-709 - West Virginia Tobacco Products Tax Report.</p> <p>Additional info: <a href="http://tax.wv.gov/Business/ExciseTax/TobaccoTax/HowDoI/Pages/ElectronicCigaretteLiquidsExciseTaxFAQ.aspx">http://tax.wv.gov/Business/ExciseTax/TobaccoTax/HowDoI/Pages/ElectronicCigaretteLiquidsExciseTaxFAQ.aspx</a>.</p>
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Washington, D.C.	N/A	60% of wholesale price of a vapor product; applies to the first person to possess or sell the vapor products in the District.	<p>Vapor product means any non-lighting, noncombustible product that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce aerosol from nicotine in a solution or any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.</p> <p>The excise tax will be imposed on devices that can be used to produce aerosol from nicotine in a solution, whether sold with or separately from nicotine in a solution. The tax on such devices also applies to the component parts of such devices when sold separately, including batteries, atomizers, cartridges, tanks, cartomizers, and mouthpieces. Accessories that are not component pieces of the devices, such as battery rechargers, are not vapor products and not subject to the excise tax. Accessories will continue to be subject to the sales tax.</p> <p><a href="https://otr.cfo.dc.gov/release/vapor-products-subject-excise-tax-effective-october-1-2015-exempt-sales-tax">https://otr.cfo.dc.gov/release/vapor-products-subject-excise-tax-effective-october-1-2015-exempt-sales-tax</a></p>

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<p>Chicago, Illinois</p>	<p>Online retailers must register as Wholesalers</p>	<p>\$0.55/mL + \$0.80/unit; the tax shall be <b>collected by wholesalers</b> who sell liquid nicotine products to retailers located in the City (the retailer shall in turn collect the tax from the retail purchaser).</p> <p><u>Taxable Examples</u></p> <ol style="list-style-type: none"> <li>1. E-liquids, e-juice, and smoke juice containing nicotine.</li> <li>2. Disposable electronic smoking devices (i.e. electronic cigarettes) with e-juice containing nicotine.</li> <li>3. DIY kits that contain liquid nicotine.</li> </ol> <p><u>Non-Taxable Examples</u></p> <ol style="list-style-type: none"> <li>1. E-liquids or e-juice that does not contain nicotine.</li> <li>2. Electronic smoking devices (i.e. electronic cigarettes) and accessories that are sold separate from non-nicotine e-juice.</li> <li>3. Drugs or medical devices regulated by FDA.</li> </ol>	<p>"Wholesale liquid nicotine product dealer" or "wholesaler" means any person who engages in the business of selling or supplying liquid nicotine products to any person for resale in the City.</p> <p>In short, online retailers must <i>register</i> as a wholesaler in Chicago (this is not a license) so that it can collect the tax from retail dealers in the City who you sell products to, as well as from consumers in Chicago who purchase the products from online retail stores.</p> <p>Chicago Liquid Nicotine Product Tax FAQ:</p> <p><a href="https://www.cityofchicago.org/content/dam/city/depts/rev/supp_info/TaxPublicationsandReports/LiquidNicotineFloorTaxFAQs.pdf">https://www.cityofchicago.org/content/dam/city/depts/rev/supp_info/TaxPublicationsandReports/LiquidNicotineFloorTaxFAQs.pdf</a></p>
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Cook County, Illinois	Online retailers must register as Wholesalers	\$0.20/mL on nicotine-containing e-liquids	Wholesale tobacco dealers (which include those who engage in the business of selling or supplying vapor products and who bring, or cause to bring into Cook County said products for sale or resale to retail tobacco dealers) must register.  <a href="https://www.cookcountyil.gov/service/tobacco-tax">https://www.cookcountyil.gov/service/tobacco-tax</a>
Montgomery County, MD	Register to pay the tax:  <a href="http://www.montgomerycountymd.gov/ecigtax">http://www.montgomerycountymd.gov/ecigtax</a>	30% wholesale price imposed on every person who supplies e- cigarettes to a dealer in the County  Tax Application <a href="http://www.montgomerycountymd.gov/excise_tax_instructions">www.montgomerycountymd.gov/excise_tax_instructions</a>	If any dealer transports or causes to be transported into the County an Electronic Cigarette Product, that dealer is liable for the payment of the tax imposed, unless that dealer obtains from the supplier of the Electronic Cigarette Product a written certification, in a form approved by the Director, that the supplier is liable for and is paying the tax.  <a href="https://www.montgomerycountymd.gov/Finance/Resources/Files/ElectronicCigaretteInformation.pdf">https://www.montgomerycountymd.gov/Finance/Resources/Files/ElectronicCigaretteInformation.pdf</a>  Monthly returns must be filed on or before the last day of each month, covering the immediate preceding month. A monthly return must be filed even if no tax is due for that specific month

