

## 1513-0108

### § 5701. Rate of tax

#### (a) Cigars

On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

##### (1) Small cigars

On cigars, weighing not more than 3 pounds per thousand, \$1.828 cents per thousand (\$1.594 cents per thousand on cigars removed during 2000 or 2001);

##### (2) Large cigars

On cigars weighing more than 3 pounds per thousand, a tax equal to 20.719 percent (18.063 percent on cigars removed during 2000 or 2001) of the price for which sold but not more than \$48.75 per thousand (\$42.50 per thousand on cigars removed during 2000 or 2001).

#### (b) Cigarettes

On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

##### (1) Small cigarettes

On cigarettes, weighing not more than 3 pounds per thousand, \$19.50 per thousand (\$17 per thousand on cigarettes removed during 2000 or 2001);

##### (2) Large cigarettes

On cigarettes, weighing more than 3 pounds per thousand, \$40.95 per thousand (\$35.70 per thousand on cigarettes removed during 2000 or 2001); except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette.

#### (c) Cigarette papers

On cigarette papers, manufactured in or imported into the United States, there shall be imposed a tax of 1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001) for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6 1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette paper.

#### (d) Cigarette tubes

On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001), for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6 1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette tube.

(e) Smokeless tobacco

On smokeless tobacco, manufactured (FOOTNOTE 1) in or imported into the United States, there shall be imposed the following taxes:

(FOOTNOTE 1) So in original. Probably should be "manufactured".

(1) Snuff

On snuff, 58.5 cents (51 cents on snuff removed during 2000 or 2001) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) Chewing tobacco

On chewing tobacco, 19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(f) Pipe tobacco

On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of \$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(g) Roll-Your-Own Tobacco

On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of \$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(h) Imported tobacco products and cigarette papers and tubes

The taxes imposed by this section on tobacco products and cigarette papers and tubes imported into the United States shall be in addition to any import duties imposed on such articles, unless such import duties are imposed in lieu of internal revenue tax.

**§ 5702. Definitions**

When used in this chapter--

(a) Cigar

``Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (b)(2)).

(b) Cigarette

``Cigarette" means--

(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) any roll of tobacco wrapped in any substance containing

tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

(c) Tobacco products

“Tobacco products” means cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

(d) Manufacturer of tobacco products

“Manufacturer of tobacco products” means any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco, except that such term shall not include--

(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and

(2) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

(e) Cigarette paper

“Cigarette paper” means paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

(f) Cigarette tube

“Cigarette tube” means cigarette paper made into a hollow cylinder for use in making cigarettes.

(g) Manufacturer of cigarette papers and tubes

“Manufacturer of cigarette papers and tubes” means any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

(h) Export warehouse

“Export warehouse” means a bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

(i) Export warehouse proprietor

``Export warehouse proprietor" means any person who operates an export warehouse.

(j) Removal or remove

``Removal" or ``remove" means the removal of tobacco products or cigarette papers or tubes from the factory or from internal revenue bond under section 5704, as the Secretary shall by regulation prescribe, or release from customs custody, and shall also include the smuggling or other unlawful importation of such articles into the United States.

(k) Importer

``Importer" means any person in the United States to whom nontaxpaid tobacco products or cigarette papers or tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings tobacco products or cigarette papers or tubes into the United States.

(l) Determination of price on cigars

In determining price for purposes of section 5701(a)(2)--

(1) there shall be included any charge incident to placing the article in condition ready for use,

(2) there shall be excluded--

(A) the amount of the tax imposed by this chapter or section 7652, and

(B) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

(3) rules similar to the rules of section 4216(b) shall apply.

(m) Definitions relating to smokeless tobacco

(1) Smokeless tobacco

The term ``smokeless tobacco" means any snuff or chewing tobacco.

(2) Snuff

The term ``snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

(3) Chewing tobacco

The term ``chewing tobacco" means any leaf tobacco that is not intended to be smoked.

