

amount applicable to that brand and size of cigar during the required record retention period (see §275.22) except where the importer establishes that a greater amount was actually paid. For each claim involving large cigars withdrawn from the market the importer shall include a certification on either ATF Form 3069 (5200.7) or ATF Form 2635 (5620.8) to read as follows:

The amounts claimed relating to large cigars are based on the lowest (insert either "wholesale price" or "sale price", as applicable) applicable to the cigars during the required record retention period, except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1419, as amended (26 U.S.C. 5705))

[T.D. ATF-80, 46 FR 18311, Mar. 24, 1981, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19341, May 22, 1987; T.D. ATF-307, 55 FR 52745, Dec. 21, 1990]

**§275.173 Return to nontaxpaid status, action by regional director (compliance).**

Upon receipt of a schedule of tobacco products and cigarette papers and tubes which have been imported or brought into the United States and which are withdrawn from the market by a taxpayer who desires to return such articles to a nontaxpaid status, the regional director (compliance) may assign an ATF officer to verify the schedule and supervise disposition of the articles (and destruction of the stamps, if any) or the regional director (compliance) may authorize the receiving manufacturer to verify the schedule and disposition of the articles (and destruction of the stamps, if any) covered therein, without supervision, by so stating on the original and one copy of the schedule returned to the manufacturer. Where the receipt in a factory of tobacco products and cigarette papers and tubes has been verified, such articles shall be treated by the receiving manufacturer as nontaxpaid and

shall be covered by the manufacturer's bond.

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

[T.D. 6871, 31 FR 47, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

**§275.174 Disposition of tobacco products and cigarette papers and tubes, and schedule.**

When an ATF officer is assigned to verify the schedule and supervise destruction or other disposition of tobacco products and cigarette papers and tubes which have been imported or brought into the United States, such officer shall, upon completion of his assignment, execute a certificate on all copies of the schedule to show the disposition and the date of disposition of such articles. The ATF officer shall return the original and one copy of the certified schedule to the taxpayer. When a taxpayer destroys such articles (and stamps, if any) or reduces tobacco products to materials, or a receiving manufacturer verifies the schedule and disposition of such articles (and stamps, if any), he shall execute a certificate on the original and the copy of the schedule returned to him, to show the disposition and the date of disposition of the articles. The taxpayer shall attach the original of the certified schedule to his claim for refund.

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

[T.D. 6871, 31 FR 47, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

**Subpart J—Records and Reports**

SOURCE: T.D. ATF-40, 42 FR 5007, Jan. 26, 1977, unless otherwise noted.

**§275.181 Records of large cigars.**

Every person who imports large cigars for sale within the United States shall keep the records required by this section.

(a) *Wholesale prices—(1) Basic record.* The importer shall keep a record to show each wholesale price (suggested delivery price to retailers or wholesale price as determined by the Associate Director (compliance operations) under §275.39(i)), which is applicable to large cigars removed (entered or withdrawn). No later than the tenth business day in January of each year the importer shall prepare such a record to show the wholesale price in effect on the first day of that year for each brand and size of his large cigars. However, for the year 1977 the record shall be prepared no later than the tenth business day in February, to show the prices in effect as of February 1, 1977. The importer shall thereafter enter in the record the wholesale price and its effective date for any large cigar removed (entered or withdrawn) which was not previously entered in the record, and any change in a price from that shown in the record, within ten business days after such removal or change in price. The record shall be a continuing one for each brand and size of cigar (and type of packaging, if pertinent), so that the taxable price on any date may be readily ascertained.

(2) *Copies of price announcements.* The importer shall retain a copy of each general announcement which he issues within his organization or to the trade about establishment or change of large cigar wholesale prices. If the copy does not show the actual date when issued it shall be annotated to show this information, and it shall also be annotated to show the date on which a copy was submitted to the Associate Director (compliance operations) in accordance with §275.183.

(3) *Copies of entry and withdrawal forms.* The importer shall keep a copy of each customs entry or withdrawal form on which internal revenue tax for large cigars is declared pursuant to §275.81.

(4) *Alternative record.* If an importer has so few import transactions and/or brands and sizes of large cigars that retention of an appropriate copy of each entry and withdrawal form required under paragraph (a)(3) of this section will provide an adequate record of wholesale prices, then the record required under paragraph (a)(1) of this

section need not be kept. In such case the entry and withdrawal forms must identify the brands and sizes of cigars covered and show the corresponding quantity and wholesale price for each. If such information was not originally entered on the form it may be included by annotation. Whenever the regional director (compliance) finds that alternative records being kept pursuant to this paragraph are inadequate for the intended purpose, he may so notify the importer in writing, after which time the importer shall keep the record required under paragraph (a)(1) of this section.

(b) *Basic record of sale prices.* The importer shall keep such records as are necessary to establish and verify the sale price which applies to the large cigars removed (entered or withdrawn). The record shall be a continuing one for each brand and size of cigar so that the price on which the tax is based may be readily ascertained.

(Approved by the Office of Management and Budget under control number 1512-0368)

[T.D. ATF-40, 42 FR 5007, Jan. 26, 1977, as amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-307, 55 FR 52745, Dec. 21, 1990]

#### §275.182 Availability of records.

The records required under §275.181 shall be kept by the importer at his usual place of business unless otherwise authorized in writing by the regional director (compliance), and shall be made available for inspection by any ATF officer upon his request. (For retention period, see §275.22.)

#### §275.183 [Reserved]

### PART 285 [RESERVED]

## PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

### Subpart A—Scope of Regulations

Sec.

290.1 Exportation of tobacco products, and cigarette papers and tubes, without payment of tax, or with drawback of tax.

290.2 Forms prescribed.