

**1513-0106**

**26 U.S.C.**

**Sec. 5712. - Application for permit**

Every person, before commencing business as a manufacturer or importer of tobacco products or as an export warehouse proprietor, and at such other time as the Secretary shall by regulation prescribe, shall make application for the permit provided for in section 5713. The application shall be in such form as the Secretary shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary, after notice and opportunity for hearing, find that -

**(1)** the premises on which it is proposed to conduct the business are not adequate to protect the revenue;

**(2)** the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, <sup>[1]</sup> or

**(3)** such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter, or has failed to disclose any material information required or made any material false statement in the application therefore.

**Sec. 5713. - Permit**

**(a) Issuance**

A person shall not engage in business as a manufacturer or importer of tobacco products or as an export warehouse proprietor without a permit to engage in such business. Such permit, conditioned upon compliance with this chapter and regulations issued thereunder, shall be issued in such form and in such manner as the Secretary shall by regulation prescribe, to every person properly qualified under sections 5711 and 5712. A new permit may be required at such other time as the Secretary shall by regulation prescribe.

**(b) Revocation**

If the Secretary has reason to believe that any person holding a permit has not in good faith complied with this chapter, or with any other provision

of this title involving intent to defraud, or has violated the conditions of such permit, or has failed to disclose any material information required or made any material false statement in the application for such permit, or has failed to maintain his premises in such manner as to protect the revenue, the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked. If, after hearing, the Secretary finds that such person has not in good faith complied with this chapter or with any other provision of this title involving intent to defraud, has violated the conditions of such permit, has failed to disclose any material information required or made any material false statement in the application therefore, or has failed to maintain his premises in such manner as to protect the revenue, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.

Sec. 5741. Records to be maintained

Every manufacturer of tobacco products or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours.

(Aug. 16, 1954, ch. 736, 68A Stat. 715; Pub. L. 85-859, title II, Sec. 202, Sept. 2, 1958, 72 Stat. 1423; Pub. L. 89-44, title V, Sec. 502(b)(9), June 21, 1965, 79 Stat. 151; Pub. L. 94-455, title XXI, Sec. 2128(c), Oct. 4, 1976, 90 Stat. 1921.)

## **27 CFR**

### **§ 41.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words 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.

*Records.* Statements, declarations, books, papers, correspondence, accounts, technical data, automated record storage devices (e.g., magnetic discs and tapes), computer programs necessary to retrieve information in a usable form, and other documents that:

- (1) Pertain to any importation of tobacco products or cigarette papers or tubes, or to the information contained in the documents required by law or regulation under the Tariff Act of 1930, as amended, in connection with the importation or shipment into the United states from Puerto Rico of merchandise; and
- (2) Are of the type normally kept in the ordinary course of business; and
- (3) Are sufficiently detailed to:
  - (i) Establish the right to make the importation or shipment into the United States from Puerto Rico;
  - (ii) Establish the correctness of any importation or shipment into the United States from Puerto Rico;

(iii) Determine the liability of any person for duties and taxes due, or which may be due, to the United States;

(iv) Determine the liability of any person for fines, penalties, and forfeitures; and

(v) Determine whether the person has complied with the laws and regulations administered by TTB and the Customs Service, and any other documents required under laws or regulations administered by TTB and the Customs Service.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

#### § 41.204 General.

Every tobacco products importer must keep such records and, when required by this part, submit such reports, of the physical receipt and disposition of tobacco products. Records and reports will not be required under this part with respect to tobacco products while in customs custody.

#### § 41.205 Recordkeeping requirements.

Any owner, importer, consignee, or their agent who imports, or knowingly causes to be imported, any tobacco product or cigarette papers or tubes must make and keep records. A person purchasing a tobacco product from the importer in a domestic transaction and who does not knowingly cause merchandise to be imported is not required to make and keep records unless:

(a) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order).

(b) The tobacco products purchased from the importer include more than 60,000 cigarettes, in which case the importer and the person placing the order with the importer must keep the records required by 27 CFR part 46, Subpart F, Distribution of Cigarettes. Dividing a single shipment of more than 60,000 cigarettes into smaller components of 60,000 cigarettes or less does not exempt any person from the recordkeeping requirements of this subpart.