

1513-0096

26 U.S.C.

§ 4181. Imposition of tax

There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent -

Pistols.

Revolvers.

Articles taxable at 11 percent -

Firearms (other than pistols and revolvers).

Shells, and cartridges.

§ 6001. Notice or regulations requiring records, statements, and special returns

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

§ 6301. Collection authority

The Secretary shall collect the taxes imposed by the internal revenue laws.

§ 6302. Mode or time of collection

(a) Establishment by regulations

If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) Discretionary method

Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by section 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps,

coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) Use of Government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

(d) Time for payment of manufacturers' excise tax on sporting goods

The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes.

(e) Time for deposit of taxes on communications services and airline tickets

(1) In general Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

(2) Special rule for tax due in September

(A) Amounts considered collected In the case of a person required to make deposits of the tax imposed by -

(i) section 4251, or

(ii) effective on January 1, 1997, section 4261 or 4271, with respect to amounts considered collected by such person during any semimonthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

(B) Special rule where September 29 is on Saturday or Sunday

If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be -

(i) in the case of Saturday, the preceding day, and

(ii) in the case of Sunday, the following day.

(C) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting "September 10" for "September 11" and "September 28" for "September 29".

(f) Time for deposit of certain excise taxes

(1) General rule Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semimonthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29. In the case of taxes imposed by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.

(2) Taxes on ozone depleting chemicals

If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semimonthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for -

(A) the second semimonthly period in August, and

(B) the period beginning on September 1 and ending on September 11, not later than September 29.

(3) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting "September 25" for "September 26", "September 10" for "September 11", and "September 28" for "September 29".

(4) Special rule where due date on Saturday or Sunday

If, but for this paragraph, the due date under paragraph (1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be -

A) in the case of Saturday, the preceding day, and

(B) in the case of Sunday, the following day.

(g) Deposits of social security taxes and withheld income taxes

If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21, 22, and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has \$100,000 or more of such taxes for deposit.

(h) Use of electronic fund transfer system for collection of certain taxes

(1) Establishment of system

(A) In general

The Secretary shall prescribe such regulations as may be necessary for the development and implementation of an electronic fund transfer system which is required to be used for the collection of depository taxes. Such system shall be designed in such manner as may be necessary to ensure that such taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the Federal tax deposit system.

(B) Exemptions

The regulations prescribed under subparagraph (A) may contain such exemptions as the Secretary may deem appropriate.

(2) Phase-in requirements

(A) In general Except as provided in subparagraph (B), the regulations referred to in paragraph (1) -

(i) shall contain appropriate procedures to assure that an orderly conversion from the Federal tax deposit system to the electronic fund transfer system is accomplished, and
(ii) may provide for a phase-in of such electronic fund transfer system by classes of taxpayers based on the aggregate undeposited taxes of such taxpayers at the close of specified periods and any other factors the Secretary may deem appropriate.

(B) Phase-in requirements

The phase-in of the electronic fund transfer system shall be designed in such manner as may be necessary to ensure that -

(i) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total depository taxes imposed by chapters 21, 22, and 24 shall be collected by means of electronic fund transfer, and
(ii) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total other depository taxes shall be collected by means of electronic fund transfer.

(C) Applicable required percentage

(i) In the case of the depository taxes imposed by chapters 21, 22, and 24, the applicable required percentage is - (I) 3 percent for fiscal year 1994, (II) 16.9 percent for fiscal year 1995, (III) 20.1 percent for fiscal year 1996, (IV) 58.3 percent for fiscal years 1997 and 1998, and (V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

(ii) In the case of other depository taxes, the applicable required percentage is - (I) 3 percent for fiscal year 1994, (II) 20 percent for fiscal year 1995, (III) 30 percent for fiscal year 1996, (IV) 60 percent for fiscal years 1997 and 1998, and (V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

(3) Definitions

For purposes of this subsection -

(A) Depository tax

The term "depository tax" means any tax if the Secretary is authorized to require deposits of such tax.

(B) Electronic fund transfer

The term "electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution or other financial intermediary to debit or credit an account.

(4) Coordination with other electronic fund transfer requirements

(A) Coordination with certain excise taxes In determining whether the requirements of subparagraph (B) of paragraph (2) are met, taxes required to be paid by electronic fund transfer under sections 5061(e) and 5703(b) shall be disregarded.

(B) Additional requirement

Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) of this subsection are satisfied.

(i) Cross references For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).

§ 53.157 Deposit requirement for deposits made for calendar quarters prior to July 1, 1995.

Note: For deposit requirement for deposits made for calendar quarters beginning on or after July 1, 1995, see Sec. 53.159.

(a) Monthly deposits. Except as provided in paragraph (b) of this section, if for any calendar month (other than the last month of a calendar quarter) any person required to file a quarterly excise tax return on TTB Form 5300.26 has a total liability under this part of more than \$100 for all excise taxes reportable on that form, the amount of liability for taxes shall be deposited by the person in accordance with the instructions on TTB Form 5300.27 on or before the last day of the month following the calendar month.

