

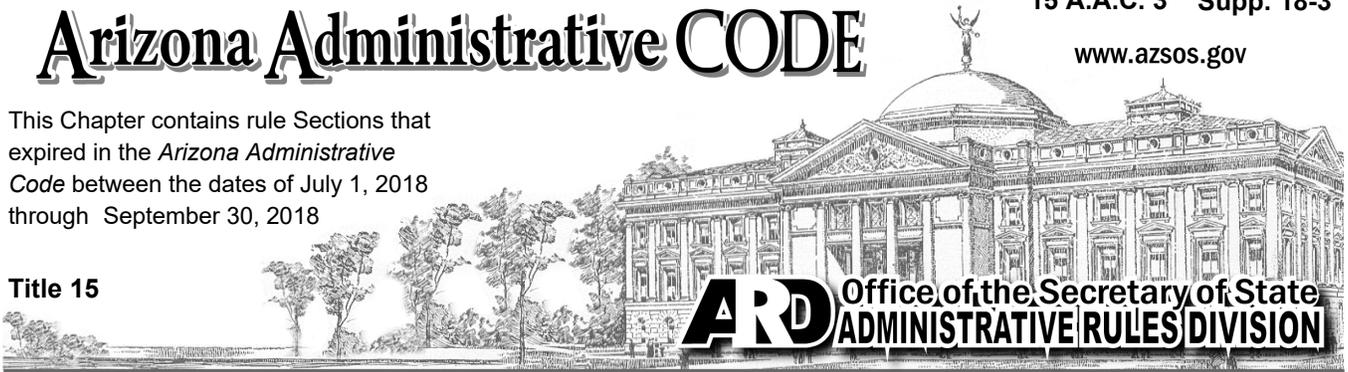
Arizona Administrative CODE

15 A.A.C. 3 Supp. 18-3

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This Chapter contains rule Sections that expired in the *Arizona Administrative Code* between the dates of July 1, 2018 through September 30, 2018

Title 15



TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE - LUXURY TAX SECTION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

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Questions about the expired rules? Contact:

Council:	The Governor's Regulatory Review Council
Name:	GRRC
Address:	100 N. 15th Ave #305 Phoenix, AZ 85007
Telephone:	(602) 542-2058

The release of this Chapter in Supp. 18-3 replaces Supp. 18-1, 10 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division
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TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE - LUXURY TAX SECTION

(Authority: A.R.S. § 42-1202 et seq.)

Article 1 consisting of Sections R15-3-101 through R15-3-104, Article 2 consisting of Sections R15-3-201 through R15-3-204, Article 3 consisting of Sections R15-3-301 through R15-3-322, Article 4 consisting of Sections R15-3-401 through R15-3-410, Article 5 consisting of Sections R15-3-501 through R15-3-512 adopted effective March 18, 1981.

Former Article 1 consisting of Sections R15-3-01 through R15-3-13 and Article 2 consisting of Sections R15-3-21 through R15-3-28 repealed effective March 18, 1981.

ARTICLE 1. REPEALED

Article 1, consisting of Sections R15-3-101 through R15-3-104, repealed effective May 14, 1993 (Supp. 93-2).

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ARTICLE 1. REPEALED**R15-3-101. Repealed****Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective May 14, 1993 (Supp. 93-2).

R15-3-102. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective May 14, 1993 (Supp. 93-2).

R15-3-103. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective May 14, 1993 (Supp. 93-2).

R15-3-104. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective May 14, 1993 (Supp. 93-2).

