

Immediate Attention Required – Tobacco Products Tax Act

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (DOR) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DOR and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

This guidance document may change with updated information or added examples. DOR recommends you do not print this document. Instead, sign up for the [subscription service](#) at revenue.nebraska.gov to get updates on your topics of interest.

[Legislative Bill 9 \(2025\)](#), operative January 1, 2026, expands the definition of tobacco products under the Tobacco Products Tax Act to include alternative nicotine products. The tax rate of alternative nicotine products is 20% of the purchase price paid by the first owner or the price at which the first owner who made, manufactured, or fabricated the alternative nicotine products sells the item to others. Alternative nicotine products and electronic nicotine delivery systems (ENDS) containing nicotine analogues are considered tobacco products. ENDS containing nicotine analogues are required to be certified on the [Nebraska Directory of Certified Electronic Nicotine Delivery Systems Manufacturers](#).

[Legislative Bill 650 \(2025\)](#), operative January 1, 2026, reduces the collection fee under the Tobacco Products Tax Act from 3.0% of the total tax due not to exceed \$150.00 per month to 2.5% of the total tax due not to exceed \$75.00 per month.

Definitions

“Alternative nicotine product” means any noncombustible product containing nicotine or a nicotine analogue that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any electronic nicotine delivery system, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

“ENDS” means any product or device containing nicotine, a nicotine analogue, tobacco, or tobacco derivatives that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to simulate smoking by delivering the nicotine, nicotine analogue, tobacco, or tobacco derivatives in vapor, fog, mist, gas, or aerosol form to a person inhaling from the product or device.

“Consumable material” means any liquid solution or other material containing nicotine or a nicotine analogue that is depleted as an ENDS is used.

“Nicotine analogue” means a substance that has:

1. A chemical structure substantially similar to nicotine; or
2. An effect on the central nervous system that is substantially similar to, or greater than, the effect on the central nervous system of nicotine.

Violation of the Tobacco Products Tax Act

Tobacco products that have been sold, offered for sale, or possessed for sale in violation of the Tobacco Products Tax Act including ENDS not listed on the Nebraska Directory of Certified Electronic Nicotine Delivery Systems Manufacturers are contraband goods and may be seized by the DOR.

For any violation of the Tobacco Products Tax Act, the DOR may:

1. After notice and hearing, suspend or revoke any local tobacco license issued by a county or municipality; and
2. Impose a civil penalty up to \$5,000.

The cost of seizure, forfeiture, and destruction of contraband tobacco products shall be borne by the person from whom the products are seized.