

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513-0071

TTB REC 5230/1 Tobacco Products Importer or Manufacturer - Records of Large Cigar Wholesale Prices

A. JUSTIFICATION.

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

The Internal Revenue Code of 1986 (IRC) imposes Federal excise taxes on tobacco products at 26 U.S.C. 5701. Under 26 U.S.C. 5701(a)(2), the tax imposed on large cigars is a percentage of the sale price (the price for which the cigars are sold by the manufacturer or importer). Under the IRC, at 26 U.S.C. 5741, every manufacturer of tobacco products and every importer must keep such records in such manner as the Secretary shall by regulation prescribe. Accordingly, in order to ensure that the appropriate amount of tax is paid on large cigars, TTB regulations at 40.187 and 41.181 require that manufacturers and importers of large cigars maintain certain records of such cigars manufactured or imported.

Under 27 CFR 40.187 and 41.181, manufacturers and importers of large cigars must keep such records as are necessary to establish and verify the sale price that applies to all large cigars removed subject to tax. The record must be a continuing one for each brand and size of cigar (and, if pertinent, type of packaging) so that the taxable price on any date may be readily ascertained. Importers are also required, by the tenth business day of January of each year, to prepare a record to show the sale price in effect on the first day of that year for each brand and size of large cigar. The importer must also retain a dated copy of any internal or trade announcement concerning the establishment of or change in a sale price. The importer must also keep copies of each customs entry or withdrawal form. If an importer has so few import transactions and/or brand sizes of large cigars that retention of an appropriate copy of each entry and withdrawal form will provide an adequate record of sale prices, then no separate record need be kept.

2. How, by whom, and for what purpose is this information used?

These records are used by TTB to verify the taxable sale price of large cigars. Since lower sale prices means less tax is due, there is an inducement for importers or manufacturers to claim a lower sale price. However, TTB can compare the prices shown on tax returns and other documents to these records, thus ensuring that tax liabilities have been accurately determined and discharged by the manufacturer or importer.

3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?

We have approved and will continue to approve, on a case-by-case basis, the use of improved information technology. Although we do not prescribe a recordkeeping format, persons may use a recordkeeping system that uses spreadsheet software or generates lists from an automated inventory system.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

This information collection request requires only records that are pertinent to each importer or manufacturer's specific operation. As far as we can determine, similar information is not available elsewhere.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

This recordkeeping requirement is considered to be the minimum necessary to ensure compliance. This collection of information is not susceptible to reduced requirements for small business. As noted above, importers whose transactions are few and whose entry and withdrawal forms are sufficient to provide an adequate record of sale prices are relieved of creating and maintaining a separate record.

6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?

Not collecting this information or less frequent collection of this information would create a significant gap in the audit trail and it would be difficult or impossible to trace large cigar transactions which would pose jeopardy to the revenue.

7. Are there any special circumstances associated with this information collection?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information?

A 60-day Federal Register notice was published for this information collection on Wednesday, December 23, 2009, 74 FR 68325. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

No payment or gift is associated with this collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

These records are maintained at the premises of the regulated individual. However, 26 U.S.C. 6103 and 5 U.S.C. 552 protect the confidentiality of proprietary information obtained by the Government from regulated individuals.

11. What justification is there for questions of a sensitive nature?

We ask no questions of a sensitive nature.

12. What is the estimated hour burden of this collection of information?

TTB estimates that this recordkeeping requirement will take each 818 respondents 2.33 hours (2 hours and 19.8 minutes) per year to compile and record the required information. The retention requirement for this record is 3 years after close of the year in which a change in sale price occurred (27 CFR 40.185 and 41.22). Total burden is 1,906 hours.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

Salary	\$ 5,000
Clerical (Storing & Filing)	250
Overhead	<u>500</u>
Total	\$ 5,750

14. What is the annualized cost to the Federal government?

There is no cost to the Federal government.

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There is no program change or adjustment associated with this collection.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

The results of this collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

It would be inappropriate to display the expiration date for OMB approval because this is a recordkeeping requirement and unlike the form there is no medium on which to display the date.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.