



COMMONWEALTH OF KENTUCKY
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**TO: ALL NON-PARTICIPATING ROLL-YOUR-OWN (RYO) TOBACCO
PRODUCT MANUFACTURERS**

FROM: MICHAEL PLUMLEY, ASSISTANT ATTORNEY GENERAL

DATE: JUNE 14, 2006

**RE: KENTUCKY STATUTE AMENDMENT REQUIRING ESCROW
DEPOSITS FOR RYO SALES**

On April 11, 2006, HB 380 passed by the Kentucky Legislature. On April 24, it was signed into law with some items vetoed by the Governor. Part of HB 380, the Budget Act, included provisions which could affect your business.

Attached hereto is a copy of the section of the escrow statute at KRS 131.602(10) and 138.140(1-5) which were changed. These provisions provide for an excise tax on RYO, bringing such sales under the escrow statute. Nonparticipating manufacturers of RYO therefore must certify that they are in compliance with the statute by either joining the Master Settlement Agreement or by depositing into a qualified escrow account amounts based upon RYO sales as directed.

Enclosed is the certification form which must be returned to our office by July 14, 2006. Should you have questions about this provision, please contact me at any time at the address below.

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Section 1. KRS 131.602 is amended to read as follows:

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco ~~containers bearing the excise tax stamp of Kentucky~~. The Department of Revenue shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 2. KRS 138.140 is amended to read as follows:

- (1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents (\$0.03) on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.
- (2) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section at a proportionate rate of twenty-six cents (\$0.26) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid, regardless of the number of times the cigarettes may be sold in the state.
- (3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section and in addition to the surtax levied by subsection (2) of this section, at a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid, regardless of the number of times the cigarettes may be sold in the state.

- (4) (a) Effective August 1, 2005, an excise~~[a]~~ tax shall be imposed upon all wholesalers of other tobacco products at the rate of seven and one-half percent (7.5%) of the gross receipts of any wholesaler derived from wholesale sales made within the Commonwealth.
- (b) This excise tax shall be paid only once, regardless of the number of times the tobacco product may be sold in the state.
- (5) Effective August 1, 2005, a tax shall be imposed upon all wholesalers of snuff at a rate of nine and one-half cents (\$0.095) per unit. As used in this section unit means a hard container not capable of containing more than one and one-half (1-1/2) ounce. In determining the quantity subject to the tax under this subsection, if a package on which the tax is levied, contains more than an individual unit, the taxable quantity shall be calculated by multiplying the total number of individual units by the rate set in this subsection. The tax imposed under this subsection shall be paid only once, regardless of the number of times the snuff may be sold in this state.