ARTICLE 2. GENERAL**R15-3-201. Definitions**

In this Chapter, unless otherwise specified:

1. "Acquire" or any variation thereof means to receive, to come to own or have, or to come into possession or control of tobacco products, regardless of the means or manner and whether the tobacco products are later transferred, sold, distributed or otherwise given to another person.
2. "Alcoholic beverage" means cider, malt liquor, spirituous liquor, and vinous liquor, as these terms are defined in A.R.S. § 42-3001.
3. "Applicant" means a person applying for a distributor's license under A.R.S. § 42-3401.
4. "Business location" means either of the following:
 - a. Pursuant to A.R.S. § 42-3151(A), any place where books, papers, invoices, or records of a wholesaler, distributor, or retailer are open for inspection by the Department; or
 - b. Pursuant to A.R.S. § 42-3151(B), any place where luxuries are placed, produced, stored, or sold.
5. "Cigar" has the same meaning as prescribed in A.R.S. § 42-3001.
6. "Cigarette" has the same meaning as prescribed in A.R.S. § 42-3001.
7. "Consumer" has the same meaning as prescribed in A.R.S. § 42-3001.
8. "Department" means the Arizona Department of Revenue.
9. "Distributor" has the same meaning as prescribed in A.R.S. § 42-3001.
10. "Luxury" has the same meaning as prescribed in A.R.S. § 42-3001.
11. "Nonparticipating manufacturer" has the same meaning as prescribed in A.R.S. § 44-7111.
12. "Other tobacco products" has the same meaning as prescribed in A.R.S. § 42-3001.
13. "Participating manufacturer" has the same meaning as prescribed in A.R.S. § 44-7111.
14. "Place of business" has the same meaning as prescribed in A.R.S. § 42-3001.
15. "Primary source of supply" has the same meaning as prescribed in A.R.S. § 4-243.01(E)(1).

16. "Retailer" has the same meaning as prescribed in A.R.S. § 42-3001.
17. "Roll-your-own tobacco" has the same meaning as prescribed in A.R.S. § 42-3001.
18. "Sale" means the act of soliciting, receiving an order for, keeping or offering for sale, delivering for value, peddling, or keeping with intent to sell any of the luxuries taxable under this Chapter.
19. "Tobacco products" has the same meaning as prescribed in A.R.S. § 42-3001.
20. "Tobacco taxes" means all taxes imposed on tobacco products under A.R.S. Title 42, Chapter 3.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2).
Amended effective May 14, 1993 (Supp. 93-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-202. Reserved**R15-3-203. Repealed****Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective July 23, 1985 (Supp. 85-4).

R15-3-204. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective July 23, 1985 (Supp. 85-4).

ARTICLE 3. TAXES ON TOBACCO PRODUCTS**R15-3-301. Licensing**

- A. A person shall obtain a distributor's license before engaging in business as a distributor. The Department shall issue a distributor's license to the person named in the license application for a business making the initial sale or distribution of tobacco products in this state, pursuant to the requirements of A.R.S. § 42-3401 and any applicable bonding requirements under A.R.S. § 42-1102(B).
- B. The person shall disclose all places of business and business locations in its distributor's license application.
- C. The Department shall issue a distributor's license only if the distributor maintains any books, papers, invoices, records, and tobacco products subject to the Department's inspection under A.R.S. §§ 42-3151, 42-3401(D), and 42-3405 in a place and manner at the business location that is accessible to the Department during normal business hours without a judicial warrant or prior written consent. For example, if a licensee or its agent uses the same property for residential purposes and as a business location, as that term is defined in A.A.C. R15-3-201, the books, papers, invoices, records, and tobacco products located on that property shall be maintained in a place and manner that is completely separate from the residential portion of the property so that the Department will not need a judicial warrant or written consent to inspect the business location of that property during normal business hours.
- D. If an applicant remits payment of the licensee fee by cashier's check or money order, the payment shall bear the applicant's name as the purchaser or remitter; or, if the payment is made by company check, the check shall bear the applicant's name as the drawer or maker.
- E. Pursuant to A.R.S. §§ 42-3004(1) and 42-3401(C), the Department may request an applicant to submit additional supporting documentation for the purpose of enforcing this section.

