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CLIENT ALERT
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CONGRESS TO INVESTIGATE CIGAR MANUFACTURERS' ATTEMPTS TO EVADE INCREASED TAX

In its ongoing effort to curb smoking and regulate the tobacco industry, last year Congress increased the federal excise tax on cigars weighing less than three pounds per thousand ("Little Cigars"). While Little Cigars are taxed at approximately $10 per carton, heavier cigars are only taxed at 52.75% of the manufacturer's cost, resulting in a per carton tax of approximately $3. In response, many tobacco manufacturers have resorted to adding paper, tobacco and filler in order to increase the weight of their Little Cigars and thus be afforded the tax benefits reserved to heavier cigars.

According to the Alcohol and Tobacco Tax and Trade Bureau, since the tax increase, the sales volume of regular cigars has more than quadrupled. Conversely, sales of Little Cigars have fallen by 79%. These trends have led Congress to investigate the manufacturing practices of many tobacco companies to determine the extent of the industry's attempts to avoid the new tax.

Although the practice of inflating the weight of Little Cigars so as to avoid the increased tax is legal, there are lawmakers in Congress who want to use the aforementioned trends in furtherance of subjecting all cigar products to the same higher tax. By increasing the weight threshold for Little Cigars from 3 to 4.5 pounds per thousand, lawmakers believe that they could effectively redress the current tax issue.

Should Congress be successful in either imposing a flat higher tax on all cigars or altering the weight requirement for Little Cigars the result will be the same – increased costs to cigar aficionados. Moreover, cigar shop owners are likely to suffer huge losses as the resulting higher prices may discourage the casual cigar customer from making a purchase. The potential loss of business would be a serious blow to this already suffering industry.

Our firm has acted as counsel to certain Native American cigar retailers and manufacturers as well as to cigar clubs.

We are closely involved in monitoring these events and will continue to provide you with pertinent updates as more information becomes available. If you have any questions about the matters covered in this Client Alert, or wish to schedule a private consultation, please call Terrence A. Oved, Esq. of Oved & Oved LLP by telephone at 212.226.2376 or contact by email at terry@ovedlaw.com.

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