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State/ Jurisdiction	Type of Permits/Licenses Required	Vapor Specific Excise Tax	Additional Comments
Juneau, Alaska	Register as a distributor	45% wholesale price of the product	<p>The excise tax is levied when a distributor brings, or causes to be brought, cigarettes or other tobacco products into the City and Borough from outside the City and Borough for sale.</p> <p>No person may sell, purchase, possess or bring cigarettes or other tobacco products into the City and Borough as a distributor without first registering with the City and Borough. The registration shall be on a form provided by the department and must include the information requested by the department.</p> <p><a href="https://library.municode.com/ak/juneau/codes/code_of_ordinances?nodeId=COLABOJUALVOII_TIT69RETA_CH69.08EXTATOPR_69.08.03OEX">https://library.municode.com/ak/juneau/codes/code_of_ordinances?nodeId=COLABOJUALVOII_TIT69RETA_CH69.08EXTATOPR_69.08.03OEX</a></p>

## Guidelines for US Distributors

State/ Jurisdiction	Type of Permits/Licenses Required	Vapor Specific Excise Tax	Additional Comments
NW Artic Borough, Alaska	Register as a distributor	45% wholesale price of the product  <a href="https://www.nwabor.org/wp-content/uploads/Tobacco-Excise-Tax-Registration-and-Annual-Renewal.pdf">https://www.nwabor.org/wp-content/uploads/Tobacco-Excise-Tax-Registration-and-Annual-Renewal.pdf</a>	The excise tax is only imposed on “distributors” — businesses that bring cigarettes or other tobacco products into the Borough for sale to local stores or retailers. Every distributor who brings cigarettes into the Borough must register with the Borough and must file a quarterly tax return.  <a href="https://www.nwabor.org/tobacco-excise-tax-information/">https://www.nwabor.org/tobacco-excise-tax-information/</a>
Petersburg, Alaska	Register as a distributor	45% wholesale price of the product  <a href="http://www.ci.petersburg.ak.us/vertical/sites/%7B6795A51C-8710-4546-B2D2-2A07534E232B%7D/uploads/TobaccoTax_Application.pdf">http://www.ci.petersburg.ak.us/vertical/sites/%7B6795A51C-8710-4546-B2D2-2A07534E232B%7D/uploads/TobaccoTax_Application.pdf</a>	The collection of the excise tax shall be from the distributor who first brings or transports, or causes to be brought or transported, cigarettes or other tobacco products into the Petersburg Borough.  <a href="http://www.ci.petersburg.ak.us/index.asp?SEC=6B533102-B405-4CE2-A5DE-F9ACCB9802E5&amp;Type=B_BASIC">http://www.ci.petersburg.ak.us/index.asp?SEC=6B533102-B405-4CE2-A5DE-F9ACCB9802E5&amp;Type=B_BASIC</a>

## Guidelines for US Distributors

State/ Jurisdiction	Type of Permits/Licenses Required	Vapor Specific Excise Tax	Additional Comments
Mat-Su Valley, Alaska	Register as a distributor ( <b>need to confirm with authorities</b> ).	55% wholesale price of the product  <a href="http://www.codepublishing.com/AK/MatanuskaSusitnaBorough/">http://www.codepublishing.com/AK/MatanuskaSusitnaBorough/</a>	An excise tax of 55 percent of the wholesale price is levied on tobacco products, other than cigarettes, brought into the borough. The tax is levied effective July 1, 2013. Tobacco products upon which this tax is imposed are not again subject to this tax when acquired by another person.  If you are selling ANY tobacco products you should contact the Excise Tax Specialist @ (907)861-8503.  <a href="https://www.matsugov.us/business-licenses">https://www.matsugov.us/business-licenses</a>

# Guidelines for US Distributors

## Definitions of Key Terms by State/Jurisdiction

### Juneau, Alaska

Distributor - means a person who brings cigarettes or other tobacco products, or causes them to be brought, into the City and Borough, and who sells or distributes them to others in the City and Borough.

Other tobacco product - means: (1) [Reserved.] (2) A cigar; (3) A cheroot; (4) A stogie; (5) A perique; (6) Snuff and snuff flour; (7) Smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette; (8) Chewing tobacco, including cavendish, twist, plug, scrap, and tobacco suitable for chewing; (9) An article or product made wholly or in part of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or (10) **Any noncombustible device that provides a vapor or liquid nicotine to the user or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.**

Wholesale price - means the price the distributor pays for a tobacco product, after deduction of a discount or other reduction received by the distributor for quantity or cash.

