

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513–0069

Information Collection Request Title:

Tobacco Products Manufacturers – Supporting Records for Removals for the Use of the United States (TTB REC 5210/6).

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.

Under 26 U.S.C. 5701, tobacco products and cigarette papers and tubes manufactured or imported into the United States are subject to Federal excise tax. However, pursuant to 26 U.S.C. 5704(b), manufacturers of tobacco products or cigarette papers and tubes may remove such articles, without payment of tax, for use of the United States under such regulations “as the Secretary shall prescribe.” In addition, under 26 U.S.C. 5741, all manufacturers of tobacco products or cigarette papers and tubes are required to keep such records in such manner as the Secretary of the Treasury prescribes by regulation.

Under those authorities, TTB has issued regulations regarding removals of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States, which are contained in 27 CFR part 45. At 27 CFR 45.51, these regulations require manufacturers of those articles to keep records related to such removals. The records must show the date of removal, the name and address of the Federal agency to which the articles are shipped or delivered, the kind and quantity of the articles removed, and, for large cigars, the sale price. If any tobacco products or cigarette papers and tubes are returned to the factory after removal for use of the United States, § 45.51 also requires that manufacturers keep records of such returns. In addition, the regulation requires manufacturers to retain such records for 3 years following the close of the year covered by the records and that the records be made available for inspection by any appropriate TTB officer upon request.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

TTB Field Operations personnel examine the required records during audits and investigations to account for and verify removals of tobacco products or cigarette papers and tubes made without payment of tax for use of the United States. The required records document such removals and allow TTB personnel to confirm whether the removals were eligible for tax-exempt treatment. Accordingly, such records are necessary to protect the revenue.

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 does not prescribe a format for this recordkeeping requirement. As such, respondents are free to use automated, electronic, or other technological collection techniques or other forms of information technology to keep the required records. In addition, under 27 CFR 45.51, respondents may use commercial records, including automated and electronic records, to keep the required information.

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 records that are pertinent and unique to each manufacturer's specific operations. As far as TTB can determine, similar information regarding removals of tobacco products or cigarette papers and tubes, without payment of tax, for use of the United States is not available elsewhere.

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

In order to protect the revenue, all entities, regardless of size, are required by 27 CFR 45.51 to keep the required records. This recordkeeping requirement is considered to be the minimum necessary to ensure protection of the revenue. Any waiver or reduction of this requirement, simply because the respondent's business is small, could jeopardize the revenue. TTB notes that 27 CFR 45.51 allows manufacturers to meet this recordkeeping requirement through the use of invoices or other commercial records kept at the factory, provided that the required information may be readily ascertained from such records.

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?

The records required under this information collection are part of the comprehensive records system that enables TTB to examine tobacco product transactions and verify that excise tax liabilities have been accurately determined and discharged by the manufacturer. The required records document that tobacco products or cigarette papers or tubes removed without payment of tax were shipped or delivered to a Federal agency for the use of the United States, as claimed by a manufacturer. If TTB did not require manufacturers to keep these records, TTB could not verify that such removals were lawfully made, which would cause jeopardy to the revenue. The required records are kept by the manufacturer only on an as-need basis, and, as such, this collection cannot be conducted less frequently.

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 Thursday, July 13, 2017, at 82 FR 32441. 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?

TTB provides no specific assurance of confidentiality for the required records, which are maintained by respondents at their business premises. 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 consists of records maintained by respondents at their business premises, and, as such, it does not collect personally identifiable information (PII) in a government 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?*

Currently, TTB regulates an estimated 200 manufacturers of tobacco products and 5 manufacturers of cigarette papers and tubes. TTB estimates that each of these 205 manufacturers will respond once per year to this information collection, at an estimated burden of 1 hour per response, resulting in an estimated total annual burden of 205 hours for this information collection.

(205 respondents x 1 response per year = 205 annual responses x 1 hour per response = 205 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)?*

TTB believes that respondents do not bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement. As such, there is no annual cost to respondents associated with this information collection.

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

This information collection consists of records maintained by respondents at their business premises. As such, 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 for adjustments, TTB is increasing the estimated number of annual respondents and responses for this information collection, but is lowering its estimated total annual burden. In the past, TTB has estimated that approximately one-half of all manufacturers of tobacco products or cigarette papers and tubes removed such articles without payment of tax for use of the United States. However, because TTB does not audit or investigate every such manufacturer each year, TTB cannot accurately estimate the number of annual respondents to this recordkeeping requirement. Therefore, TTB is now reporting that all of the estimated 205 manufacturers of tobacco products and cigarette papers and tubes that TTB regulates respond to this recordkeeping requirement an average of once per year. Therefore, TTB is increasing the annual estimated number of respondents and responses from 101 to 205.

However, TTB is decreasing the estimated annual burden associated with this information collection from 505 hours (5 hours per response) to 205 hours (1 hour per response). TTB notes that respondents may use commercial records, including automated and electronic records, to keep the required information. Therefore, TTB believes the use of modern computerized recordkeeping systems has reduced the burden associated with this recordkeeping requirement.

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

TTB will not publish the results of this information collection.

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.