



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

ANDY DILLON
STATE TREASURER

LETTER RULING 2013-1

LR 2013-1. Operating Cigarette Making Machines Through Private, Nonprofit Clubs Located in Non-Commercial Settings to Produce, Roll or Generate Cigarettes in Michigan.

You ask whether a person operating a private, nonprofit club for the purpose of providing club members access to cigarette making machines, which would be located in non-commercial settings in Michigan to roll or otherwise produce cigarettes for each member's personal use or consumption, would be a "manufacturer" subject to the Tobacco Products Tax Act ("Act"). You also inquire whether a member of such a club who, based on that membership (whether or not a membership fee is charged) or for any other consideration, would be granted access to operate (or an ownership interest in) cigarette making machines for that purpose would be a manufacturer under the Act.

A person who operates or who permits any other person to operate a "cigarette making machine" in Michigan for the purpose of producing, filling, rolling, dispensing, or otherwise generating cigarettes is a "manufacturer" under Michigan's Tobacco Products Tax Act. **MCL 205.422(m)(ii)**.

A "cigarette making machine" is defined under the Act, **MCL 205.422(b)**, as any machine or other mechanical device which meets all of the following criteria:

- is capable of being loaded with loose tobacco, cigarette tubes or cigarette papers, and any other components related to the production of cigarettes;
- is designed to automatically or mechanically produce, roll, fill, dispense, or otherwise generate cigarettes;
- is commercial-grade or otherwise designed or suitable for commercial use; and
- is designed to be powered or operated by a main or primary power source other than human power.

Therefore, if the machine used in the club scenario you described is a "cigarette making machine" under the Act, any club member who operates the machine to roll or otherwise produce cigarettes will constitute a "manufacturer." In addition, the club will also constitute a "manufacturer" because it is permitting club members to operate the machine.

There is an exception for self-consumption if the following three criteria are satisfied:

- the machine or mechanical device used to roll or produce the cigarettes does not fall within the definition of a "cigarette making machine" (for example, a machine which is manually operated or a machine which is not designed for commercial use);
- the machine or mechanical device is located in the home of the person operating it, AND;
- the cigarettes produced are solely for the "self-consumption" of the person operating the machine or mechanical device (i.e., the cigarettes are not for anyone else's use or consumption).

Therefore, if a club member uses a machine or mechanical device to produce cigarettes that does not qualify as a “cigarette making machine” under the Act, that club member will be a “manufacturer” subject to the Act, unless the machine is located in that particular club member’s home and the cigarettes produced by that club member are for his or her “self-consumption” and not produced for consumption by other club members.

If you have further questions regarding the Michigan Tobacco Products Tax Act, please contact the Department of Treasury Tobacco Tax Unit at (517) 636-4630. Further information is also available at: www.michigan.gov/taxes.

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LR 2013-1

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