

## Chapter 615

### CIGARETTE TAX

#### **Section 615.010. Definitions.** [R.O. 2013 §610.010]

When used in this Chapter, the following words shall have meanings as herein indicated:

**CIGARETTE** — An item manufactured of tobacco or any substitute therefor, wrapped in paper or any substitute therefor, weighing not to exceed three (3) pounds per one thousand (1,000) cigarettes and which is commonly classified, labeled or advertised as a cigarette.

**PACKAGE** — A container of any type composition in which is normally contained twenty (20) individual cigarettes, except as in special instances when the number may be more or less than twenty (20).

**PERSON** — Any individual, corporation, firm, partnership, incorporated or unincorporated association, or any other legal or commercial entity.

**RETAILER** — Any person who sells to a consumer or to any person for any purpose other than resale.

**SALE** — Sales, barter, exchanges and every other manner, method and form of transferring the ownership of personal property from one person to another. "*Sale*" also means the possession of cigarettes or tobacco products by any person other than a manufacturer, wholesaler or retailer and shall be prima facie evidence of possession for consumption.

**WHOLESALE** — Any person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes or tobacco products to, and render service to, retailers in the territory the person, firm or corporation chooses to serve; that purchases cigarettes or tobacco products directly from the manufacturer; that carries at all times at his/her or its principal place of business a representative stock of cigarettes or tobacco products for sale; and that comes into the possession of cigarettes or tobacco products for the purpose of selling them to retailers or to persons outside or within the State who might resell or retail the cigarettes or tobacco products to consumers. This shall include any manufacturer, jobber, broker, agent or other person, whether or not enumerated in this Chapter, who so sells or so distributes cigarettes or tobacco products.

#### **Section 615.020. Amount of License Fee.** [R.O. 2013 §610.020; CC §82.020; CC 1991 §615.020]

Every person engaged in the retail business of selling cigarettes or offering or displaying the same for sale within the City shall procure a license therefor for each place of business that he/she desires to have for sale of cigarettes in the City and at the time such license is issued shall pay to the City Collector the sum of one dollar (\$1.00) as a registration fee for each such place of business and, in addition thereto, each such person engaged in said business shall pay an occupation tax at the rate of one dollar (\$1.00) per thousand (1,000) for each and all cigarettes so

sold or offered or displayed for sale. The intent and meaning of this Chapter is that the same shall levy an occupation tax based upon and pursuant to the method provided for by the Revised Statutes of Missouri and pursuant to the powers therein granted and the powers further granted under the Statutes and the stamps hereinafter provided for shall be affixed by the person selling such cigarettes or displaying or offering the same for sale and after the same shall have come to rest in this City and before being displayed or offered for sale by any retail dealer in this City.

**Section 615.030. Manner of Payment.** [R.O. 2013 §610.030; CC 1991 §615.030 Ord. No. 615.100 §2, 11-12-1996]

The occupation license tax provided for by this Chapter shall be paid by purchase from the City Treasurer of stamps of such design and denomination as shall be prescribed by the City Treasurer or, alternatively, by payment of such license occupation tax contemporaneously with delivery of the sales report pursuant to Section 615.110 below. The City Treasurer shall allow a discount of ten percent (10%) of the denominational value.

**Section 615.040. Amount Equal to Revenue Accruing From License Fees to Be Deposited to the Credit of General Fund.** [R.O. 2013 §610.040; CC §82.040; CC 1991 §615.040]

An amount equal to all the revenue accruing to the City from permits and occupation licenses relating to the retail sale of cigarettes is hereby ordered and directed to be deposited to the credit of the General Fund.

**Section 615.050. Sale of Unstamped Cigarettes Unlawful.** [R.O. 2013 §610.050; CC §82.050; CC 1991 §615.050]

No person shall sell or offer for sale or display for sale at retail any cigarettes without having first affixed to the package thereof the stamp or stamps required to be affixed thereto under the provisions of this Chapter.

**Section 615.060. Forging, Etc., Stamp Unlawful.** [R.O. 2013 §610.060; CC §82.060; CC 1991 §615.060]

No person shall falsely and fraudulently make, forge, alter or counterfeit any stamp or stamps prescribed by the Board of Aldermen under the provisions of this Chapter or cause or procure to be falsely or fraudulently made, forged, altered or counterfeited any such stamp or stamps or knowingly and willfully utter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps.

**Section 615.070. Credits for Unexpired Licenses.** [R.O. 2013 §610.070; CC §82.070; CC 1991 §615.070]

Any person who, at the time this Chapter takes effect, shall be engaged in the business of selling cigarettes or offering or displaying the same for sale under an unexpired general merchant's license or "blended license" shall be entitled to receive credit upon purchase of stamps required by this Chapter in an amount to be determined as follows: The total amount of cost of said unexpired general merchant's license or blended licenses shall be prorated between the expired and unexpired term of said license as of the effective date of this Chapter; and the amount to be credited upon purchase of stamps shall be the amount equal to such proportionate part of the sum

so prorated for the unexpired term, as the total amount of sales of cigarettes for the year previous to the issuance of such unexpired general merchant's license bears to the total amount of sales of all goods, wares and merchandise sold by said merchant for said year; provided however, that no such credit shall be allowed where the amount paid for the unexpired general merchant's license or "blended license" does not exceed the minimum amount required. All claims for any of such credits shall be in writing and supported by affidavit and shall be subject to the approval of the City Collector.

