

**Amendments Related to Manufacturers' Certifications  
and Enforcement Provisions for  
Roll-Your-Own Cigarette Tobacco**

Chapter 552 of the Laws of 2008 amended the Tax Law and the Public Health Law (PHL) in relation to the certification and tobacco escrow funds provisions for roll-your-own (RYO) cigarette tobacco. Chapter 552 also amended the Tax Law to establish new penalties and documentation requirements for RYO cigarettes and makes technical changes to bring the provisions for RYO cigarettes into conformity with the provisions for standard cigarettes (i.e., cigarettes other than RYO cigarettes).

Except as noted, these amendments take effect immediately.

**Definition of "roll-your-own tobacco"**

Section 470 of the Tax Law is amended to add the term *roll-your-own tobacco* to mean any tobacco product that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

**Manufacturer's certification**

Section 480-c of the Tax Law has been added to provide that every tobacco product manufacturer whose RYO cigarette tobacco is sold for consumption in this state must annually certify under penalty of perjury that as of the date of that certification, the tobacco product manufacturer is:

- a participating manufacturer as defined by section 1399-pp(1) of the PHL; or
- a non-participating manufacturer in full compliance with section 1399-pp(2) of the PHL.

This certification must be made on Form CG-30, *Certification of Tobacco Master Settlement Agreement Status*, and must include a list of the brands of RYO cigarette tobacco sold for consumption in New York State. Form CG-30 must be executed by the manufacturer and delivered to the Tax Department, the attorney general of New York State, and any distributor of that manufacturer's RYO cigarette tobacco no earlier than April 16 and no later than April 30 of each year (see the instructions for Form CG-30 for additional details). If the manufacturer introduces a new brand of RYO cigarette tobacco after filing the annual certification, Form CG-30.1-X, *Additional Information Regarding Cigarette Brands Sold in New York*, must be filed with the Tax Department, the attorney general, and any distributor prior to the first sale of the new brand.

Additionally, a distributor must not offer for sale or cause to be sold in this state RYO cigarette tobacco if either of the following apply:

- the tobacco product manufacturer has not provided the distributor with the required certification; or
- the Tax Department has notified the distributor that the tobacco product manufacturer is in violation of section 1399-pp of the PHL, or has filed a false certification, and the distributor has not been notified that the violation has ceased.

### **Enforcement provisions**

Section 481(1)(c) of the Tax Law is amended to provide that, in addition to the power to suspend or cancel a license, the commissioner may seek to suspend or cancel any registration or appointment issued to any person for a violation of section 480-b, related to manufacturers' certifications for standard cigarettes.

Section 481(1)(d) is added to the Tax Law to provide a civil penalty, not to exceed \$5,000, against any tobacco product manufacturer or distributor who violates the provisions of section 480-c. As with standard cigarettes, the Tax Department may seek to suspend or cancel any license, registration, or appointment that has been issued to a tobacco product manufacturer or distributor for a violation of section 480-c related to manufacturers' certifications for RYO cigarette tobacco.

Additionally, section 1846-a(a-1) is added to the Tax Law to authorize the seizure of RYO cigarette tobacco that is in violation of section 480-c. Tobacco products seized by a law enforcement agency must be turned over to the Tax Department. Unlike cigars and other tobacco products, seized RYO cigarette tobacco may not be sold at public sale, redeemed by the person from whom the products were seized or forfeited, or transferred to the Department of Corrections for sale or use by inmates.

### **Tax Department authorized to collect information**

The Tax Department is authorized to collect and retain any information that is required to assure compliance with section 480-c by agents, distributors, and tobacco product manufacturers. In addition, PHL section 1399-oo authorizes the Tax Department to provide the attorney general with requested information collected regarding RYO cigarette tobacco.

### **Additional amendments to make RYO comparable to standard cigarettes**

In general, the Tax Law imposes a use tax and other special provisions related to the possession of more than 400 cigarettes. Four-hundred standard cigarettes are considered to be equal to 36 ounces of RYO cigarette tobacco. Therefore, in order to bring the provisions related

to RYO cigarette tobacco into conformity with the provisions for standard cigarettes, Chapter 552 also makes the following amendments which take effect December 3, 2008:

- Section 471-c of the Tax Law is amended to provide that the tobacco product use tax must be paid when a person brings in or possesses more than 36 ounces of RYO cigarette tobacco in this state. In general, the use or possession of more than 250 cigars or more than five pounds of tobacco, other than RYO cigarette tobacco, is subject to the tobacco products use tax.
- Section 474(2) of the Tax Law is amended to require that any person that possesses or transports more than 36 ounces of RYO cigarette tobacco must have in his or her possession invoices or delivery tickets for the RYO cigarette tobacco. Generally, any person in possession of more than 250 cigars or more than five pounds of tobacco, other than RYO cigarette tobacco, must have invoices or delivery tickets.
- Section 481(2)(a) of the Tax Law is amended to distinguish the possession of RYO cigarette tobacco from the possession of cigars and other tobacco products. The possession of more than 36 ounces of RYO cigarette tobacco by a person other than an agent or distributor is presumed to be subject to tax. In general, the possession of more than 250 cigars or more than five pounds of tobacco, other than RYO cigarette tobacco, is presumed to be subject to tax.

For additional information, refer to TSB-M-06(7)M, *Reporting Requirements for Distributors of Tobacco Products that Import or Manufacture Roll-Your-Own Cigarette Tobacco*. This TSB-M may be accessed from our Web site at ([www.nystax.gov](http://www.nystax.gov)).

NOTE: A TSB-M is an informational statement of existing department policies or 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.