

# Treasury Decisions—I

## Subpart B—TOBACCO PRODUCTS

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS—CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

### **Extension of Package Use-up Rule for Roll-your-own Tobacco Manufacturers and Importers (98R-370P)**

**T.D. ATF-427**

**27 CFR Parts 270, 275 and 295**

**ACTION:** Temporary rule (Treasury decision).

**SUMMARY:** In Treasury Decision ATF-424, ATF issued temporary regulations requiring manufacturers and importers to mark packages of roll-your-own tobacco as either “roll-your-own tobacco” or “Tax Class J.” The temporary regulations provided a use-up period until April 1, 2000 for manufacturers who used packages that did not meet the marking requirements, provided they used the packages before January 1, 2000. In this temporary rule, ATF is extending the date by which manufacturers of roll-your-own tobacco must comply with the package marking requirements set forth in 27 C.F.R. §§ 270.216b and 295.45b. ATF is also adding a new section to the regulations at 27 C.F.R. § 275.72c, to provide the same compliance date for importers of roll-your-own tobacco. This temporary rule extends the compliance date for both manufacturers and importers until October 1, 2000.

**DATES:** Effective date: June 29, 2000. This temporary rule extends the compliance date for both manufacturers and importers until October 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; (202) 927-8210; or [alctob@atfhq.atf.treas.gov](mailto:alctob@atfhq.atf.treas.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **Background**

This temporary rule extends the date stated in 27 CFR 270.216c and 295.45c for manufacturers to comply with the requirements that packages be marked as “roll-your-own tobacco” or “Tax Class J” from April 1, 2000, to October 1, 2000. This temporary rule also adds a new section, 27 CFR 275.72c, that will allow importers to have this same benefit. We are taking this action as a result of comments from the Pipe Tobacco Council, Washington, DC. These comments were received in response to the notice of proposed rulemaking, Notice No. 889 (64 FR 71935), issued concurrently with the temporary rule T.D. ATF-424 (64 FR 71929).

The Pipe Tobacco Council submitted written comments concerning the inability of manufacturers and importers of roll-your-own tobacco to comply with the April 1, 2000 deadline. The Pipe Tobacco Council stated that they represented manufacturers and importers who account for more than 90 percent of the roll-your-own tobacco sold in the United States. The Pipe Tobacco

Council stated that since there is a long lead time for acquiring new packaging of at least 5 to 6 months, most manufacturers and importers would be unable to meet the April 1, 2000 deadline for marking packages as “roll-your-own tobacco” or “Tax Class J”. In addition, they stated that although manufacturers and importers could place stickers on the packages with “roll-your-own tobacco” or “Tax Class J” markings, the amount of hand labor involved would make this very costly. The Pipe Tobacco Council requested an extension of the compliance date to October 1, 2000, to allow all manufacturers and importers a reasonable time to comply with this requirement to mark packages “roll-your-own tobacco” or “Tax Class J”.

We have considered the jeopardy to the revenue in extending the compliance date with these package markings and the costs that would be incurred. Since the jeopardy to the revenue is minimal and the costs would be comparatively large for manufacturers and importers to comply, we have decided to extend the use-up date from April 1, 2000, to October 1, 2000.

We note that the Pipe Tobacco Council letter also requested that “cigarette tobacco,” be allowed as an alternative marking designation on packages of roll-your-own tobacco. We are not addressing this issue at this time. We will address this issue after we have analyzed all comments received during the 60-day comment period to Notice No. 889 (64 FR 71935), which was issued concurrently with the temporary rule T.D. ATF-424 (64 FR 71929) published December 22, 1999.

### **Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required for this temporary rule, according to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Moreover, to give immediate guidance to manufacturers and importers, this temporary rule extends the date they have to comply with the requirement to mark packages as “roll-your-own tobacco” or “Tax Class J”. The extension of this date does not impose any additional requirements on small businesses. Pursuant to 26 U.S.C. 7805(f), the temporary rulemaking (T.D. ATF-424 (64 FR 71929)) has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Executive Order 12866**

It has been determined that this temporary rule is not a significant regulatory action as defined by Executive Order 12866 because any economic effects flow directly from the underlying statute and not from this rule. Therefore, a regulatory assessment is not required.

### **Paperwork Reduction Act**

This rule does not impose any collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)). Consequently, this rule is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553).

### **Administrative Procedure Act**

Because this document merely extends the date when manufacturers and importers must comply with certain marking requirements, and because immediate guidance is necessary to implement this extension, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b) or subject to the effective date limitation under 5 U.S.C. 553(d).

## Drafting Information

The principal author of this document is Robert P. Ruhf, of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

## List of Subjects

### *27 CFR Part 270*

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Electronic fund transfer, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products.

### *27 CFR Part 275*

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Electronic fund transfer, Customs duties and inspection, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, Tobacco products, U.S. possessions, Warehouses.

### *27 CFR Part 295*

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Excise taxes, Labeling, Packaging and containers, Tobacco products.

## Authority and Issuance

Accordingly, title 27 of the Code of Federal Regulations is amended as follows:

## **PART 270—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES**

**Paragraph 1.** The authority citation for part 270 continues to read as follows:

**Authority:** 26 U.S.C. 5142, 5143, 5146, 5701, 5703-5705, 5711-5713, 5721-5723, 5731, 5741, 5751, 5753, 5761-5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805, 31 U.S.C. 9301, 9303, 9304, 9306.

**Par. 2.** Section 270.216c is revised to read as follows:

### **§270.216c Package use-up rule.**

(a) A manufacturer must have used such packaging for roll-your-own tobacco before January 1, 2000.

(b) A manufacturer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of §§270.212 and 270.216b(b) until April 1, 2000.

(c) A manufacturer of roll-your-tobacco may continue to place roll-your-tobacco in packages that do not meet the requirements of §270.216b(a) until October 1, 2000.

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**PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES**

**Par. 4.** The authority citation for part 275 continues to read as follows:

**Authority:** 18 U.S.C. 2342; 26 U.S.C. 5701, 5703-5705, 5708, 5712, 5713, 5722, 5723, 5741, 5754, 5761-5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

**Par. 5.** A new section 275.72c is added to read as follows:

**§275.72c Package use-up rule.**

- (a) An importer must have used such packaging for roll-your-own tobacco before January 1, 2000.
- (b) An importer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of §275.72b(b) until April 1, 2000.
- (c) An importer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the requirements of §275.72b(a) until October 1, 2000.

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**PART 295—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT FOR USE OF THE UNITED STATES**

**Par. 6.** The authority citation for part 295 continues to read as follows:

**Authority:** 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

**Par. 7.** Section 295.45c is revised to read as follows:

**§295.45c Package use-up rule.**

- (a) A manufacturer must have used such packaging for roll-your-own tobacco before January 1, 2000.
- (b) A manufacturer of roll-your-own tobacco, may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of §§270.212 and 270.216b(b) until April 1, 2000.
- (c) A manufacturer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of §270.216b(a) until October 1, 2000.

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Signed: March 28, 2000

**Bradley A. Buckles,**  
*Director*

Approved: April 26, 2000

**John P. Simpson**  
*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)*