

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

Quantity	Article	Rate of tax	Amount
Total claimed	\$398.38

EXAMPLE USING RATES FOR 1993 AND THEREAFTER:

Quantity	Article	Rate of tax	Amount
20,000	Small cigars	\$1.125 per thousand	\$22.50
1,000	Large cigars—sale price \$100/thousand	\$12.75 percent of sale price	12.75
500	Large cigars—sale price \$236/thousand	\$30 per thousand	15.00
10,000	Small cigarettes	\$12 per thousand	120.00
5,000	Large cigarettes	\$25.20 per thousand	126.00
2,000 sets	Cigarette papers—50 per set	\$0.0075 per set	15.00
1,000 sets	Cigarette papers—100 per set	\$0.015 per set	15.00
1,000	Cigarette tubes	\$0.015 per 50 tubes	0.30
100 lbs	Chewing tobacco	\$0.12 per pound	12.00
200 lbs	Snuff	\$0.36 per pound	72.00
100 lbs	Pipe tobacco	\$0.675 per pound	67.50
Total claimed	\$478.05

The claimant shall certify on the claim to the effect that no amount of internal revenue tax or customs duty claimed therein has been or will be otherwise claimed under any other provision of law or regulations.

[T.D. ATF-289, 54 FR 48842, Nov. 27, 1989; as amended by T.D. ATF-307, 55 FR 52745, Dec. 21, 1990]

§ 296.75 Separation of imported and domestic tobacco products, and cigarette papers and tubes; separate claims for taxes and duties.

If a claim involves taxes on domestic tobacco products, or cigarette papers or tubes and imported tobacco products, or cigarette papers or tubes, the quantities of each must be shown separately in the claim. A separate claim must be filed, with the regional director (compliance), in respect of customs duties.

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§ 296.76 Claimant to furnish satisfactory proof.

The claimant shall furnish proof to the satisfaction of the regional director (compliance) regarding the following:

(a) That the tax on such tobacco products, or cigarette papers or tubes has been paid or determined and customs duty has been paid;

(b) That such tobacco products, or cigarette papers or tubes were lost, rendered unmarketable, or condemned by a duly authorized official, by reason of a disaster;

(c) The type and date of occurrence of the disaster and the location of the tobacco products, or cigarette papers or tubes at that time;

(d) That the claimant was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the tobacco products, or cigarette papers or tubes covered by the claim; and

(e) That the claimant is entitled to payment under this subpart.

[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]

§ 296.77 Supporting evidence.

The claimant shall support his claim with any evidence (such as inventories, statements, invoices, bills, records, stamps, and labels) that he is able to submit, relating to the tobacco products, or cigarette papers or tubes on hand at the time of the disaster and averred to have been lost, rendered unmarketable, or condemned as a result thereof. If the claim is for refund of duty the claimant shall furnish, if practicable, the customs entry number,