

**STATE OF NEW JERSEY**  
**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
**(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)**

**INSTRUCTIONS**

This form is to be used to apply for the exemption of certain tobacco retail establishments from the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq. Applicants must submit Sections 1 and 2. Section 1 is to be completed by the applicant. Section 2 must be completed by a New Jersey licensed Certified Public Accountant. If the proposed exempt tobacco retail establishment is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq., the applicant must also submit Section 3. Section 3 must be completed by New Jersey Registered Architect or a New Jersey Licensed Professional Engineer. The applicant must submit the completed forms to the local health agency with jurisdiction over the municipality in which the establishment is located. The local health agency will not process an incomplete application.

Following are definitions of words and terms used in Section 1 pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**“Backstream”** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**“Establishment”** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**“Incidental”** means minor and occasional.

1. The sale of food or beverages for on-site consumption is not an incidental sale of other products.

**“Tobacco retail establishment”** means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

**“Tobacco product”** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines “tobacco product” at N.J.S.A. 54:40B-2 as follows:

**“Tobacco product”** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the “Cigarette Tax Act,” P.L.1948, c.65 (C.54:40A-1 et seq.);

The “Cigarette Tax Act,” N.J.S.A. 54:40A-1 et seq., defines “cigarette” at N.J.S.A. 54:40A-2 as follows:

**“Cigarette”** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A “single cigarette” is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59a exempts from the provisions of the New Jersey Smoke-Free Air Act the following:

any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking.

\* \* \*

**STATE OF NEW JERSEY**  
**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
**(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)**

**Section 1**

**Affidavit of Business Operator in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

This is to notify the appropriate local health agency that the establishment identified herein claims exemption from the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq., pursuant to N.J.S.A. 26:3D-57 and 59, for the calendar year indicated, as a tobacco retail establishment:

1. Name of Local Health Agency (County or Municipality)

2. Calendar Year

3. Business Name of Proposed Exempt Tobacco Retail Establishment (hereinafter referred to as the "Business"):

4. Trade Name of Business:

5. Street Address of Business:

City

State

Zip Code

6. Mailing Address of Business (if different from the address provided in Question 4 above):

City

State

Zip Code

7. Telephone Number of Business:

8. This application is being made by the (select one):

Property Owner as Operator of the Business

Property Lessee as Operator of the Business

9. Name of Business Operator:

10. Street Address of Business Operator:

City

State

Zip Code

11. Mailing Address of Business Operator (if different from the address provided in Question 9 above):

City

State

Zip Code

12. Telephone Number of Business Operator  
(for Routine Contact):

13. Telephone Number of Business Operator \*  
(for Emergency or After Business Hours Contact)

*\*Cannot be the same as Telephone Number of Proposed Exempt Tobacco Retail Establishment.*

**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT  
(Continued)**

**SECTION 1**

**Affidavit of Business Operator in Support of Notice of Claim of Exemption of Tobacco Retail Establishment  
Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

14. Name of Registered Agent for Business Operator (for Service of Process):

15. Mailing Address of Registered Agent for Business Operator:

City

State

Zip Code

16. In-Person Service Address of Registered Agent for Business Operator:

City

State

Zip Code

17. I, \_\_\_\_\_, am the \_\_\_\_\_ of the Business  
*(print name)* *(indicate Owner or Operator)*  
that is the subject of this notice.

18. In the calendar year ending December 31 of the year preceding the date of this application, the Business generated 51 percent or more of its total annual gross income from the *on-site* sale of *tobacco products* and accessories, and sales of other products at the Business were *incidental* to the sale of *tobacco products*. (See definitions of italicized items above.)

19. I am aware that the information contained in this application is subject to reporting to and auditing by the Division of Taxation of the New Jersey Department of the Treasury.

20. Check one:

The Business is a freestanding establishment that is not located in whole or in part within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6.  
*(If this option is selected, the applicant needs to submit only Section 2, in addition to Section 1.)*

The Business is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq.  
*(If this option is selected, applicant needs to submit both Sections 2 and 3, in addition to Section 1.)*

21. Signature of Authorized Representative  
*(For Corporations, Signature of Chairman of the Board, President or Vice-President)*  
*(For Limited Partnerships, Signature of General Partner)*

22. Date

23. Title of Authorized Representative

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Notary Public of the State of New Jersey**

MY COMMISSION EXPIRES: \_\_\_\_\_.

By \_\_\_\_\_

**STATE OF NEW JERSEY**  
**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

**SECTION 2**

**Affidavit of New Jersey Licensed Certified Public Accountant in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

**INSTRUCTIONS FOR SECTION 2**

This form is to be submitted with the applicant's affidavit (Section 1) in support of a notice of claim of exemption of a tobacco retail establishment from the New Jersey Smoke-Free Air Act pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6.

