

103 KAR 41:160. Unstamped cigarettes damaged in transit.

RELATES TO: KRS 138.130, 138.140, 138.146, 138.155, 138.165, 138.195, 138.990

STATUTORY AUTHORITY: KRS 131.130(1), 138.140(7), 138.146(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate regulations necessary for the administration and enforcement of all tax laws in Kentucky. This administrative regulation establishes requirements for the proper disposal of unstamped and untax-paid cigarettes damaged in transit from manufacturers to Kentucky licensed resident wholesalers and Kentucky licensed unclassified acquirers.

Section 1. Definitions. (1) "Resident wholesaler" is defined by KRS 138.130(10).

(2) "Unclassified acquirer" is defined by KRS 138.130(15).

Section 2. (1) All damaged cigarettes not accepted by the resident wholesaler or unclassified acquirer at time of delivery shall be reported by the transporter to the Department of Revenue within twenty-four (24) hours after the transporter returns to his or her place of business.

(2) Notification may be mailed or hand-delivered in the form of:

(a) A letter to the Tobacco Tax Section, 501 High Street, Frankfort, Kentucky 40620;

(b) A facsimile transmission (fax) addressed to the cigarette tax administrator at 502-564-3393;

or

(c) An electronic mail message addressed to DOR.WebResponseTobaccoTax@ky.gov.

(3) As part of its notification to the department of damaged cigarettes, the transporter shall also confirm its decision to either:

(a) Return the cigarettes to the manufacturer; or

(b) Destroy the cigarettes in the presence of a department representative.

Section 3. (1) Damaged cigarettes delivered to and accepted by the resident wholesaler or unclassified acquirer from the transporter shall be included as receipts on the resident wholesaler's or unclassified acquirer's monthly report.

(2) The resident wholesaler or unclassified acquirer shall select one (1) of the following methods for disposal:

(a) Stamp and sell the cigarettes;

(b) Return the cigarettes to the manufacturer; or

(c) Destroy the cigarettes in the presence of a department representative.

Section 4. The resident wholesaler or unclassified acquirer shall provide a copy of the credit documentation issued by the manufacturer to the department to verify the quantity of damaged cigarettes returned for each consignment or delivery returned to the manufacturer.

Section 5. (1) This administrative regulation shall replace Revenue Circular 73C459.

(2) Revenue Circular 73C459 is hereby rescinded and shall be null, void, and unenforceable. (33 Ky.R. 2820; 3160; eff. 5-4-2007; TAm eff. 5-20-2009; TAm eff. 6-28-2016; Crt eff. 8-5-2019.)