

BEFORE THE IOWA DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

<p>IN THE MATTER OF</p> <p>FAREWAY STORES, INC., MIDWEST QUALITY WHOLESALE, INC., & CORE-MARK INT'L INC. 715 8TH ST BOONE IA 50036-2727</p> <p>CIGARETTE & TOBACCO TAX</p>	<p>DECLARATORY ORDER</p> <p>DOCKET NO. 533411</p>
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Pursuant to a Petition for Declaratory Order (“Petition”) filed with the Iowa Department of Revenue (“the Department”) by Fareway Stores, Inc., Midwest Quality Wholesale, Inc., and Core-Mark International, Inc. (collectively hereinafter “Petitioners”), and in accordance with Iowa Code section 17A.9 (2024) and Iowa Administrative Code rule 701—7.24 (2024), the Director issues the following Order.

FACTS

The findings of fact are based on the Petition submitted to the Department and other publicly available information.¹

I. The Petitioners and Their Delivery Model

Core-Mark International, Inc. (“Distributor Core-Mark”), is a product distribution company that distributes products, including cigarette and tobacco products, outside of and within Iowa. Pet. for Declaratory Order, No. 533411 (Apr. 23, 2024), Ex. 1 at 1 [hereinafter “Exhibit”]. Distributor Core-Mark holds a cigarette distributor permit and a tobacco products distributor

¹ When considering a petition for declaratory order, “[t]he department may solicit comments or information from any person on the questions raised. Also, comments or information on the questions raised may be submitted to the department by any person.” Iowa Admin. Code r. 701—7.24(7).

permit as required under chapter 453A. Exhibit at 1; *see also* Iowa Dep't of Revenue, Cigarette & Tobacco Permit Listing, *available at* <https://revenue.iowa.gov/media/2094/download?inline=> (July 10, 2024). Distributor Core-Mark has a distribution center located in Carroll, Iowa. Exhibit at 1.

Fareway Stores, Inc. (“Retailer Fareway”) is a retail grocery company that has numerous grocery stores located outside of and within the state of Iowa. *Id.* at 1. Retailer Fareway’s grocery stores sell cigarettes and each store holds a cigarette and tobacco retail permit as required under chapter 453A. *Id.* Retailer Fareway also owns and operates a fleet of trucks, as well as a large product warehouse in Boone, Iowa. *Id.* Goods are delivered to its Boone warehouse, then distributed by its fleet to its grocery stores requesting the goods. *Id.*

In addition, Retailer Fareway owns the wholesale company Midwest Quality Wholesale, Inc. (“Wholesaler MQW”). *Id.* Wholesaler MQW buys products, including cigarettes and other tobacco products, and then, in turn, sells those products to Retailer Fareway’s individual grocery stores. *Id.* Wholesaler MQW holds both cigarette wholesaler and tobacco subjobber permits as required under chapter 453A. *Id.*; *see also*, Iowa Dep't of Revenue, Cigarette & Tobacco Permit Listing, *available at* <https://revenue.iowa.gov/media/2094/download?inline=> (July 10, 2024).

According to the Petitioners, their current delivery model operates as follows. Distributor Core-Mark purchases cigarettes and tobacco products in bulk. Exhibit at 1. Distributor Core-Mark purchases and affixes the required Iowa cigarette tax stamps to unstamped cigarette packages and remits the required taxes on other tobacco products as required by chapter 453A. *Id.* Wholesaler MQW purchases cigarettes and tobacco products from Distributor Core-Mark and each order placed by Wholesaler MQW is intended for delivery to a specific in-state Fareway grocery store. *Id.* at 2. Wholesaler MQW then sells those products to Retailer Fareway’s in-state grocery stores.

