

ARIZONA LUXURY TAX PROCEDURE

LTP 97-1

Procedure for the Calculation of Luxury Tax on Tobacco Products Other Than Cigarettes

Applicable Law:

Arizona Revised Statutes (A.R.S.) § 42-1204(A)(6) levies a tax in the amount of two cents per ounce or major fraction thereof on smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used exclusively for agricultural or horticultural purposes and unfit for human consumption.

A.R.S. § 42-1241(A)(2) levies a tax for health care purposes in the amount of 4.5 cents per ounce or major fraction thereof on the same tobacco products listed in A.R.S. § 42-1204(A)(6).

A.R.S. § 42-1204(A)(7) levies a tax in the amount of one-half cent per ounce or fractional part thereof on all cavendish, plug or twist tobacco.

A.R.S. § 42-1241(A)(3) levies a tax for health care purposes in the amount of 1.1 cent per ounce or fractional part thereof on the same products listed in A.R.S. § 42-1204(A)(7).

A.R.S. § 42-1204(A)(8) levies a tax in the amount of four cents on each twenty small cigars or fractional part thereof weighing not more than three pounds per thousand.

A.R.S. § 42-1241(A)(4) levies a tax a tax for health care purposes in the amount of 8.9 cents per twenty small cigars or fractional part thereof on the same products listed in A.R.S. § 42-1204(A)(8).

A.R.S. § 42-1204(A)(9) levies a tax on cigars of all descriptions except those included in A.R.S. § 42-1204(A)(8), made of tobacco or any substitute therefor, if manufactured to retail at not more than five cents each, in the amount of two cents on each three cigars, but if manufactured to retail at more than five cents each, in the amount of two cents each cigar.

A.R.S. § 42-1241(A)(5) levies a tax for health care purposes on the same products listed in A.R.S. § 42-1204(A)(9). The tax rate is 4.4 cents on each three cigars manufactured to retail for not more than five cents each, but 4.4 cents on each cigar that is manufactured to retail for

more than five cents each.

A.R.S. § 42-1212.01 requires distributors to prepare and file a monthly return with the department that shows the amount of tobacco products other than cigarettes received in this state during the month in which the tax accrues, the amount of tax for the period covered by the return, and such other information the department deems necessary.

PROCEDURE:

All distributors of tobacco products are required to prepare a monthly return that shows the amount of tobacco products other than cigarettes received during the month and the amount of tax due. A.R.S. §§ 42-1104 and 42-1241 provide for the computation of the tax based on the amount of product received in a given period. Since the monthly return requires a list of the total tobacco products received during a given month, any computation of tax is based on that total. Therefore, rounding that is required for tax computation purposes should be performed on the total amount required to be reported on the return.

The statutes do not define the term "major fraction." *Webster's Third New International Dictionary* defines "major" as "greater in number, quantity, or extent." Therefore, if the fraction of an ounce that a distributor receives is greater than the fraction of an ounce that was not received, the fraction should be counted as an additional ounce. Whenever the term "major fraction" is used the fraction should be rounded to the nearest ounce for the purpose of calculating the tax.

The use of the term "fractional part" in the luxury tax statutes provides that any fraction, regardless of size, will be rounded up.

If the luxury tax statute does not specify "fractional part thereof" or "major fraction thereof" the computation of the tax does not include rounding.

Examples:

1. ABC Tobacco Distributing received the following shipments of snuff tobacco during the months of December and January:

Date	<u>Received Amount</u>
12/03	125.2 oz
12/08	101.6 oz
12/17	103.1 oz

12/29 132.7 oz

Total 462.6 oz

Date _

Received Amount

01/01 101.1 oz

01/10 126.3 oz

01/19 112.9 oz

01/30 120.0 oz

Total 460.3 oz

The total tax rate for snuff is 6.5 cents per ounce or major fraction thereof. Therefore, the total snuff received will be rounded to the nearest ounce. The total tax for December is \$30.10 (463 oz times \$.065). The total tax for January is \$29.90 (460 oz times \$.065).

2. XYZ Tobacco Distributing received a total of 100.1 oz of cavendish and 205 small cigars in July.

The total tax rate for cavendish is 1.6 cents per ounce or fractional part thereof. The total tax rate for small cigars is 12.9 cents on each twenty small cigars or fractional part thereof. Therefore, the totals will be rounded up. The total tax for July on cavendish is \$1.62, which is computed by multiplying 101 oz (100.1 rounded up) by \$.016 (tax rate). The total tax for July on small cigars is \$1.42, which is computed by multiplying 11 (205 divided by 20 then rounded up) by \$.129 (tax rate per 20 or fractional part thereof).

3. In June the Cigar Distributing Company received 200 cigars that retail for 5 cents each and 200 cigars that retail for 50 cents each. The tax rate is 6.4 cents on every three cigars that retail for not more than five cents and 6.4 cents on every cigar that retails for more than five cents. The total tax is computed as follows:

Type of Cigar Calculation Tax

Retail for 5 cents or less $(200/3) \times \$0.064$ \$ 4.27

Retail for more than 5 cents $200 \times \$0.064$ 12.80

Total tax for June \$17.07

Mark W. Killian, Director

Explanatory Notice

The purpose of a tax procedure is to provide procedural guidance to the general public and to department personnel. A tax procedure is a written statement issued by the department to assist in the implementation of tax laws, administrative rules, and tax rulings by delineating procedures to be followed in order to achieve compliance with the law. Relevant statute, case law, or administrative rules, as well as a subsequent procedure, may modify or negate any or all of the provisions of any tax procedure. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.