

President Signs Transportation Bill; RYO Machine Regulation Takes Effect

July 09, 2012

On Friday, July 6th, the President signed the transportation bill passed by the U.S. House of Representatives and the U.S. Senate, which included the provision that defines commercial RYO machine operators as tobacco manufacturers under federal law. This means that the commercial RYO machine provision went into effect on July 6, 2012.

As a result, the federal laws that need to be complied with by commercial roll-your-own machine operators as of July 6th include, but are not limited to, the following:

1. Every person, before commencing business as a manufacturer of tobacco products, must apply to the TTB for a permit to engage in such business and file a bond. (26 United States Code Sections 5711, 5712, and 5713; and 27 Code of Federal Regulations Part 40 of the TTB regulations implementing these Internal Revenue Code provisions).
2. Manufacturers of tobacco products are required to keep records, submit reports, and take inventories of tobacco products. (26 United States Code Sections 5721, 5722, and 5741; and 27 Code of Federal Regulations Part 40).
3. The tobacco products that are manufactured must be put up in packages that bear required marks and labels. (26 United States Code Sections 5713, 5723, 5761, 5762, and 7606; and 27 Code of Federal Regulations Part 40).
4. The federal cigarette tax of \$1.01 per pack must be paid on manufactured cigarettes. (26 United States Code Section 5701).
5. The Surgeon General cigarette health warnings must be affixed to cigarette packaging. (15 United States Code Sections 1333 and 1334).
6. The FDA rules on cigarettes including minimum package size, the prohibition of flavored cigarettes, and cigarette sampling must be followed. (21 Code of Federal Regulations Part 1140 and 21 United States Code Section 387).

The new language amending the Internal Revenue Code's definition of "tobacco manufacturer" to include commercial roll-your-own machine operators is as follows (new language is underlined):

26 United States Code Section 5702(d): "Manufacturer of tobacco products" means any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco, except that such term shall not include—

- (1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and**
- (2) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.**

Such term shall include any person who for commercial purposes makes available for consumer use (including such consumer's personal consumption or use under paragraph (1)) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal as defined by subsection (j) with respect to any tobacco products manufactured by such machine. A person who sells a machine directly to a consumer at retail for a consumer's personal home use is not making a machine available for commercial purposes if such machine is not used at a

retail premises and is designed to produce tobacco products only in personal use quantities.

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