(b) Semimonthly deposits. (1) If any person required to file an excise tax return on TTB Form 5300.26 for any calendar quarter has a total liability under this part of more than \$2,000 for all excise taxes reportable on that form for any calendar month in the preceding calendar quarter, the amount of that liability for taxes under this part for any semimonthly period (as defined in paragraph (d)(1) of this section) in the succeeding calendar quarter shall be deposited by the person in accordance with the instructions on TTB Form 5300.27 on or before the depositary date (as defined in paragraph (d)(2) of this section) applicable to the semimonthly period.

(2) A person will be considered to have complied with the requirements of paragraph (b)(1) of this section for a semimonthly period if--

(i)(A) The person's deposit for the semimonthly period is not less than 90 percent of the total amount of the excise taxes reportable by the person on TTB Form 5300.26 for the period, and

(B) If the semimonthly period occurs in a calendar month other than the last month in a calendar quarter, the person deposits any underpayment for the month by the 9th day of the second month following the calendar month; or

(ii)(A) The person's deposit for each semimonthly period in the calendar month is not less than 45 percent of the total amount of the excise taxes reportable by the person on TTB Form 5300.26 for the month, and

(B) If such month is other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following the calendar month; or

(iii)(A) The person's deposit for each semimonthly period in the calendar month is not less than 50 percent of the total amount of the excise taxes reportable by the person on TTB Form 5300.26 for the second preceding calendar month, and

(B) If such month is other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following the calendar month; or

(iv)(A) The requirements of paragraph (b)(2) (i)(A), (ii)(A), or (iii)(A) of this section are satisfied for the first semimonthly period of a calendar month after December 1990,

(B) If the person's deposit for the second semimonthly period of the calendar month is, when added to the deposit for the first semimonthly period, not less than 90 percent of the total amount of the excise taxes reportable by the person on TTB Form 5300.26 for the calendar month, and

(C) If the semimonthly periods occur in a calendar month other than the last month in a calendar quarter, the person deposits any underpayment for the month by the 9th day of the second month following the calendar month.

(3)(i) Paragraph (b)(2) (ii) and (iii) of this section shall not apply to any person who normally incurs in the first semimonthly period in each calendar month more than 75 percent of the person's total excise tax liability under this part for the month.

(ii) Persons who make their deposits in accordance with paragraph (b)(2) (ii), (iii), or (iv) of this section will find it unnecessary to keep their books and records on a semimonthly basis.

(c) Deposit of certain excess undeposited amounts. Notwithstanding paragraphs (a) and (b) of this section, if any person required to file an excise tax return on TTB Form 5300.26 for any calendar quarter beginning after December 31, 1990, has a total liability under this part for all excise taxes reportable on the form for the calendar quarter which exceeds by more than \$100 the total amount of taxes deposited by the person pursuant to paragraph (a) or (b) of this section for the calendar quarter, the person shall, on or before the last day of the calendar month following the calendar quarter for which the return is required to be filed, deposit in accordance with the instructions on TTB Form 5300.27 the full amount by which the person's liability for all excise taxes reportable on the return for that calendar quarter exceeds the amount of excise taxes previously deposited by the person for that calendar quarter.

(d) Definitions--(1) Semimonthly period. The term semimonthly period means the first 15 days of a calendar month or the portion of a calendar month following the 15th day of that month.

(2) Depository date. The term depository date means, in the case of deposits for semimonthly periods beginning after December 31, 1990, the 9th day of the semimonthly period following the semimonthly period for which the taxes are reportable.

(3) Lockbox financial institution. The term lockbox financial institution means the financial institution designated as a depository for the payment of excise taxes on TTB Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposit form.

(e) Depository forms and procedures--(1) In general. Each remittance of amounts required to be deposited for periods beginning after December 31, 1990 shall be accompanied by an TTB Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposit form, or TTB Form 5300.26, Federal Firearms and Ammunition Excise Tax Return, which shall be prepared in accordance with the applicable instructions. Taxpayers electing to remit deposits by EFT pursuant to Sec. 53.158 shall prepare and submit TTB Form 5300.26 or TTB Form 5300.27 in accordance with the instructions on the form. The timeliness of the deposit will be determined by the date it is received (or is deemed received under section 7502(e) and 26 CFR 301.7502-1) by the lockbox financial institution, or the TTB officer designated on TTB Form 5300.27 or TTB Form 5300.26 accompanying the deposit, or when made by electronic fund transfer, the Treasury Account. Amounts deposited pursuant to this paragraph shall be considered to be paid on the last day prescribed for filing the return in respect of the tax (determined without regard to any extension of time for filing the returns), or at the time deposited, whichever is later.

(2) Number of remittances. A person required by this section to make deposits may make one or more remittances with respect to the amount required to be deposited. An amount of tax which is not otherwise required by this section to be deposited may, nevertheless, be deposited if the person liable for the tax so desires.

