

As to the exemptions to the tobacco tax, see § 12-104 of this subtitle.

Defined term: "Cigarette" § 12-101

12-103. PRESUMPTION OF TAXABILITY; CONTRABAND CIGARETTES; BURDEN OF PROOF.

(A) PRESUMPTION OF TAXABILITY.

A REBUTTABLE PRESUMPTION EXISTS THAT ANY CIGARETTE IN THE STATE IS SUBJECT TO THE TOBACCO TAX.

(B) CONTRABAND CIGARETTES.

CIGARETTES ARE CONTRABAND CIGARETTES IF THEY:

(1) ARE POSSESSED OR SOLD IN THE STATE IN A MANNER THAT IS NOT AUTHORIZED UNDER THIS TITLE OR UNDER ARTICLE 56, §§ 607 THROUGH 631 OF THE CODE; OR

(2) ARE TRANSPORTED BY VEHICLE IN THE STATE BY A PERSON WHO DOES NOT HAVE, IN THE VEHICLE, THE RECORDS REQUIRED BY ARTICLE 56, § 627 OF THE CODE FOR THE TRANSPORTATION OF CIGARETTES.

(C) BURDEN OF PROOF.

A PERSON WHO POSSESSES CIGARETTES HAS THE BURDEN OF PROVING THAT THE CIGARETTES ARE NOT SUBJECT TO THE TOBACCO TAX.

REVISOR'S NOTE: This section is new language that, in part, is new language added to incorporate the substance of the third sentence of former Art. 81, § 455 and, in part, is derived without substantive change from § 439 and the first clause of § 442.

In subsections (a) and (b) of this section, the defined term "tobacco tax" is substituted for the former references to the tax "herein levied and imposed" and "imposed by this subtitle", for clarity.

In subsection (a) of this section, the word "rebuttable" is substituted for the former phrase "unless and until the contrary is established", for clarity and brevity.

Also in subsection (a) of this section, the former reference to cigarettes "possessed or held" is deleted as unnecessary since the presumption of taxability applies to all cigarettes "in the State".

Also in subsection (a) of this section, the former reference to the "July 1, 1957" effective date of the presumption is deleted as obsolete.