(n) Pipe tobacco

The term ``pipe tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

(o) Roll-your-own tobacco

The term ``roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(Aug. 16, 1954, ch. 736, 68A Stat. 706; Pub. L. 85-859, title II, Sec. 202, Sept. 2, 1958, 72 Stat. 1415; Pub. L. 89-44, title V, Sec. 502(b)(3), title VIII, Sec. 808(a), June 21, 1965, 79 Stat. 151, 164; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), title XXI, Sec. 2128(b), Oct. 4, 1976, 90 Stat. 1834, 1921; Pub. L. 99-272, title XIII, Sec. 13202(b)(2)-(4), Apr. 7, 1986, 100 Stat. 312; Pub. L. 100-647, title V, Sec. 5061(b)-(c)(2), Nov. 10, 1988, 102 Stat. 3679; Pub. L. 101-508, title XI, Sec. 11202(g), Nov. 5, 1990, 104 Stat. 1388-419; Pub. L. 105-33, title IX, Sec. 9302(g)(2)-(3)(B), (h)(4), Aug. 5, 1997, 111 Stat. 672, 674; Pub. L. 106-554, Sec. 1(a)(7) [title III, Sec. 315(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-644.)

**§ 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.

## **§ 7652. Shipments to the United States**

### **(a) Puerto Rico**

(1) Rate of tax Except as provided in section 5314, articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale shall be subject to a tax equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture.

### **(2) Payment of tax**

The Secretary shall by regulations prescribe the mode and time for payment and collection of the tax described in paragraph (1), including any discretionary method described in section 6302(b) and (c). Such regulations shall authorize the payment of such tax before shipment from Puerto Rico, and the provisions of section 7651(2)(B) shall be applicable to the payment and collection of such tax in Puerto Rico.

### **(3) Deposit of internal revenue collections**

All taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed in the island, shall be covered into the treasury of Puerto Rico.

### **(b) Virgin Islands**

(1) Taxes imposed in the United States Except as provided in section 5314, there shall be imposed in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture.

### **(2) Exemption from tax imposed in the Virgin Islands**

Such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of such islands.

(3) DISPOSITION OF INTERNAL REVENUE COLLECTIONS- The Secretary shall determine the amount of all taxes imposed by, and collected under the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States. The amount so determined less 1 percent and less the estimated amount of refunds or credits shall be subject to disposition as follows:

(A) The payment of an estimated amount shall be made to the government of the Virgin Islands before the commencement of each fiscal year as set forth in section 4(c)(2) of the Act entitled 'An Act to authorize appropriations for certain insular areas of the United States, and for other purposes', approved August 18, 1978 (48 U.S.C. 1645), as in effect on the date of the enactment of the Trade and Development Act of 2000. The payment so made shall constitute a separate fund in the treasury of the Virgin Islands and may be expended as the legislature may determine.

(B) Any amounts remaining shall be deposited in the Treasury of the United States as miscellaneous receipts. If at the end of any fiscal year the total of the

Federal contribution made under subparagraph (A) with respect to the four calendar quarters immediately preceding the beginning of that fiscal year has not been obligated or expended for an approved purpose, the balance shall continue available for expenditure during any succeeding fiscal year, but only for emergency relief purposes and essential public projects. The aggregate amount of moneys available for expenditure for emergency relief purposes and essential public projects only shall not exceed the sum of \$5,000,000 at the end of any fiscal year. Any unobligated or unexpended balance of the Federal contribution remaining at the end of a fiscal year which would cause the moneys available for emergency relief purposes and essential public projects only to exceed the sum of \$5,000,000 shall thereupon be transferred and paid over to the Treasury of the United States as miscellaneous receipts.

(c) Articles containing distilled spirits

For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.

(d) Articles other than articles containing distilled spirits

For purposes of subsections (a)(3) and (b)(3) -

(1) Value added requirement for Puerto Rico

Any article, other than an article containing distilled spirits, shall in no event be treated as produced in Puerto Rico unless the sum of -

(A) the cost or value of the materials produced in Puerto Rico, plus

(B) the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of such article as of the time it is brought into the United States.

(2) Prohibition of Federal excise tax subsidies

(A) In general No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article, other than an article containing distilled spirits, if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

(B) Federal excise tax subsidy

For purposes of this paragraph, the term "Federal excise tax subsidy" means any subsidy -

(i) of a kind different from, or

(ii) in an amount per value or volume of production greater than, the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

(3) Direct costs of processing operations

For purposes of this subsection, the term "direct cost of processing operations" has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act.

(e) Shipments of rum to the United States

(1) Excise taxes on rum covered into treasuries of Puerto Rico and Virgin Islands  
All taxes collected under section 5001(a)(1) on rum imported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

(2) Secretary prescribes formula

The Secretary shall, from time to time, prescribe by regulation a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for transferring such tax collections.

