

Cigarette Rolling Machine Operators

Notice #12-06

Tobacco Tax

June 2012



Highlights

- *New information regarding the regulations and taxation of cigarettes produced by cigarette rolling machines*
- *Effective July 1, 2012, all cigarette rolling machine operators must obtain a license and pay a \$500 license fee per machine*
- *Effective October 1, 2013, cigarettes produced by cigarette rolling machines are subject to a tax of 3¢ per cigarette, with a credit for the OTP tax paid on the tobacco*

INTRODUCTION

This notice is intended to provide taxpayers and the general public with information concerning the enactment of Public Chapter 1066 (2012), which addresses the regulation and taxation of cigarettes produced by cigarette rolling machines.

Effective July 1, 2012, all cigarette rolling machine operators must obtain a tobacco license from the Tennessee Department of Revenue and pay a \$500 license fee for each cigarette rolling machine possessed, controlled, or maintained by them.

Effective October 1, 2013, cigarettes produced by a cigarette rolling machine are subject to a tax in the amount of 3.1¢ per cigarette.

DISCUSSION

"Cigarette rolling machine" is defined as a machine at a retail establishment that enables any person to process at that establishment tobacco or any product that is made or derived from tobacco into a roll or tube. Hand-held, manually operated machines sold by retailers to consumers for off-premises use in making cigarettes for personal consumption are **not** considered "cigarette rolling machines."

"Cigarette rolling machine operator" is defined as a person that purchases or leases for use, or controls, possesses or maintains a cigarette rolling machine at a retail establishment that enables any person to process at that establishment tobacco into a roll or tube.

Beginning July 1, 2012:

- **All cigarette rolling machine operators must obtain a tobacco license** from the Department of Revenue and pay a **\$500 license fee for each cigarette rolling machine** possessed, controlled, or maintained by them.
- All cigarette rolling machines must contain a secure meter that counts the number of cigarettes made by the machine and cannot be altered by the cigarette rolling machine operator.
- Cigarette rolling machine operators must maintain the information contained on the secure meter for a period of 7 years from the date of each transaction. Upon a request for information, a cigarette rolling machine operator must provide such information to the Department of Revenue.
- Cigarette rolling machine operators must also keep records of tobacco sold for use in the operator's cigarette rolling machine and of any cigarettes made by the cigarette rolling machine.

Beginning October 1, 2013:

- Cigarettes produced by a cigarette rolling machine are subject to a tax in the amount of 3.1¢ per cigarette. Note that such cigarettes are **not** subject to the enforcement fee of 0.05¢ per cigarette imposed by Tenn. Code Ann. § 67-4-1004(b).

➤ *Effective October 1, 2013, only roll-your-own tobacco listed on the Directory of Approved Tobacco Manufacturers may be used in the machines*

➤ *Violations are subject to license revocation and civil penalties*

➤ *Persons selling or leasing cigarette rolling machines must provide certain notifications to the Tennessee customer*

- This tax will be reduced by the tax paid in the amount of 6.6% of the wholesale cost price on the tobacco products used to produce such cigarettes.
- Cigarette rolling machine operators are responsible for calculating the applicable tax and remitting the appropriate amount to the Department of Revenue with the appropriate tax return.
- Cigarette rolling machine operators may only use **roll-your-own tobacco that is currently listed on the Directory of Approved Tobacco Product Manufacturers**. Such Directory is available on the Department's website: <http://www.tennessee.gov/revenue/tntaxes/tobacco/tobmanuflist.shtml>
- Cigarette rolling machine operators may not possess any loose tobacco that has been removed from its original packaging that is not on the Directory of Approved Tobacco Product Manufacturers.
- Cigarette rolling machine operators may not possess more than 16 ounces per cigarette rolling machine of loose tobacco that has been removed from its original packaging of any brand at a given time.
- Cigarette rolling machine operators may not allow their cigarette rolling machines to be used to process cigarettes with tobacco that was not first purchased from the operator.
- Violations may result in license revocation and a civil penalty up to 500% of the retail value of the tobacco sold or \$5,000, whichever is greater.
- Any tobacco sold, offered for sale, or possessed for sale by a cigarette rolling machine operator in violation of this law is contraband and subject to seizure by the Department of Revenue.

RYO Machine Notification Requirements

- Any person selling or leasing a cigarette rolling machine to a Tennessee cigarette rolling machine operator must provide the following information in a written notification:
 - The current status of the federal excise tax rate on tobacco products, including but not limited to pipe tobacco.
 - Notice that the products produced by the machine will be considered cigarettes for the purposes of Title 67, Chapter 4, Part 10 and will be taxed at the rate of 3.1¢ per cigarette beginning on October 1, 2013.
 - Notice that only tobacco included in the Directory of Approved Tobacco Manufacturers may be used in a cigarette rolling machine beginning on October 1, 2013.
- The cigarette rolling machine operator must disclose on its license application whether or not the required notification was received.

References:

Public Chapter 1066
(2012)

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.