Id. Retailer Fareway’s out-of-state grocery stores place orders directly with Distributor Core-Mark. *Id.* The out-of-state orders are billed to the individual grocery stores making them and the products are delivered to the out-of-state locations by Distributor Core-Mark. *Id.*

Because, under the current model, Distributor Core-Mark delivers cigarettes and other tobacco products to each individual out-of-state Fareway grocery store, Distributor Core-Mark has established minimum order quantity requirements and charges delivery fees for delivery of cigarettes and other tobacco products to each individual out-of-state Fareway grocery store. *Id.* Petitioners assert that this delivery model “results in gross economic inefficiencies in terms of inventory levels and high transportation costs.” *Id.*

II. The Petitioners’ Proposed Delivery Model

In light of these economic inefficiencies, Petitioners have proposed a different delivery model. Exhibit at 2–3. Under the proposal, Distributor Core-Mark will continue to purchase cigarettes and other tobacco products. *Id.* at 2. As a holder of a cigarette distributor permit, Distributor Core-Mark will continue to purchase and affix all necessary tax stamps to the cigarettes. *Id.* Additionally, as a holder of a tobacco distributor permit, Distributor Core-Mark will continue to remit tax on tobacco products as required by law. *Id.* Distributor Core-Mark will also continue to comply with the other requirements of distributors under chapter 453A. *See id.*

Wholesaler MQW, in its capacity as a cigarette wholesaler and tobacco subjobber permit holder, will order and purchase cigarettes and other tobacco products from Distributor Core-Mark, for specific Fareway grocery stores. *Id.* All cigarettes purchased by Wholesaler MQW will already have the necessary tax stamps affixed by Distributor Core-Mark and Distributor Core-Mark will have already remitted any other taxes required under chapter 453A. *Id.* Wholesaler MQW will sell cigarettes and tobacco products to Retailer Fareway’s individual grocery store locations and will

charge each purchaser “the minimum price required under Iowa Code chapter 421B.” *Id.* Petitioners assert that the proposed delivery model “eliminates or substantially reduces the[] inefficiencies” present under their current delivery model by removing minimum purchase requirements and decreasing delivery costs. *Id.* at 9–10.

Either Distributor Core-Mark or Retailer Fareway,² by way of their fleets, will transport the cigarettes and other tobacco products from Distributor Core-Mark’s Carroll distribution center to Wholesaler MQW’s segregated warehouse space located in Retailer Fareway’s Boone warehouse. *Id.* at 2. Retailer Fareway, in its capacity as a common carrier, will deliver the cigarettes and tobacco products purchased by its retail locations to those locations. *Id.* at 3. Both Distributor Core-Mark and Retailer Fareway “will continue to maintain proper and required records to reflect any transportation of cigarettes or [other tobacco products] as required by Iowa Code chapter 453A.” *Id.* at 2.

ISSUES PRESENTED

The Petitioners present three issues for resolution:

1. Whether Petitioner’s proposed delivery model, as described, complies with Iowa law.
2. Whether Petitioner’s proposed delivery model, if legal, imposes any additional state taxes³ upon any of the individual Petitioners.
3. Whether the Distributor Core-Mark is permitted to file for a credit of the Iowa tobacco tax after taxed products are shipped to Retailer Fareway’s out-of-state grocery stores.

² Both Distributor Core-Mark and Retailer Fareway own fleets of trucks to transport goods and both are licensed common carriers under the Federal Motor Carrier Safety Administration. Exhibit at 1.

³ While the Petition asks “whether the Proposed Distribution System imposes any additional state taxes to” the Petitioners, Exhibit at 8, the context of the Petition is limited to Iowa cigarette and tobacco taxes. As a result, the Director understands this question to be limited to Iowa cigarette and tobacco taxes and the determinations contained in this Order are confined to those tax types. The Director takes no position as to whether the Petitioners’ proposed delivery model has tax consequences outside of the Iowa cigarette and tobacco tax context.

DECLARATORY ORDERS UNDER THE
IOWA ADMINISTRATIVE PROCEDURE ACT

Iowa’s Administrative Procedure Act (“IAPA”) was enacted “to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public.” Iowa Code § 17A.1(2). Under the IAPA, “[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency.” *Id.* § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *See id.* § 17A.9(1)(b)–(8). Pursuant to section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—7.24, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a “generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances.” *Sierra Club Iowa Chapter v. Iowa Dep’t of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, *Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government*, 1–8 (1998)). Declaratory orders are not contested cases that “entitle[] parties affected by the agency action to an adversarial hearing” in order to “adjudicate disputed facts pertaining to particular individuals in specific circumstances.” *Greenwood Manor v. Iowa Dep’t of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); Iowa Code § 17A.12. Instead, the IAPA “contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts.” *City of Des Moines v. Pub. Emp’t Relations Bd.*, 275 N.W.2d 753, 758 (1979).