### Mat-Su Valley, Alaska

Brought into or acquired - includes all manners, ways, and modes of bringing into or obtaining cigarettes or tobacco products in the borough.

Distributor - means a person who brings cigarettes or other tobacco products or causes them to be brought into the borough, and who sells or distributes them to others for resale in the borough.

Manufacturer - means a person who makes, fashions, or produces cigarettes, or other tobacco products for sale to distributors or other persons within the borough.

# Guidelines for US Distributors

Other tobacco product - means: (a) A cigar; (b) A cheroot; (c) A stogie; (d) A perique; (e) Snuff and snuff flour; (f) Smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette; (g) Chewing tobacco, including cavendish, twist, plug, scrap, and tobacco suitable for chewing; (h) An article or product made wholly or in part of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or (i) **Any noncombustible device that provides a vapor or liquid nicotine to the user or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.**

Retailer - means a person in the borough who is engaged in the business of selling cigarettes or other tobacco products at retail.

Wholesale price - means the established price for which a manufacturer sells a tobacco product to a distributor or other person, after deduction of a discount or other reduction received by the distributor for quantity or cash.

## NW Artic Borough, Alaska

Distributor - means a person who brings cigarettes or other tobacco products, or causes them to be brought, into the City and Borough, and who sells or distributes them to others in the City and Borough.

Other tobacco product - means: (1) A cigar; (2) A cheroot; (3) A stogie; (4) A perique; (5) Snuff and snuff flour; (6) Smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette; (7) Chewing tobacco, including cavendish, twist, plug, scrap, and tobacco suitable for chewing; (8) An article or product made wholly or in part of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or (9) **Any noncombustible device that provides a vapor or liquid nicotine to the user or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.**

Wholesale price - means the price the distributor pays for a tobacco product, after deduction of a discount or other reduction received by the distributor for quantity or cash.

## Petersburg, Alaska

# Guidelines for US Distributors

Distributor - means a person who brings cigarettes or other tobacco products, or causes them to be brought, into the City and Borough, and who sells or distributes them to others in the City and Borough.

Other Tobacco Products - means a cigar, a cheroot, a stogie, a perique, snuff and snuff flour, smoking tobacco, including granulated, plug-cut, crimp cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette, chewing tobacco, including cavendish, twist, plug, scrap and tobacco suitable for chewing; a vapor product; or an article or product made wholly or in part of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption. Other tobacco product excludes a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United State Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose.

**Vapor Product - means any vapor cartridge or other similar container which contains nicotine in a solution or other form that is intended to be used with an electronic cigarette or similar vapor producing devise. It also includes an electronic cigarette kit when the kit contains vapor cartridge(s) and a disposable electronic cigarette or similar devise sold for one time use.**

Wholesale Price - means the established price for which a manufacturer sells a tobacco product to a distributor or other person, after deduction of a discount or other reduction received by a distributor for quantity or cash.

## **Arkansas**

Alternative nicotine product - means: (A) A product that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means; and (B) "Alternative nicotine product" does not include a: (i) Cigarette; (ii) Tobacco product; (iii) Vapor product; (iv) Product that is a drug under 21 U.S.C. § 321(g)(1); (v) Product that is a device under 21 U.S.C. § 321(h); or (vi) Product that constitutes a combination drug, device, or biological product as described in 21 U.S.C. § 353(g).

Dealer's License - means a license for an entity that: (A) Represents cigarette, tobacco, vapor product, alternative nicotine product, or e-liquid product manufacturers for the purpose of promoting the manufacturers' products in the State of Arkansas; and (B) May have manufacturer representative permits issued to its sales representatives.

**E-liquid and e-liquid product - means a liquid product, which may or may not contain nicotine, that is vaporized and inhaled when using a vapor product, and that may or may not include without limitation propylene glycol, vegetable glycerin, nicotine from any source, and**

# Guidelines for US Distributors

## flavorings.

First sale – means (A) The first sale within this state of tobacco products made by a manufacturer or any other person to a licensed wholesaler, a licensed vendor, or a licensed retailer; and (B) The first possession of a tobacco product within this state that was purchased outside of this state and subsequently brought into this state by any person for the purpose of selling the tobacco product at retail to consumers in this state.

