



Ohio Administrative Code

Rule 5703-15-21 Sale of other tobacco products between licensed other tobacco product distributors.

Effective: July 2, 2021

(A)

(1) As used in this rule, "sale" has the same meaning as in division (D) of section 5743.01 of the Revised Code and includes delivery or other distribution.

(2) All persons dealing in sales of other tobacco products or vapor products, including persons dealing in sales of previously taxed other tobacco products or vapor products (secondary distributor), other than persons dealing exclusively in sales of previously taxed other tobacco products or vapor products to ultimate consumers, must be licensed under section 5743.61 of the Revised Code.

(B)

(1) Retail dealers must purchase other tobacco products or vapor products only from licensed other tobacco products or vapor products distributors and cannot purchase from unlicensed distributors or other retailers.

(2) Licensed other tobacco products or vapor products distributors selling to retailers must use the account number assigned by the tax commissioner pursuant to section 5743.54 of the Revised Code on all transactions of other tobacco products or vapor products and may not use another licensed distributor's license number, even though that other distributor paid the tax.

(C)

(1) Unless the out-of-state supplier of other tobacco products or vapor products provides an invoice stating that the tax imposed by section 5743.51 of the Revised Code has been paid along with such supplier's assigned account number as required by section 5743.54 of the Revised Code, the first receiver of untaxed other tobacco products or vapor products in this state is liable for the tax imposed under section 5743.51 of the Revised Code.



- (2) Unless the out-of-state supplier of untaxed other tobacco products or of vapor products is a registered manufacturer or importer of other tobacco products or vapor products under section 5743.66 of the Revised Code, such supplier may not ship untaxed other tobacco products or vapor products after July 1, 2020, into this state without an authorization from the commissioner. The commissioner may authorize repeated transactions of such shipments for a specified period of time.
- (3) The request must be made on a form and in a manner prescribed by the commissioner for such purpose and must contain the brands, quantity, date of shipment, method of shipment, and supplier, as well as any other information required by the commissioner. If such shipment involves roll-your-own tobacco not contained on the directory provided for in section 1346.05 of the Revised Code, documentation may be required that such roll-your-own tobacco is legal for sale in another state.
- (4) Approved requests will be sent to both the supplier and receiving distributor and must be carried in the vehicle transporting such other tobacco products or vapor products. The receiving distributor must, within seventy-two hours excluding weekends and holidays, notify the commissioner if the quantities received do not correspond with the quantities contained on the commissioner's authorization form. Absent notification to the commissioner, the receiving distributor will be presumed to have received the quantity approved for shipment along with the resulting tax liability.
- (5) Shipments of untaxed other tobacco products or vapor products between distributors in this state are prohibited.
- (6) Shipments of other tobacco products or vapor products on which the tax is paid are permitted between licensed other tobacco products or vapor products distributors, provided that the distributor selling such products purchases the products from a registered manufacturer or importer.
- (7) The commissioner reserves the right to verify, upon request, that the supplier is the first purchaser from an other tobacco products or vapor products manufacturer or importer.
- (8) Sales invoices made by licensed distributors of other tobacco products or vapor products received from another licensed distributor must contain the license number issued to the distributor receiving the products from such other distributor.



(D) All licensed distributors of other tobacco products or vapor products are required to file monthly reports on a form and in a manner prescribed by the commissioner detailing the invoice number, the invoice date, the price, the volume and any other information prescribed by the commissioner. Alternative filing frequencies may be established if the commissioner determines that monthly filing is not warranted.

(E)

(1) Both the supplying distributor and receiving distributor are required to file reports of shipments made and received. These reports are in addition to any tax returns required to be filed under section 5743.52 of the Revised Code.

(2) Records of all licensed distributors must be made available to the commissioner, upon request, including purchases of both taxed and untaxed products, and any other information the commissioner deems necessary to verify the transaction.

(F) Whoever violates any provision of this rule is subject to having its products confiscated under section 5743.55 of the Revised Code. Such confiscation is in addition to the penalties available under sections 1346.09, 1346.10, and 5743.99 of the Revised Code or any other applicable provision of law.