

December 2010



## **RYO MACHINE RENTAL, LLC, ET AL V. U.S. DEPARTMENT OF THE TREASURY, ET AL**

On Monday, November 15, 2010, the United States District Court for the Northern District of Ohio temporarily enjoined the Department of the Treasury, the Alcohol and Tobacco Tax and Trade Bureau (TTB) and "their agents, servants, employees, successors, representatives and assigns, and all others in active concert and privity with them who receive actual notice" from enforcing the provisions of Chapter 52 of the Internal Revenue Code dealing with manufacturers of tobacco products against retailers who maintain commercial cigarette-making machines on their premises for use by consumers to facilitate the manufacturing of cigarettes, as interpreted in [TTB Ruling 2010-04](#) (TTB Ruling). On December 14, 2010, the temporary restraining order was replaced with a preliminary injunction ordering that pending final resolution of this matter, the U.S. Treasury Department, TTB, and their agents, servants, employees, successors, representatives and assigns, and all others in active concert and privity with them who receive actual notice of the Injunctive Order by personal service or otherwise are immediately restrained from enforcing the TTB Ruling and all requirements set forth therein.

As a result of this preliminary injunction, TTB is not taking enforcement action at this time under the Internal Revenue Code of 1986 (IRC), relative to the TTB Ruling and all requirements set forth therein. TTB has alerted all Bureau employees of the preliminary injunction that, at this time, TTB is enjoined from enforcing the TTB Ruling or authorizing others to enforce the TTB Ruling. Please note that the preliminary injunction does not rescind the TTB Ruling, but enjoins TTB from enforcing it. Accordingly, the preliminary injunction does not waive any valid tax liability or other IRC obligations that may arise during the pendency of this litigation and which would be resolved at such time as TTB is no longer subject to a court-ordered restraint or completion of the litigation.

*Updated 12/17/10*

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