As such, “[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly.” *Bennett v. Iowa*

Dep't of Natural Res., 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have “the same status and binding effect as any final order issued in a contested case proceeding.” Iowa Code § 17A.9(7) (2024). The Department’s rules governing declaratory orders are consistent with this understanding of the role of declaratory orders in administrative procedure. *See* Iowa Admin Code r. 701—7.24 (2024).

STATUTORY FRAMEWORK

In Iowa, the supply chain and distribution process for cigarettes and tobacco products are governed primarily by Iowa Code chapter 453A,⁴ which covers the manufacturing, wholesaling, distributing, and retailing of cigarettes and other tobacco products. For each type of stakeholder in the supply chain, that stakeholder must obtain permits or licenses to perform its related functions in Iowa. In addition to outlining the roles played by each type of stakeholder in the supply chain and their licensing requirements, chapter 453A also imposes excise taxes on cigarettes and tobacco products and establishes reporting and return filing obligations in order to ensure each stakeholder is compliant with Iowa law and is correctly reporting and remitting any tax owed. The relevant provisions will be discussed below.

I. Cigarette and Tobacco Permitting under the Iowa Code and Administrative Rules

For purposes of cigarette regulation, a “distributor” is “every person in this state who manufactures or produces cigarettes or who ships, transports, or imports into this state or in any manner acquires or possesses cigarettes without stamps affixed for the purpose of making a ‘first sale’ of the same within this state.” Iowa Code § 453A.1(13). Put more simply, “[a] distributor is

⁴ While this Order is mainly concerned with Petitioners’ compliance with chapter 453A, sales of cigarettes by both Wholesaler MQW and Retailer Fareway’s Iowa grocery stores are subject to Iowa Code chapter 421B, which governs unfair cigarette sales. Iowa Code ch. 421B. Additionally, while not relevant for this Order, chapters 453C and 453D also impact cigarette and tobacco sales in Iowa. *See* Iowa Code chs. 453C, 453D.

any person who obtains unstamped cigarettes within or without this state . . . for the purpose of making the first intrastate sale or distribution . . . in Iowa.” Iowa Admin. Code r. 701—255.1(1). A person who acts as or desires to act as a distributor of cigarettes “shall obtain a state . . . permit as a distributor.” Iowa Code § 453A.13(1); Iowa Admin. Code r. 701—255.1.

Similarly, the Code defines “distributor” for purposes of tobacco products regulation. Iowa Code § 453A.42(5). In the tobacco products context, a “distributor” has several meanings. *Id.* First, a “distributor” is “any person engaged in the business of selling tobacco product in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale[.]” *Id.* § 453A.42(5)(a). Persons who “make[], manufacture[], or fabricate[] tobacco products in this state” are also considered “distributors” under Iowa law. *Id.* § 453A.42(5)(b). Finally, “[a]ny person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers[]” is a “distributor” for purposes of chapter 453A. *Id.* § 453A.42(5)(c). As with cigarette distributors, tobacco product distributors are required to hold an Iowa license to operate in that capacity. *Id.* § 453A.44(1); Iowa Admin. Code r. 701—256.1(1).

In addition to distributors, the Code also recognizes cigarette wholesalers and tobacco product subjobbers. A cigarette “wholesaler” is defined as “every person *other than a distributor or distributing agent who engages in the business of selling or distributing cigarettes* within the state, *for the purpose of resale.*” Iowa Code § 453A.1(30) (emphasis added). As with distributors, any person who engages in or wishes to engage in the sale of cigarettes as a wholesaler is required to “obtain a state . . . permit as a . . . wholesaler.” *Id.* § 453A.13(1); Iowa Admin. Code r. 701—255.1(2).

In the tobacco products context, the Code provides for “subjobbers.” A “subjobber” is “any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers.” Iowa Code § 453A.42(15). Like cigarette wholesalers, tobacco subjobbers are required to obtain a permit in order to “engage in the business of a . . . subjobber of tobacco products[.]” *Id.* § 453A.44(1); Iowa Admin. Code r. 701—256.1(2).

