

[Garuda Emblem]

Ministerial Regulation

Tobacco Sales Licensing

A.D. 2017

Pursuant to the authority of Article 5, and the second paragraph of Article 167 of the Excise Tax Act of 2017, the Minister of Finance issues the following Ministerial Regulation:

Article 1. This Regulation shall take effect beginning on 16 September 2017.

Article 2. An applicant for a Tobacco Sales License must be one of the following:

- (1) A state enterprise.
- (2) A juristic person registered under Thai law.
- (3) A natural person not less than twenty full years of age.

Article 3. The location where tobacco products are sold must not be:

(1) In the case of Type 1 Tobacco Products:

(A) A place or area where sale of tobacco products is forbidden by the tobacco control laws.

(B) A place where tobacco products were previously sold by a person whose Tobacco Sales License is revoked, unless five years have passed since that revocation.

(C) A place where tobacco products were sold by a seller whose Tobacco Sales License is under suspension.

(2) In the case of Type 2 Tobacco Products:

1) In the case of cigarettes:

(A) A place or area where sale of tobacco products is forbidden by the tobacco control laws.

(B) An educational establishment under the terms of the laws governing the national educational system, or in the area adjacent to such an establishment.

(C) A [Buddhist] temple, mosque, church, or other establishment of any denomination or faith, in the area adjacent to such an establishment.

(D) A place where tobacco products were previously sold by a person whose Tobacco Sales License is revoked, unless five years have passed since that revocation.

(E) A place where tobacco products were sold by a seller whose Tobacco Sales License is under suspension.

(2) In the case of tobacco products other than cigarettes:

(A) A place or area where sale of tobacco products is forbidden by the tobacco control laws.

(B) A place where tobacco products were previously sold by a person whose Tobacco Sales License was revoked, unless five years have passed since that revocation.

(C) A place where tobacco products were sold by a seller whose Tobacco Sales License is under suspension.

(3) In the case of Type 3 Tobacco Products:

(A) A place or area where sale of tobacco products is forbidden by the tobacco control laws.

(B) A place where tobacco products were previously sold by a person whose Tobacco Sales License was revoked, unless five years have passed since that revocation.

(C) A place where tobacco products were sold by a seller whose Tobacco Sales License is under suspension.

Article 4. A person who wishes to sell tobacco products must apply to the Director General. Applications must be made using the form prescribed by the Director General, together with all required supporting documents and evidence. Applications must be submitted at the regional or branch Excise Tax Office serving the place where the sales establishment is to be located.

Article 5. Upon receipt of an application, Excise Tax officials shall examine the application and all supporting documents and evidence for accuracy and completeness.

In the event that Excise Tax officials find that the application, documentation, or evidence furnished is not accurate or complete, they shall notify the applicant in writing of what corrections or additions are required, and of the time allowed for making corrections or submitting additions.

In the event that the applicant has been notified, but fails to make corrections or to submit the required additional documents or evidence accurately and completely as set out in the second paragraph, Excise Tax officials shall notify the applicant in writing that the applicant is deemed to have abandoned the application.

In the event that Excise Tax officials determine that the applicant has completed the application and furnished the required documentation and evidence accurately and completely, they shall forward the application to the Director General for consideration for licensing.

Article 6. In the event that the Director General orders that a Tobacco Sales License be issued, the applicant shall be notified by such means as the Director General shall designate. The applicant shall accept the Tobacco Sales License within thirty days of the day the notice is received; otherwise any right to the Tobacco Sales License shall be forfeited.

In the event that the Director General does not order that a Tobacco Sales License be issued, the applicant shall be notified in writing, citing the reasons for denial of the license, any right to appeal, appeal procedures, and the time allowed for appeal of the denial.

Article 7. The Tobacco Sales License shall be as designated by the Director General, with the following minimum requirements:

- (1) The holder of a license must display the license prominently in the licensed premises.
- (2) The holder of a license must not separate the contents of tobacco packages for sale separately.
- (3) The holder of a license must not alter or conceal the images or price markings on tobacco packaging, nor sell tobacco products for less than the price set by the manufacturer or importer, unless authorized to do so by the Director General.
- (4) The holder of a license must abide by all provisions of the laws on the control of tobacco products.
- (5) The holder of a license must not sell any tobacco product stamped with the words “Not For Sale” or otherwise identified as not for sale.
- (6) The holder of a license must sell [only] those tobacco products specified in the license.
- (7) The holder of a license must follow all notices from the Director General regarding control of tobacco products, collection of Excise Tax, accountability for tobacco product sales, and retail pricing.
- (8) The holder of a license must not change the suggested retail price that appears on tobacco product packaging when the suggested retail price is shown on the retail package, unless authorized by the Director General.
- (9) The holder of a license to sell Type 1 and Type 3 tobacco products must maintain accounts of products received and sold, using rules, procedures, and forms set out by the Director General.

In addition to the regulations set out in (1) through (9), above, the Director General may establish additional rules on licenses for tobacco products imported from abroad for sale in the Kingdom.

Article 8. If a holder of a Tobacco Sales License wishes to renew that license, the license holder must apply for renewal not less than ninety days prior to expiration of the existing license using forms and procedures set out by the Director General.

The provisions of Article 4, Article 5, and Article 6 shall apply to renewals of Tobacco Sales Licenses, *mutatis mutandem*.

Article 9. The holder of a Tobacco Sales License must exercise care and control to ensure that all staff and employees with responsibilities under this regulation comply with the Excise Tax Laws relating to tobacco, and with all conditions imposed by this regulation, and not act in any way that violates such laws, or the terms and conditions of the Tobacco Sales License for the licensed premises.

Article 10. Tobacco Sales License applications received on the day prior to the effective date of this Ministerial Regulation shall be treated as applications made under this regulation, and the provisions of this Ministerial Regulation shall apply to the processing of such applications.

In the event that an application or its supporting documents and evidence submitted as described in the first paragraph are at variance with the requirements set out herein, the Director General shall notify the applicant to make any modifications or additions required to comply with this Ministerial Regulation.

Given on this, the 12th day of September, A.D. 2017

Aphisak Tantiworawong

Minister of Finance

Remarks :- This Ministerial Regulation is promulgated because the provisions of the second paragraph of Article 167 of the Excise Tax Act of 2017 mandates that issue of Tobacco Production Licenses comply with the rules, procedures, and conditions that appear herein.