Invoice price - means (A) the price that a wholesaler or retailer of tobacco products, vapor products, alternative nicotine products, or e-liquid products pays to a manufacturer, importer, distributor, or any other seller to acquire tobacco products, vapor products, alternative nicotine products, and e-liquid products that the purchaser subsequently sells in the state. (B) In the absence of proof by the person possessing the tobacco products, vapor products, alternative nicotine products, or e-liquid products of the price at which the tobacco products, vapor products, alternative nicotine products, or e-liquid products were purchased, "invoice price" shall be the highest price, in the normal course of business and before any discount, at which the manufacturer of the tobacco products, vapor products, alternative nicotine products, or e-liquid products sells the tobacco products, vapor products, alternative nicotine products, or e-liquid products in question;

Manufacturer - means “a person that manufactures, fabricates, assembles, or processes a tobacco product or manufactures or fabricates a vapor product, alternative nicotine product, or e-liquid product, including without limitation federally licensed importers and federally licensed distributors that deal in tobacco products, vapor products, alternative nicotine products, or e-liquid products.” Manufacturer" includes a sales entity affiliate of the manufacturer or any other entity representing the manufacturer with regard to the sale of tobacco products, vapor products, alternative nicotine products, or e-liquid products produced by the manufacturer to wholesalers or licensed retailers.

"Manufacturer" specifically includes a person that mixes, compounds, repackages, or resizes e-liquids or vapor products.

Retailer - means “a person that purchases tobacco products, vapor products, alternative nicotine products, or e-liquid products from licensed wholesalers for the purpose of selling the tobacco products, vapor products, alternative nicotine products, or e-liquid products over the counter at retail to consumers.”

Tobacco Products - means all products containing tobacco for consumption, including without limitation cigarettes, cigars, little cigars, cigarillos, chewing tobacco, smokeless tobacco, snuff, smoking tobacco, including pipe tobacco, and smoking tobacco substitutes.

# Guidelines for US Distributors

**Vapor product** - means an electronic oral device of any size or shape that contains a vapor of nicotine, e-liquid, or any another substance that when used or inhaled simulates smoking, regardless of whether a visible vapor is produced, including without limitation a device that: (A) Is composed of a heating element, battery, electronic circuit, chemical process, mechanical device, or a combination of heating element, battery, electronic circuit, chemical process, or mechanical device; (B) Works in combination with a cartridge, other container, or liquid delivery device containing nicotine or any other substance and manufactured for use with vapor products; (C) Is manufactured, distributed, marketed, or sold as any type or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any other product name or descriptor; and (D) Does not include a product regulated as a drug or device by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as it existed on January 1, 2015.

**Wholesaler** - means “a person other than a manufacturer or a person owned or operated by a manufacturer that: (a) does business [in Arkansas]; (b) purchases cigarettes, other tobacco products, vapor products, alternative nicotine products, or e-liquid products from any source;(c) distributes or sells the cigarettes, other tobacco products, vapor products, alternative nicotine products, or e-liquid products to other wholesalers, vendors, or retailers; and (d) does not distribute or sell the cigarettes, other tobacco products, vapor products, alternative nicotine products, or e-liquid products at retail to consumers.”

All definitions from: Arkansas Code Title § 26-57-203.

## **California**

**Distribution** – Includes the sale or use of untaxed tobacco products in CA. Distribution also includes the placing of an untaxed tobacco product in a vending machine or in retail stock for purposes of selling the product to consumers.

**Distributor** – A person who distributes, as the term is defined above, tobacco products. The distributor is the person or entity that makes the first tobacco product distribution (*i.e.*, sale of a previously untaxed tobacco product) in CA. See <https://www.boe.ca.gov/sptaxprog/spctdistributor.htm>.

**Electronic cigarette** – Defined as “any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.” The term includes any component, part, or accessory of a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine. The term also includes include any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form. Electronic cigarettes do not

# Guidelines for US Distributors

include any device not sold in combination with any liquid or substance containing nicotine, or any battery, battery charger, carrying case, or other accessory not used in the operation of the device, if sold separately. In other words, for purposes of the Prop 56 tax, closed-system (cigalikes) and open-system e-liquids are “electronic cigarettes”. See Cal Rev. & Tax. § 30121(c).

Tobacco Product (Revenue and Taxation Code Definition) – A tobacco product is defined in the Revenue and Taxation Code as a “product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff, but does not include cigarettes.” Electronic cigarettes are captured within this definition of tobacco product. See Cal Rev. & Tax. § 30121(b).

