



DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
550 MAIN STREET, ROOM 1516
CINCINNATI, OHIO 45202-3263

May 12, 2014

NOTICE OF POTENTIAL CIVIL AND CRIMINAL LIABILITY

[Name/Address]

To Whom It May Concern:

The Alcohol and Tobacco Tax and Trade Bureau (TTB), a bureau of the United States Department of the Treasury, administers and enforces the provisions of Chapter 52 of the Internal Revenue Code of 1986 (IRC)¹ related to the taxation and regulation of tobacco products.² TTB has reason to believe that, on or after July 7, 2012, without obtaining the necessary permit, you made available a machine capable of making tobacco products (or “RYO machine”) to consumers for commercial purposes. If so, you unlawfully operated as a manufacturer of tobacco products³ and **must immediately cease operations**. Failing to do so is likely to result in the imposition of civil and/or criminal penalties against you.

Engaging in business as a manufacturer of tobacco products without a bond and permit is a criminal offense, punishable by a fine of up to \$500,000 and/or imprisonment for not more than 5 years, and may result in the forfeiture of your real and personal property. See 26 U.S.C. §§ 5762, 5763(c); 18 U.S.C. § 3571(c). Further, the excise tax on unlawfully manufactured tobacco products imposed by the IRC is **due and payable immediately**. See 26 U.S.C. § 5703(b)(2)(F).⁴

TTB is investigating locations without TTB permits where RYO machines are being made available for consumer use. TTB’s auditors and investigators have found tax liabilities in excess of \$10,000 for individual locations and \$640,000 for multiple locations operating under common ownership. TTB has also initiated several criminal investigations in connection with this activity.

¹ As amended and codified at Title 26 of the United States Code (U.S.C.).

² Tobacco products are defined as cigars, cigarettes, smokeless tobacco (snuff and chewing tobacco), pipe tobacco, and roll-your-own tobacco. See 26 U.S.C. § 5702(c), (m).

³ See TTB G 2012-3 Public Guidance on Cigarette-Making Machines and Other Tobacco Product Machines Made Available for Use by Consumers (Oct. 4, 2012), for a discussion of what constitutes being engaged in the manufacture of tobacco products.

⁴ Other provisions related to the manufacture of tobacco products, including the payment of a special (occupational) tax and record keeping and reporting requirements, are discussed in TTB’s Public Guidance. See TTB G 2012-3. Failure to pay this tax may result in both civil and criminal penalties. See 26 U.S.C. § 5731(c).

[Name]

Your “non-profit,” “social club,” or “cooperative” status, if any, **is not relevant** in evaluating whether your purpose in making the machine(s) available is a “commercial” one. **To date, TTB has not concluded that any operations conducted by “social clubs,” “non-profits,” or “cooperatives” are exempt from excise tax liability or other IRC obligations.**⁵

If you have any questions or wish to obtain an application for a TTB permit to manufacture tobacco products, please contact TTB's National Revenue Center at (513) 684-3337/toll free 1-877-882-3277.

Sincerely,

Thurla Skora
Director, National Revenue Center

Enclosures:

TTB G 2012-3, Cigarette-Making Machines and Other Tobacco Product Machines Made Available for Use by Consumers (Oct. 4, 2012).

TTB Announcement, “Enforcement Efforts in Connection with Cigarette-Making Machines” (Aug. 26, 2013).

⁵ See TTB Announcement, “Enforcement Efforts in Connection with Cigarette-Making Machines” (Aug. 26, 2013).