

SD DEPARTMENT OF REVENUE

PROPERTY AND SPECIAL TAXES DIVISION
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PACT Act (General Information)

TO: All Manufacturers (including Participating and Non-Participating Manufacturers); and Licensed South Dakota Tobacco Wholesalers and Distributors.

FROM: Michael T. Kenyon, Director
Property and Special Taxes Division

RE: Prevent All Cigarette Trafficking Act, 15 U.S.C. §§ 375-378

As many of you are aware, the federal Prevent All Cigarette Trafficking (“PACT”) Act, 15 U.S.C. §§ 375-378, recently became effective. Congress now requires that all persons¹ who sell, transfer, ship, advertise, or offer to sell cigarettes² or smokeless tobacco for profit must: (1) register³ with the United State’s Attorney General and the state tobacco tax administrator of the state into which shipment is made; and (2) file reports, no later than the 10th day of each month with the state tobacco tax administrator. The reports must be organized by customer’s city or town and by ZIP code. The reports must include:

- The name and address of the person to whom the shipment was made;
- The brand and quantity of cigarettes or smokeless tobacco shipped; and
- The name, address, and telephone number of the person delivering the shipment to the recipient on behalf of the seller.

These provisions clearly apply to tobacco wholesalers, distributors, and product manufacturers (including both Participating and Non-Participating Manufacturers (“NPMs”)).

REMINDER: Shipping cigarettes directly to consumers in South Dakota is prohibited. No person engaged in the business of selling or distributing cigarettes or tobacco products may ship or transport cigarettes or tobacco products to any consumer in South Dakota. SDCL 10-50-99.

¹ The PACT Act defines “person” as: “an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.”

² The definition of “cigarette” in the PACT Act includes roll-your-own tobacco (as defined in section 5702 of the Internal Revenue Code of 1986).

³ You may find the PACT Act registration form at www.atf.gov . Use of the federal registration form will suffice for state purposes.

Please mail the state registration and monthly reports under the PACT Act to:

Jessica Durkin or Sally Staufer
Mickelson Building
1302 E. Hwy. 34, Ste. 1
Pierre, SD 57501

or e-mail to:

DRR.Tobacco@state.sd.us

The Department suggests using electronic media (such as CD) to submit the data, and standard file formats such as Excel spreadsheets are recommended.

The first monthly report under the new provisions, which covered the month of June 2010, was due July 10, 2010. All persons required to file this report who have not yet done so should file that report immediately, including all subsequent reports. Failing to do so could subject non-filers to both criminal and civil penalties.

If you have any questions, or need anything further, please do not hesitate to contact us.

Thank you.

Sincerely,

Michael T. Kenyon, Director
South Dakota Department of Revenue
Property and Special Taxes Division