Wholesale cost - (1) If finished tobacco products are purchased by a distributor from a supplier in an arm’s- length transaction, the "wholesale cost" of the tobacco product is the amount paid for the tobacco product, including any federal excise tax, but excluding any transportation charges for shipment originating within the United States. Discounts and trade allowances must be added back when determining "wholesale cost." (2) If a manufacturer or an importer is also the distributor, the wholesale cost of tobacco includes all manufacturing costs, the cost of raw materials (including waste materials not incorporated into the finished tobacco product) prior to any discounts or trade allowances, the cost of labor, any direct (including freight-in) and indirect overhead costs, and any federal excise and/or U.S. Customs taxes paid. Wholesale cost includes all freight or transportation charges for shipment of materials and/or unfinished product from the supplier to the manufacturer concurrently licensed as a distributor, but excludes domestic freight or transportation charges for shipment of finished tobacco products as defined in subdivision (a)(3). (3) If tobacco product costs include express, implicit, or unstated discounts or trade allowances, the correct wholesale costs to be reported by the distributor may be determined using any of the methods provided in subdivision (c). (4) If tobacco products are not purchased in an arm’s-length transaction, the correct wholesale costs to be reported by the distributor may be determined using any of the methods provided in subdivision (c). Cal. Code Regs. tit. 18 § 4076(b)(2).

At the time of this writing, the state of CA is considering adoption of a new definition of the term “wholesale cost” and creating a definition for the term “manufacturer”. See <https://www.cdtfa.ca.gov/taxes-and-fees/Regs4076-4077Prop56IssuePaperPackage.pdf>.

Wholesaler – A wholesaler is a person who engages in making sales of tobacco products intended for resale for which the tobacco product tax has been paid.

# Guidelines for US Distributors

Unless noted otherwise, these definitions come from Cal Rev. & Tax. § 3001-3019.

## Delaware

Affixing agent - means any tobacco products dealer or any other person within or without this State appointed by the Department of Finance as an agent to affix the stamps to be used in paying the excise tax imposed by this chapter. The first vendor who has possession of unstamped tobacco products in this State for sale in this State is deemed an affixing agent. Del. Code Ann. Tit. 30 § 5301(1).

Delivery sale - means any sale of any tobacco product to a consumer in this State where either: (a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the Internet or other online service; or (b) The tobacco products are delivered by use of the mails or of a delivery service. A sale of any tobacco product shall be a delivery sale regardless of whether the seller is located within or without this State. A sale of any tobacco product not for personal consumption to a person who is a distributor or a retail dealer shall not be a delivery sale. Del. Code Ann. Tit. 30 § 5361(3).

Distributor - means any of the following: (a) Any person engaged in the business of selling tobacco products in this State who brings or causes to be brought into this State from without the State any tobacco products for sale. (b) Any person who makes, manufactures, or fabricates tobacco products in this State for sale in this State. (c) Any person engaged in the business of selling tobacco products without this State who ships or transports tobacco products to retail dealers in this State to be sold by those retail dealers. Del. Code Ann. Tit. 30 § 5301(6).

Electronic smoking device - means a nonlighted, noncombustible device that employs a mechanical heating element, battery, or circuit, regardless of shape or size, to produce aerosolized or vaporized nicotine for inhalation into the body of an individual. "Electronic smoking device" includes a device that is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or any other similar product with any other product name or descriptor. Del. Code Ann. Tit. 30 § 5301(7).

# Guidelines for US Distributors

Retail dealer - means any person who purchases or receives stamped tobacco products from any source whatsoever for the purpose of sale to the ultimate consumer. Del. Code Ann. Tit. 30 § 5301(11).

Tobacco products – the definition for the term in the tobacco tax statute that comes into effect in 2018 defines the term as “all products made primarily from tobacco for individual consumption, including cigarettes, cigars, pipe tobacco, and vapor products.” Del. Code Ann. Tit. 30 § 5301(16).

We note the definition of tobacco product in the delivery sales statute is not identical to the definition of tobacco product in the tobacco tax statute referenced above, and could be interpreted to not include e-liquids. Specifically, the delivery sales statute defines tobacco product as “1 or more cigarettes, herbal cigarettes, bidis, chewing tobacco, powdered tobacco, snuff or any other, noncigar or nonpipe tobacco product.” It is not clear based on the language of the statute whether “noncigar or nonpipe tobacco product” could include e-liquids or vapor products. Del. Code Ann. Tit. 30 § 5361(11).

Vapor products - means any nicotine liquid solution or other material containing nicotine that is intended to be used with or in an electronic smoking device. Del. Code Ann. Tit. 30 § 5301(20).

Wholesale dealer - means any person who regularly sells tobacco products within this State to others who buy for the purpose of resale. Del. Code Ann. Tit. 30 § 5301(22).

Wholesale price - means the price for which a manufacturer sells a tobacco product to a distributor exclusive of any discount, rebate, or other reduction. Del. Code Ann. Tit. 30 § 5301(23).

## Georgia

# Guidelines for US Distributors

Alternative nicotine product - any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means, not including tobacco product, vapor products, or any products regulated as a drug or device by FDA.

