

§ 270.283 Credit or refund of tax.

The taxes paid on tobacco products may be credited or refunded (without interest) to a manufacturer on proof satisfactory to the regional director (compliance) that the claimant manufacturer paid the tax on tobacco products lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer, or withdrawn by him from the market. Any claim for credit or refund under this section shall be prepared on Form 2635 (5620.8), in duplicate. Claims shall include a statement that the tax imposed on tobacco products by 26 U.S.C. 7652 or chapter 52, was paid in respect to the tobacco products covered by the claim, and that the products were lost, destroyed, or withdrawn from the market within 6 months preceding the date the claim is filed. A claim for credit or refund relating to products lost or destroyed shall be supported as prescribed in § 270.301, and a claim relating to products withdrawn from the market shall be accompanied by a schedule prepared and verified as prescribed in §§ 270.311 and 270.313. The original and one copy of Form 2635 (5620.8), claim for credit, or the original of Form 2635 (5620.8), claim for refund, shall be filed with the regional director (compliance) for the region in which the tax was paid, or where the tax was paid in more than one region with the regional director (compliance) for any one of the regions in which the tax was paid. Upon action by the regional director (compliance) on a claim for credit he will return the copy of Form 2635 to the manufacturer as notification of allowance or disallowance of the claim or any part thereof, which copy, with the copy of any verified supporting schedules, shall be retained by the manufacturer. When the manufacturer is notified of allowance of the claim for credit or any part thereof he shall make an adjusting entry and explanatory statement in the next tax return(s) to the extent necessary to take credit in the amount of the allowance. Prior to consideration and action on his claim the manufacturer may not anticipate allowance of his claim by taking credit in his tax return. The duplicate of a claim for refund, with the copy of any

verified supporting schedules, shall be retained by the manufacturer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1419)

[T.D. 6961, 33 FR 9489, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979; T.D. ATF-219, 50 FR 51389, Dec. 17, 1985; T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987]

§ 270.284 Remission of tax liability.

Remission of the tax liability on tobacco products may be extended to the manufacturer liable for the tax where tobacco products in bond are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer. Where tobacco products are so lost or destroyed the manufacturer shall report promptly such fact, and the circumstances, to the regional director (compliance) for the region in which the factory is located. If the manufacturer wishes to be relieved of the tax liability thereon he shall also prepare a claim on Form 2635, in duplicate, setting forth the nature, date, place, and extent of the loss or destruction. Both copies of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the regional director (compliance) that the claim is valid, shall be filed with the regional director (compliance) for the region in which the factory is located. Upon action on the claim by the regional director (compliance) he will return the copy of Form 2635 to the manufacturer as notice of such action, which copy shall be retained by the manufacturer.

(72 Stat. 1419, as amended; 26 U.S.C. 5705)

[T.D. 6961, 33 FR 9489, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 270.285 [Reserved]**§ 270.286 Refund of overpayment.**

Where an error in computation of the quantity of tobacco products or in computation of the amount of tax due results in an overpayment and such error is specifically identified and supported by records, the manufacturer

may file claim for refund or may make an adjustment in his semimonthly tax return as provided in §270.164. (Section 6511, 26 U.S.C., provides that, in most cases, any adjustment of claim for refund of an overpayment of tax on tobacco products must be made or filed within three years after the tax is paid.) If the manufacturer elects to file a claim for refund of an overpayment resulting from such a computational error, he shall do so on Form 2635 (5620.8), in duplicate. The original shall be filed with the regional director (compliance) for the region in which the tax was paid, and the duplicate retained by the manufacturer. Where an overpayment of tax on tobacco products results from other than a computational error any claim for refund or credit shall be made in accordance with subpart A of part 296 of this chapter.

(68A Stat. 791, 72 Stat. 9; 26 U.S.C. 6402, 6423)

[T.D. 6871, 31 FR 39, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979; T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987]

§270.287 Remission of tax liability on shortage.

Whenever a manufacturer of tobacco products desires to submit a claim for remission of tax liability on shortages of tobacco products in bond, disclosed by physical inventory as set forth in §270.255, he shall prepare such claim on Form 2635, in duplicate. Both copies of the claim shall be filed with the regional director (compliance) for the region in which the factory is located. The claim shall specify the quantities of tobacco products on which claim is made and the tax liability in respect thereof, and shall set forth the circumstances surrounding the shortage and the reason the manufacturer believes tax is not due or payable. The regional director (compliance) will, after such investigation as he deems appropriate, allow the claim to the extent he is satisfied the shortage was due to operating losses such as damage during grading, sorting, or packaging, and was not caused by theft or other unlawful or improper removal. Upon action on the claim by the regional director

(compliance) he will return the copy of Form 2635 to the manufacturer as notice of such action, which copy shall be retained by the manufacturer.

(72 Stat. 1414, as amended, 1417, 1419, as amended; 26 U.S.C. 5701, 5703, 5705)

[T.D. 6961, 33 FR 9489, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

TOBACCO PRODUCTS LOST OR DESTROYED

§270.301 Action by claimant.

Where tobacco products are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, and the manufacturer desires to file a claim for the tax on such products under the provisions of §270.282 or §270.283, he shall indicate on the claim the nature, date, place, and extent of such loss or destruction. The claim shall be accompanied by such evidence as is necessary to establish to the satisfaction of the regional director (compliance) that the claim is valid.

(72 Stat. 1419, as amended; 26 U.S.C. 5705)

[T.D. 6871, 31 FR 39, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]

TOBACCO PRODUCTS WITHDRAWN FROM THE MARKET

§270.311 Action by claimant.

(a) *General.* Where tobacco products are withdrawn from the market and the manufacturer desires to file claim under the provisions of §270.282 or §270.283, he shall assemble the products in or adjacent to a factory if they are to be returned to bond or at any suitable place if they are to be destroyed or reduced to materials. The manufacturer shall group the products according to the rates of tax applicable to the products, and shall prepare a schedule of the products, on ATF Form 3069 (5200.7), in triplicate. All copies of the schedule shall be forwarded to the regional director (compliance) for the region in which the products are assembled.

(b) *Large cigars* Refund or credit of tax on large cigars withdrawn from the