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ARIZONA LUXURY TAX RULING
LTR 21-1

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ISSUE:

Obligation of retailers to exclusively purchase tobacco products from licensed Arizona distributors.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) §§ 42-3151 and 42-3405(C) address documentation and retention requirements for a retailer's purchase of tobacco products for resale.

A.R.S. § 42-3403 states that a retailer may sell any tobacco product that is not otherwise prohibited by federal or state law from sale for resale, but a retailer may not acquire or possess unstamped cigarettes, or other tobacco products or cigarettes on which taxes levied under this chapter have not been paid, unless the retailer holds a valid license issued under A.R.S. § 42-3401.

A.R.S. § 42-3001(9) defines "distributor" as any person who manufactures, produces, ships, transports or imports into this state or in any manner acquires or possesses for the purpose of making the first sale of the following:

- (a) Cigarettes without Arizona tax stamps affixed as required by A.R.S. Title 42, Chapter 3, Article 1.
- (b) Roll-your-own tobacco or other tobacco products on which the taxes have not been paid as required by A.R.S. Title 42, Chapter 3.

A.R.S. § 42-3001(21) defines "retailer" as any person who comes into possession of any luxury subject to the taxes imposed by this chapter for the purpose of selling it for consumption and not for resale.

DISCUSSION:

A retailer may resell any tobacco product that is not otherwise prohibited by federal or state law from sale.¹ Arizona law provides that retailers, in turn, are only authorized to sell tobacco products for consumption purposes and *not* for resale. As a result, unless a retailer holds a current Arizona tobacco distributor license and is acting in its capacity as a licensed distributor, it cannot sell tobacco products for resale under state law.

A tobacco retailer is required to retain all invoices or equivalent documentation issued by a licensed tobacco distributor.² Such invoice or equivalent documentation is required to include the distributor's license number.³ All books, papers, invoices, and records of any wholesaler, distributor, or retailer showing sales, receipts and purchases of luxuries must be open for inspection by the department. Invoices must be retained for a period of four years after the date of the transaction.

RULING:

A retailer may only purchase tobacco products for resale from a distributor holding a current Arizona tobacco distributor license. The retailer must maintain invoices or equivalent documentation substantiating all such purchases for four years after the date of sale by the distributor to the retailer. All such invoices and equivalent documentation are subject to inspection by the department, which will verify whether they bear information required by Arizona law that document the retailer's tobacco product inventory.

¹ See A.R.S. § 42-3403.

² See A.R.S. § 42-3405(c).

³ Id.