Vapor product - any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. The term 'vapor product' shall include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

## **Cooke County, Illinois**

Consumable Product - means any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

Manufacturer - means any person, other than a Retail Cigarette Manufacturer, who makes or fabricates cigarettes, other tobacco products, and/or Consumable Products and sells them.

Vapor Product - means any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

Wholesale Tobacco Dealer - means any person who engages in the business of selling or supplying cigarettes, Other Tobacco Products, and/or Consumable Products, who brings or causes to be brought into the County of Cook cigarettes, Other Tobacco Products, and/or Consumable Products for sale or resale to retail tobacco dealers and/or retail cigarette manufacturers in or outside the County of Cook. For the purposes of this article, wholesale tobacco dealers also includes persons or businesses licensed as tobacco distributors, cigarette distributors or wholesalers with the State of Illinois.

# Guidelines for US Distributors

## Chicago, Illinois

Liquid Nicotine Product - means: (1) any electronic cigarette containing liquid, gel, or other solution that contains nicotine; and (2) any other container of liquid, gel, or other solution where the liquid, gel, or other solution (i) contains nicotine and (ii) is intended to be utilized in an electronic cigarette. The term “liquid nicotine product” does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.

Wholesale liquid nicotine product dealer or wholesaler - means any person who engages in the business of selling or supplying liquid nicotine products to any person for resale in the City.

## Indiana

E-Liquid - A substance that (1) may or may not contain nicotine and (2) is intended to be vaporized or inhaled using a vapor product.

Manufacturer - a person located inside or outside Indiana that is engaged in manufacturing e-liquid.

Manufacturing - the process by which an e-liquid is mixed, bottled, and packaged.

Vapor Product - a powered vaporizer that converts e-liquid to a vapor intended for inhalation.

## Iowa

Alternative Nicotine Product – means a product, not consisting of or containing tobacco, that provides for the ingestion in to the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “*Alternative nicotine product*” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by FDA. Iowa Code 453A.1.1.

Delivery sale - means any sale of an alternative nicotine product or a vapor product to a purchaser in this state where the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, mail or any other delivery service, or the internet or other online service and the alternative nicotine product or vapor product is delivered by use of mail or a delivery service. The sale of an alternative nicotine product or vapor product shall constitute a delivery sale regardless of whether the seller is located in this state. “Delivery sale” does not include a sale to a distributor or retailer of any alternative nicotine product or vapor product not for personal consumption. Iowa Code 453A.1.8.

# Guidelines for US Distributors

Distributor - shall mean and include every person in this state who manufactures or produces cigarettes or who ships, transports, or imports into this state or in any manner acquires or possesses cigarettes without stamps affixed for the purpose of making a “first sale” of the same within the state. Iowa Code 453A.1.13.

Manufacturer - shall mean and include every person who ships cigarettes into this state from outside the state. Iowa Code 453A.1.17.

Retailer – means any person engaged in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers. Iowa Code 453A.1.23.

Subjobber - means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumer. Iowa Code 453A.42.15.

Tobacco products - means cigars; little cigars as defined herein; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes. Iowa Code 453A.1.28.

Vapor Product – means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product that is regulated as a drug or device by FDA. Iowa Code 453A.1.29.

Wholesaler - shall mean and include every person other than a distributor or distributing agent who engages in the business of selling or distributing cigarettes within the state, for the purpose of resale. Iowa Code 453A.1.30.

## Kansas

Consumable material - defined as any liquid solution or other material that is depleted as an electronic cigarette is used.

# Guidelines for US Distributors

Consumer - defined as person purchasing or receiving consumable material for final use.

Distributor - defined as (1) any person engaged in the business of selling consumable material in Kansas who brings, or causes to be brought, into Kansas consumable material for sale, unless that person is a retail dealer who has purchased the consumable material on a tax-paid basis from a distributor; (2) any person who makes, manufactures, or fabricates consumable material for sale in Kansas; (3) any person engaged in the business of selling consumable material outside of Kansas who ships or transports consumable material to any person in the business of selling electronic cigarettes or consumable material in Kansas; or (4) any person who has one or more retail dealer establishments that (a) bring or cause to be brought into Kansas consumable material for sale by any of those retail dealer establishments, or (b) make, manufacture, or fabricate consumable material in Kansas for sale in Kansas; however, each person who has a retail dealer establishment from which the consumable material is sold to the consumer shall be deemed a retail dealer.

Retail Dealer - defined as a person engaged in the business of selling consumable material to the consumer in Kansas.

## Louisiana

Consumable vapor product - A consumable vapor product is any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used. This includes, but is not limited to, prefilled tanks used in rechargeable and non-rechargeable [disposable] vapor products and the end liquid product blended for sale to the consumer.

