

2009 TTB Expo Presentation

Regulatory Requirements for Tobacco Product Marks, Labels, and Notices

Presented by

Amy R. Greenberg, Tobacco Program Manager
Regulations and Rulings Division



Overview

- Describe TTB statutory and regulatory provisions and other published guidance
- Apply to three general categories:
 - Domestic products
 - Export products
 - Imported products

IRC Statutes

- Internal Revenue Code of 1986,
26 U.S.C. (IRC), Chapter 52 — Tobacco
Products and Cigarette Papers and Tubes
- 26 U.S.C. 5723:
 - (a) Packages
 - (b) Marks, labels, and notices... “as the Secretary by regulation prescribes”

IRC Statutes

- 26 U.S.C. 5751(a)(3):
 - No person shall...otherwise than with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products...which are not put up in packages as required under section 5723, or which are put up in packages not bearing the marks, labels, and notices, as required under this section.

Domestic Products

Packages – Overview

- Mark for Taxpayer Information – identifies the taxpayer and the place the product was removed subject to tax
- Notice of Product Information – identifies product and taxable unit (number or weight)

Packages – Mark (General)

- Every package must, before removal subject to tax, have printed on it or on a label securely affixed to it, a mark consisting of:
 - The name of the manufacturer removing the product subject to tax and location (by city and State) of the factory from which the products are removed, or
 - The permit number of the factory from which the products are removed.

Packages – Mark (Alternative)

- As an alternative, where tobacco products are packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of that manufacturer if the factory where packaged is identified on or in the package by a means approved by the appropriate TTB officer.

Packages – Notices

- **Cigars:**
 - “Cigars”
 - The quantity of cigars in package
 - For small cigars, either “small” or “little”
- **Cigarettes:**
 - “Cigarettes”
 - The quantity of cigarettes in package
 - For small cigarettes, either “small” or “Tax Class A”; or, for large, either “large” or “Tax Class B”

27 CFR 40.214

27 CFR 40.215

Revenue Ruling 73-22 and Packages of Cigars

- Must conspicuously declare it to be a cigar, and cannot represent or imply otherwise.
- If comparable to 20-cigarette pack:
 - “Cigars”, “small cigars”, or “little cigars” must appear in direct conjunction with, parallel to, and in substantially the same conspicuousness of type and background as the brand name each time the brand name appears.
 - “Cigar” must appear on the front, back, and bottom panels, even if the brand name does not.

Packages – Notices (Continued)

- **Smokeless Tobacco:**

27 CFR 40.216

- Product designation—

- “Chewing tobacco” or “Tax Class C”
 - “Snuff” or “Tax Class M”

- Product weight—

- Actual pounds and ounces in package.
 - Alternative: Shipping cases may bear the statement, in pounds and ounces, of the total weight of product, tax class of product, and total number of packages of product.

Packages – Notices (Continued)

- **Pipe Tobacco:**

- “Pipe tobacco”
- Product weight in pounds and ounces

27 CFR 40.216a

- **Roll-Your-Own Tobacco:**

- “Roll-Your-Own Tobacco,” “Cigarette Tobacco,” “Cigar tobacco,” “Cigarette wrapper,” or “Cigar wrapper”
- Product weight in pounds and ounces

27 CFR 40.216b

Export Products

Overview

- Package
- Mark
- Notice
- Export label

Package, Mark, Classification

- Package (27 CFR 44.181):
 - For purposes of this subpart, the package does not include the cellophane wrapping material
- Mark (27 CFR 44.184):
 - Identifying the taxpayer and the place the product is removed
- Notice (27 CFR 44.186):
 - Tax classification for cigars

Export Label

- Export label: 27 CFR 44.185
 - “Tax-exempt. For use outside U.S.” or
 - “U.S. Tax-exempt. For use outside U.S.”
- Is not required where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed.

ATF Ruling 76-11

- Export label:
 - Size equal to or larger than 6-point News Gothic Bold condensed capitals
 - Significant contrast with the background
 - Visually distinctive from other matter on the package (in size, physical separation, color contrast, or type style)
 - Placement other than on the bottom (except on packages of cigars)

ATF Ruling 76-11 (Continued)

- Alternative stamp, sticker, or notice required by foreign country or U.S. possession must be in sufficient size and contrast, and:
 - In English by full name or accepted abbreviation;
 - In other language if it is essentially complete name and in form recognized in U.S.; or
 - Identifies the complete name in language other than English and is “distinctive” (likely recognized as out-of-place or inappropriate in domestic commerce).

IRC Statutes

- 26 U.S.C. 5754:
 - Tobacco products manufactured in the U.S. and labeled for export can only be imported by the original manufacturer or by an export warehouse proprietor authorized to do so by the original manufacturer.
 - Articles labeled for export may not be sold or held for sale for domestic consumption in the U.S. unless removed from export packaging and repackaged by the original manufacturer.
 - ...see also Sections 5704(d) and 5761

Imported Products

Notices and Other Provisions

- Notices – same as those required on domestic product packages
- Exemptions

Exemptions

- Personal Use/Gift — Products authorized to be released from Customs custody, without payment of tax, such as products imported in passengers' baggage, or by mail where the value does not exceed \$250, where such products are solely for personal consumption or a gift (27 CFR 41.75).
- Bulk — Products not put up in packages may be released from Customs custody without payment of tax for delivery to an EW or manufacturer (27 CFR 41.40).

Contact Information

Regulations and Rulings Division (RRD)

Phone: (202) 453-2265