



Clarification of Requirements Related to Roll-Your-Own Cigarette/Tobacco Machines Made Available for Commercial Purposes to Consumers

This TSB-M clarifies that, in addition to retailers, other businesses, social clubs, non-profits, cooperatives, and other similar organizations that make roll-your-own cigarette/tobacco machines available for commercial purposes to consumers must meet certain requirements under Article 20 of the Tax Law.

As explained in [TSB-M-12\(5\)M](#), *New York State Tax Requirements for Retailers That Make Roll-Your-Own Cigarette/Tobacco Machines Available to Customers*, under federal law, a manufacturer of tobacco products includes **any person** who, for commercial purposes, makes available for consumer use a machine capable of making tobacco products, including cigarettes. In addition to certain federal requirements that apply, the TSB-M explained that retailers who make roll-your-own cigarette/tobacco machines (RYO machines) available to their customers must comply with certain requirements under Article 20 of the Tax Law.

We are issuing this memorandum to clarify that the requirements described in [TSB-M-12\(5\)M](#) apply not only to retailers, but to any business or organization that makes an RYO machine available for commercial purposes to consumers. The non-profit status of an organization making the machine available is **not** a factor in determining whether the machine is being made available for commercial purposes. Therefore, social clubs, non-profits, cooperatives, and other similar organizations that make these machines available for commercial purposes to their members are subject to all applicable requirements. These include:

- If the RYO machine is used for making cigarettes, your business or organization must be licensed as a cigarette stamping agent.
- As a manufacturer of cigarettes, your business or organization must certify that it is in compliance with the Master Settlement Agreement (Tobacco Escrow Funds Act).
- Your business or organization must ensure that any cigarettes produced by the RYO machine meet fire safety standards and have been certified and marked *FSC* (fire safety compliant).
- If the RYO machine is used for making cigars, your business or organization must request appointment as a distributor of tobacco products.
- Your business or organization must meet all federal, state, and local requirements regarding sales of cigarettes and/or tobacco products.

For more information about the Tax Law requirements for cigarette stamping agents and distributors of tobacco products, including links to the appropriate applications, forms, certifications, and returns, see [TSB-M-12\(5\)M](#). For more information about federal requirements, visit the [Alcohol and Tobacco Tax and Trade Bureau](#) Web site.

Enforcement

You may not make your RYO machine available to your members unless all federal, state, and local requirements are met.

The Tax Department may impose a penalty of up to \$600 for each carton (200 cigarettes) or fraction of a carton of unstamped or unlawfully stamped packages of cigarettes in your possession or control, and your inventory may be seized. For more information, see [TSB-M-13\(4\)M](#), *Cigarette Penalty Increased*.

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.