Retail dealer - a retail dealer is every person other than a wholesale dealer who sells or offers for sale a consumable vapor product irrespective of quantity or the number of sales.

Vapor product - Any noncombustible product containing nicotine or other substances that employ a heating element, power source, electronic circuit, or other means, regardless of shape or size that can be used to produce vapor from nicotine in a solution or other form. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Wholesale dealers - are those dealers whose principal business is that of a wholesaler, and who sells cigarettes, cigars, and smoking tobacco to retail dealers for purpose of resale; and who is a bona fide wholesaler and fifty percent of whose total tobacco sales are to retail stores other than their own or their subsidiaries within Louisiana. Wholesale dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services fifty or more cigarette vending machines on selling locations in Louisiana other than their own. Wholesale dealers shall include those dealers engaged in receiving bulk smoking tobacco for purposes of blending and including those Louisiana dealers who were affixing cigarette and tobacco stamps as of January 1, 1974.

# Guidelines for US Distributors

## **Montgomery County, Maryland**

Dealer - means any person who engages in a retail business.

Distributor - means a person who supplies an electronic cigarette product to a Dealer in the County; or a person who supplies and services a vending machine with an electronic cigarette product.

Electronic Cigarette Product - means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor. It also includes any refill, cartridge, or any other component of an Electronic Cigarette, or accessory of an Electronic Cigarette whether or not sold separately.

Wholesale Price - means the price that a Dealer, in Montgomery County, Maryland, pays its Distributor for electronic cigarette products.

## **Minnesota**

Manufacturer - means a person who produces and sells cigarettes or tobacco products.

Retailer - means a person required to be licensed and engaged in Minnesota in the business of selling, or offering to sell, tobacco products to consumers.

Tobacco product distributor - means any of the following: (1) a person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale; (2) a person who makes, manufactures, or fabricates tobacco products in this state for sale in this state; (3) a person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Tobacco products - means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigarettes as defined in this section. Tobacco products

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excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Wholesale sales price - means the price at which a distributor purchases a tobacco product. Wholesale sales price includes the applicable federal excise tax, freight charges, or packaging costs, regardless of whether they were included in the purchase price.

Definitions are from: Minn. Stat. § 297F.01.

## **New York**

In New York, an electronic cigarette or e-cigarette is defined as an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device. N.Y. Pub. Health [§ 1399-aa](#)(13).

## **North Carolina**

Consumable vapor product - A consumable vapor product is any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used. This includes prefilled tanks used in rechargeable and non-rechargeable (disposable) vapor products.

Retail dealer – A retail dealer is a person who sells a consumable vapor product to the ultimate consumer of the product.

Vapor product - Any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Wholesaler dealer – A wholesale dealer is a person who acquires consumable vapor products for sale to another wholesale dealer or to a retail dealer. Most manufacturers are licensed as wholesale dealers.

## **Pennsylvania**

Dealer – A dealer is a wholesaler or retailer.

E-cigarette – As follows:

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(1) An electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substance and the use or inhalation of which simulates smoking.

(2) The term includes: (i) A device as described in paragraph (1), notwithstanding whether the device is manufactured, distributed, marketed or sold as an e-cigarette, e-cigar and e-pipe or under any other product, name or description. (ii) A liquid or substance placed in or sold for use in an electronic cigarette.

Manufacturer – A person that produces tobacco products.

Retailer – A person or business entity that purchases or receives tobacco products from any source for the purpose of sale to a consumer. The term also includes vending machines that sell tobacco products, including e-cigarettes.

Tobacco Product – Includes e-cigarettes, roll-your-own tobacco, as well as “periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff dry snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or ingesting or from smoking in a pipe or otherwise, or any combination of chewing, ingesting, or smoking.” The term tobacco product does not include cigars or cigarettes.

Unclassified Importer – A PA consumer who purchases tobacco products using the internet or mail order catalogs for personal possession from persons that are not licensed (*i.e.*, consumers who purchase vapor products online from an unlicensed dealer or a dealer that has not paid the appropriate taxes).

Wholesaler – A person engaged in the business of selling tobacco products that receives, stores, sells, exchanges or distributes tobacco products to retailers or other wholesalers.

Definitions from: Tax Reform Code of 1971 § 1201.

## Texas

E-cigarette - an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term does not include a prescription medical device unrelated to the cessation of smoking, including a device described by § 161.081 regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description;

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and a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Liquid nicotine sold as an accessory for an e-cigarette must be sold in a child-resistant container unless prefilled and sealed by the manufacturer and not intended to be opened by a consumer.

## **Utah**

Electronic Cigarette (E-Cigarette) – a device that simulates smoking a cigarette, pipe or cigar, which contains a heating element, battery or electronic circuit that produces a vapor of nicotine or another substance.