(3) Rum defined

For purposes of this subsection, the term "rum" means any article classified under subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(4) Coordination with subsections (a) and (b)

Paragraph (1) shall not apply with respect to any rum subject to tax under subsection (a) or (b).

(f) Limitation on cover over of tax on distilled spirits

For purposes of this section, with respect to taxes imposed under section 5001 or this section on distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of -

(1) \$10.50 (\$13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2004), or

(2) the tax imposed under section 5001(a)(1), on each proof gallon.

(g) Drawback for medicinal alcohol, etc.

In the case of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands -

(1) subpart F of part II of subchapter A of chapter 51 shall be applied as if -

(A) the use and tax determination described in section 5131(a) had occurred in the United States by a United States person at the time the article is brought into the United States, and

(B) the rate of tax were the rate applicable under subsection (f) of this section, and

(2) no amount shall be covered into the treasuries of Puerto Rico or the Virgin Islands.

(h) MANNER OF COVER OVER OF TAX MUST BE DERIVED FROM THIS

TITLE- No amount shall be covered into the treasury of Puerto Rico or the Virgin Islands with respect to taxes for which cover over is provided under this section unless made in the manner specified in this section without regard to--

(1) any provision of law which is not contained in this title or in a revenue Act; and



(2) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

## **§ 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.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.41, Delegation of the Administrator's Authorities in 27 CFR Part 41, Importation of Tobacco Products and Cigarette Papers and Tubes.

*Bank.* Any commercial bank.

*Banking day.* Any day during which a bank is open to the public for carrying on substantially all its banking functions.

*Business day.* Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and, in the case of bonded manufacturers in Puerto Rico, all legal holidays in the Commonwealth of Puerto Rico.)

*Bonded manufacturer.* A manufacturer of tobacco products in Puerto Rico who has an approved bond, in accordance with the provisions of this part, authorizing him to defer the payment in Puerto Rico on the internal revenue tax imposed on such products by 26 U.S.C. 7652(a) as provided in this part.

*CFR.* The Code of Federal Regulations.

*Chewing Tobacco.* Any leaf tobacco that is not intended to be smoked.

*Cigar.* Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (2) of the definition for cigarette).

*Cigarette.* (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this definition.

*Cigarette paper.* Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

*Cigarette tube.* Cigarette paper made into a hollow cylinder for use in making cigarettes.

*Commercial bank.* A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank in New York.

*Computation or computed.* When used with respect to the tax on tobacco products of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff, pipe tobacco, or roll-your-own tobacco) of tobacco products and the sale price of large cigars being shipped to the United States; that adequate bond has been posted to cover the payment, in Puerto Rico, of the tax on such products to be deferred under subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated; that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that a TTB officer has verified and executed a certification of such calculation.

*Customs officer.* Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

*Determine.* To establish enough information about taxable products at the time of removal to calculate the tax, specifically the quantity (pounds or number) and kind (for example, cigarettes, snuff, paper tubes). Where the tax rate depends on additional information (such as number of cigarette papers to a set before 1/1/2000 or sale price of large cigars), that information must also be established as part of tax determination.

*Electronic fund transfer or EFT.* Any transfer of funds effected by a bonded manufacturer's commercial bank, either directly or through a correspondent

banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

*Export warehouse.* A bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

*Export warehouse proprietor.* Any person who operates an export warehouse.

*Factory.* The premises of a manufacturer of tobacco products or cigarette papers or tubes in which he carries on such business.

*Fiscal year.* The period which begins October 1 and ends on the following September 30.

*HTS.* The Harmonized Tariff Schedule of the United States, as published by the United States International Trade Commission.

*Importer.* Any person in the United States to whom non-taxpaid tobacco products or cigarette papers or tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars for sale or consumption in the United States from a Customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings tobacco products or cigarette papers or tubes into the United States.

*Large cigarettes.* Cigarettes weighing more than three pounds per thousand.

*Large cigars.* Cigars weighing more than three pounds per thousand.

*Manufacturer of cigarette papers and tubes.* Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

*Manufacturer of tobacco products.* Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

*Package.* The container in which tobacco products or cigarette papers or tubes are put up by the manufacturer or the importer for delivery to the consumer.

*Person.* An individual, partnership, association, company, corporation, estate, or trust.

*Pipe tobacco.* Any tobacco which because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

*Port Director of Customs.* The director of any port or port of entry as defined in 19 CFR 101.1. A list of ports is set forth in 19 CFR 101.3.

