

# Special Notice

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

**Aug. 20, 2019**

## 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.

This Special Notice addresses tax due on products brought into Washington after the tax takes effect. For information about vapor tax due on products already in Washington before the tax takes effect, see our Special Notice titled [New vapor products tax due on existing inventory](#).

## 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).

## What is a vapor product?

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 include electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, or similar products or devices.

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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

## **Credit for tax previously paid**

You may claim a credit for Washington's vapor products tax previously paid, if you do any of the following:

- sell and ship the product outside Washington
- sell the product to the U.S. Government
- sell the product to a federally recognized tribe or enrolled tribal member
- return the product to the manufacturer
- destroy the product (requires department approval)

The credit is claimed on the excise tax return. You must keep documentation to substantiate this credit for five years. No credit is available for vapor products given away for free.

## **Recordkeeping requirements**

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

- seller's name and address
- purchaser name (must also include address for distributors and retailers)
- date of sale
- all prices of products sold

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- name and volume of each product sold
- quantity of each product sold
- statement indicating that the vapor products tax has been paid

## 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 can find a consumer vapor products tax return on our website. You must submit the return along with the vapor products tax due.

## More information

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

[Liquor and Cannabis Board](#)

## Questions?

Call 360-705-6705 with tax questions.

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