

## CLAIMS BY MANUFACTURERS

*General*

- 270.471 Abatement.  
 270.472 Allowance.  
 270.473 Credit or refund.  
 270.474 Remission.

*Lost or Destroyed*

- 270.475 Action by claimant.

*Withdrawn From the Market*

- 270.476 Action by claimant.  
 270.477 Action by regional director (compliance).  
 270.478 Disposition of cigarette papers and tubes and schedule.

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.

SOURCE: 26 FR 8174, Aug. 31, 1961, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975; 54 FR 48839, Nov. 27, 1989.

**Subpart A—Scope of Regulations****§270.1 Manufacture of tobacco products and cigarette papers and tubes.**

This part contains regulations relating to the manufacture of tobacco products and cigarette papers and tubes; the payment by manufacturers of tobacco products and cigarette papers and tubes of internal revenue taxes imposed by 26 U.S.C. chapter 52; and the qualification of and operations by manufacturers of tobacco products.

[T.D. ATF-384, 61 FR 54085, Oct. 17, 1996]

**§270.2 Territorial extent.**

The provisions of the regulations in this part shall apply in the several States of the United States and the District of Columbia.

**Subpart B—Definitions****§270.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall in-

clude the feminine. The terms “includes” and “including” do not exclude things not listed which are in the same general class.

*Associate Director (Compliance Operations).* The Associate Director (Compliance Operations) in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

*ATF officer.* An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

*Bank.* Any commercial bank.

*Banking day.* Any day during which a bank is open to the public for carrying on substantially all its banking functions.

*CFR.* The Code of Federal Regulations.

*Chewing tobacco.* Any leaf tobacco that is not intended to be smoked.

*Cigar.* Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (2) of the definition for cigarette).

*Cigarette.* (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this definition.

*Cigarette paper.* Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

*Cigarette papers.* Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

*Cigarette tube.* Cigarette paper made into a hollow cylinder for use in making cigarettes.

*Commercial bank.* A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The “FRCS” or

“Fedwire” is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank in New York.

*Determined or determination.* When used with respect to the tax on tobacco products, determined or determination means that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff) of tobacco products and wholesale price of large cigars to be removed subject to tax have been established as prescribed by this part so that the tax payable with respect thereto may be calculated.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC.

*Director of the service center.* The Director, Internal Revenue Service Center, in any of the Internal Revenue regions.

*District director.* A district director of internal revenue.

*Electronic fund transfer or EFT.* Any transfer of funds effected by a manufacturer’s commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

*Export warehouse.* A bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

*Export warehouse proprietor.* Any person who operates an export warehouse.

*Factory.* The premises of a manufacturer of tobacco products as described in his permit issued under 26 U.S.C. chapter 52, or the premises of a manufacturer of cigarette papers and tubes on which such business is conducted.

*Fiscal year.* The period which begins October 1 and ends on the following September 30.

*In bond.* The status of tobacco products and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by 26 U.S.C. 5701 or 7652, and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, pursuant to 26 U.S.C. 5704, and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

*Large cigarettes.* Cigarettes weighing more than three pounds per thousand.

*Large cigars.* Cigars weighing more than three pounds per thousand.

*Manufacturer of cigarette papers and tubes.* Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for personal use or consumption.

*Manufacturer of tobacco products.* Any person who manufactures cigars, cigarettes, smokeless tobacco or pipe tobacco, except that such term shall not include (a) a person who produces tobacco products solely for his own personal consumption or use; or (b) a proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

*Package.* The immediate container in which tobacco products or cigarette papers or tubes are put up in by the manufacturer and offered for sale or delivery to the consumer.

*Permit number.* The combination of (1) the letters indicating the kind of permit, (2) the identifying number, and (3) the name or abbreviation of the State (or the District of Columbia) in which the factory is located, as assigned to the permit by the regional director (compliance); for example, “TP-999-Utah”.

*Person.* An individual, partnership, association, company, corporation, estate, or trust.

*Pipe tobacco.* Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use

and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

*Region.* A Bureau of Alcohol, Tobacco and Firearms Region.

*Regional Director (compliance).* The principal regional official responsible for administering regulations in this part.

*Removal or remove.* The removal of tobacco products or cigarette papers or tubes from the factory or release from customs custody, including the smuggling of other unlawful importation of such articles into the United States.

*Service center.* An Internal Revenue Service Center in any of the Internal Revenue regions.

*Service center director.* A director of an internal revenue service center.

*Sets.* Any collection, grouping, or packaging of cigarette papers made up by any person for delivery to the consumer as a unit.

*Small cigarettes.* Cigarettes weighing not more than three pounds per thousand.

*Small cigars.* Cigars weighing not more than three pounds per thousand.

*Smokeless tobacco.* Any snuff or chewing tobacco.

*Snuff.* Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

*This chapter.* Title 27, Code of Federal Regulations, chapter I (27 CFR chapter I).

*Tobacco products.* Cigars, cigarettes, smokeless tobacco, and pipe tobacco. The term does not include smoking tobacco that is not suitable for use or likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

*Treasury Account.* The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

*U.S.C.* The United States Code.

*Wholesale price.* The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's sug-

gested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Associate Director (Compliance Operations), as provided in § 270.22(i).

(26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), (82 Stat. 959), and Sec. 38, Arms Export Control Act (90 Stat. 744) Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13553, Mar. 31, 1978; 44 FR 55854, Sept. 28, 1979, as amended by T.D. ATF-77, 46 FR 3007, Jan. 13, 1981; T.D. ATF-232, 51 FR 28080, Aug. 5, 1986; T.D. ATF-289, 54 FR 48839, Nov. 27, 1989; T.D. ATF-384, 61 FR 54085, Oct. 17, 1996]

## Subpart C—Taxes

### § 270.21 Cigar tax rates.

(a) On cigars, manufactured in or imported into the United States, the following taxes are imposed by law:

(1) *Cigars removed before January 1, 1991*—(i) *Small cigars.* 75 cents per thousand.

(ii) *Large cigars.* 8.5 percent of the wholesale price, but not more than \$20 per thousand.

(2) *Cigars removed on or after January 1, 1991 and before January 1, 1993*—(i) *Small cigars.* \$0.9375 per thousand.

(ii) *Large cigars.* 10.625 percent of the sale price, but not more than \$25 per thousand.

(3) *Cigars removed on or after January 1, 1993*—(i) *Small cigars.* \$1.125 per thousand.

(ii) *Large cigars.* 12.75 percent of the sale price, but not more than \$30 per thousand.

(b) Cigars not exempt from tax under 26 U.S.C. chapter 52 and the provisions of this part which are removed but not intended for sale are taxed at the same rate as similar cigars removed for sale.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1414, as amended by sec. 2128, Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5701))

[T.D. ATF-80, 46 FR 18309, Mar. 24, 1981, as amended by T.D. ATF-307, 55 FR 52742, Dec. 21, 1990]