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THE U.S. FOOD AND DRUG ADMINISTRATION (FDA) PROPOSES GRAPHIC NEW WARNINGS

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) requires that cigarette packages and advertisements have larger and more visible graphic health warnings.

The FDA is proposing a series of graphic new warnings to be placed on cigarette cartons. See FDA's [Proposed Cigarette Product Warning Labels](#).

MAY MANUFACTURERS AND IMPORTERS OF LARGE CIGARS EXCLUDE THE "TOBACCO BUYOUT" ASSESSMENTS PAID TO THE USDA COMMODITY CREDIT CORPORATION WHEN DETERMINING THE TAXABLE PRICE OF LARGE CIGARS

No. Section 5702(l)(2) of the Internal Revenue Code of 1986 (IRC) provides that, in determining the price of cigars for Federal excise tax purposes, the following shall be excluded:

- the amount of tax imposed by Chapter 52 of the IRC,
- the amount of tax imposed by 26 U.S.C. 7652, which concerns shipments to the United States from Puerto Rico and the Virgin Islands, and
- if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof, or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee.

No other exclusions are provided in Section 5702(l). Under the Fair and Equitable Tobacco Reform Act of 2004 (P.L. 108-357) the United States Department of Agriculture (USDA) Commodity Credit Corporation (CCC) has imposed a national assessment on tobacco product manufacturers and importers. See 7 C.F.R. Part 1463, Subpart A. These assessments started in fiscal year 2005 and will continue through fiscal year 2014 and are to be paid each calendar quarter. The USDA assessment payments are not taxes imposed under the IRC, nor are they State or local taxes and therefore, do not qualify as expenses that can be excluded by manufacturers or importers when determining the taxable sale price of cigars under 26 U.S.C. section 5702(l)(2). Any questions about the USDA assessment program should be directed to USDA. For more information see the USDA's Web site on the [Tobacco Transition Payment Program](#).

THIS ISSUE

Greetings! We hope you are having a kindhearted and successful month. This edition includes FDA's notice of proposed new warnings and tax information on cigars.

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

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