

Special Notice

Intended audience: Manufacturers, distributors, retailers, and consumers of vapor products

May 12, 2020

New vapor products tax

Starting Oct. 1, 2019, a new tax is due on vapor products. This tax is paid only once, by the first possessor of the vapor products in Washington. It is not due from subsequent possessors or collected from the buyer.

Emergency ban on the sale of certain vapor products

The state Board of Health imposed a ban on the sale of flavored vapor products in Washington, effective Oct. 10, 2019 through Feb. 7, 2020. For more information about this ban, please see the [Department of Health emergency rule](#) related to flavored vapor products.

The state Board of Health expanded the ban on the sale of certain vapor products in Washington to include vapor products that contain vitamin E acetate, effective Nov. 20, 2019 through March 19, 2020. For more information about this expanded ban, please see the [Department of Health emergency rule](#) related to vitamin E acetate.

What is the new vapor products tax?

There are two vapor products tax rates, and the rate that applies to your products depends on the volume of solution and type of the container:

- Accessible containers greater than 5 milliliters: \$0.09 per mL.
- All other vapor products: \$0.27 per mL.

All vapor products are subject to the tax, even if they do not contain nicotine.

What is an accessible container?

An accessible container is one that is intended to be opened. It does not mean a closed cartridge or a closed container that is not intended to be opened (such as a disposable e-cigarette).

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For tax assistance or to request this document in an alternate format, visit dor.wa.gov or call 360-705-6705. Teletype (TTY) users may use the Washington Relay Service by calling 711.

What is a vapor product?

Vapor products include electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, or similar products or devices. A vapor product is any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of the shape or size that can be used to produce vapor from the solution or other substance.

Vapor products also include any cartridge or other container of liquid nicotine, solution, or other consumable substance, regardless of whether it contains nicotine, which is intended to be used with or in a device that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device and is sold for such purpose.

Vapor products do not include:

- Products approved by the United States Food and Drug Administration as tobacco cessation products.
- Any product that will become an ingredient or component in a vapor product manufactured by a distributor.
- Marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products.
- Cigarettes.
- Tobacco products.
- Room deodorizers.
- Essential oils.

How do I report my existing inventory?

You must report your entire vapor product inventory (flavored and unflavored) as of 12:01 a.m. on Oct. 1, 2019 on the Vapor Floor Stock Tax Return, and file it with the department by Oct. 31, 2019. If the return is filed after this date, a late filing penalty will be due. The late filing penalty will be either \$250 or 10% of the tax due, whichever is greater.

The [Vapor Floor Stock Tax Return](#) is available on our website.

When do I pay the tax due?

The vapor products tax is reportable on your excise tax return.

The tax on existing vapor products inventory may be paid with the return or after, but no later than

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Jan. 31, 2020. If the tax is not paid by this date, penalties and interest will be added to the tax amount due.

Credit for tax previously paid

Banned vapor products

A Banned vapor products tax adjustment worksheet is available on our website at dor.wa.gov/vapor to make adjustments to the amounts reported on your vapor floor stock tax return. You may adjust (i.e., credit) the amounts reported for any banned vapor product you remove from your inventory in Washington by:

- Shipping or transporting the products outside Washington to a person engaged in the business of selling vapor products and the products are to be sold by that person.
- Returning the products to the manufacturer.
- Destroying the products.

A credit is allowed for sales of flavored vapor products sold to the U.S. Government and other entities authorized in [RCW 82.25.105\(1\)\(a\)](#) made between Oct. 1, 2019 and Oct. 9, 2019. No credit is allowed for these sales during the time the ban on sales of flavored vapor products was effective, Oct. 10, 2019 through Feb. 7, 2020.

A credit is also allowed for sales of vapor products containing vitamin E acetate sold to the U.S. Government and other entities authorized in [RCW 82.25.105\(1\)\(a\)](#) made between Oct. 1, 2019 and Nov. 19, 2019. No credit is allowed on sales of vapor products containing vitamin E acetate during the period the ban on these products was in effect, Nov. 20, 2019 through March 19, 2020.

Vapor products not banned

You may claim a credit on your combined excise tax return for Washington's vapor products tax previously paid, if you remove the product from your inventory in Washington by:

- Shipping or transporting the products outside Washington to a person engaged in the business of selling vapor products and the products are to be sold by that person.
- Returning the products to the manufacturer.
- Destroying the products.
- Selling the products to the U.S. government or other entities authorized in [RCW 82.25.105\(1\)\(a\)](#).

Recordkeeping requirements

Purchase invoices for vapor products must be kept for five years. The invoices must include the following information:

- Seller's name and address.

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- Purchaser's name (must also include address for distributors and retailers).
- Date of sale.
- All prices of products sold.
- Name and volume of each product sold.
- Quantity of each product sold.
- Statement indicating that the vapor products tax has been paid.

You must keep documentation to substantiate any credits claimed for five years. No credit is available for vapor products given away for free.

Other taxes

The vapor products tax is a new, additional tax on vapor products. Companies who manufacture vapor products in Washington are still subject to business and occupation (B&O) tax on the value of the vapor products they manufacture in Washington. Companies who sell vapor products in Washington are still subject to either wholesaling or retailing B&O tax, depending on the nature of the sale. Companies making retail sales of vapor products in Washington must still collect and submit retail sales tax on sales of vapor products.

Do I need to register my business?

If you are required to pay the vapor products tax, you must register with the Department of Revenue.

Consumers

If you purchase vapor products, and the vapor products tax has not already been paid, then you must pay the vapor products tax directly to the Department of Revenue. You must submit a [Vapor Consumer Use Tax Return](#) available online.

More information

[Engrossed 2nd Substitute House Bill 1873](#)

[Dor.wa.gov/vapor](http://dor.wa.gov/vapor)

[Liquor and Cannabis Board](#)

Questions?

Call 360-705-6705 with tax questions.

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