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- F. For purposes of licensing, “person” means any firm partnership, limited liability company, limited liability partnership or association, or corporation, and the person’s members, officers, or owners who directly or indirectly own an aggregate amount of ten percent or more of ownership interest.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-301 repealed, new R15-3-301 renumbered from R15-3-302 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 19 A.A.R. 520, effective February 19, 2013 (Supp. 13-1). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-302. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-302 renumbered to R15-3-301, new Section R15-3-302 renumbered from R15-3-304 and amended effective June 20, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). New Section made by final rulemaking at 8 A.A.R. 459, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Repealed by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-303. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-303 repealed, new Section R15-3-303 renumbered from R15-3-305 and amended effective June 20, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). New Section made by final rulemaking at 12 A.A.R. 4892, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Repealed by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-304. Change of Licensee’s Business Name

A licensee that changes the name under which its business operates shall notify the Department in writing within 30 days of the name change and request a reissuance of its distributor’s license.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-304 renumbered to R15-3-302, new Section R15-3-304 renumbered from R15-3-306 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-305. Change of Licensee’s Place of Business, Business Location or Mailing Address

- A. Except as provided in subsection (C), a licensee shall notify the Department in writing within 30 days of a change in a place of business or business location and request a reissuance

of its distributor’s license that contains the licensee’s change in information.

- B. Except as provided in subsection (C), a licensee shall notify the Department in writing within 30 days of a change in the licensee’s mailing address (where all correspondence is mailed). The licensee shall specify whether the change is for the mailing address only.
- C. A licensee that has received a service of documents from the Department pursuant to A.R.S. § 41-1092.04 shall notify the Department of any change in the licensee’s place of business, business location or mailing address that would affect the subsequent service of documents within five days of the change.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-305 renumbered to R15-3-303, new Section R15-3-305 renumbered from R15-3-307 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-306. Recordkeeping, Invoicing and Filing-related Requirements

- A. A licensee shall maintain books and records subject to inspection under A.R.S. §§ 42-3151 and 42-3405, including invoices required under A.R.S. § 42-3462(A)(13) for transactions with nonparticipating manufacturers, in a manner that allows the Department to segregate transactions by the distributor’s business location, regardless of how the distributor lists transactions on a monthly return for tobacco products.
- B. A licensee shall submit electronic copies of invoices or equivalent documentation for any nonparticipating manufacturer’s cigarettes or roll-your-own tobacco purchased, acquired, or exported by or to the licensee. Pursuant to A.R.S. §§ 42-3462(A)(13), copies of those invoices shall be submitted with the licensee’s monthly returns required under A.R.S. § 42-3462.
1. This subsection applies to any nonparticipating manufacturer’s cigarettes or roll-your-own tobacco entering or leaving the inventory of a business location or place of business in the state, and to any transaction in which a nonparticipating manufacturer’s cigarettes or roll-your-own tobacco leave an out-of-state business location for any location within the state.
 2. “Equivalent documentation” means letters, memoranda, receipts, billing records or other written documentation that records or documents transactions for the purchase, acquisition or export of a nonparticipating manufacturer’s cigarettes or roll-your-own tobacco in a manner that allows the Department to match those transactions with transactions recorded in a distributor’s invoices, books and records. Equivalent documentation shall contain for each transaction:
 - a. The purchase, acquisition or export date;
 - b. The corresponding invoice number;
 - c. The brand names and quantities of each brand of cigarettes or roll-your-own tobacco purchased, acquired or exported;
 - d. The identification of any cigarette tax stamps affixed to each brand of cigarettes, if applicable; and
 - e. The recipient’s name and delivery address.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-306 renumbered to R15-3-304, new Sec-

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tion R15-3-306 renumbered from R15-3-308 and amended effective June 20, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-307. Cancellation of Distributor's License

- A. If a licensee sells or terminates its business or voluntarily ceases all tobacco distribution activity, the licensee shall notify the Department in writing within 30 days of selling or terminating its business or ceasing its tobacco distribution activity, including the date of the sale, termination or cessation of tobacco distribution activity. The Department shall cancel the license, effective as of the date of sale, termination or voluntary cessation of tobacco distribution activity.
- B. In the event a license is cancelled, the licensee shall file a final monthly return by the 20th day of the month immediately following the cancellation's effective date. Late or fraudulent filings are subject to civil and criminal penalties under A.R.S. §§ 42-1125(K), (U) and 42-1127(B)(1)-(2), (B)(4).

