

April 24, 2007

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

Dear Sir,

Manufacturers and importers have the responsibility to determine if their product meets the definition of a cigar or cigarette. Upon request TTB issues an advance ruling on whether a product is a cigar or cigarette for tax purposes. Basic analytical methods were published for use by ATF (now TTB) to determine whether the wrapper material is acceptable as a cigar wrapper and if the filler material is a cigar or cigarette for tax purposes. In general, the process described in the ATF Procedures allowed for visual inspection and microscopic testing of the components of the product to determine if the product was consistent with a cigar or cigarette for tax purposes. The Cigar Association of America has estimated that the gross retail sales of little cigars totaled \$312 million in 2005. While three large companies produce slightly over 50 percent of total sales, there are over 20 small firms that produce the remaining amount. While most small companies manufacturing little cigars also produce other tobacco products, many have invested substantially in producing little cigars for the U.S. and foreign markets. These small companies that produce, import or export little cigars have contacted Advocacy regarding this rule. Companies that have contacted Advocacy typically derive as much as 40 to 80 percent of sales revenue from little cigars; although some derive as little as three to 20 percent. All of these companies expect little cigar sales revenue to increase in the future. However, the NPRM puts this future growth in doubt. Inclusion encourages the Treasury and TTB to review the comments of affected little cigar producers carefully, and recommends that Treasury and TTB either publish data supporting their certification under the RFA prior to moving forward with a final rule, or publish an IRFA with a period for comment. Advocacy stands ready to assist Treasury and TTB in the completion of the factual basis for the certification or for completion of an IRFA.

Sincerely,

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