

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0034

**Schedule of Tobacco Products, Cigarette Papers, or Cigarette Tubes
Withdrawn from the Market**

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 Department Order 120–01.

Under the IRC at 26 U.S.C. 5701, tobacco products, cigarette papers, and cigarette tubes manufactured or imported into the United States are subject to Federal excise tax the rate of which varies by the type of product.¹ However, as provided by the IRC at 26 U.S.C. 5705, manufacturers or importers of tobacco products or cigarette papers and tubes may claim credit or refund of the excise taxes paid on such articles withdrawn from the market if they present satisfactory proof of the withdrawal to the Secretary. That section also permits relief from the taxes due on such articles if the manufacturer or importer withdraws the articles from the market before tax is paid.

Under the authority of section 5705, the TTB tobacco regulations prescribe the use of TTB F 5200.7, Schedule of Tobacco Products, Cigarette Papers or Tubes Withdrawn from the Market, by manufacturers and importers to identify such articles withdrawn from the market and the location of those articles. In addition, the form documents the taxpayer's planned disposition of the articles (destroyed, reduced to materials, or returned to bond), and TTB's decision to witness or not witness that disposition. Respondents subsequently file a copy of the completed TTB F 5200.7 in support of their claim for credit or refund of the excise taxes paid, or allowance for taxes not yet paid, on the withdrawn articles.² The information collected on TTB F 5200.7 is necessary to protect the revenue as it provides TTB with the

¹ Under 26 U.S.C. 5701, tobacco products subject to tax are: Small cigars, large cigars, small cigarettes, large cigarettes, smokeless tobacco (snuff and chewing tobacco), pipe tobacco, and roll-your-own tobacco. Those terms, and cigarette papers and cigarette tubes, are defined for tax purposes at 26 U.S.C. 5702.

² Respondents file claims for credit or refund of excise taxes on form TTB F 5620.8, Claim Alcohol, Tobacco, and Firearms Taxes, approved under OMB control number 1513–0030.

information needed to evaluate the accuracy and validity of a claim for credit, refund, or allowance of tax.

The use of TTB F 5200.7 is mandated or governed by the following TTB regulations in 27 CFR Part 40, Manufacture of Tobacco Products, Cigarette Papers and Tubes, and Processed Tobacco, and in 27 CFR Part 41, Importation of Tobacco Products, Cigarette Papers and Tubes, and Processed Tobacco:

§ 40.282	§ 40.283	§ 40.311	§ 40.312	§ 40.313	§ 40.472
§ 40.473	§ 40.476	§ 40.477	§ 40.478	§ 41.163	§ 41.170
§ 41.171	§ 41.172	§ 41.173	§ 41.174.		

This information collection is aligned with —

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

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

Respondents use TTB F 5200.7 to identify tobacco products, cigarette papers, or cigarette tubes withdrawn from the market, the location of those articles, and their planned disposition of the articles (destroyed, reduced to materials, or returned to bond). Respondents submit the form to TTB, which then certifies its decision to either witness the requested disposition or grant authorization to the respondent to dispose of or return the articles without Bureau supervision. Respondents subsequently file the completed TTB F 5200.7 with TTB to support their claim for credit or refund of the excise taxes paid, or allowance of taxes not yet paid, on the withdrawn articles. TTB uses the collected data to protect the revenue as it provides TTB with the information needed to evaluate the accuracy and validity of a claim for credit, refund, or allowance of excise tax.

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 collection and maintenance of required information. Currently, TTB F 5200.7 is available as a fillable-printable form on the TTB Web site at <https://www.ttb.gov/forms>.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

Respondents file TTB F 5200.7 on an as-needed basis when they withdraw tobacco products, cigarette papers, or cigarette tubes from the market, and they wish to file a claim for credit, refund, or allowance of the excise taxes paid on those articles. As far as TTB is able to determine, similar information regarding such withdrawals is not available elsewhere.

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

Under the authority of the IRC at 26 U.S.C. 5705, in order to support a claim for refund or credit of tax, TTB requires all entities, regardless of size, to complete TTB F 5200.7 to identify tobacco products and cigarette papers and tubes withdrawn from the market, the location of those articles, and their planned disposition. TTB uses the collected information to evaluate the accuracy and validity of a claim for credit, refund, or allowance of tax for the withdrawn articles. As such, waiver or reduction of this information collection requirement, simply because the respondent's business is small, would jeopardize the 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?