Electronic Cigarette Product - an electronic cigarette or an electronic cigarette substance.

Electronic Cigarette Substance - any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

Licensee - means a person that holds a valid license to sell electronic cigarette products.

All definitions referenced above are from: Utah Code 59-14-802

The terms “retailer”, “manufacturer”, and “distributor” are not defined in Utah code with respect to businesses involved in e-cigarette product sales.

## **Washington D.C.**

Vapor product - means any non-lighting, noncombustible product that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce aerosol from nicotine in a solution or any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

## **Washington State**

Delivery sale - means any sale of a vapor product to a purchaser in this state where either: (a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or (b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale

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regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

Delivery seller - means a person who makes delivery sales.

Distributor - means any person who: (a) Sells vapor products to persons other than ultimate consumers; or (b) Is engaged in the business of selling vapor products in this state and who brings, or causes to be brought, into this state from outside of the state any vapor products for sale.

Manufacturer - means a person who manufactures and sells vapor products.

Retailer - means any person engaged in the business of selling vapor products to ultimate consumers.

Vapor products - defined as a noncombustible product that may contain nicotine and that employs a heating element, power source, chemical, or mechanical means, regardless of shape or size that can be used to produce vapor or aerosol from a solution or other substance. It does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products (reference definition in RCW 69.50.101). The term includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an e-cigarette, e-cigar, e-cigarillo, e-pipe, or similar product or device.

## West Virginia

Consumer – means a person who receives or in any way comes into possession of tobacco products for the purposes of consuming or giving them away or disposing of them in any way other than by sale, barter or exchange

Electronic cigarette liquid - any liquid or liquid mixture used in e-cigarettes that may also be known as e-juice, e-fluid, e-liquid, or e-liquid product. Taxable liquid includes all such liquid that can be vaporized or otherwise converted into an inhalable product when used in an e-cigarette. This includes the liquid derived from a mixing kit or from mixing kit components when that liquid can be vaporized or otherwise converted into an inhalable product when used in an e-cigarette. When a mixing kit contains every component part necessary to produce a liquid that can be vaporized when used in an e-cigarette, the entire volume of the mixing kit shall be subject to tax. W. Va. Code § 11-17-4b(a)(1).

Electrical or electronic device – means a device that provides a smoke, vapor, fog, mist, gas or aerosol suspension of a substance that, when used or inhaled, simulates the activity of smoking, including inhaling or exhaling product, and includes a device that is composed of a heating

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element, battery or electrical or electronic circuit, or a combination of heating element, battery and electrical or electronic circuit, which works in combination with e-liquid to produce an inhalable product. An e-cigarette includes any so designed, or similarly designed, product that is manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or under any other name or descriptor. W. Va. Code § 11-17-4b(a)(2).

Manufacturer – a person who manufactures or produces a tobacco product

Other tobacco product – means snuff and chewing tobacco and any other tobacco product that is intended by the seller to be consumed by means other than smoking and any cigar, pipe tobacco or other tobacco product other than cigarettes.

Retail dealer - A retail dealer is every person other than a wholesale dealer or subjobber engaged in the selling of tobacco products at retail to a consumer or to any person for any purpose other than resale Subjobber or subjobber dealer – any person who purchases tax-paid tobacco product from a wholesaler or from any other person who purchases from the manufacturer or importer and who purchases the tax-paid tobacco products solely for the purpose of bona fide resale to retail dealers

Tobacco product – includes cigarettes and any other tobacco product

Transporter – means a person importing or transporting into this state a tobacco product obtained from a source located outside this state or transporting within this state tobacco products belonging to another person

Wholesaler or wholesale dealer - includes any person in this state who purchases tax-not-paid tobacco products directly from the manufacturer, or such other seller as may be approved by the Tax Commissioner. Any distributor, dealer, subjobber, subjobber dealer, retailer or any person that imports or transports tax-not-paid tobacco products into this state, or that causes tax-not-paid tobacco products to be imported into this state is a wholesaler liable for the tax imposed under this article and, in the case of cigarettes purchased, is liable for affixing tax indicia in accordance with the requirements of this article. No wholesaler or other person may purchase tax-not-paid tobacco products from any seller not approved by the Tax Commissioner.

Wholesale price – means the gross invoice price, including all federal excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, excluding all trade discounts and other reductions in the manufacturer’s price. If the taxpayer buys from other than a manufacturer, “wholesale price” means the gross invoice price, including all federal excise taxes and excluding all trade discounts and other similar reductions in price

Unless noted otherwise, all definitions from: W. Va. Code § 11-17-2.