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# Wisconsin Legislative Council

## ACT MEMO

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Prepared by: Abby Gorzlancyk, Staff Attorney

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**2023 Wisconsin Act 150**  
[2023 Assembly Bill 910]

**Remote Sellers of Cigars and  
Pipe Tobacco**

### 2023 WISCONSIN ACT 150

2023 Wisconsin Act 150 makes various changes to how cigars and pipe tobacco are taxed and creates requirements for remote retail sellers of cigar and pipe tobacco to sell in Wisconsin.

#### REQUIREMENTS TO BE A REMOTE RETAIL SELLER

2023 Wisconsin Act 150 defines remote retail sales for purposes of regulating remote sellers of cigars and pipe tobacco and creates requirements to become a remote retail seller in this state. The act defines remote retail sale as a sale of cigars<sup>1</sup> or pipe tobacco<sup>2</sup> to a consumer that satisfies either of the following: (1) the consumer submits the order for the sale by telephone, voice transmission, mail, internet, or other online service, or the seller is otherwise not in the physical presence of the consumer when the order or request for purchase is made; or (2) the cigars or pipe tobacco are delivered to the consumer by common carrier, private delivery service, or other method of remote delivery or the seller is not in the physical presence of the consumer when the consumer obtains possession of the cigars or pipe tobacco. The act defines a remote retail seller as a person located inside or outside of the state who makes remote retail sales.

In order to make a remote retail sale of cigars or pipe tobacco, the act requires a person to satisfy each of the following requirements:

- Obtain a remote retail seller permit from the Department of Revenue (DOR).
- Register with DOR and collect the required sales and use taxes.
- Collect and remit the required excise tax.
- Use an independent, third-party age verification service that compares information available on commercial databases or aggregate of databases used by government agencies and business for age and identity verification to ensure the consumer has attained the minimum age for purchasing tobacco.

#### TAXATION OF REMOTE RETAIL SALES OF CIGARS AND PIPE TOBACCO

The act provides that excise tax is specifically imposed on the sale, offering or exposing for sale, possession with the intent to sell, or removal for consumption or sale or other disposition for any purpose of cigars and pipe tobacco by any person engaged as a remote retail seller. The excise tax is 71

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<sup>1</sup> The act defines cigar as any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco but does not include a cigarette.

<sup>2</sup> The act defines pipe tobacco as any tobacco that because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered or purchased by consumers as tobacco to be smoked in a pipe.

percent of the actual cost to the distributor or remote retail seller,<sup>3</sup> but the tax imposed on cigars cannot exceed an amount equal to 50 cents per cigar.

Additionally, the act provides that use tax is specifically imposed on the use or storage by consumers of cigars and pipe tobacco in this state at the rate of 71 percent of the cost of the tobacco products without diminution by volume or other discounts on domestic products, but the tax imposed on cigars cannot exceed an amount equal to 50 cents per cigar. However, the use tax does not apply if the excise tax has been paid or if the tobacco products are exempt from use tax under statute.<sup>4</sup> The act also specifies that pipe tobacco is included in the definition of tobacco products, which already includes cigars.

## MISCELLANEOUS PROVISIONS

2023 Wisconsin Act 150 also adds remote retail sellers to current statutes regarding record keeping, invoices and reporting, publication of permit lists by DOR, and collecting and remitting excise tax. First, the act adds remote retail sellers to the current requirement that each distributor keep records of purchases and sales of tobacco and vapor products. Second, the act extends current requirements that permittees render true and correct invoices of every sale of tobacco and vapor products at wholesale or retail, and file a verified report monthly of all tobacco and vapor products purchased, sold, received, warehoused, or withdrawn in the previous month to remote retail sellers. Third, currently DOR must publish on its website a list of permits issued to distributors and jobbers quarterly, and the act extends this publishing requirement to include remote retail sellers.<sup>5</sup> Lastly, the act adds remote retail sellers to the list of entities that must collect and remit excise tax imposed on tobacco and vapors that are not exempt from taxation, in their required reports to DOR.

**Effective date:** January 1, 2025

For a full history of the bill, visit the Legislature's [bill history page](#).

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<sup>3</sup> The act defines actual cost as the total price of cigars or pipe tobacco charged by the manufacturer or other seller to an unrelated distributor or remote retail seller. The total price includes all charges that are necessary to complete the sale. Total price does not include any reduction in cost or expense which are incurred by the manufacturer or other seller or any reduction in value or cost from discounts or free promotional or sample products. A manufacturer or other seller is related if the two parties have significant common purposes and substantially common membership or substantial common direction or control.

<sup>4</sup> Under s. 139.76 (2), Stats., tobacco and vapor products sold to or by post exchanges of the U.S. armed forces, to or by federally operated veterans hospitals in this state, and tobacco and vapor products sold to an interstate carrier of passengers for hire to be resold to bona fide passengers being transported, and tobacco and vapor products sold for shipment outside this state in interstate commerce are not subject to excise tax.

<sup>5</sup> The confidentiality of income and franchise tax returns and requirement that DOR publish a list quarterly of permits issued to distributors and jobbers were affected by 2023 Wisconsin Act 73. To learn more about 2023 Wisconsin Act 73, see the Legislative Council [Act Memo](#).