Lastly, the Code describes the role of retailers. In the cigarette context, “retailer” is defined as “every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes . . . irrespective of quantity or amount or the number of sales.” Iowa Code § 453A.1(23). Similarly, when tobacco or tobacco products are at issue, the Code defines retailer as “any person engaged in the business of selling tobacco [or] tobacco products . . . to ultimate consumers.” *Id.* § 453A.42(11). Unsurprisingly, cigarette and tobacco retailers are required to have a permit in order to sell cigarettes and tobacco products to consumers at retail. *Id.* §§ 453A.13(1), 453A.47A(1); Iowa Admin. Code rr. 701—255.1(7)“a”, 701—256.12.

II. Cigarette and Tobacco Taxation and Reporting under the Iowa Code and Administrative Rules

Central to the regulatory regime governing cigarettes and tobacco products in Iowa are the imposition and collection of excise taxes on those products and the mandatory submission of returns and reports that account for sales of those products through the chain of commerce. Iowa Code §§ 453A.6 (imposing tax on cigarettes), 453A.15 (describing reporting for cigarette permit holders), 453A.43 (imposing tax on tobacco products), 453A.46 (describing tobacco products tax returns). These facets of the cigarette and tobacco regulatory framework will be described below.

Iowa imposes “a tax on all cigarettes used or otherwise disposed of in this state for any purpose” *Id.* § 453A.6(1). However, the cigarette tax is only to be imposed and collected once “by the person making the ‘first sale’ in this state.” *Id.* § 453A.6(2). The Iowa Code defines “first sale” as either “the first sale or distribution of cigarettes in intrastate commerce” or “the first use or consumption of cigarettes within this state.” *Id.* §§ 453A.1(15), 453A.6(2). This means that the tax liability arises and must be paid immediately when the cigarettes are first brought into Iowa by any entity with the intent to sell them for the first time within the state. *See id.*

For cigarette tax, the Code mandates that an Iowa tax stamp be affixed to the cigarette package to show that the tax was paid. *See id.* § 453A.6(3). To that end, cigarette distributors holding a state permit are specifically required to affix the stamps to unstamped cigarette packages within 48 hours of the packages’ receipt in Iowa. *See id.* § 453A.10. Tax stamps are sold by the Department to persons holding cigarette distributor permits by the roll or lot at a discount. *See id.* § 453A.8(1). If the purchased stamps are not used, or if the cigarette package to which a tax stamp is affixed cannot be sold for reasons set out in section 453A.8(3), the stamp purchaser may request the amount paid for the stamp be refunded by the Department. *Id.* § 453A.8(3).

The Iowa Code also imposes a tax “upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products” *Id.* § 453A.43. A licensed distributor who brings, manufactures, or ships other tobacco products into Iowa for sale must collect the required tobacco tax. *See id.* § 453A.43. Rather than acquiring and affixing tax stamps to evidence payment, a licensed distributor files a monthly return to report the last month’s tobacco products sold, multiplies the amount of sales by the applicable rate, and then remits the taxes to the Department. *See id.* § 453A.46. If the person making the first sale of cigarettes did not pay the tax, it shall be paid by the person who took possession of the tobacco products. *See id.* § 453A.6(2).

As with unsalable cigarettes upon which tax has already been paid, a licensed distributor may request a refund or a credit for the amount of the tax paid on tobacco products if those products are ultimately shipped and sold out of the state of Iowa, or if the products cannot be sold for other permissible reasons. *See id.* § 453A.47.

To facilitate collection and remission of tax, the Code also imposes reporting requirements on stakeholders in the cigarette and tobacco context. For holders of state-issued cigarette permits, the Code provides that the Director “may by regulation require every holder of a . . . state permit . . . to make and deliver to the department on or before the tenth day of each month a report or reports for the preceding calendar month.” *Id.* § 453A.15(3). The Director has done so and rule 701—255.9 requires in- and out-of-state cigarette distributors to file reports with the Department that provide data about, among other things, the distributor’s cigarette purchases and sales, cigarette tax paid, cigarettes returned to the manufacturer, and starting and ending inventory for each month. Iowa Admin. Code r. 701—255.9. In the tobacco products context, the Code mandates that, “[o]n or before the twentieth day of each calendar month,” in-state tobacco product distributors “file a return with the director showing for the preceding calendar month the quantity and wholesale sales price of each tobacco product brought, or caused to be brought, into this state for sale; made, manufactured, or fabricated in this state for sale in this state; and any other information the director may require.” Iowa Code § 453A.46(1)(a)(1). Similar reports are required for out-of-state tobacco product distributors operating in Iowa. *Id.* § 453A.46(1)(a)(1).

