



Revenue Ruling No. 22-003
November 17, 2022
Tobacco Tax

Non-Traditional Tobacco and Nicotine Products

Purpose

The purpose of this ruling is to clarify the taxability of non-traditional tobacco and nicotine products.

Law

In Louisiana, tobacco excise tax is levied “upon the sale, use, consumption, handling or distribution of all cigars, cigarettes, smoking and smokeless tobacco, and vapor products and electronic cigarettes.”¹

LA R.S. 47:842 defines smokeless tobacco as:

(15) "Smokeless tobacco" means all smokeless tobacco including but not limited to fine cut, long cut, packed in pouches, snuff, snuff flower, chewing tobacco, cavendish, plugs, twists, shorts, refuse and other scraps, clippings and sweepings of tobacco, and other forms of loose tobacco, articles and products made of tobacco, **or a tobacco substitute.**

(Emphasis added.)

Facts and Analysis

There are several non-traditional tobacco and nicotine products on the market, including but not limited to nicotine pouches, nicotine toothpicks and nicotine lozenges. These products are manufactured with nicotine which is extracted from tobacco or synthetic nicotine which is combined with other food-grade ingredients. Products using the nicotine extract do not contain any other tobacco plant material in the final product. Nicotine pouches are typically placed under the lip and held there for up to sixty minutes. During this time, the nicotine is absorbed through the gums. Nicotine lozenges are placed in the mouth and dissolve over approximately ten minutes. Toothpicks are placed in the mouth and the nicotine is drawn out by the user's saliva.

As outlined above, Louisiana tobacco excise tax is imposed on “the sale, use, consumption, handling or distribution of all cigars, cigarettes, smoking and smokeless tobacco, and vapor

¹ [LA R.S. 47:841](#).

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products and electronic cigarettes.”² Smokeless tobacco is defined to include “products made of tobacco, or a tobacco substitute.”³ A substitute is a “thing that takes the place or function of another.”⁴ The products made with nicotine extracted from tobacco plants fall within the definition of smokeless tobacco, because the nicotine extract is derived from the tobacco plant, and thus, the product is made of tobacco. The nicotine is part of the plant. There is no requirement that the product contain all or even specific parts of the plant. Further, even if the nicotine used in these products was not made of tobacco, the products still fall within the definition of smokeless tobacco as a tobacco substitute. Likewise, products made with nicotine extracted from other sources and synthetic nicotine constitute tobacco substitutes, because the nicotine takes the place of the nicotine found in tobacco, and therefore, is subject to tobacco excise tax as smokeless tobacco.

LA [R.S. 47:855](#) exempts from tobacco tax, “smoking and chewing tobacco purchased by or for state institutions for issue to the inmates”. There are no other exemptions provided in Chapter 8 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended⁵.

Ruling:

Any product made of nicotine extracted from tobacco is considered to be made of tobacco and is subject to Louisiana tobacco excise tax. Additionally, products made with nicotine extract, regardless of the source, or synthetic nicotine are considered tobacco substitutes, and are therefore subject to Louisiana tobacco excise tax imposed on smokeless tobacco.

Kevin J. Richard, CPA
Secretary of Revenue

² [LA R.S. 47:841](#).

³ [LA R.S. 47:842\(15\)](#).

⁴ [See Merriam-Webster definition](#).

⁵ House Bill 525 of the 2021 Regular Session proposed to exclude from the definition of smokeless tobacco products containing nicotine but no other substance considered to be smokeless tobacco. The measure failed in the Senate Committee on Revenue and Fiscal Affairs.

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