If TTB did not collect information regarding tobacco products and cigarette papers and tubes withdrawn from the market, it would not have the information necessary to verify claims made by manufacturers and importers for credit, refund, or allowance of the excise taxes paid or due on such articles. As such, the collected information is necessary to protect the revenue. Additionally, since respondents complete this information collection only on an as-needed basis, TTB cannot conduct it less frequently.

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? (See 5 CFR 1320.5(d)(2).)

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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on November 3, 2020, at 85 FR 69680. 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?

TTB provides no specific assurance of confidentiality for this collection. 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. TTB maintains the collected information in secure file rooms and computer systems with controlled access.

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. While TTB F 5200.7 collects business identification information, it does not collection personally identifiable information (PII). 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?

Estimated Respondent Burden: Based on data from TTB's National Revenue Center, which examines and verifies claims for credit, refund, or allowance of tobacco excise tax, an estimated 50 respondents complete a TTB F 5200.7 an average of 5 times each on an annual basis, resulting in 250 total responses. TTB estimates that each response requires 0.75 hours (45 minutes) to complete, for an estimated total annual burden of 187.5 hours.

(50 respondents x 5 annual responses each = 250 responses x 0.75 hour each = 187.5 annual burden hours.)

Respondent labor costs: Based U.S. Department of Labor wage estimates for tobacco industry office and administrative support function positions, TTB estimates the annual respondent labor costs for this information as follows:

Schedule of Tobacco Products, Cigarette Papers, or Cigarette Tubes Withdrawn from the Market (TTB F 5200.7)					
NAICS 312200 –Tobacco Product Manufacturing: Office & Administrative Support Occupations – Fully-loaded Labor Rate Per Hour³ = \$30.79*					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
0.75 hour	\$23.09	5	\$115.45	250	\$5,772.50

* Labor costs are rounded to the nearest whole cent.

Respondent record retention: Under 27 CFR 40.185 (for domestic manufacturers) and 41.22 (for importers), respondents must retain record copies of this information collection for at least 3 years after the close of the calendar year in which a claim for credit, refund, or allowance of tobacco excise tax is made. In addition, under those sections, respondents

³ Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312200—Tobacco Product Manufacturing, the average fully-loaded labor rate for Office and Administrative Support Occupations is \$30.79 (\$21.38 in wages plus \$9.41 in benefit costs). See the BLS website at https://www.bls.gov/oes/current/naics4_312200.htm.

must maintain those records at their premises, available for TTB inspection upon request.

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)?

Manufacturers and importers of tobacco products and cigarette papers and tubes track and keep records of shipments and returns of such articles during the normal course of business. As such, TTB believes that there are no start-up or ongoing capital costs, or annual maintenance or operational costs to respondents associated with this occasional information collection. As for mailing costs, TTB estimates that respondent spend \$1.00 per response, resulting annual mailing costs of \$5.00 per respondent for 5 annual responses, and \$250.00 in total annual mailing costs for this collection.

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

TTB has determined that there are no annual, non-labor costs to the Federal Government associated with this occasional information collection. Printing and distribution costs to the Federal Government have decreased to \$0.00 in due to the availability of TTB forms to the public on its website's forms page at <https://www.ttb.gov/forms>.

As for Federal Government labor costs, TTB estimates such costs for this information collection as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio					
Position	Fully-loaded Labor Rate/Hour ⁴	Processing Time per Response	Labor Costs per Response*	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.45	0.1 hour	\$3.25	250	\$812.50
GS-12, Step 5, Specialist	\$71.31	0.4 hour	\$28.52		\$7,130.00
TOTALS	(\$15.885)	0.5 hour	\$31.77	250	\$7,942.50

* Labor costs are rounded to the nearest whole cent.

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

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

⁴ Federal Government Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$32.45 (\$19.91 in wages plus \$12.54 in benefit costs); and (2) GS-12, step 5, employee = \$71.31 (\$43.75 in wages plus \$27.56 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/CIN_h.pdf.

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?

As a cost saving measure for both TTB and the public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5200.7. By not displaying that date on the form, TTB will not have to update the form on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the form made for sale to other businesses. Additionally, not displaying the information collection's OMB approval expiration date on the form will avoid confusion among members of the public who may have copies of the form with different expiration dates in their possession.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.