In addition to the Code’s requirement that cigarette and tobacco distributors submit reports and returns, the Code imposes record keeping and retention requirements for other stakeholders who participate in the cigarette and tobacco trade. *Id.* §§ 453A.15 (records and reports in the cigarette context), 453A.24 (records of common carriers), 453A.45 (records and reports in the

tobacco products context). The Department has promulgated administrative rules that outline the types of records each stakeholder is required to keep and the period those records must be kept for inspection by the Department. Iowa Admin. Code rr. 701—254.4 (records requirements), 254.5 (invoice information requirements), 256.8 (reports of transporters), 256.16 (retailer reports).

DISCUSSION

I. Compliance with Iowa Law

First, Petitioners ask if their proposed delivery model complies with Iowa law. To be compliant with Iowa law, the proposed delivery model must have each participant acting within the scope of its permit—that is, Distributor Core-Mark must act as a distributor, Wholesaler MQW must act as a wholesaler or subjobber, and Retailer Fareway must act as a retailer. Additionally, to be compliant, the taxes imposed by chapter 453A must be correctly calculated and remitted to the Department and cigarette tax stamps must be correctly affixed to show that tax has been paid. Finally, all required returns, reports, and records must be accurate and, if applicable, timely submitted to the Department by the correct party.

Here, as mentioned above, each of the Petitioners is already licensed in Iowa to participate in the cigarette and tobacco supply chain. Distributor Core-Mark has the required permits to operate as a cigarette and tobacco distributor. Exhibit at 1; Iowa Dep't of Revenue, Cigarette & Tobacco Permit Listing, *available at* <https://revenue.iowa.gov/media/2094/download?inline=> (July 10, 2024). Wholesaler MQW, similarly, is licensed in Iowa to operate as a cigarette wholesaler and tobacco subjobber. *Id.* Retailer Fareway's grocery stores also hold the requisite licenses to sell cigarettes and tobacco products at retail. Exhibit at 1.

Additionally, as Petitioners make clear, Distributor Core-Mark will continue to purchase Iowa cigarette tax stamps and affix them to the cigarettes it brings into Iowa. *Id.* at 2, 9. Distributor

Core-Mark will also continue to remit the required tobacco tax on the tobacco products it brings into the state. *Id.* Along with paying the necessary taxes, Distributor Core-Mark, under the proposed delivery model, will continue to complete and file all returns and reports mandated by chapter 453A. *Id.* These actions are all consistent with the requirements the Code and rules impose on cigarette and tobacco distributors. *See* Iowa Code §§ 453A.1(13), 453A.6(2)–(3), 453A.10, 453A.15(3), 453A.42(5), 453A.45(1), 453A.46(1)(a)(1); Iowa Admin. Code r. 701—254.4(3), 254.4(7), 254.5, 255.5, 255.8, 255.9, 256.3(1), 256.6, 256.8.

Similarly, Wholesaler MQW is currently licensed to operate as a cigarette wholesaler and tobacco products subjobber in the state of Iowa. Exhibit at 1; Iowa Dep’t of Revenue, Cigarette & Tobacco Permit Listing, *available at* <https://revenue.iowa.gov/media/2094/download?inline=> (July 10, 2024). As noted above, a cigarette wholesaler and tobacco products subjobber permit authorizes the permit holder to purchase cigarettes and tobacco products, as the case may be, for the purpose of resale to customers who are not the ultimate consumer of the product being sold. Iowa Code §§ 453A.1(30), 453A.42(15). Here, Wholesaler MQW’s role in Petitioners’ delivery model is in line with the role of wholesalers and subjobbers in Iowa’s regulatory regime because Wholesaler MQW will purchase cigarettes and tobacco products from Distributor Core-Mark for the purpose of resale to Retailer Fareway’s individual grocery stores where the products, ultimately, will be sold at retail to Retailer Fareway’s customers. Exhibit at 2–3. Petitioners assert that, under the proposed delivery model, Wholesaler MQW will continue to sell products to Retailer Fareway’s grocery stores at the minimum price required by Iowa Code chapter 421B. Exhibit at 3; *see* Iowa Code § 421B.3(1). Further, Wholesaler MQW will continue to comply with all record keeping requirements imposed on wholesalers and subjobbers by the Iowa Code and the

associated administrative rules. Exhibit 2–3; *see* Iowa Code §§ 453A.15, 453A.45(2)–(3); *see also* Iowa Admin. Code rr. 701—254.4(4), 254.4(8), 254.5.

