

September 2009



FLOOR STOCKS TAX NETS 1.2 BILLION DOLLARS

The Children's Health Insurance Program Reauthorization Act of 2009 was signed into law on February 4, 2009. One provision of the Act imposed a floor stocks tax on all tobacco products (except large cigars), cigarette papers and cigarette tubes held for sale on April 1, 2009. A floor stocks tax is a one-time excise tax placed on a commodity undergoing a tax increase. The amount of the floor stocks tax is equal to the difference between the new tax rate and the one just previous to it. The Act stipulated that the floor stocks tax must be paid on or before August 1, 2009.

Working without any additional funding and faced with a short time frame, TTB successfully identified nearly half a million business entities which had previously not been regulated by us and has collected 1.2 billion dollars in tobacco excise taxes from those entities.

FDA LETTER TO INDUSTRY

September 14, 2009

Dear Sir or Madam:

The Food and Drug Administration (FDA) is providing this notice to remind regulated industry that effective September 22, 2009, cigarettes that contain certain characterizing flavors are considered adulterated under the Federal Food, Drug, and Cosmetic Act (FFDCA or the Act), as amended by the Family Smoking Prevention and Tobacco Control Act (FSPTCA).

Smoking is the leading preventable cause of death in the United States. An important way to reduce the death and disease caused by smoking is to prevent children and adolescents from starting to smoke. Congress has stated that flavors make cigarettes more appealing to youth and often result in exposure to additional carcinogens and other toxic constituents. The removal from the market of cigarettes that contain certain characterizing flavors is an important step in FDA's efforts to reduce the burden of illness and death caused by tobacco products.

The FSPTCA provides FDA with regulatory authority over the manufacture, marketing, and distribution of tobacco products. Specifically, section 907(a)(1)(A) of the Act, as

THIS ISSUE

Greetings! We hope you are having a joyful and productive month. This edition includes an update on our collection of the floor stocks tax, a letter from the FDA to industry, the comment period has been extended on No. 95, and an EXPO 2009 update.

If you have content ideas or questions for the editors please send them to:

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amended by the FSPTCA, establishes a tobacco product standard special rule for cigarettes that states in part:

...a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke.

This standard applies to all tobacco products that meet the definition of a "cigarette" in section 900(3) of the Act even if they are not labeled as "cigarettes" or are labeled as cigars or as some other product.

As of the September 22, 2009, effective date, cigarettes and their component parts that fail to comply with the special rule established under section 907 are deemed adulterated under section 902 of the Act. Under the Act, adulterated products sold or held for sale in the United States may be subject to seizure under section 304 of the Act. In addition, manufacturers, distributors, and retailers may be subject to injunction actions, civil money penalties, and/or criminal prosecution for violating the requirements of the Act (FFDCA, sections 301, 302, 303). FDA intends to use the full range of enforcement tools within the Agency's authority to ensure compliance with the new requirement.

If you have questions about this provision of the new law, please e-mail them to: Tobacco2@fda.hhs.gov.

Sincerely,

/s/

Lawrence R. Deyton, M.S.P.H., M.D.
Director, Center for Tobacco Products

NOTICE NO. 95 COMMENT PERIOD EXTENDED TO OCTOBER 20, 2009

In response to a request filed on behalf of several industry members, TTB is reopening the comment period for Notice No. 95, a notice of proposed rulemaking published in the Federal Register on June 22, 2009. The proposed rule seeks comments on a concurrently published temporary rule implementing permit requirements for manufacturers and importers of processed tobacco and an expansion of the definition of roll-your-own tobacco adopted in the Children's Health Insurance Program Reauthorization Act of 2009. The text of the regulations contained in the temporary rule serves as the text of the proposed regulations.

Written comments on Notice No. 95 must now be received on or before October 20, 2009.

[Click here to see the federal register.](#)

EXPO 2009 UPDATE: SEE THE SLIDESHOW AND READ MORE ABOUT THE EXPO

Wow, were we impressed! With the recent economic instability we were unsure about attendance, but we are thrilled to announce that we had over 700 attendees at TTB Expo 2009! This far exceeded last year's attendance as well as our expectations.

We sincerely thank everyone who attended. Our hope is that you came away from this

year's Expo knowing that TTB is committed to helping you understand and comply with the applicable laws and regulations that govern your operations.

We enjoyed the opportunity to meet and talk with so many of you and we encourage you to keep the lines of communication open. Contact us with your questions and concerns using the contact information we provided during the Expo.

Because there were those who couldn't make it to Expo 2009, we have made available some of the presentation information that was shared during the three-day event. Feel free to save or print the files for future reference.

[See story and slide show here.](#)

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