**Section 615.080. Applications and Permits.** [R.O. 2013 §610.080; CC §82.080; CC 1991 §615.080]

Every person desiring to continue to engage in or hereafter to begin to engage in the sale of cigarettes at retail within the City shall file an application for a cigarette permit or permits as hereinbefore provided. Every application for a cigarette permit shall be made upon a form prescribed, prepared and furnished by the City Collector and shall set forth such information as he/she shall require. Upon approval of the application, the City Collector shall grant and issue to the applicant a cigarette permit, as herein provided, for each place of business within the City set forth in the application. Cigarette permits shall not be assignable and shall be valid only for the persons in whose names they are issued and for the transaction of business in the places designated therein and shall at all times be conspicuously displayed at the places for which issued. All permits shall expire one (1) year from the date of issue unless sooner suspended, surrendered or revoked by the City Collector. Whenever any permit issued under the provisions of this Chapter is defaced, destroyed or lost, the City Collector shall issue a duplicate permit for the defaced, destroyed or lost permit upon the payment of a fee of fifty cents (\$.50).

**Section 615.090. Suspension and Revocation.** [R.O. 2013 §610.090; CC §82.090; CC 1991 §615.090]

The Board of Aldermen may suspend or, after hearing, revoke a cigarette permit whenever it finds that the holder thereof has failed to comply with any of the provisions of this Chapter or any rules or regulations prescribed or promulgated under this Chapter. Upon suspending or revoking any cigarette permit, the Board of Aldermen shall request the holder thereof to surrender to the City Collector immediately all permits or duplications thereof and the holder shall surrender promptly all such permits to the City Collector as requested. Whenever the Board of Aldermen suspends a cigarette permit, it shall cause the holder to be notified immediately and afford him/her a hearing, if desired, and if the hearing has not already been afforded. After such hearing, the Board of Aldermen shall either rescind its order of suspension or, good cause appearing therefor, continue the suspension or revoke the permit.

**Section 615.100. Sale Restricted.** [R.O. 2013 §610.100; CC 1991 §615.100; Ord. No. 615.100 §4, 11-12-1996]

No person shall sell or offer for sale or display for sale at retail within the City any cigarette unless on the container thereof there has been affixed a Missouri State decal, the occupation license tax has been paid thereon, and evidence of payment has been made pursuant to Section 615.030.

**Section 615.110. Evidence of Payment.** [R.O. 2013 §610.110; CC 1991 §615.110; Ord. No. 615.100 §3, 11-12-1996]

- A. It shall be the duty of every wholesale dealer or jobber, before delivering to any retail dealer or other person within the City for sale at retail with the City:
1. To affix to each package of cigarettes a stamp purchased from and furnished by the City Treasurer, which stamp so affixed and canceled shall evidence the payment of the occupation license tax imposed by this Chapter and such stamp shall be canceled as soon as it shall be affixed to the package containing such cigarettes.
  2. Alternatively, the wholesale dealer or jobber shall agree to provide to the City a report showing daily purchases and return of each package of cigarettes by each retail dealer and vending machine operator within the City, which report shall net out the dollar amount due the City for the occupation license tax by the month. The reporting form shall be approved by the City and shall be due not later than the fifteenth (15th) of each month for the preceding month. Each wholesale dealer or jobber shall authorize the City to verify such reports with information provided to the Missouri Department of Revenue.

**Section 615.120. Refunds for Stamps Purchased — When Made.** [R.O. 2013 §610.120; CC §82.120; CC 1991 §615.120]

Whenever any cigarettes upon which stamps have been placed by a retail dealer have been sold and shipped by him/her into another City or State for sale or use there or have become unfit for use and consumption or unsaleable or have been destroyed, the retail dealer shall be entitled to a refund of the actual amount of tax paid by him/her with respect to such cigarettes. If the City Collector is satisfied that any retail dealer is entitled to a refund, he/she shall issue to such retail dealer stamps of sufficient value to cover the refund. The City Collector is hereby authorized to adopt, prescribe and promulgate such rules and regulations with regard to the presentation and proof of claim for refunds as he/she may deem advisable.

**Section 615.130. Seizure and Sale of Unstamped Cigarettes.** [R.O. 2013 §610.130; CC §82.130; CC 1991 §615.130]

Whenever the City Collector or any of his/her duly authorized representatives shall discover any cigarettes subject to tax provided by this Chapter and upon which said occupation tax has not been paid or the stamps affixed as herein required, the City Collector or such representatives are hereby authorized and empowered forthwith to seize and take possession of such cigarettes, together with any vending machine or receptacle in which they are held for sale, and the same shall thereupon be deemed to be forfeited to the City. The City Collector may, within a reasonable time thereafter, by a public notice at least five (5) days before the day of sale, sell such forfeited cigarettes at a place designated by him/her and from the proceeds of such sale shall collect the tax due thereon, together with a penalty of fifty percent (50%) thereof and the costs incurred in such proceedings. The City Collector shall pay the balance, if any, to the person in whose possession such forfeited cigarettes were found; provided however, that such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provisions of this Chapter.

**Section 615.140. Oaths and Affidavits Administered by Collector.** [R.O. 2013 §610.140; CC §82.140; CC 1991 §615.140]

The City Collector or his/her employees or agents duly designated and authorized by him/her shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this Chapter.