



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

SN 2010(8)

25 Sigourney Street Ste 2
Hartford CT 06106-5032

SPECIAL NOTICE

Federal PACT Act Expands Jenkins Act Reporting Requirements

Purpose: This Special Notice summarizes the amendments made to the federal Jenkins Act (15 U.S.C. §§375 to 378, inclusive) by the recently enacted Prevent All Cigarette Trafficking Act, Pub. L. No. 111-154, 124 Stat. 1087 (PACT Act). The amendments to the Jenkins Act involve the shipment and packaging of tobacco, compliance with state tax and licensing requirements relating to tobacco, and the filing of certain reports to state tax administrators. This Special Notice describes the new and expanded reporting to the Department of Revenue Services (DRS) required under the Jenkins Act, as amended by the PACT Act.

Effective Date: As noted below.

Statutory Authority: Jenkins Act (15 U.S.C. §§375 to 378, inclusive), as amended by Pub. L. No. 111-154, 124 Stat. 1087.

Definitions: For purposes of the Jenkins Act and this Special Notice:

- **Cigarette** includes roll-your-own tobacco;
- **Interstate commerce** means commerce between a state and any place outside the state, commerce between a state and any Indian country in the state, or commerce between points in the same state but through any place outside the state or through any Indian country. A sale, shipment, or transfer of cigarettes or smokeless tobacco that is made in interstate commerce is considered to have been made into the state, place, or locality in which the cigarettes or smokeless tobacco was delivered;
- **Delivery seller** means a person who makes a delivery sale; **and**
- **Delivery sale** means a sale of cigarettes or smokeless tobacco to a consumer where:

- The consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made, **or**
- The cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

For purposes of the Jenkins Act, as amended by the PACT Act, a delivery sale of cigarettes is deemed to have occurred in the state where the buyer obtains personal possession of the cigarettes.

Expanded Federal Jenkins Act Reporting Requirements: The Jenkins Act now imposes two reporting requirements on all persons, including manufacturers, who sell, transfer, ship, advertise, or offer to sell cigarettes or smokeless tobacco in interstate commerce.

- The first requirement (as discussed in *Registration Requirement* below) involves initial registration.
- The second (as discussed in *Monthly Report Requirement* below) involves a monthly reporting requirement.

Delivery Sellers Take Notice: Delivery sales of cigarettes to consumers in Connecticut are prohibited by Conn. Gen. Stat. §12-285c. 15 U.S.C. §376a(5)(e)(C)(i) as amended by the PACT Act provides that nothing in the PACT Act is to be construed as preempting, superseding, or otherwise limiting or restricting state laws prohibiting the delivery sale, or the shipment or delivery of a

delivery sale, of cigarettes to individual consumers or personal residences.

In addition, the PACT Act generally prohibits the use of the U.S Postal Service to mail cigarettes and smokeless tobacco.

Registration Requirement: 15 U.S.C. §376(a)(1), as amended by the PACT Act, provides that any person who sells, transfers, ships, advertises, or offers for sale cigarettes or smokeless tobacco in interstate commerce must first file a Registration Statement with the Attorney General of the United States and the tobacco tax administrators of the state into which the shipment is made or in which the advertisement or offer is disseminated. The Registration Statement must provide:

- The person's name and trade name, if any;
- The address of the person's principal place of business and of any other place of business;
- The telephone numbers for each place of business;
- A principal electronic mail address;
- Any website addresses; **and**
- The name, address, and telephone number of an agent in Connecticut authorized to accept service on the person's behalf.

Where the Registration Statement is required to be filed with DRS, it must be scanned and emailed as an attachment to the following address:

DRS.TobaccoReport@po.state.ct.us

Monthly Report Requirements: 15 U.S.C. §376(a)(2), as amended by the PACT Act, provides that on or before the tenth day of each calendar month, any person who sells, transfers, ships, advertises, or offers for sale cigarettes or smokeless tobacco in interstate commerce must file with the tobacco tax administrator of the state into which the shipment is made a memorandum or a copy of the invoice (Monthly Report) covering each and every shipment of cigarettes or smokeless tobacco made during the previous calendar month into the state. The memorandum or invoice information must be organized by customer's city or town and ZIP code and include:

- The name and address of the person to whom the shipment was made;
- The brand and quantity of cigarettes or smokeless tobacco; **and**

- The name, address, and telephone number of the person delivering the shipment to the recipient on behalf of the delivery seller.

Where a Monthly Report is required to be filed with DRS, it must be a delimited or fixed length text file in Microsoft Excel (97 through 2003). Contact the Excise Tax Unit at 860-541-3224 for updated file layout specifications.

The Monthly Report must be emailed as an attachment to the following address:

DRS.TobaccoReport@po.state.ct.us

There are no filing requirements for a month during which no shipments of cigarettes or smokeless tobacco are made into Connecticut.

All persons required to file this report (beginning with the report due July 10, 2010, for the month of June 2010) who have not yet done so should file that report immediately.

All invoices pertaining to shipments of cigarettes or smokeless tobacco into Connecticut must be retained for a period of three years following the date of shipment and must be made available to DRS upon request.

Penalties: Violators of the Jenkins Act, as amended by the PACT Act, are subject to criminal and civil penalties.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by DRS.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms and publications.

Paperless Filing/Payment Methods (fast, easy, free, and confidential):

Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at www.ct.gov/TSC to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or log directly into the **TSC** to file returns and pay taxes.

Pay Electronically: You can pay taxes for tax returns that cannot be filed through the **TSC**. Log in and select the *Make Payment Only* option. Designate a payment date up to the due date of the tax and mail a paper return to complete the filing process.

DRS E-Alerts Service: Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures. **DRS E-Alerts** provide information for employer's withholding tax, News – Press Releases, and Top 100 Delinquency List. Visit the DRS website at www.ct.gov/DRS and select *e-alerts* from the left navigation bar.

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