Following are definitions of words and terms used in this Part pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Incidental"** means minor and occasional.

1. The sale of food or beverages for on-site consumption is not an incidental sale of other products.

**"Tobacco retail establishment"** means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco products" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59 exempts from the provisions of the New Jersey Smoke-Free Air Act the following:

any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking.

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**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

**SECTION 2**

**Affidavit of New Jersey Licensed Certified Public Accountant in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

1. Name of Local Health Agency (County or Municipality)

2. Calendar Year

3. Business Name of Proposed Exempt Tobacco Retail Establishment (hereinafter referred to as the "Business"):

4. Trade Name of Business:

5. I am a New Jersey licensed certified public accountant.

6. In the calendar year ending December 31 of the year preceding the date of this application, the Business generated 51 percent or more of its total annual gross income from the on-site sale of *tobacco products* and accessories, and sales of other products at the Business were *incidental* to the sale of *tobacco products*. (See definitions of italicized terms in Instructions.)

7. I am aware that the information contained in this affidavit is subject to reporting to and auditing by the Division of Taxation of the New Jersey Department of the Treasury.

8. Name of Certified Public Accountant

9. Title

10. Signature

11. Date

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Notary Public of the State of New Jersey**

MY COMMISSION EXPIRES: \_\_\_\_\_.

By \_\_\_\_\_

**STATE OF NEW JERSEY**  
**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

**SECTION 3**

**Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

**INSTRUCTIONS FOR SECTION 3**

This form is to be submitted with the applicant's affidavit (Section 1) in support of an application for a notice of claim of exemption of a tobacco retail establishment from the New Jersey Smoke-Free Air Act pursuant to N.J.S.A. 26:3D-55 et seq., if the tobacco retail establishment is located within another establishment at which smoking is prohibited pursuant to N.J.S.A. 26:3D-55 et seq. This form must be completed by a New Jersey Registered Architect or a New Jersey Licensed Professional Engineer.

Following are definitions of words and terms used in this Part pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6:

**"Backstream"** means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

**"Establishment"** means a place of business, commerce or other service-related activity, whether public or privately owned or operated on a for-profit or nonprofit basis.

**"Incidental"** means minor and occasional.

1. The sale of food or beverages for on-site consumption is not an incidental sale of other products.

**"Tobacco retail establishment"** means an establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

**"Tobacco product"** shall have the meaning provided in the Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., particularly N.J.S.A. 54:40B-2.

The Tobacco Products Wholesale Sales and Use Tax Act, N.J.S.A. 54:40B-1 et seq., defines "tobacco product" at N.J.S.A. 54:40B-2 as follows:

**"Tobacco product"** means any product containing any tobacco for personal consumption including, but not limited to, cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarette as defined in section 102 of the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

The "Cigarette Tax Act," N.J.S.A. 54:40A-1 et seq., defines "cigarette" at N.J.S.A. 54:40A-2 as follows:

**"Cigarette"** means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

N.J.S.A. 26:3D-59 exempts from the provisions of the New Jersey Smoke-Free Air Act the following (italicized words are defined above):

any *tobacco retail establishment*, or any area the *tobacco retail establishment* provides for the purposes of smoking.

**STATE OF NEW JERSEY**  
**NOTICE OF CLAIM OF EXEMPTION OF TOBACCO RETAIL ESTABLISHMENT**  
(Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6)

**SECTION 3**

**Affidavit of New Jersey Registered Architect or Licensed Professional Engineer in Support of Notice of Claim of Exemption of Tobacco Retail Establishment Pursuant to N.J.S.A. 26:3D-55 et seq. and N.J.A.C. 8:6**

1. Name of Local Health Agency (County or Municipality)

2. Calendar Year

3. Business Name of Proposed Exempt Tobacco Retail Establishment (hereinafter referred to as the "Business"):

4. Trade Name of Business:

5. I am (check applicable statement):

- A New Jersey Registered Architect.
- A New Jersey Licensed Professional Engineer.

6. The *tobacco retail establishment* is enclosed from the nonsmoking establishment in which it is located by: (See definitions of italicized terms in Instructions.)

- a. solid walls or windows;
- b. a ceiling; and
- c. a solid door.

7. The ventilation system of the *tobacco retail establishment* is separately exhausted from the nonsmoking areas of the establishment so that air from the proposed smoking area would not be recirculated to the nonsmoking areas and smoke would not be *backstreamed* into the nonsmoking areas. (See definitions of italicized terms in Instructions.)

8. Name of Individual Completing Form

9. Title

10. Signature

11. Date

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Notary Public of the State of New Jersey**

MY COMMISSION EXPIRES: \_\_\_\_\_.

By \_\_\_\_\_