



STATE OF RHODE ISLAND

# Division of Taxation

Department of Revenue

## Electronic Nicotine-Delivery System Products Frequently Asked Questions For Licensed Distributors

Effective January 1, 2025, Rhode Island law imposes an excise tax on electronic nicotine-delivery system (ENDS) products. A tax is imposed on ENDS products at a rate of either (1) \$0.50 per milliliter of the electronic liquid contained within an ENDS product that is prefilled and not to be refilled, or (2) 10% of the wholesale cost of any other ENDS product.

### **A. Definitions:**

**“Dealer”** means any person who sells cigarettes, other tobacco products, and/or ENDS products to a consumer in Rhode Island. A dealer may also be referred to as a “retailer”.

**“Distributor”** means any person, other than a dealer, who sells or distributes cigarettes, other tobacco products, and/or ENDS products within or into Rhode Island.

**“Distributor”** includes any of the following:

- A. Whether located within or outside of this state, other than a dealer, who sells or distributes ENDS within or into this state.
- B. Engaged in this state in the business of manufacturing ENDS or any person engaged in the business of selling ENDS to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent (75%) of all ENDS sold by that person in this state are sold to dealers or other persons for resale and selling ENDS directly to at least forty (40) dealers or other persons for resale; or
- C. Maintaining one or more regular places of business in this state for that purpose; provided, that seventy-five percent (75%) of the sold ENDS are purchased directly from the manufacturer and selling ENDS directly to at least forty (40) dealers or other persons for resale.

**“Electronic nicotine-delivery system”** or ENDS, means an electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic little cigars, electronic pipe, electronic hookah, e-liquids, e-liquid products, or any related device and any cartridge or other component of such device.

**“Electronic nicotine-delivery system products”** or ENDS products, commonly known as vapes or vape products, means any combination of electronic nicotine-delivery system and/or e-liquid and/or any derivative thereof, and/or any e-liquid container.

Also, **“E-liquid”** and **“e-liquid products”** mean any liquid or substance placed in or sold for use in an electronic nicotine-delivery system which generally utilizes a heating element that aerosolizes, vaporizes or combusts a liquid or other substance containing nicotine or nicotine derivative:

- (a) Whether the liquid or substance contains nicotine or a nicotine derivative;  
or,
- (b) Whether sold separately or sold in combination with a personal vaporizer, electronic nicotine-delivery system, or an electronic inhaler.

**“Sale”** or **“sell”** means gifts, exchanges, and barter of ENDS products. The act of holding, storing, or keeping ENDS products at a place of business for any purpose shall be presumed to be holding the ENDS products for sale.

**“Wholesale cost”:**

1. In the case of a Manufacturer or Importer, the price set for such products or, if no price had been set, the wholesale value of such products;
2. In the case of a Distributor, the price at which the Distributor purchases the products before the allowance of any discounts, trade allowances, rebate or other reduction;
3. In the case of a Dealer, the invoice price to the Dealer.

**B. Frequently Asked Questions (FAQs) regarding Tax Application:**

**1. What is the ENDS tax?**

A tax is imposed on any electronic nicotine-delivery system product (ENDS) at a rate of either (1) \$0.50 per milliliter of the electronic liquid contained within an ENDS product that is prefilled and not to be refilled, or (2) 10% of the wholesale cost of any other ENDS product.

There are two primary types of delivery systems used to heat electronic cigarette liquid to produce a vapor that is then inhaled.

1. The “closed system,” which consists of a single-use, disposable vapor product prefilled with electronic cigarette liquid or a vapor product and “pods” or “cartridges” that are prefilled, sealed by the manufacturer, and not to be refilled.
2. The “open system,” which consists of any electronic nicotine-delivery system or vapor product that is to be refillable.

Both systems, and all the products used in those systems, are subject to the ENDS tax.

As defined above, “ENDS” means any combination of electronic nicotine-delivery system and/or e-liquid and/or any derivative thereof, and/or any e-liquid container, regardless of whether the liquid or substance contains nicotine.

### **Examples of ENDS Subject to Tax:**

At the tax rate of \$0.50 per milliliter of the ENDS contained within:

- Manufacturer prefilled cartridges and pods, not to be refilled; and
- Manufacturer prefilled disposable/one-time use electronic cigarettes.

At the tax rate of 10% of the wholesale sales price:

- Refillable containers;
- Electronic liquid (e-liquid);
- Reusable electronic cigarettes, vape pens, electronic cigars, electronic cigarillos, electronic pipes or electronic hookahs;
- Any other product that is used to produce a vapor, including the following:
  - Advanced Personal Vaporizers (APV) or “mods” (modified electronic cigarettes), which are larger units that have replaceable batteries, and can either be mechanical, variable voltage, or variable wattage;
  - Vapor “box mods,” which are vapor products shaped like a box that is typically wider than electronic cigarettes;
  - Cartomizers, which are vapor products with a tank system that is filled with a polyfill material, used to soak with electronic cigarette liquid, which is then heated to produce vapor;
  - Clearomizers, which are vapor products with a transparent tank system, without polyfill material, usually made of thin plastic, which is heated to produce vapor; and
  - Atomizers, which are the part of an electronic cigarette that houses a coil and wick that is heated to produce vapor from electronic cigarette liquid.