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-307 renumbered to R15-3-305, new Section R15-3-307 renumbered from R15-3-309 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-308. Revocation or Suspension of Distributor's License

- A. The Department shall not issue or renew a distributor's license if any of the conditions listed under A.R.S. § 42-3401(E)-(F) applies. The Department shall give written notice of a denial to issue or renew a license to the applicant or licensee by delivering the notice by certified mail, return receipt requested, or by personal service, to the applicant or licensee's place of business.
- B. Except as otherwise provided in A.R.S. § 42-3401 and this section, the Department may revoke or suspend a license for more than two violations within a three-year period of any provision of A.R.S. Title 42 or this Article pursuant to A.R.S. § 42-3401(G).
- C. The Department may revoke a license for a violation of A.R.S. §§ 42-3401(F), 42-3461(A) or any other statute that permits revocation.
- D. The Department shall give written notice of a revocation or suspension to a licensee by delivering the notice by certified mail, return receipt requested, or by personal service, to the licensee's place of business.
- E. The applicant or licensee may request a hearing in writing within 30 days after receipt of the notice to appeal the Department's decision. If the notice is delivered by certified mail, return receipt requested, the applicant or licensee is presumed to have received notice upon the date shown on the return receipt signed by or on behalf of the applicant or licensee, or, if the receipt is unsigned, upon the date that the United States Postal Service attempted to deliver the notice. If the notice is delivered by personal service, the applicant or licensee is presumed to have received notice upon the date of service.
- F. If the applicant or licensee does not file an appeal within the 30-day period, the Department's determination becomes final. The Department shall consider the appeal filed on the earlier of the date received by the Department or the date deposited in

the United States mail as evidenced by a postmark. If the applicant or licensee files a timely appeal, the Department shall request a hearing by the Office of Administrative Hearings.

- G. If the applicant or licensee appeals the revocation or suspension, the Department shall suspend action until the final order of the Department has been issued under A.A.C. R15-10-131.
- H. Pursuant to A.R.S. §§ 41-1092.11(B) and 42-3401(J), the Department may order the summary suspension of a license, pending a hearing by the Office of Administrative Hearings on the revocation or suspension, if the Department finds the public health, safety or welfare imperatively requires emergency action and incorporates that finding in the written notice described in subsection (D).
- I. In the event a license is revoked, the person holding the revoked license is subject to the final monthly reporting requirement of A.A.C. R15-3-307(B).
- J. In the event a license is suspended, the licensee remains subject to the final monthly reporting requirement as provided in A.R.S. §§ 42-3462 and 42-3501 during the period of suspension.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-308 renumbered to Section R15-3-306, new Section R15-3-308 renumbered from R15-3-310 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 19 A.A.R. 520, effective February 19, 2013 (Supp. 13-1). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-309. Inspection of Tobacco Product Retailers

- A. A tobacco product retailer shall maintain any books, papers, invoices, records, and luxuries subject to the Department's inspection under A.R.S. § 42-3151 in a place and manner at the retail operation that is accessible to the Department during normal business hours without a judicial warrant or prior written consent. For example, if a retailer or agent of the retailer uses the same property for residential purposes and as a business location, the retailer shall maintain its books, papers, invoices, records, and luxuries in a place and manner that is separate and apart from the residential portion so that the Department does not need a judicial warrant or written consent to inspect the business location on that property during normal business hours.
- B. If the retailer maintains any books, papers, invoices, or records electronically, the retailer shall provide access to the data for the Department's inspection at the business location, regardless of the data's storage location. The retailer shall provide access at the business location in a place and manner that is accessible to the Department during normal business hours without a judicial warrant or the retailer's prior written consent.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-309 renumbered to Section R15-3-307, new Section R15-3-309 renumbered from R15-3-311 and amended effective June 20, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22

