

## Little Cigars

Notice #11-15

Tobacco Tax

November 2011



## Highlights

- *Little cigars that meet the definition of "cigarette" for tax purposes must bear the tobacco tax stamp*
- *Definition of "cigarette" for tobacco tax purposes*
- *Rolled, shredded, or cut tobacco wrapped in paper is considered a "cigarette" for tax purposes regardless of size or packaging*
- *Factors the Department may consider in determining whether a product is "marketed in cigarette type packages"*

## INTRODUCTION

This notice is intended to provide taxpayers and the general public with information concerning classification of little cigars for Tennessee Tobacco Tax purposes.

## DISCUSSION

Little cigars that meet the definition of "cigarette" for Tobacco Tax purposes are required to have the tobacco tax stamp affixed to each package. Little cigars that do not meet the definition of "cigarette" are considered Other Tobacco Products ("OTP"). OTP is subject to the 6.6% tax on a product's wholesale cost price pursuant to Tenn. Code Ann. § 67-4-1005.

"Cigarette" is defined as:

- 1) All rolled, shredded, or cut tobacco, or any substitute therefor, **wrapped in paper**, or substitute therefore, and
- 2) All rolled, shredded or cut tobacco, or any substitute therefor, **wrapped in homogenized tobacco wrapper**, and:
  - a) Being within customary cigarette sizes **and**
  - b) Marketed in cigarette type packages

Tenn. Code Ann. § 67-4-1001(2) (emphasis added).

Accordingly, any rolled, shredded, or cut tobacco that is wrapped in paper constitutes a "cigarette" for Tobacco Tax purposes regardless of size or packaging. Rolled, shredded, or cut tobacco that is wrapped in homogenized tobacco wrapper, however, only meets the definition of "cigarette" for Tobacco Tax purposes if it is both within customary cigarette sizes *and* it is marketed in cigarette type packages.

The Department may consider a number of factors in determining whether a particular tobacco product is marketed in cigarette type packages. Factors that indicate a particular product is marketed in cigarette type packages include but are not limited to: product is sold in soft packs, hard packs, flip-top boxes, or other cigarette-type boxes; carton is lined in foil; product is sold in packs containing 20 or 25 sticks; sticks are arranged in three rows; and the product is marketed or advertised to consumers as a cigarette.

Conversely, factors that indicate a particular product is *not* marketed in cigarette type packages include but are not limited to: sticks are individually wrapped; sticks are individually banded; carton contains less than 20 sticks per box; tobacco product is packaged in a container other than a soft pack, hard pack, flip-top box, or other cigarette-type box.

Little cigars that meet the above definition of "cigarette" **must** bear the tobacco tax stamp; any such little cigars that do not bear the tobacco tax stamp are considered contraband and are subject to confiscation.



## References:

- T.C.A. § 67-4-1001(2)
- T.C.A. § 67-4-1005

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.