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Governor

OFFICE OF SALES AND EXCISE TAXES
DEPARTMENT OF REVENUE
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June 5, 2020

To: Distributors of Vapor Products for Resale

Re: Vapor Products Tax, Licensing, and Electronic Filing Submission

During the 2020 Legislative Session, House Bill 351 was enacted to establish a tax on vapor products. Effective August 1, 2020, the vapor products tax on closed vaping systems is at a rate of \$1.50 per cartridge and on open vaping systems at a rate of 15% of the actual price the distributor sells the product. The first return filing and payment by electronic submission will be due on September 21, 2020.

A closed vapor cartridge means a pre-filled disposable cartridge that is intended to be used with or in a noncombustible product that employs a heating element, battery, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, **to deliver vaporized or aerosolized nicotine, non-nicotine substances, or other materials to users that may be inhaling from the product** such as any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device and every variation thereof, regardless of whether marketed as such; and contains nicotine or non-nicotine substances or other material consumed during the process of vaporization or aerosolization.

An open vaping system means any noncombustible product that employs a heating element, battery, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size and including the component parts and accessories thereto, that uses a refillable liquid solution **to deliver vaporized or aerosolized nicotine, non-nicotine substances, or other materials to users that may be inhaling from the product** such as any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and every variation thereof, regardless of whether marketed as such; and any liquid solution that is intended to be used with the product.

All distributors purchasing untaxed vapor products and who do not currently have a tobacco license must register and obtain a license through KY Business One Stop.
<https://onestop.ky.gov/Pages/default.aspx>

In addition, multiple options are available to assist with- electronic monthly reporting obligations. Filers may produce an XML file that meets the requirements included in the guide on the DOR Tobacco website <https://revenue.ky.gov/Business/Tobacco-Tax/Pages/default.aspx>.

Filers may choose to use the excel spreadsheet also available at the same website to enter data necessary for cigarette or tobacco filing, now also being updated for vapor products. Once completed, the filer will need to visit the site to convert the spreadsheet into an XML file. Then this file can be loaded directly to the KYETS (e-filing system). For a third option, a filer may enter information via web form entry. If a licensee needs programming assistance in order to meet the deadline of September 20, 2020 for August 2020 returns, here are some third party vendors that can possibly assist: Avalara (919-395-9872 – Contact Donna Alderman) and iGen (920-234-5634 Contact – Chris Roy).

Additional Department webinar training and assistance will be offered again soon to assist with this implementation. If you have any questions about the licensing or filing process or want to schedule training, please contact the Department of Revenue by email at krc.webresponsetobaccotax@ky.gov or by phone at 502-564-6823 Option 2.