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A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-310. Vending Machine Identification and Inspection

- A.** An owner, operator, or person in possession of a vending machine shall ensure that any agent of the Department is able to inspect all cigarettes that are offered for sale using the vending machine. Except as provided in subsection (B), the owner, operator, or person in possession of the vending machine shall visibly display cigarettes in the vending machine so the Department's agent is able to inspect the cigarettes in the machine to verify that the required cigarette tax stamps are properly affixed.
- B.** If the cigarettes cannot be visually inspected in a vending machine, the owner, operator, or person in possession of the machine shall have access to the cigarettes in the machine and shall permit the Department's agent to inspect the cigarettes as needed to ensure they are properly affixed with tax stamps.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-310 renumbered to R15-3-308, new Section R15-3-310 renumbered from R15-3-313 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-311. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-311 renumbered to Section R15-3-309, new Section R15-3-311 renumbered from R15-3-314 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Section repealed by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-312. Purchase of Cigarette Tax Stamps

- A.** A distributor shall obtain unaffixed cigarette tax stamps only from the Department. The Department shall not provide cigarette tax stamps to a person who does not hold a valid distributor's license issued by the Department.
- B.** A distributor shall not sell, lend, give, purchase, or otherwise transfer cigarette tax stamps to or for another person at any time.
- C.** If a distributor remits payment for cigarette tax stamps by cashier's check, company check, or money order, the payment shall bear one of the following:
1. The name of the distributor purchasing the cigarette tax stamps as the purchaser or remitter, if the payment is made by cashier's check or money order; or
 2. The name of the distributor purchasing the cigarette tax stamps as the drawer or maker, if the payment is made by company check.

Historical Note

Former Section R15-3-316 renumbered to R15-3-312 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843,

effective June 24, 2016 (Supp. 16-2).

R15-3-313. Invoice Issued by a Distributor

For the purpose of enforcing A.R.S. § 42-3452 and pursuant to A.R.S. § 42-3004, a distributor of tobacco products shall issue an invoice or equivalent documentation for each transaction that involves the sale, purchase, or consignment of tobacco products to a retailer or the distributor's customer. The invoice or equivalent documentation shall include the distributor's license number. A copy of the invoice or equivalent documentation shall be maintained in accordance with A.R.S. § 42-3405.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-313 renumbered to R15-3-310, new Section R15-3-313 renumbered from R15-3-318 effective June 20, 1990 (Supp. 90-2). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 4135, effective July 31, 2003 (Supp. 03-3). New Section made by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-314. Sales in Interstate or Foreign Commerce

Tobacco products sold by licensed distributors to purchasers located outside the state are exempt from tobacco taxes if the following conditions are met:

1. The distributor ships or delivers the tobacco products to a location outside the state for use outside the state;
2. The distributor files with the Department the applicable monthly return or report for the tobacco products being sold, in the form and manner required by the Department;
3. In the appropriate section of the return or report filed under subsection (2), the distributor indicates the amount of out-of-state sales and the party to whom the sales were made;
4. The distributor provides to the Department a copy of either the invoice issued by the distributor to the out-of-state party to whom the sales were made or a copy of the return or report filed with the taxing authority of the state of destination of the cigarettes or other tobacco products; and
5. Pursuant to A.R.S. § 42-3405, the distributor retains one copy of each return or report for four years following the close of the calendar year in which the tobacco products are sold.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-314 renumbered to R15-3-311, new Section R15-3-314 renumbered from R15-3-319 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-315. Credit Purchases of Cigarette Tax Stamps

A distributor may increase its credit limit for cigarette tax stamp purchases by increasing the amount of its bond on file with the Department.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended effective November 5, 1986 (Supp. 86-6). Former Section R15-3-315 repealed, new Section R15-3-315 renumbered from R15-3-321 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5

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A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-316. Sale of Unstamped Cigarettes

