

Bulletin



TT - 75

April 1, 2017

TO: All Wholesalers and Retailers of Other Tobacco Products

SUBJECT: "Premium Cigars" do not have Filters, Tips or Nontobacco Mouthpieces

Business Regulation §16.5-101(p) states "Premium cigars' means cigars that: (1) have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor; or (2) are designated as premium cigars by the Comptroller by regulation."

COMAR 03.02.02.09 further clarifies "Premium cigars include those that are made from 100 percent whole tobacco leaves where the filter, binder, and wrapper, are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor and includes no tips, filters or nontobacco mouthpieces."

It has come to our attention that certain cigars and cigarillos with affixed filters or tips are being treated as "premium cigars" for the purpose of calculating and remitting Other Tobacco Products (OTP) Tax. For OTP tax purposes, it is not sufficient for the packaging to state "Premium" or "Hand Rolled." Rather, all aspects of BR§16.5-101(p) and COMAR 03.02.02.09 need to be considered. COMAR 03.02.02.09 prohibits any cigar with "tips, filters or nontobacco mouthpieces" from being considered a "premium cigar" and therefore, should be taxed at "70% of the wholesale price of the cigars" (Tax General §12-105(b)(2)(ii)).

In consideration of the specific matter of "tips, filters or nontobacco mouthpieces," beginning from the date of this Bulletin, any entity found calculating and remitting OTP tax that is not at the 70% tobacco tax rate for cigars containing "tips, filters or nontobacco mouthpieces" will be held liable for any unremitted Other Tobacco Products Taxes with penalty and interest as determined through tobacco inspections and/or tobacco tax audits.

All other aspects as defined in BR §16.5-101(p) and COMAR 03.02.02.09 for applying the "premium cigar" OTP tax rate apply and any related liability for misapplied OTP tax rates found through a tobacco inspection and/or tobacco tax audit is subject to the full statute period.

Questions or comments concerning this Bulletin should be directed to Field Enforcement Division at 410-260-7388.

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