



Liggett Group

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Director, Regulations and Rulings Division
Alcohol and Tobacco Tax and Trade Bureau
Attention: Notice No. 65
P.O. Box 14412
Washington, DC 20044-4412

Re: Comments of Liggett Group LLC in Response to Notice of Proposed
Rulemaking on Tax Classification of Cigars and Cigarettes,
Notice No. 65, 71 Fed. Reg. 62506 (October 25, 2006)

Dear Director:

Liggett Group LLC ("Liggett"), a cigarette manufacturer located in North Carolina, submits these comments in response to the above-referenced notice of proposed rulemaking ("Notice") published by the Alcohol and Tobacco Tax and Trade Bureau ("TTB").

Liggett supports the regulatory changes proposed by TTB in the Notice. Liggett agrees with many of the comments made in the rulemaking petitions filed by two tobacco companies and by various states. Like those petitioners, Liggett has observed the dramatic growth in sales of products that should properly be classified as cigarettes, but are fraudulently mischaracterized and mislabeled as "little cigars" to take advantage of the substantially lower federal excise tax on cigars and lack of Master Settlement Agreement ("MSA") or state escrow payments on cigars. Liggett encourages TTB to take every action within its regulatory authority to prevent cigarettes from continuing to be fraudulently passed off as "little cigars."

1. New Definitions

With respect to the proposed new definitions of "substance containing tobacco" and "substance not containing tobacco," Liggett believes that the dividing line between the two should be the 75 percent standard proposed by the petitioner states rather than the two-thirds proposed by TTB. In order to be properly classified as a cigar, the wrapper around the roll of tobacco filler should be at least 75 percent by weight of tobacco leaf or fibrous material from the two specified types of tobacco plants. The higher standard would have no adverse effect on true

cigars, but would reduce the ability of unscrupulous manufacturers to continue to “game” the regulatory system and avoid their obligation for payment of the proper amount of federal excise taxes. Moreover, TTB provides no justification for continuing the two-thirds standard other than that it has been the interpretation since 1973. The entire point of this rulemaking proceeding, however, is that the current interpretations and regulatory framework have proven inadequate.

2. Classification of Cigarettes

Liggett submits that subsection 40.12(b)(3)(ii), and the corresponding subsections in Parts 41, 44 and 45, should be slightly reformatted to remove any possible doubt that each of the three clauses in that subsection is a separate requirement mandating classification as a cigarette. The pertinent portion of the subsections should be revised to read as follows:

- (3) It consists of a roll of tobacco wrapped in a substance containing tobacco, and (without regard to its total reducing sugar content) it meets any one of the following criteria –
 - (i) It is put up in a package that bears a product designation or tax classification specified in § __.214; or
 - (ii) It has a typical cigarette size and shape; or
 - (iii) It has a cellulose acetate or other cigarette-type integrated filter; or
 - (iv) It is put up in a traditional cigarette type package that does not bear all of the notice requirements for cigars specified in § __.214; or
 - (v) It has a filler primarily consisting of flue-cured, burley, oriental, or unfermented tobaccos or has a filler material yielding the smoking characteristics of any of those tobaccos.

3. Additional Factors for Classification as a Cigarette

Liggett believes that two more factors should be added to subsection 40.12(b)(3), and to the corresponding subsections in Parts 41, 44 and 45, that would require cigarette classification of a product wrapped in a substance containing tobacco. The product should also be classified as a cigarette if it is sold in packs containing 20 or 25 sticks, and the product should be classified as a cigarette if it is available for sale in cartons of 10 packs. Many so-called “little cigars” are marketed to consumers like cigarettes, in packs of 20 or 25 sticks and in cartons of 10 packs. Including these criteria in the regulations will ensure that such products are properly classified.

4. Wrapper Standard for Cigar Classification

Liggett submits that the definitions contained in proposed section 40.11, and in the corresponding sections in Parts 41, 44 and 45, should be clarified to ensure that a product will only be automatically classified as a cigar if its wrapper is 100 percent natural tobacco leaf in unaltered natural form. Such a requirement should eliminate any ambiguity that a manufacturer could attempt to exploit regarding whether reconstituted tobacco made of 100 percent “leaf

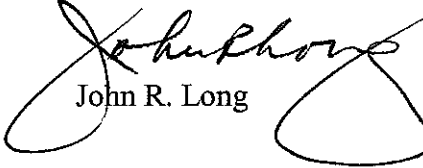
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tobacco” might qualify it for automatic “little cigar” status. Potential ambiguity could be removed by adding a definition that “leaf tobacco,” as used in the proposed regulations, means “100 percent natural tobacco leaf in its unaltered natural form,” and altering the definition of “substance containing tobacco” to reflect that it consists of “[r]econstituted tobacco sheet or any other material other than 100 percent natural tobacco leaf in its unaltered natural form . . .”

Liggett reiterates its support for TTB’s rulemaking on this important issue and appreciates the opportunity to comment on the proposed regulations.

Very truly yours,



John R. Long