- A. Except as otherwise provided in A.R.S. Title 42, Chapter 3, Articles 10 and 11, a distributor shall file the applicable monthly return with the Department in the form and manner required by the Department showing that the distributor purchased a sufficient number of cigarette tax stamps to be affixed to all cigarettes it distributes in this state during the period. If the distributor does not provide this information, the Department shall presume the distributor sold unstamped cigarettes. In that case, and in addition to any other applicable penalties, the Department shall determine the amount of unstamped cigarettes sold by the distributor and shall issue a proposed deficiency assessment for any luxury tax found due. The proposed deficiency assessment becomes final unless the distributor protests the assessment within 45 days under A.R.S. § 42-1108 and 15 A.A.C. 10, Article 1.
- B. If a retailer maintains or possesses cigarettes at its place of business that, upon the Department's inspection, are loose or otherwise repackaged in a manner different from that distributed for sale by the cigarette manufacturer, the Department shall presume the retailer is offering the cigarettes for sale in violation of A.R.S. § 42-3456 unless the retailer establishes the contrary.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-316 renumbered to R15-3-312, new Section R15-3-316 renumbered from R15-3-322 and amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 5 A.A.R. 2168, effective June 15, 1999 (Supp. 99-2). Amended to correct typographical error in citation to Arizona Revised Statutes (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-317. Contraband and the Disposition of Seized Tobacco Products

- A. Tobacco products considered to be contraband under A.R.S. § 42-3402 that are ordered, purchased or transported in violation of A.R.S. § 36-798.06 may be voluntarily reported by a person other than a licensed distributor and are subject to tax pursuant to A.R.S. § 36-798.06(E).
- B. Except as provided in subsection (C), tobacco products seized by the Department under A.R.S. § 42-1124 are subject to return to a licensee that prevails in an appeal of the seizure.
- C. Tobacco products shall be forfeited to the state and destroyed if the tobacco products constitute contraband tobacco products, as described in A.R.S. § 42-3402, or are subject to seizure and destruction under any other statute.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 520, effective February 19, 2013 (Supp. 13-1). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-318. Refunds, Rebates and Redemption of Cigarette Tax Stamps

- A. The Department does not bear the risk of loss or theft of cigarette tax stamps sold to a licensee and are no longer in the Department's possession.
- B. The Department is not obligated to issue a refund or rebate for or to redeem lost cigarette tax stamps or cigarette tax stamps rendered unusable due to a licensee's mistake in the handling, usage or recordkeeping of stamps in the licensee's possession.
- C. The Department is not obligated to issue a refund for cigarette tax stamps unless the licensee proves it is entitled to a refund under one of the conditions of A.R.S. § 42-3008(A) and, if applicable, meets the requirements of A.A.C. R15-3-314.
- D. Pursuant to A.R.S. § 42-3008(C), the Department will not issue a refund for cigarette tax stamps affixed to tobacco products that are deemed contraband under A.R.S. Title 42, Chapter 3.
- E. Except as provided in subsections (A) and (B) above, the Department shall redeem unused or spoiled cigarette tax stamps that satisfy all conditions of A.R.S. § 42-3460, provided the Department first receives a complete request for redemption. To request a redemption, the licensee shall submit a request to the Department and the unused or spoiled stamps sought to be redeemed. The Department shall not issue a redemption unless the Department receives the cigarette tax stamps sought to be redeemed.
- F. Except as provided in subsections (A) and (B) above, the Department may issue a rebate of taxes paid on tobacco products pursuant to Article 7 of A.R.S. Title 42, Chapter 3 if the licensee establishes entitlement to the rebate pursuant to A.R.S. § 42-3406. The request for a rebate and all supporting documentation shall be submitted through the electronic filing system established by the Department.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-318 renumbered to R15-3-313 effective June 20, 1990 (Supp. 90-2). New Section made by exempt rulemaking at 19 A.A.R. 520, effective February 19, 2013 (Supp. 13-1). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-319. Cigarette Samples

