

**Sales of Cigarettes Marked for Export
Outside of the United States**

On July 27, 1999, Governor George E. Pataki signed Chapter 384 of the Laws of 1999. This legislation prohibits sales in New York State of cigarettes which have been marked for export outside of the United States (commonly known as *grey market cigarettes*) and provides for penalties that may be imposed for violations of such law. Chapter 384 is effective January 23, 2000.

Grey market cigarettes are cigarettes manufactured in the United States for export and sale outside of the United States. These cigarettes are either diverted prior to export or are re-imported into the United States after having been exported. The formulation of these cigarettes may also differ from cigarettes of the same brand which are made for sale in the U.S. market.

The new law adds new section 473-b (entitled *Cigarettes marked for export outside the United States; importation and affixation of stamps prohibited*) to Article 20 of the Tax Law. New section 473-b provides that a person may not:

- (1) import into New York any cigarettes that have been marked for export outside the United States with a label or notice in compliance with federal regulations (*i.e.*, marked with the words *Tax-exempt. For use outside U.S.* or *U.S. Tax-exempt. For use outside U.S.*, or with a stamp, sticker, or notice required by a foreign country or a possession of the United States, which identifies such country or possession) or that violate a federal requirement for the placement of labels, warnings, or any other information, including health hazards, on the individual package.
- (2) affix a New York excise tax stamp on a package of cigarettes, cigarette papers, wrappers or tubes unless that individual complies with all federal tax laws, federal trademark and copyright laws, and all federal laws regarding the placement of labels, warnings or any other information upon a package of cigarettes, cigarette papers, wrappers, or tubes.
- (3) affix a New York excise tax stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with federal regulations (*i.e.*, marked with the words *Tax-exempt. For use outside U.S.* or *U.S. Tax-exempt. For use outside U.S.*, or with a stamp, sticker, or notice required by a foreign country or a possession of the United States, which identifies such country or possession).

Additionally, section 480 of Article 20 is amended to provide that a violation of the provisions of new section 473-b will result in the cancellation of an agent's or wholesale dealer's license. Finally, section 1846 of Article 37 is amended to provide that cigarettes seized pursuant to

a violation of section 473-b will be destroyed or sold for export, at the discretion of the commissioner, and that the department may also seize and destroy any vending machine or receptacle in which cigarettes stamped in violation of section 473-b of this chapter are held for sale.

On January 1, 2000, federal legislation will become effective that restricts the re-importation and sale of grey market cigarettes (26 USCS §§ 5704 and 5754). Please refer to Bureau of Alcohol, Tobacco and Firearms ("BATF") Industry Circular 2000-1, *Importation of Previously Exported Tobacco Products and Cigarette Papers and Tubes*, and BATF Industry Circular 99-2, *Unlawful Transportation, Shipment, or Sale of Cigarettes and Domestic Sale of Cigarettes Labeled for Export*, for further information regarding these federal provisions. These publications may be obtained through BATF's website at <http://www.atf.treas.gov/pub/pub.htm>.