

§ 296.195 Rate of tax.

(a) *Small ("Class A") cigarettes.* The rate of floor stocks tax applicable to small cigarettes held for sale on the respective tax-increase dates of January 1, 1991, and January 1, 1993, is \$2 per thousand. The term "small cigarettes" means cigarettes weighing not more than 3 pounds per thousand, and includes the usual king, 100 mm, and 120 mm sizes of cigarettes.

(b) *Large ("Class B") cigarettes.* The rate of floor stocks tax applicable to large cigarettes held for sale on the respective tax-increase dates of January 1, 1991, and January 1, 1993, is \$4.20 per thousand; except that for large cigarettes more than 6½ inches long, the rate is the same as for small cigarettes, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette. The term "large cigarettes" means cigarettes weighing more than 3 pounds per thousand, and includes the unusually large cigarettes such as those sometimes referred to as the "Banquet" size.

§ 296.196 Payment of tax.

(a) *General.* The floor stocks tax is payable by every person who holds for sale, on the first moment of the respective tax increase dates of January 1, 1991, and January 1, 1993, federally tax-paid or tax determined cigarettes, except those vending machine stocks exempt under § 296.194(d) and stocks held by persons who have less than 30,000 cigarettes in inventory on a tax increase date. Except as provided in paragraph (b) of this section, the tax shall be paid on or before June 30, 1991, for cigarettes held on January 1, 1991, and on or before June 30, 1993, for cigarettes held on January 1, 1993, and shall accompany the floor stocks tax return. Checks and money orders shall be made payable to the Bureau of Alcohol, Tobacco and Firearms, and shall show the taxpayer's name and employer identification number.

(b) *Payment by Electronic Fund Transfer (EFT).* Persons who pay excise tax by electronic fund transfer shall use the same method for the payment of floor stocks tax.

(Approved by the Office of Management and Budget under control number 1512-0504)

§ 296.197 Return.

(a) *General.* Each person who holds for sale, at the first moment of the respective tax-increase dates of January 1, 1991, and January 1, 1993, Federally taxpaid or tax determined cigarettes, shall file a return for the cigarettes so held. The return shall be made on ATF Form 5000.28, Floor Stocks Tax Return, in accordance with the instructions on the form. The returns shall be filed no later than June 30, 1991 (with respect to the tax increase date of January 1, 1991), and June 30, 1993 (with respect to the tax-increase date of January 1, 1993), at the address indicated on the form. The provisions of 26 U.S.C. 5703(b)(2)(D) concerning the special rule where a return due date falls on a Saturday, Sunday or holiday, and of 27 CFR 70.305 concerning timely mailing apply to floor stocks tax.

(b) *Multiple locations.* Where cigarettes subject to floor stocks tax are held at more than one location or place of business, the taxpayer shall file either a consolidated return (if all locations have the same employer identification number) or a separate return for each place of business. In either case, the taxpayer shall make and retain a list, showing the address of each place of business where the taxpayer held cigarettes subject to floor stocks tax, the name of the proprietor of each such place of business (if different from the taxpayer), the employer identification number (if different from the taxpayer's), and the number and tax category of cigarettes so held at each such place. Cigarettes which are warehoused at one or more locations shall be reported on a tax return representing the location from which the warehoused cigarettes will be offered for sale. If cigarettes held in a warehouse are offered for sale at several locations, the cigarettes so held shall either be reported on the tax return filed by any one of those locations, or shall be apportioned among the several locations in any manner and reported on the tax returns filed at those locations.

(c) *Controlled groups.* A separate return must be filed by each member of a controlled group who has an individual employer identification number. The credit discussed in § 296.194(c) of this part may be apportioned among the