Finally, Retailer Fareway’s 114 Iowa grocery stores hold cigarette and tobacco products retailer permits which allow them to “sell, . . . or offer for sale for consumption, cigarettes” to their customers and to “engage[] in the business of selling tobacco, tobacco products, alternative nicotine products, and vapor products to ultimate consumers.” Exhibit at 1; Iowa Code §§ 453A.1(23), 453A.13(1), 453A.42(11), 453A.47A(1). Like the other two Petitioners, Retailer Fareway will continue to comply with the provisions of the Iowa Code that govern the sales of cigarette and tobacco products to their customers and will continue to keep all required records. Exhibit at 2–3; *see inter alia* Iowa Code §§ 421B.3(1), 453A.2, 453A.15, 453A.24, 453A.36, 453A.36A, 453A.47A(10); Iowa Admin. Code rr. 701—254.4(6), 254.4(9), 254.5, 256.8, 256.16.

In sum, the Director determines that, as described in their Petition, the proposed delivery model is compliant with Iowa law as long as each of Petitioners acts as authorized by their Iowa permits, keeps and maintains the required records, timely and correctly submits any required returns or reports, and accurately calculates and remits any tax owed.

II. Additional Iowa Cigarette and Tobacco Taxes

Second, Petitioners ask if their proposed delivery model, if legal, imposes any additional state taxes upon any of the individual Petitioners. As noted above, under Iowa Code sections 453A.6 and 453A.43, taxes on cigarettes and other tobacco products are imposed only once. Therefore, the Director determines that, as long as Distributor Core-Mark has paid the required Iowa cigarette and tobacco taxes and affixed the necessary stamps, no additional state cigarette or tobacco tax would be imposed on Wholesaler MQW or on the individual Fareway grocery stores. However, it is crucial that all transactions are properly documented, that tax is correctly calculated,

and that any tax stamps are affixed within the required timeframe to avoid any additional cigarette and tobacco tax liability or any associated penalty and interest.

III. Credit for Iowa Tobacco Tax

Finally, Petitioners request that Distributor Core-Mark be granted permission to file for a credit of the Iowa tobacco tax after it ships Iowa-taxed products to Retailer Fareway's out-of-state grocery stores. According to Iowa Code section 453A.47, a refund or credit may be granted for taxes paid on tobacco products that are shipped or transported out of state. Iowa Code § 453A.47. The Director determines that Distributor Core-Mark may file a refund or credit claim for tobacco taxes paid, but notes that Distributor Core-Mark must maintain proper records of these transactions and file for the refund or credit in accordance with the Code and regulations prescribed by the Director. The Department will review the request and, if permitted under the applicable law and approved by Department staff, issue the refund or credit from the general fund of the state.

CONCLUSION

Based on the analysis of the statutes and the proposed delivery model, the following conclusions can be drawn:

1. Compliance with Iowa Law: The proposed delivery model as described complies with Iowa law as long as Distributor Core-Mark, Wholesaler MQW, and Retailer Fareway adhere to the requirements of chapter 453A, including their respective obligations to purchase and affix cigarette tax stamps, correctly calculate and remit tobacco tax, accurately complete and timely file any required returns and reports, and maintain proper records.

2. Additional State Cigarette or Tobacco Taxes: No additional state cigarette or tobacco taxes should be imposed on Wholesaler MQW or any of Retailer Fareway's grocery stores if Distributor Core-Mark has paid the required taxes and affixed the necessary stamps.

3. Refund or Credit for Iowa Tobacco Tax: Distributor Core-Mark may file for a refund or credit of Iowa tobacco tax paid for products it ships out of state, provided that proper documentation is maintained and the request is filed in accordance with the Code and applicable administrative rules.

ORDER

THEREFORE, based on the facts presented, the applicable provisions of law, and the foregoing reasoning the issues raised in the Petition for Declaratory Order are as answered above.

Issued at Des Moines, Iowa this 30th day of July, 2024.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director