

**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)**

**Changes Since Last Approval**

Changes made to the Supporting Statement since this collection's last approval:

- Throughout the Supporting Statement, TTB is making minor editorial and grammatical changes for clarity;
- In Question 8, TTB is updating the 60-day notice publication information for this information collection; and
- In Question 12, TTB is updating respondent labor costs associated with this information collection based on the latest Department of Labor wage data.

**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, wines, 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 (IRC, 26 U.S.C.). TTB administers those IRC provisions 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, 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.

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<sup>1</sup> The Federal excise tax on large cigars is calculated as 52.75 percent of the sale price, but that tax is limited to not more than 40.26 cents per cigar. 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.

Under those IRC authorities, the TTB regulations at 27 CFR 40.187 and 41.181 respectively require domestic manufacturers and importers of tobacco products to keep records of their sale prices for 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:

- 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 they are sold by the manufacturer or importer, up to no more than 40.26 cents per cigar. While such sales prices may vary during a tax return period, 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 does not prescribe a recordkeeping format for this information collection, and manufacturers and importers of large cigars may use electronic 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, which are specific to each such entity and type of large cigar. 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

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<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.

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

jeopardize the revenue. However, under 27 CFR 41.181(d), importers of large cigars that make sufficiently 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?*

Not collecting this information, or collecting it less frequently, 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 Federal excise tax on such products. 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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on Monday, April 3, 2023, at 88 FR 19711. 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 information collection, which consists of large cigar sales price 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 the IRC specifically authorizes such disclosure.

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 recordkeeping requirement 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?*

**Respondent Burden:** 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.)

**Respondent Labor Costs:** Based on the average fully-loaded labor rate of \$33.80 per hour for all office and administrative support employees in the tobacco manufacturing industry, TTB estimates the per-respondent and total respondent labor costs for this information collection as follows:<sup>4</sup>

Respondent Labor Costs for OMB No. 1513-0071*					
Avg. Time / Response	Fully-loaded Labor Rate / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
2.33 hours	\$78.75	1	\$78.75	300	\$23,625.00

\* Fully-loaded labor rates and costs per respondent are rounded to the nearest whole cent.

**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 following the close of the year in which the record was filed or made.

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.

<sup>4</sup> Private sector fully-loaded labor rate per hour = Hourly wage rate multiplied by a factor of 1.44 to account for employee benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312200—Tobacco Product Manufacturing, the average fully-loaded labor rate per hour for all Office and Administrative Function employees (43-0000) is \$33.80, based on a mean hourly wage of \$23.47. See [https://www.bls.gov/oes/current/naics4\\_312200.htm](https://www.bls.gov/oes/current/naics4_312200.htm).

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?*

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.*

TTB does 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?*

This information collection consists of records kept by respondents at their premises. As such, there is no TTB-prescribed form or other instrument on which TTB could display this collection's 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.