### ***Special Rules for Bundled Items:***

ENDS distributors with a Rhode Island license may sell ENDS that are bundled together in one package. These packages can contain a combination of items that are subject to tax at the \$0.50 per milliliter rate, and other items subject to tax at 10% of the wholesale sales price.

An example of a bundled package is an ENDS starter kit, which typically contains one or two electronic cigarettes, a charger, and a pack of prefilled pods. Although such kits are typically sold to a retail customer for a single price, a Rhode Island licensed ENDS distributor may separately assess, based upon the relative value of the items in the kit, the portion of the sales price that is attributed to items subject to the \$0.50 per milliliter tax and items subject to the 10% wholesales cost and calculate the appropriate rate of tax on that portion of the sales price. If the distributor sells both open system and closed system products and does not separately state the sales, tax will be calculated on the wholesale cost of the entire kit at the 10% rate.

### **Examples of Products Not Subject to the ENDS Tax:**

Products related to ENDS that are not subject to the tax include the following items:

- Separately sold batteries;
  - Separately sold charging units;
  - Separately sold product cases intended solely for protection of the product; and
  - Separately sold product accessories such as electronic cigarette decals or “skins”. and other items used only to enhance the appearance of the ENDS product.
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### **2. Who must collect, file, and pay the State ENDS tax?**

Each distributor with a Rhode Island license.

All ENDS distributors with a Rhode Island license making sales in Rhode Island on or after January 1, 2025 are required to pay tax on such sales or use by electronically filing a monthly return ([Form OTP-1, Other Tobacco and Electronic Nicotine-Delivery Products Tax Return](#)) and making electronic payments of the tax to the Rhode Island Division of Taxation. The first due date for ENDS distributors with a Rhode Island license, making sales in Rhode Island, to file a return and pay the tax is February 10, 2025. There is no grace period.

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### **3. Do I need a license to sell ENDS to licensed dealers?**

Yes, all manufacturers, importers, and distributors selling ENDS products to Rhode Island dealers are required to have a Rhode Island license. They may only sell to Rhode Island dealers that have Rhode Island dealer licenses.

If you currently hold a distributor license from the Rhode Island Department of Health, you do not need to apply for a new license prior to January 1, 2025 as your license will remain active until that date.

If you do not hold a distributor license, you may apply with the Rhode Island Department of Health prior to January 1, 2025.

As of January 1, 2025, all license applications will be handled by the Division of Taxation. The Division will provide further information regarding licensing in the near future.

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### **4. Do Rhode Island dealers need to purchase ENDS products from a distributor with a Rhode Island license?**

Yes, all purchases of ENDS products must be made from a distributor with a Rhode Island license as of January 1, 2025.

ENDS products purchased by a licensed dealer from anyone other than a distributor with a Rhode Island license are contraband.

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## **5. How often must the ENDS tax be filed and paid?**

The filing and payment of ENDS tax must be made on or before the 10th day of each month for the previous calendar month when the sale was made. For example, if the sale of the ENDS products is in January of 2025, then the filing and payment of the ENDS tax must be made on or before February 10, 2025.

Businesses may be subject to Rhode Island's Electronic Filing Mandate. Larger business registrant taxpayers are required to use electronic means to file returns and remit taxes to the State of Rhode Island for tax periods beginning on January 1, 2023.

For more information on Rhode Island's Electronic Filing Mandate, visit the Division of Taxation's dedicated Electronic Filing Mandate webpage: <https://tax.ri.gov/resources/businesses/electronic-filing-mandate>.

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## **6. How do I compute the ENDS tax?**

The tax is imposed on any ENDS product at a rate of either (1) \$0.50 per milliliter of the electronic liquid contained within an ENDS product that is prefilled and not to be refilled, or (2) 10% of the wholesale cost of any other ENDS product.

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## **7. Who is exempted from the ENDS tax?**

There is no exemption for the ENDS product tax.

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## **8. What are the penalties and interest if I file the ENDS tax late?**

If the ENDS tax is paid late, then interest accrues at the rate of 12% per year.

Additional penalties may apply under R.I. Gen. Laws §§ 44-20.

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## **9. What proof is needed for a retailer to demonstrate that the ENDS tax has been paid?**

The licensed distributor is obligated and responsible for indicating the payment of the ENDS tax on the sales invoice to the licensed dealer.

Any retailer having ENDS products in their possession must maintain records on the premises and ensure permanency and accessibility for inspection by the Division of Taxation.

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## **10. Are the sales of flavored ENDS products prohibited?**

Yes. The sale, or offer for sale of, or the possession with intent to sell or to offer for sale, flavored ENDS to individuals within the State of Rhode Island is prohibited. "Flavored electronic nicotine-delivery system product" means any electronic nicotine delivery system product that imparts a characterizing flavor.

Examples of characterizing flavors include, but are not limited to, any fruit, mint, chocolate, honey, or spice or which impart a cooling or numbing sensation.

The taste or aroma of tobacco or menthol is not considered a characterizing flavor.

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**11. Does the ENDS tax apply to electronic nicotine-delivery system product accessories?**

No. However, ENDS tax is imposed on bundled transactions that contain ENDS products along with other items sold for one price.

For more information on bundled purchases and their taxability, please refer to [Question 1](#).

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