- A. A person shall not distribute loose individual cigarettes or cigarette packs containing less than 20 cigarettes within the state regardless of whether the cigarettes or cigarette packs are distributed free of charge or as samples.
- B. A person may distribute cigarettes packaged in quantities of 20 or 25 as samples if the samples were obtained from a licensed distributor that reported and affixed cigarette tax stamps to the cigarette packs in accordance with A.R.S. Title 42, Chapter 3.
- C. A person may distribute tobacco products other than cigarettes as samples within Arizona if the samples were first obtained from a licensed distributor that timely reported and remitted payment of applicable state tobacco taxes on the samples.
- D. Any person providing samples of cigarettes, as described under subsection (B), or samples of other tobacco products, as described under subsection (C), should retain invoices from the licensed distributor that reported the samples.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-319 renumbered to R15-3-314 effective June 20, 1990 (Supp. 90-2). New Section R15-3-319 made by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2).

R15-3-320. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2).

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Repealed effective June 20, 1990 (Supp. 90-2).

R15-3-321. Renumbered**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-321 renumbered to R15-3-315 effective June 20, 1990 (Supp. 90-2).

R15-3-322. Renumbered**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Former Section R15-3-322 renumbered to Section R15-3-316 effective June 20, 1990 (Supp. 90-2).

ARTICLE 4. TAX ON ALCOHOLIC BEVERAGES**R15-3-401. Tax Return Filing Requirements for a Malt Liquor Wholesaler**

On or before the statutory deadline each month, each wholesaler of malt liquor shall file a return on a form prescribed by the Department. The return shall show the following:

1. Taxpayer's name, mailing address, business address, liquor license number issued by the Department of Liquor Licenses and Control, and identification number;
2. The itemized quantity of malt liquor purchased during the month the tax accrued, listed by supplier and invoice number;
3. The itemized quantity of tax-free sales of malt liquor during the month the tax accrued, listed by purchaser and invoice number;
4. The itemized quantity of out-of-state sales of malt liquor during the month the tax accrued, listed by purchaser and invoice number;
5. The itemized quantity of malt liquor purchased from other licensed Arizona wholesalers during the month the tax accrued, listed by supplier and invoice number;
6. The total quantity of malt liquor purchased in Arizona during the month the tax accrued;
7. The amount of luxury tax accrued during the month; and
8. Supporting documentation for the information provided in the return.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended effective July 23, 1985 (Supp. 85-4). Amended by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4).

R15-3-402. Tax Return Filing Requirements for a Spirituous or Vinous Liquor Wholesaler

On or before the statutory deadline each month, each spirituous or vinous liquor wholesaler shall file a return on a form prescribed by the Department. The return shall show the following:

1. Taxpayer's name, mailing address, business address, liquor license number issued by the Department of Liquor Licenses and Control, and identification number;
2. The itemized quantity of spirituous or vinous liquor sold during the month the tax accrued, listed by purchaser and invoice number;
3. The itemized quantity of spirituous or vinous liquor received during the month the tax accrued, listed by supplier and invoice number;
4. The total quantity of spirituous or vinous liquor available at the beginning and at the end of the month the tax accrued;

5. The itemized quantity of tax-free sales of spirituous or vinous liquor during the month the tax accrued, listed by purchaser and invoice number;
6. The itemized quantity of out-of-state sales of spirituous or vinous liquor during the month the tax accrued, listed by purchaser and invoice number;
7. The itemized quantity of spirituous or vinous liquor sold to other licensed Arizona wholesalers during the month the tax accrued, listed by purchaser and invoice number;
8. The total quantity of spirituous or vinous liquor sold in Arizona during the month the tax accrued;
9. The amount of luxury tax accrued during the month; and
10. Supporting documentation for the information provided in the return.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended effective July 23, 1985 (Supp. 85-4). Amended by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4).

