

1513-0110

26 U.S.C.

§ 5704. Exemption from tax

(a) Tobacco products furnished for employee use or experimental purposes
Tobacco products may be furnished by a manufacturer of such products, without payment of tax, for use or consumption by employees or for experimental purposes, in such quantities, and in such manner as the Secretary shall by regulation prescribe.

(b) Tobacco products and cigarette papers and tubes transferred or removed in bond from domestic factories and export warehouses

A manufacturer or export warehouse proprietor may transfer tobacco products and cigarette papers and tubes, without payment of tax, to the bonded premises of another manufacturer or export warehouse proprietor, or remove such articles, without payment of tax, for 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; and manufacturers may similarly remove such articles for use of the United States; in accordance with such regulations and under such bonds as the Secretary shall prescribe.

Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.

(c) Tobacco products and cigarette papers and tubes released in bond from customs custody

Tobacco products and cigarette papers and tubes, imported or brought into the United States, may be released from customs custody, without payment of tax, for delivery to the proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe.

(d) Tobacco products and cigarette papers and tubes exported and returned
Tobacco products and cigarette papers and tubes classifiable under item 804.00 of title I of the Tariff Act of 1930 (relating to duty on certain articles previously exported and returned) may be released from customs custody, without payment of that part of the duty attributable to the internal revenue tax for delivery to the original manufacturer of such tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse authorized by such manufacturer to receive such articles, in accordance with such regulations and under such bond as the Secretary shall prescribe. Upon such release such products, papers, and tubes shall be subject to this chapter as if they had not been exported or otherwise removed from internal-revenue bond.

27 CFR

Sec. 40.181 General.

Every manufacturer of tobacco products must keep records of his operations and transactions which shall reflect, for each day, the information specified in Sec. Sec. 40.182 and 40.183. For this purpose day shall mean calendar day, except that the appropriate TTB officer may, upon application of the manufacturer by letter, in duplicate, authorize as such day for a factory a 24-hour cycle of operation other than the calendar day. A day once so established as other than the calendar day may be changed only by another application approved by the appropriate TTB officer. No specific form is required. The manufacturer may use commercial records from which the required information may be readily ascertained for this purpose. The manufacturer shall keep the auxiliary and supplemental records from which such records are compiled and shall keep supporting records, as specified in Sec. Sec. 40.184 and 40.186, of tobacco products removed subject to tax and transferred in bond. Except as provided in Sec. Sec. 40.184 and 40.186, the entries in the commercial records so maintained or kept shall be made not later than the close of the next business day following the day on which the transaction(s) occurred. As used in this section the term business day shall mean any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the factory to which the records relate is located.

(72 Stat. 1423, as amended; 26 U.S.C. 5741)

[T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

Sec. 40.232 Experimental purposes.

A manufacturer of tobacco products may use tobacco products for experimental purposes without determination and payment of tax as set forth in this section.

(a) What are experimental purposes? Experimental purposes are operations or tests carried out under controlled conditions to discover an unknown scientific principle or fact, to gather or confirm data about a known scientific principle or fact, or to test manufacturing, packaging, or other such equipment. Examples of uses for experimental purposes are:

(1) Use by manufacturers to determine scientific facts relating to tobacco products, such as their chemical content;

(2) Use by producers of packaging machines to test the operation of such machines; and

(3) Use by laboratories, hospitals, medical centers, institutes, colleges, or universities, for scientific, technical, or medical research.

(b) What purposes are not experimental? The uses of tobacco products outside the factory premises for advertising or consumer testing or as salespersons' or customers' samples are not experimental purposes.

(c) Use in factory. A manufacturer of tobacco products may use tobacco products without determination and payment of tax for experimental purposes in a factory.

(d) Use outside factory. A manufacturer may remove tobacco products in bond for experimental purposes outside a factory. When tobacco products are shipped for experimental purposes outside the factory, the proprietor of the factory remains liable for the taxes imposed by 26 U.S.C. 5701 until the occurrence of one of the following events:

(1) The tobacco products are returned to the premises of the factory from which they were shipped; or

(2) The tobacco products are destroyed during or after their use for experimental purposes.

(e) Record of use. In addition to the records prescribed by Sec. 40.183, a manufacturer who removes tobacco products in bond for experimental purposes outside a factory must prepare and maintain a record containing the following information:

(1) Name and address of the consignee;

(2) Kind and quantity of tobacco products removed;

(3) Description of packaging, if any, of the tobacco products removed;

(4) Description of how and when the consignee will use the tobacco products;

and

(5) Disposition of any remaining tobacco products after the consignee's use.

(Approved by the Office of Management and Budget under Control Number 1513-0110)

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

[T.D. ATF-478, 67 FR 19333, Apr. 19, 2002]