



New York State Tax Requirements for Retailers That Make Roll-Your-Own Cigarette/Tobacco Machines Available to Customers

This TSB-M provides guidance regarding the impact of federal legislation regarding roll-your-own cigarette/tobacco machines on the cigarette and tobacco products taxes imposed by Article 20 of the Tax Law.

Under recent federal legislation, a manufacturer of tobacco products includes any person who for commercial purposes makes available for consumer use a machine capable of making tobacco products (including cigarettes). Retailers must obtain a federal permit before engaging in this business, and must meet other bonding, recordkeeping, reporting, and inventory requirements. See [Notice on Sixth Circuit Court Decision on Roll-Your-Own Cigarette Machines](#) at www.ttb.gov.

In addition to these federal requirements and any other state and local provisions that apply, if you operate a retail establishment in New York State that makes a roll-your-own cigarette/tobacco machine (RYO machine) available to your customers, you must comply with the following requirements for the purposes of Article 20 of the Tax Law.

Cigarette stamping agent requirements

If your RYO machine is used for making cigarettes, you must be licensed as a cigarette stamping agent and you must purchase and affix cigarette tax stamps to the packages of cigarettes that you sell. (You must also be registered as a retail dealer of cigarette and tobacco products.)

To apply for a cigarette stamping agent license, file [Form CG-100-A](#), *Application for License as a Cigarette Agent or Agent/Wholesaler*. You must include a nonrefundable application fee of \$1,500, and if you intend to purchase cigarette tax stamps on credit, you will have to file a credit bond. For additional requirements, see [Form CG-100-A-I](#).

Once licensed, you must file a monthly report, [Form CG-6](#), *Resident Agent Cigarette Tax Report*.

You must annually file [Form CG-213](#), *Cigarette Stamping Agent Certification of Compliance with Tax Law Article 20*. For instructions, see [Form CG-213-I](#).

Master settlement agreement

As a manufacturer of cigarettes, you must annually certify that you are in compliance with the Master Settlement Agreement (Tobacco Escrow Funds Act) on [Form CG-30](#), *Certification of Tobacco Master Settlement Agreement Status*. For instructions, see [Form CG-30-I](#).

If you do not file Form CG-30 and any necessary attachments when required, you may not affix tax stamps or sell cigarettes produced by the RYO machine. In addition, you may also have to pay a penalty of \$5,000, and the Tax Department may suspend or cancel any license issued to you under Article 20 of the Tax Law.

Fire safety standards

You may not affix tax stamps or sell any cigarettes produced by the RYO machine unless the cigarettes meet fire safety standards and have been certified and marked *FSC* (fire standards compliant). See [TSB-M-06\(8.1\)M](#), *Clarification of Fire Safety Provisions for Sales of Cigarettes as of August 16, 2007*.

Distributor of tobacco products requirements

If your RYO machine is used for making cigars, you must request appointment as a distributor of tobacco products. To apply, file [Form MT-202](#), *Application for a License as a Wholesale Dealer of Tobacco Products or an Appointment as a Distributor of Tobacco Products*. For instructions, see [Form MT-202-I](#).

Once appointed, you must file a monthly return, [Form MT-203](#), *Distributor of Tobacco Products Tax Return*. For instructions, see [Form MT-203-I](#).

Enforcement

You may not make your RYO machine available to customers unless all federal, state, and local requirements are met.

The Tax Department may impose a penalty of up to 30% of the tax due if you file a late return or fail to timely pay the tax due.

Your inventory may be seized and you may owe additional penalties if you possess unstamped or unlawfully stamped cigarettes or untaxed tobacco products. See [TSB-M-03\(1\)M](#), *Enforcement Provisions Regarding the Sale, Shipment, and Possession of Cigarettes and Tobacco Products in New York State*.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.