

in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

*Act.* The Excise Tax Technical Changes Act of 1958 (Pub. L. 85-859, 72 Stat. 1275), enacted September 2, 1958.

*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.

*Claimant.* The person who held the tobacco products or cigarette papers and tubes for sale at the time of the disaster and who files claim under this subpart.

*Commissioner of Customs.* The Commissioner of Customs, U.S. Customs Service, The Department of the Treasury, Washington, DC.

*Disaster.* A flood, fire, hurricane, earthquake, storm, or other catastrophe which has occurred in any part of the United States on and after the day following the date of enactment of the act and which the President of the United States has determined, under the Act of September 30, 1950 (64 Stat. 1109; 42 U.S.C. 1855), was a "major disaster" as defined in such Act.

*Duly authorized official.* Any Federal, State, or local government official in whom has been vested authority to condemn tobacco products and cigarette papers and tubes made the subject of a claim under this subpart.

*Duty or duties.* Any duty or duties paid under the customs laws of the United States.

*Region.* A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

*Regional Director (compliance).* The principal ATF 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 of such articles from Customs custody.

*Tax paid or determined.* The internal revenue tax on tobacco products and cigarette papers and tubes which has

actually been paid, or which has been determined pursuant to 26 U.S.C. 5703(b), and regulations thereunder, at the time of their removal subject to tax payable on the basis of a return.

*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.

*United States.* When used in a geographical sense, includes only the States, and the District of Columbia.

*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 suggested 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).

[T.D. 6392, 24 FR 5300, June 30, 1959, as amended by T.D. 6573, 26 FR 8202, Aug. 31, 1961; T.D. 6871, 31 FR 59, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 296.72, see the List of CFR Sections Affected in the Finding Aids section of this volume.

#### PAYMENTS

#### § 296.73 Circumstances under which payment may be made.

Regional regulatory administrators shall allow payment (without interest) of an amount equal to the amount of tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the amount of customs duty paid, on tobacco products, and cigarette papers and tubes removed, which are lost, rendered unmarketable, or

condemned by a duly authorized official by reason of a disaster occurring in the United States on and after September 3, 1958. Such payments may be made only if, at the time of the disaster, such tobacco products, or cigarette papers or tubes were being held for sale by the claimant. No payment shall be made under this subpart with respect to any amount of tax or duty claimed or to be claimed under any other provision of law or regulations.

[T.D. 6871, 31 FR 59, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

CLAIMS PROCEDURE

**§ 296.74 Execution and filing of claims.**

Claims under this subpart shall be executed on AFT Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes, in accordance with the applicable instructions on the form, and filed with the Regional Director (Compliance) of the region in which the tobacco products or cigarette papers or tubes were lost, rendered unmarketable, or condemned, within 6 months after the date on which the President makes the determination that the disaster has occurred. The claim shall state all the facts on which the claim is based, and shall set forth the number of small cigars, large cigars, (itemized separately as to the taxable wholesale price or sale price, as applicable), small cigarettes, large cigarettes, cigarette papers, cigarette tubes, the pounds and ounces of chewing tobacco and snuff, and the pounds and ounces of pipe tobacco, as the case may be, and the rate and the amount claimed with respect to each article set forth, substantially in the form as shown in the examples below:

EXAMPLE USING PRE-1991 RATES:

Quantity	Article	Rate of tax	Amount
20,000 .....	Small cigars	\$0.75 per thousand.	\$15.00
1,000 .....	Large cigars—wholesale price \$100 per thousand.	8½ pct of wholesale price.	8.50
500 .....	Large cigars—wholesale price \$236 per thousand.	\$20 per thousand.	10.00
10,000 .....	Small cigarettes.	\$8 per thousand.	80.00
5,000 .....	Large cigarettes.	\$8.40 per thousand.	42.00
2,000 sets ..	Cigarette papers—50 each set.	\$0.005 per set.	10.00
1,000 sets ..	Cigarette papers—100 each set.	\$0.01 per set.	10.00
1,000 .....	Cigarette tubes.	\$0.01 per 50 tubes.	0.20
100 lbs .....	Chewing tobacco.	\$.08 per lb.	8.00
200 lbs .....	Snuff .....	\$.24 per lb.	48.00
100 lbs .....	Pipe tobacco.	\$.45 per lb.	45.00
Total claimed.	.....	.....	\$276.70

EXAMPLE USING 1991 AND 1992 RATES:

Quantity	Article	Rate of tax	Amount
20,000 .....	Small cigars .....	\$0.9375 per thousand .....	\$18.75
1,000 .....	Large cigars—sale price \$100/thousand .....	10.625 percent of sale price .....	10.63
500 .....	Large cigars—sale price \$236/thousand .....	\$25 per thousand .....	12.50
10,000 .....	Small cigarettes .....	\$10 per thousand .....	100.00
5,000 .....	Large cigarettes .....	\$21.00 per thousand .....	105.00
2,000 sets .....	Cigarette papers—50 per set .....	\$0.00625 per set .....	12.50
1,000 sets .....	Cigarette papers 100 per set .....	\$0.0125 per set .....	12.50
1,000 .....	Cigarette tubes .....	\$0.0125 per 50 tubes .....	0.25
100 lbs .....	Chewing tobacco .....	\$0.10 per pound .....	10.00
200 lbs .....	Snuff .....	\$0.30 per pound .....	60.00
100 lbs .....	Pipe tobacco .....	\$0.5625 per pound .....	56.25