

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement – Information Collection Request**

**OMB Control Number 1513–0071**

**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 (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120–01.

In general, the IRC at 26 U.S.C. 5701 imposes Federal excise taxes on tobacco products and cigarette papers and tubes. As described at 26 U.S.C. 5701(a)(2), the excise tax on large cigars, which are defined as those weighing more than 3 pounds per thousand, is based on a percentage of the price at which such cigars are sold by the manufacturer or importer.<sup>1</sup> In addition, the IRC at 26 U.S.C. 5741, requires every manufacturer and importer of tobacco products to keep records as the Secretary prescribes by regulation.

Under those IRC authorities, the TTB regulations at 27 CFR 40.187 and 41.181 require domestic manufacturers and importers of tobacco products, respectively, to keep records regarding the prices at which they sell large cigars. The required records must establish and verify the prices for which large cigars are sold by brand and size, and, if pertinent, by packaging.<sup>2</sup> The required sale price records are necessary to protect the revenue as they allow TTB to ensure that respondents have correctly calculated and paid their Federal excise tax liability for large cigars.

This information collection is aligned with:

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<sup>1</sup> Federal excise taxes on other tobacco products (small cigars, small and large cigarettes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco) are based either on the product's weight per thousand or its weight per pound; see 26 U.S.C. 5701.

<sup>2</sup> The TTB regulations regarding the determination of sale prices of large cigars for excise tax purposes are found at 27 CFR 40.22, which is cross-referenced for importers at 27 CFR 41.39.

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

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

Under the IRC at 26 U.S.C. 5701(a)(2), the Federal excise tax on large cigars is based on a percentage of the price for which such cigars are sold by the manufacturer or importer. While such sales prices may vary during a tax return period, tobacco product manufacturers and importers report the amount of large cigar excise taxes due in aggregate on their excise tax returns.<sup>3</sup> During audits, TTB personnel use the required large cigar sale price records to ensure that tobacco product manufacturers and importers have correctly calculated and paid the Federal excise taxes due on such cigars. TTB personnel may also compare lists of large cigar sales prices to actual sales invoices 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 collecting and maintenance of required information. TTB does not prescribe a recordkeeping format for this information collection, and respondents may use electronic systems or other technological systems at their discretion to collect and maintain 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 requires tobacco product manufactures and importers to keep certain records regarding their sales prices for large cigars. As such records are pertinent and specific to each such entity. Similar information is not available to TTB elsewhere.

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

All tobacco product manufactures and importers, regardless of size, are required by the TTB regulations to keep records regarding their large cigar sales prices, and any other waiver or reduction of this requirement, simply because the respondent's business is small, would jeopardize the revenue. However, under 27 CFR 41.181(d), importers of large cigars that make few such imports may use the relevant customs entry and withdrawal forms in lieu of creating and maintaining a separate large cigar sales prices 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?*

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<sup>3</sup> Tobacco product manufacturers and importers report all tobacco-related Federal excise taxes due on form TTB F 5000.24, Excise Tax Return, approved under OMB control number 1513-0083.

Not collecting this information, or collecting it less frequently, would jeopardize the revenue by substantially hindering TTB's ability to ensure that large cigar manufacturers and importers have paid the correct amount of Federal excise tax. In order to verify a manufacturer's or importer's tax liability, TTB must be able to verify the sale price of any given large cigar on any given date. The large cigar sales prices records required under this information collection are TTB's only source of such information.

*7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?*

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 January 7, 2020, beginning at 85 FR 785. 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 information collection.

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

No specific assurance of confidentiality is provided for this information collection, which consists of large cigar sales prices records kept by respondents at their 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 the IRC.

*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 consists of large cigar sales prices records kept by respondents at their premises. As such, this information collection contains no questions of a sensitive nature. In addition, this information collection 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 information collection.

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

Burden estimate: Based on recent data, TTB estimates that 300 manufacturers and importers of tobacco products are subject to this large cigar sales prices recordkeeping requirement, and that each respondent will make one response to this information collection per year, for a total of 300 annual responses. TTB further estimates that each response requires 2.33 hours to complete, which results in an estimated total annual burden for this information collection of 669 hours.

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

Record retention: Under 27 CFR 40.185 and 41.22, which contain general retention requirements for records required by the TTB regulations in 27 CFR parts 40 and 41, the required large cigar sales prices records must be kept for 3 years after the close of the year in which the record was made.

Labor costs: TTB believes that the tobacco industry personnel who keep and maintain the large cigar sales prices records required under this information collection are mostly employed in office and administrative support function positions. Therefore, based on the average fully-loaded per hour labor rate for such positions, TTB estimates the annual respondent and total labor cost burden for this information collection as follows:<sup>4</sup>

\$30.79 average per hour fully-loaded labor rate x 2.33 hours per response = \$71.74 per response x 1 response per respondent = \$71.74 per respondent x 300 total responses = \$21,522.00 in total respondent labor costs.

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)?*

In general, respondents compile the large cigar sales prices records required under this information collection from other records kept during the normal course of business, such as sales records and invoices. Therefore, TTB believes that this collection imposes no additional annualized capital, start-up, maintenance, or operational costs on respondents.

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

The records associated with this information collection are maintained by respondents at their business premises. As such, there is no associated cost to the Federal Government.

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

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<sup>4</sup> The Fully-Loaded Labor Rate = Hourly wages plus benefits. For the tobacco manufacturing industry, per the most recent U.S. Dept. of Labor, Bureau of Labor Statistics, National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312200—Tobacco Manufacturing, the average fully-loaded labor rate for office and administrative support functions personnel is \$30.79 per hour (\$21.38 wages + 9.41 benefits); see [https://www.bls.gov/oes/current/naics4\\_312200.htm](https://www.bls.gov/oes/current/naics4_312200.htm).

There are no program changes or adjustments to this information collection, and TTB is submitting it for extension purposes only.

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

The results of this information 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?*

This information collection consists of records of large cigar sales prices, which are kept by respondents at their premises. As such, there is no TTB-prescribed form or other collection instrument on which TTB could 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 information collection does not employ statistical methods.