*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.

*Relanding.* Any tobacco products, cigarette papers or tubes, which have been labeled or shipped for exportation (including to Puerto Rico) as prescribed in this

chapter, previously exported and returned within the jurisdiction of the United States.

*Removal or Remove.* The removal of tobacco products or cigarette papers or tubes from the factory or release from internal revenue bond under 26 U.S.C. 5704, or release from customs custody, including conditional release in accordance with 19 CFR 141.0a(i), and shall also include the smuggling or other unlawful importation of such articles into the United States.

*Roll-your-own tobacco.* Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

*Sale price.* The price for which large cigars are sold by the importer or manufacturer, determined in accordance with §41.39 and used for computation of the excise tax.

*Small cigarettes.* Cigarettes weighing not more than three pounds per thousand.

*Small cigars.* Cigars weighing not more than three pounds per thousand.

*Smokeless tobacco.* Any chewing tobacco or snuff.

*Snuff.* Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

*This chapter.* Chapter I, title 27, Code of Federal Regulations.

*Tobacco products.* Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

*Treasury Account.* The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

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

*U.S.C.* The United States Code.

(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))

[T.D. ATF-48, 43 FR 13554, Mar. 31, 1978; 44 FR 55855, Sept. 28, 1979, as amended by T.D. ATF-77, 46 FR 3009, Jan. 13, 1981; T.D. ATF-232, 51 FR 28084, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987; T.D. ATF-284, 54 FR 12190, Mar 24, 1989; T.D.

ATF-289, 54 FR 48840, Nov. 27, 1989; T.D. ATF-421, 64 FR 71924, Dec. 22, 1999; T.D. ATF-424, 64 FR 71932, Dec. 22, 1999; T.D. ATF-420, 64 FR 71942, Dec. 22, 1999; T.D. ATF-422, 64 FR 71948, Dec. 22, 1999; T.D. ATF-422c, 65 FR 63545, Oct. 24, 2000; T.D. ATF-444, 66 FR 13850, Mar. 8, 2001; T.D. ATF-465, 66 FR 45618, Aug. 29, 2001; T.D. ATF-467, 66 FR 49532, Sept. 28, 2001; T.D. TTB-16, 69 FR 52424, Aug. 26, 2004]

#### **§ 41.105 Prepayment of tax.**

To prepay, in Puerto Rico, the internal revenue tax imposed by 26 U.S.C. 7652(a), on tobacco products and cigarette paper and tubes of Puerto Rican manufacture which are to be shipped to the United States, the shipper must file, or cause to be filed, a tax return, TTB Form 5000.25, with full remittance of tax which will become due on such tobacco products and cigarette papers and tubes.

(Approved by the Office of Management and Budget under control number 1512-0090)

[T.D. ATF-444, 66 FR 13850, Mar. 8, 2001. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

#### **§ 41.106 Examination and record of shipment by taxpayer.**

(a) *Shipments other than noncommercial mail shipment.* The taxpayer will ensure that the tax has been prepaid on the tobacco products and cigarette papers and tubes in each shipment. The taxpayer will identify the tobacco products or cigarette papers or tubes on the bill of lading or similar record to accompany the shipment with the following information:

- (1) The marks and numbers on shipping containers;
- (2) The number of containers;
- (3) The kind of taxable article and the rate of tax, as specified by 41.30 through 41.35;
- (4) The number of small cigarettes, large cigarettes or small cigars to be shipped;
- (5) The number and total sale price of large cigars with a price of not more than \$235.294 per thousand to be shipped;
- (6) The number of large cigars with a sale price of more than \$235.294 per thousand to be shipped;

- (7) The pounds and ounces of chewing tobacco or snuff to be shipped;
- (8) The pounds and ounces of pipe tobacco or roll-your-own tobacco to be shipped;
- (9) The number of cigarette papers or tubes to be shipped;
- (10) The amount of the tax paid on such articles under the provisions of this subpart; and
- (11) The name and address of the consignee in the United States to whom such products are being shipped. The taxpayer will note such bills of lading or similar records to identify the particular TTB Form 5000.25 on which taxes have been prepaid.