R15-3-403. Tax Return Filing Requirements for a Domestic Microbrewery, Domestic Farm Winery, or Beer Manufacturer

On or before the statutory deadline each month, each domestic microbrewery, domestic farm winery, or beer manufacturer subject to A.R.S. § 42-3355 shall file a return on a form prescribed by the Department. The return shall show the following:

1. Taxpayer's name, mailing address, business address, liquor license number issued by the Department of Liquor Licenses and Control, and identification number;
2. The itemized quantity of tax-free sales to Arizona purchasers during the month the tax accrued, listed by purchaser and invoice number;
3. For taxpayers filing for locations physically within the state, the itemized quantity of out-of-state sales during the month the tax accrued, listed by purchaser and invoice number;
4. The itemized quantity of beer, malt liquor, or vinous liquor sold to other licensed Arizona wholesalers during the month the tax accrued, listed by purchaser and invoice number;
5. The total quantity of beer, malt liquor, or vinous liquor sold to Arizona purchasers during the month the tax accrued;
6. The amount of luxury tax accrued during the month; and
7. Supporting documentation for the information provided in the return.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4).

R15-3-404. Taxes Remitted

Any domestic farm winery or domestic microbrewery required under A.R.S. Title 4, Chapter 2, Article 1 to remit transaction privilege tax shall remit the tax under the retail classification (see 15 A.A.C. 5, Article 1) on its gross receipts from the sale in addition to luxury tax, regardless of its business location.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Section repealed by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). New Section made by final rulemaking at 14 A.A.R. 4410, effective January 3,

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2009 (Supp. 08-4).

(Supp. 08-4).

R15-3-405. Alcoholic Beverage Samples

Samples of alcoholic beverages, whether intended for personal or commercial use and consumption, and whether provided for a consideration, are subject to luxury tax at the rates prescribed in A.R.S. § 42-3052 unless otherwise exempt under A.R.S. Title 42, Chapter 3.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Section repealed by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). New Section made by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4).

R15-3-406. Metric Conversion

To compute the luxury tax for alcoholic beverages in metric containers, each taxpayer shall multiply the quantity in liters by 0.264172 to determine the equivalent quantity in gallons.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4).

R15-3-407. Expired**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2702, effective July 28, 2018 (Supp. 18-3).

R15-3-408. Failure to Report Purchases from a Primary Source of Supply

If the Department determines that an Arizona wholesaler failed to transmit to the Department copies of all invoices for alcoholic beverages purchased from any primary source of supply as required by A.R.S. § 4-243.01, the Department shall report the failure to the Department of Liquor Licenses and Control.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4).

R15-3-409. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Section repealed by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3).

R15-3-410. Failure to File a Return or Pay Tax

The Department shall report any failure by a licensee to file a return or pay the tax due to the Department of Liquor Licenses and Control, and the Department shall request that the Department of Liquor Licenses and Control take any applicable action authorized under A.R.S. Title 4.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 5 A.A.R. 3768, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009

ARTICLE 5. ADMINISTRATION**R15-3-501. Filing of Luxury Tax Reports and Returns**

The Department shall deem a report or return required to be filed under A.R.S. Title 42, Chapter 3 or this Chapter timely filed if the taxpayer submits the report or return through the electronic filing system established by the Department on or before the statutory due date.

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2). Amended effective June 20, 1990 (Supp. 90-2). Amended by final rulemaking at 14 A.A.R. 4410, effective January 3, 2009 (Supp. 08-4). Amended by exempt rulemaking at 22 A.A.R. 1843, effective June 24, 2016 (Supp. 16-2); when this Section was amended in Supp. 16-2 the preceding historical note was omitted due to a clerical error. The note was added at the request of the Department, file no. R18-90 (Supp. 18-1).

R15-3-502. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-503. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-504. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-505. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-506. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-507. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-508. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-509. Repealed**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-510. Expired**Historical Note**

Adopted effective March 18, 1981 (Supp. 81-2). Amended effective June 20, 1990 (Supp. 90-2). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 4135,

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effective July 31, 2003 (Supp. 03-3).

Repealed effective February 22, 1989 (Supp. 89-1).

R15-3-511. Repealed

R15-3-512. Repealed

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2).

Historical Note

Adopted effective March 18, 1981 (Supp. 81-2).
Repealed effective February 22, 1989 (Supp. 89-1).