



Announcement

August 26, 2013

Enforcement Efforts in Connection with Cigarette-Making Machines

As TTB explained in public guidance [TTB G 2012-3](#), issued in October 2012, any person who for commercial purposes makes available, for consumer use (including the consumer's personal consumption or use), a machine capable of making tobacco products is a "manufacturer of tobacco products" under section 5702 of the Internal Revenue Code of 1986 (IRC). A person may not engage in the business as a manufacturer of tobacco products without a permit issued by TTB, and tax must be paid on the tobacco products manufactured. TTB is investigating locations without TTB permits where cigarette-making machines (or "roll-your-own machines" or "RYO machines") are being made available for consumer use. Since publishing the guidance, TTB's enforcement efforts have included the following:

- TTB has investigated several individual locations with cigarette-making machines and found tax liability in excess of \$10,000 for each location.
- TTB has investigated a group of multiple locations operating under common ownership. Those locations have an estimated combined tax liability of nearly \$640,000.
- TTB has initiated several criminal investigations into this activity.

Subjects of TTB investigation include retail locations and locations where the machines are made available to members of a "social club" or "non-profit." TTB has found operations in violation of the law and has assessed taxes and issued letters telling the stores to cease operations.

In the October 2012 guidance, TTB indicated that the non-profit status of the "person" making the machine available **is not relevant** in evaluating "commercial purposes" under IRC section 5702, and that, based on TTB's understanding of these scenarios and the applicable law, it would be extremely unlikely that TTB would conclude that these "non-profit" organizations, "social clubs," "cooperatives," and other similar organizations that made such machines available to members were exempt from excise tax liability and associated IRC obligations.

TTB reiterates (1) that a person may be making cigarette-making machines available to consumers "for commercial purposes" even if the person is doing so as a "social club" or "non-profit," and (2) that "commercial purposes" need not be profitable. As TTB has previously stated, the fact that the machines are being made available to consumers by a person, business, "social club," or "non-profit" is not relevant to determining whether the purpose is "commercial," as any of these entities may engage in activities for commercial purposes. The tax liability and IRC obligations apply to **any** person who for

commercial purposes makes the machine available for use by consumers of the tobacco products, regardless of whether the machine is used at the premises of a for-profit business, “social club” or “non-profit.” **To date, TTB has not concluded that any such operations are exempt from excise tax liability or other IRC obligations.**

It is against the law to operate as a manufacturer of tobacco products without a TTB permit. Anyone operating without a permit risks civil and/or criminal liability. Anyone operating without a permit must immediately cease operations until a TTB permit is obtained. Such person is also liable for applicable taxes.

Any person who has questions about their own operations may contact TTB. Questions regarding applications for a permit, submitting tax returns, calculating the tax, paying special (occupational) tax, obtaining a bond, and complying with recordkeeping, reporting, and inventory requirements may be directed to the National Revenue Center at 1-877-882-3277. FAQs specific to cigarette-making machines made available for consumer use, including questions about the permit process and the bond required, are available on the TTB Web site at http://www.ttb.gov/faqs/tobacco_ryo_machine.shtml.