

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513–0071

Information Collection Request Title:

Tobacco Products Importer or Manufacturer – Records of Large Cigar Sales Prices
(TTB REC 5230/1)

A. JUSTIFICATION.

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.) pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

The 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 U.S. manufacturer or importer). Under the IRC at 26 U.S.C. 5741, every manufacturer of tobacco products and every importer must keep records in such manner as the Secretary shall by regulation prescribe. Accordingly, in order to ensure that the appropriate amount of Federal excise tax is paid on large cigars, the TTB regulations at 27 CFR 40.187 and 41.181 require that manufacturers and importers of large cigars maintain certain records regarding the sales prices of such cigars manufactured or imported.

Under §§ 40.187 and 41.181, manufacturers and importers of large cigars must keep such records as are necessary to establish and verify the sales prices that apply 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. To meet these requirements, § 41.181 provides that importers must, by the tenth business day of January of each year, 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 also must note any change in a sale price from that shown in the record within ten business days after such change in price. In addition, § 41.181 requires importers to retain a dated copy of any internal or trade announcement concerning the establishment of or change in a sale price, and importers must keep copies of each customs entry or withdrawal form. Section 41.181 also provides that 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.

Under 27 CFR 40.185 and 41.22, which contain general record retention requirements for records required by the regulations in 27 CFR parts 40 and 41, the records required under §§ 40.187 and 41.181 must be kept for 3 years after the close of the year in which a change in sale price occurred.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application Systems.

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

The tax on large cigars is based on a percentage of the price for which sold by the manufacturer or importer, and this sales price may vary within a return period. However, the tax due on large cigars is reported in the aggregate on manufacturers' and importers' excise tax returns (TTB F 5000.24). TTB uses the required records of large cigar sales prices to ensure that manufacturers and importers have correctly calculated the tax liability reported on their returns. TTB may also compare lists of sales prices to actual sales records and other documents as needed.

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?

TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the maintenance of required information. Although we do not prescribe a recordkeeping format, respondents to this information collection requirement 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 large cigar manufacturer's or importer's specific operations. 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?

All entities, regardless of size, are required by regulation to provide this information in order to protect the revenue. This recordkeeping requirement is considered to be the minimum necessary to ensure protection of the revenue. However, as noted above, importers with few transactions, whose customs entry and withdrawal forms are sufficient to provide an adequate record of sale prices, are relieved of creating and maintaining a separate record. Any other waiver or reduction of this requirement, simply because the respondent's business is small, could jeopardize the Federal revenue.

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 jeopardize the revenue by substantially hindering TTB's ability to ensure that manufacturers and importers of large cigars have paid the correct amount of excise tax. In order to verify a manufacturer's or importer's tax liability, it is essential that TTB be able to ascertain the sale price of any given large cigar on any given date. The records requested in this information collection are the only comprehensive source required by law or regulation listing all such sales prices.

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? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.*

To solicit comments from the general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on Friday, May 13, 2016, at 81 FR 29950. TTB received no comments on this information collection in response.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

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?*

Respondents maintain these records at their business premises. As such, TTB provides no specific assurance of confidentiality for these records. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by that section.

11. *What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

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

TTB estimates that 300 manufacturers and importers of large cigars are subject to this recordkeeping requirement. TTB further estimates that each of these 300 respondents will respond to this information collection once per year and will each require 2.33 hours to do so. Therefore, the estimated total annual burden hours for this information collection is 699 hours. The retention requirement for the required records is 3 years after the close of the year in which a change in sale price occurred (see 27 CFR 40.185 and 41.22).

(300 respondents X 1 response per year = 300 annual responses X 2.33 hours per response = 699 total burden hours.)

13. What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?

Respondents compile the records required in this information collection from usual and customary records kept during the normal course of business, such as sales records and invoices. As such, this collection imposes no additional annualized capital, start-up, maintenance, or operational costs upon respondents.

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

There is no cost to the Federal government associated with this information collection.

15. What is the reason for any program changes or adjustments reported?

There are no program changes associated with this collection.

As adjustments, we are reporting a decrease in the number of annual respondents, responses, and annual burden hours due to a decrease in the number of regulated industry members manufacturing or importing large cigars. The number of respondents and responses has decreased from 818 to 300, and the estimated annual burden hours have decreased from 1,906 to 699.

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?

There is no prescribed TTB form for this information collection, which consists of records kept by respondents at their business premises. As such, there is no medium for TTB to display the OMB approval expiration date.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.