

Administrative Release

Comptroller of Maryland • Field Enforcement Division • Motor-fuel, Alcohol and Tobacco Tax Regulatory Bureau
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OTHER TOBACCO PRODUCTS (OTP) “RETAILER” LICENSES (House Bill 88, Chapter 388) Effective May 1, 2011

FREQUENTLY ASKED QUESTIONS

- 1. What are Other Tobacco Products (“OTP”)?*
Cigars (blunts, cigarillos, little cigars), pipe tobacco, chewing tobacco, roll-your-own (“RYO”) tobacco, snuff, snus, and other smokeless tobacco products.
- 2. What types of products are not OTP?*
Products that do not contain tobacco and are not intended for consumption by smoking or chewing, such as a Zonnic pouch, which contains nicotine but not tobacco.
- 3. What retail licenses are required to sell OTP under the new law?*
An OTP retailer license or a tobacconist license.
- 4. How do I know if I need a tobacconist or an OTP retailer license?*
A tobacconist is a person who derives at least 70% of revenues, measured by average daily receipts, from the sale of OTP and tobacco-related accessories. If 70% or more of your revenue is from the sale of OTP and tobacco-related accessories, then you may obtain a tobacconist license. **If you have a tobacconist license you do not need an OTP retailer license.**

An OTP retailer is a person who sells OTP to a consumer. If you sell any amount of OTP to a consumer, you must obtain an OTP retailer license.
- 5. Who determines whether at least 70% of my revenues are from the sale of OTP and tobacco-related accessories?*
The applicant for the tobacconist license must make that determination based on financial records. Your accountant could advise you. Once you obtain a tobacconist license, the Comptroller of Maryland may inspect your records to confirm the revenue percentage.

6. *Where do I apply for an OTP retailer license or a tobacconist license?*
The Clerk of the Circuit Court in the county where your OTP business is located.
7. *What is the license fee for an OTP retailer license or a tobacconist license?*
The annual license fee is \$15.00.
8. *What is the annual license fee for an OTP retailer license or a tobacconist license if I am also applying for or renewing a cigarette retailer license?*
If an OTP retailer licensee applicant or a tobacconist licensee applicant has (or is applying for) a cigarette retailer license or special cigarette retailer license, the annual license fee of \$15.00 is waived.
9. *When does the annual license expire?*
The OTP retailer license and tobacconist license expire on April 30th following the effective date.
10. *Is the annual license fee pro-rated if I have it for less than one year?*
The annual license fee is not pro-rated and must be paid no matter how long you have the license during the year.
11. *What is difference between purchase of products with an OTP retailer license versus a tobacconist license?*
An OTP retailer license allows you to purchase “premium cigars” and “pipe tobacco” directly from an OTP manufacturer without purchasing it from a licensed OTP wholesaler. All other OTP must be purchased from a licensed OTP wholesaler.
- A tobacconist license allows you to purchase all OTP, including premium cigars and pipe tobacco, directly from an OTP manufacturer without purchasing it from a licensed OTP wholesaler.
12. *What are “premium cigars”?*
Premium cigars have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco. Premium cigars may include adhesives or other materials used to maintain size, texture, or flavor. Also, the Comptroller by regulation may designate what are premium cigars.
13. *What is “pipe tobacco”?*
Pipe tobacco is any tobacco purchased by consumers as tobacco to smoke in a pipe.
14. *Who is a “licensed” OTP manufacturer?*
An OTP manufacturer is required to obtain an OTP manufacturer’s license because it is located in Maryland. An OTP manufacturer not located in Maryland is not required to obtain an OTP manufacturer’s license.
15. *Have the tobacco taxes been paid on the OTP when an OTP retailer purchases “premium cigars” or “pipe tobacco” directly from an OTP manufacturer or when a tobacconist purchases OTP directly from an OTP manufacturer?*
The tobacco taxes have not been paid. OTP retailers and tobacconists are required to file a quarterly tax return with the Comptroller and pay the tobacco tax.

16. *When are the quarterly tax returns due?*

<u>Tax Period</u>	<u>Return due date</u>
October - December	January 21 st
January – March	April 21 st
April – June	July 21 st
July – September	October 21 st

17. *What is the tobacco tax rate paid on OTP purchased directly from an OTP manufacturer?*

OTP retailer licensees and tobacconist licensees are required to file a quarterly tax return and pay tobacco tax at the rate of 15% on the invoice amount charged by the OTP manufacturer.

18. *If the invoice amount is reduced by a discount, trade allowance, or rebate, is the tobacco tax paid on the balance of the invoice after these reductions?*

The tobacco tax on OTP at the rate of 15% is paid on the invoice amount from the OTP manufacturer without any reduction for a discount, trade allowance, rebate, or any other reduction.

19. *Where can I find the OTP quarterly tax returns?*

The OTP retailer quarterly tax return and tobacconist quarterly tax return with instructions can be found on the Comptroller's website at <http://compnet.comp.state.md.us>.

20. *How long am I required to keep my records?*

An OTP retailer and tobacconist must keep records for 2 years.

21. *Who will inspect my records?*

The Comptroller of Maryland will perform regular inspections and enforce the provisions of the law.

22. *Where does an OTP retailer purchase OTP, other than "premium cigars" and "pipe tobacco"?*

An OTP retailer licensee must purchase all OTP, other than "premium cigars" and "pipe tobacco," from a licensed OTP wholesaler.

23. *Who is a licensed OTP wholesaler?*

A person who sells OTP to another person for resale in Maryland. An OTP wholesaler sells OTP to a licensed OTP retailer or licensed tobacconist.

24. *When a licensed OTP wholesaler sells OTP who pays the tobacco tax?*

The licensed OTP wholesaler must pay the tobacco tax at the rate of 15% of the wholesale price of the OTP.

25. *How often does a licensed OTP wholesaler file tax returns?*

An OTP wholesaler files monthly tax returns and pays the tobacco tax on OTP purchased from OTP manufacturers.

26. *Is there tobacco tax on "samples" of OTP?*

There is no tobacco tax on samples.

27. *Is it illegal to sell OTP to consumers by mail or over the internet?*

OTP may not be sold to consumers in Maryland by mail or over the internet. Maryland consumers must purchase OTP from a licensed OTP retailer or licensed tobacconist.

28. *May an OTP retailer or tobacconist deliver OTP to a consumer?*

An OTP retailer or tobacconist may deliver up to 2 packages of OTP directly to a consumer. Either the licensee or an employee of the licensee must make the delivery.

29. *What is a package?*

A package of OTP is a pack, box, carton, can, wrap, pouch, bag, or container of any kind designed for retail consumption, and includes not more than 10 cigars offered for sale as single cigars.

Questions about this bulletin should be directed to the State License Bureau at 410-260-6240.

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Director