

Changes in Definitions of Cigarette, Cigar, and Tobacco Products

Part MM-1 of Chapter 57 of the Laws of 2008 amends Article 20 of the Tax Law, the Administrative Code of the City of New York, and Chapter 235 of the Laws of 1952 in relation to the definition of a *cigarette* effective July 1, 2008. Article 20 of the Tax Law is also amended to change the definition of *tobacco products* and to add a definition of a *cigar*.

Definitions

Cigarette:

- (a) Any roll for smoking made wholly or in part of tobacco or of any other substance, wrapped in paper or in any other substance not containing tobacco, and
- (b) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a). However, a roll will not be considered to be a cigarette for purposes of this paragraph (b) if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April 1, 2008.

Cigar:

Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is defined as a cigarette). However, a roll of tobacco will not be considered to be a cigar if it is not treated as a cigar for federal excise tax purposes under the applicable federal statute in effect on April 1, 2008.

Tobacco products:

Any cigar or tobacco, other than cigarettes, intended for consumption by smoking, chewing, or as snuff.

Effect of the federal statute

As a result of these amendments, effective July 1, 2008, products will be classified as a cigarette or cigar depending on how they are treated for federal excise tax purposes under the Internal Revenue Code. The amendments to the definitions do not result in the immediate reclassification of any products currently treated as cigarettes or cigars in New York State.

However, in the event certain products (e.g., *little cigars*) are treated as cigarettes or are reclassified as cigarettes for federal excise tax purposes, all of the provisions of Articles 20,

20-A, and 37 of the Tax Law in relation to the administration and enforcement of the taxes on cigarettes will apply. **In addition**, all existing enforcement provisions of the Public Health Law regarding the tobacco escrow funds act and the sale, shipment, and possession of cigarettes in New York State will become effective at the time the products are first classified as cigarettes.

NOTE: A TSB-M is an informational statement of changes to the law, regulations, or Department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information presented in a TSB-M.