

**CHAPTER 10A—COLLECTION OF STATE  
CIGARETTE TAXES**

Sec.	
375.	Definitions.
376.	Reports to State tobacco tax administrator.
376a.	Delivery sales.
377.	Penalties.
378.	Enforcement.

**§ 375. Definitions**

As used in this chapter, the following definitions apply:

**(1) Attorney general**

The term “attorney general”, with respect to a State, means the attorney general or other chief law enforcement officer of the State.

**(2) Cigarette**

**(A) In general**

The term “cigarette”—

(i) has the meaning given that term in section 2341 of title 18; and

(ii) includes—

(I) roll-your-own tobacco (as defined in section 5702 of title 26); and

(II) an electronic nicotine delivery system.

**(B) Exception**

The term “cigarette” does not include a cigar (as defined in section 5702 of title 26).

**(3) Common carrier**

The term “common carrier” means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

**(4) Consumer**

The term “consumer”—

(A) means any person that purchases cigarettes or smokeless tobacco; and

(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

**(5) Delivery sale**

The term “delivery sale” means any sale of cigarettes or smokeless tobacco to a consumer if—

(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

**(6) Delivery seller**

The term “delivery seller” means a person who makes a delivery sale.

**(7) Electronic nicotine delivery system**

The term “electronic nicotine delivery system”—

(A) means any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device;

(B) includes—

(i) an e-cigarette;

(ii) an e-hookah;

(iii) an e-cigar;

(iv) a vape pen;

(v) an advanced refillable personal vaporizer;

(vi) an electronic pipe; and

(vii) any component, liquid, part, or accessory of a device described in subparagraph (A), without regard to whether the component, liquid, part, or accessory is sold separately from the device; and

(C) does not include a product that is—

(i) approved by the Food and Drug Administration for—

(I) sale as a tobacco cessation product;

or

(II) any other therapeutic purpose; and

(ii) marketed and sold solely for a purpose described in clause (i).

**(8) Indian country**

The term “Indian country”—

(A) has the meaning given that term in section 1151 of title 18, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

(B) includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

**(9) Indian tribe**

The term “Indian tribe”, “tribe”, or “tribal” refers to an Indian tribe as defined in section 5304(e) of title 25 or as listed pursuant to section 5131 of title 25.

**(10) Interstate commerce**

**(A) In general**

The term “interstate commerce” means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

**(B) Into a State, place, or locality**

A sale, shipment, or transfer of cigarettes or smokeless tobacco that is made in interstate commerce, as defined in this paragraph, shall be deemed to have been made into the State, place, or locality in which such cigarettes or smokeless tobacco are delivered.

**(11) Person**

The term “person” means an individual, corporation, company, association, firm, partner-