(b) *Noncommercial mail shipments.* Noncommercial mail shipments of tobacco products and cigarette papers and tubes to the United States are exempt from the provisions of paragraph (a) of this section, except that the taxpayer will provide a copy of the TTB Form 5000.25 upon request of an appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513-0108)

[T.D. ATF-444, 66 FR 13850, Mar. 8, 2001. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

#### **§ 41.109 Bond required for deferred taxpayment.**

Where a manufacturer of tobacco products in Puerto Rico desires to defer payment in Puerto Rico of the internal revenue tax imposed by 26 U.S.C. 7652(a), on tobacco products of Puerto Rican manufacture coming into the United States, he shall file a bond, Form 2986, with the appropriate TTB officer, in accordance with the provisions of this subpart. Such bond shall be conditioned on the payment, at the time and in the manner prescribed in this subpart, of the full amount of tax computed under the provisions of this subpart with respect to tobacco products which are released for shipment to the United States on computation of tax. All taxes which are computed under the provisions of this subpart shall be chargeable against the bond, until such taxes are paid, as provided in Sec. 41.112. The bond shall show the location of the factory from which the tobacco products to which it relates are to be shipped.

[T.D. 6871, 31 FR 43, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979; T.D.



ATF-232, 51 FR 28085, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

**§ 41.110 Record of tax computation and shipment by bonded manufacturer under deferred taxpayment.**

Where tobacco products or cigarette papers or tubes are to be shipped to the United States involving deferred taxpayment, the bonded manufacturer must calculate the tax from the information contained in the bill of lading or a similar record. The bonded manufacturer will identify each shipment on such record with the following information:

- (a) The marks and numbers on shipping containers;
- (b) The number of containers;
- (c) The kind of taxable article and the rate of tax as specified in 41.30 through 41.35;
- (d) The number of small cigarettes, large cigarettes or small cigars to shipped;
- (e) The number and total sale price of large cigars with a price of not more than \$235.294 per thousand to be shipped;
- (f) The number of large cigars with a sale price of more than \$235.294 per thousand to be shipped;
- (g) The pounds and ounces of chewing tobacco or snuff to be shipped;
- (h) The pounds and ounces of pipe tobacco or roll-your-own tobacco to be shipped;
- (i) The number of cigarette papers or tubes;
- (j) The amount of the tax to be paid on such articles under the provisions of this subpart; and
- (k) The name and address of the consignee in the United States to whom such products are being shipped. The date of completing such record will be treated as the date of computation of the tax. Tobacco products or cigarette papers or tubes may be shipped to the United States in accordance with the provisions of this section only after computation of the tax.

(Approved by the Office of Management and Budget under control number 1513–0108)

[T.D. ATF-444, 66 FR 13851, Mar. 8, 2001. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

**§ 41.121 Amount of bond.**

(a) Bond amount. Except for the maximum and minimum amounts stated in this paragraph, the total amount of the bond or bonds for tobacco products or cigarette papers or tubes under the provisions of this subpart must be in an amount not less than the amount of unpaid tax chargeable at any one time against the bond. A manufacturer who will defer payment of tax for a shipment of tobacco products or cigarette papers or tubes under the provisions of this subpart must have sufficient credit in this account to cover the taxes prior to making the shipment to the United States. The maximum and minimum amounts of such bond or bonds are as follows:

Taxable article	Bond amount maximum	Bond amount minimum
(1) Cigarettes.....		\$250,000
\$1,000		
(2) Any combination of taxable articles.....		250,000
1,000		
(3) One kind of taxable article other than cigarettes.....		150,000
1,000		

(b) Bond Account. Where the amount of a bonded manufacturer's bond is less than the maximum amount prescribed in paragraph (a) of this section, a bonded manufacturer must maintain an account reflecting all outstanding taxes with which the manufacturer's bond is chargeable. A manufacturer must debit such account with the amount of tax that was agreed to be paid under § 41.111 or is otherwise chargeable against such bond and then must credit the account for the amount paid on Form 5000.25 or other TTB-prescribed document, at the time it is filed.

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[T.D. ATF-444, 66 FR 13851, Mar. 8, 2001. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

**§ 41.208 Retention.**

(a) All records and reports required by this part, documents or copies of documents supporting these records or reports, and file copies of reports required by this part to be submitted to TTB must be retained for not less than three years following the close of the calendar year in which filed or made, and

during this period must be available for inspection and copying by TTB during business hours.

(b) Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not more than three years in any case where it is determined that such record retention is necessary to protect the revenue. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, must also be made available for inspection and copying.

[T.D. ATF-422, 64 FR 71951, Dec. 22, 1999. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]