(3) Information required. Each person making deposits pursuant to this section shall report on the return for the period with respect to which the deposits are made information regarding the deposits in accordance with the instructions applicable to the return and pay (or deposits by the due date of the return) the balance, if any, of the taxes due for the period.

(4) Procurement of prescribed forms. Copies of the Federal Firearms and Ammunition Excise Tax Deposit form will be furnished, so far as possible, to persons required to make deposits under this section. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished. A person not supplied with the form is required to apply for it in ample time to make the required deposits within the time prescribed, supplying with the application the person's name, employer identification number, address, and the taxable period to which the deposits will relate. Copies of the Federal Firearms and Ammunition Excise Tax Deposit form are available as provided in Sec. 53.21(b).

(f) Nonapplication to certain taxes. This section does not apply to taxes for:

(1) Any month or semimonthly period in which the taxpayer receives notice pursuant to Sec. 53.151(b) to file TTB Form 5300.26 or

(2) Any subsequent month or semimonthly period for which a return on TTB Form 5300.26 is required.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991, as amended by T.D. ATF-312, 56 FR 31084, July 9, 1991; T.D. ATF-330, 57 FR 40325, Sept. 3, 1992; T.D. ATF-365, 60 FR 33671, June 28, 1995; T.D. ATF-447, 66 FR 19088, Apr. 13, 2001; T.D. TTB-44, 71 FR 16958, Apr. 4, 2006]

§ 53.159 Deposit requirement for deposits made for calendar quarters beginning on or after July 1, 1995.

(a) Definitions--(1) Definition of tax liability. For purposes of this section, the term "tax liability" means the total tax liability for the specified period plus or minus any allowable adjustments made in accordance with the instructions applicable to the form on which the return is made.

(2) Semimonthly period. Except as provided in paragraph (c)(4)(ii) of this section, the term "semimonthly period" means the first 15 days of a calendar month or the remaining portion of a calendar month following the 15th day of that month.

(b) In general--(1) Semimonthly deposits. Except as provided in paragraphs (b)(2), (c)(2), and (j) of this section, any person required to file a quarterly excise tax return on TTB Form 5300.26 must make a deposit of tax for each semimonthly period as prescribed in paragraph (c) of this section.

(2) One-time or occasional filings. No deposit is required in the case of any taxes reportable on a one-time or occasional filing (as defined in Sec. 53.151(a)(5)).

(c) Amount of deposit--(1) In general. Except as provided in paragraphs (c)(2), (c)(3) and (c)(6) of this section, the deposit of tax for each semimonthly period must be equal to the amount of tax liability incurred during that semimonthly period. Except as provided in paragraph (c)(3) of this section, no deposit is required for any semimonthly period in which no tax liability is incurred.

(2) De minimis exception. Except as provided in paragraph (c)(3) of this section, any person who has a tax liability for the current calendar quarter of \$2,000 or less is not required to make deposits for that quarter. However, semimonthly deposits of tax are required beginning with the semimonthly period in which unpaid tax liability exceeds \$2,000 and for every semimonthly period thereafter in which tax liability is incurred. The first deposit for the current quarter shall be equal to the unpaid tax liability; thereafter, deposits shall be equal to the amount of tax liability incurred during that semimonthly period.

(3) Amount of deposit; safe harbor rule based on look-back quarter liability; In general. Except as provided in paragraph (c)(6) of this section, any person who made a return of tax on TTB Form 5300.26 reporting taxes for the second preceding calendar quarter (the "look-

back quarter"), or who did not file a return for the look-back quarter because of the provisions of Sec. 53.151(a)(2), is considered to have complied with the requirement for deposit of taxes for the current calendar quarter if--

(i) The deposit of taxes for each semimonthly period in the current calendar quarter is an amount equal to not less than 1/6 (16.67 percent) of the total tax liability incurred for the look-back quarter;

(ii) Each deposit is made on time; and

(iii) The amount of any underpayment of taxes for the current calendar quarter is paid by the due date of the return.

(4) Modification for third calendar quarter. The safe harbor rule in paragraph (c)(3) of this section does not apply for the third calendar quarter unless--

(i) The deposit of taxes for the semimonthly period July 1-September 15 meets the requirements of paragraph (c)(3) of this section; and

(ii) Each deposit of taxes for the periods September 16-25 and September 26-30 is not less than 1/12th (8.34 percent) of the total tax liability incurred for the look-back quarter.

(5) Modification for tax rate increase--(i) Application. The safe harbor rule as prescribed in paragraph (c)(3) is modified for the first and second calendar quarters beginning on or after the effective date of an increase in the rate of any tax prescribed by 26 U.S.C. 4181 to which this part 53 applies.

(ii) Modification. The amount of deposit for calendar quarters referred to in paragraph (c)(3) of this section must be adjusted so that the deposit of taxes for each semimonthly period in the calendar quarter is not less than 1/6 (16.67 percent) of the tax liability the person would have had with respect to the tax for the look-back quarter if the increased rate of tax had been in effect for that look-back quarter.

(6) First time filers. Any person who did not file a return of tax on TTB Form 5300.26 for the first and second preceding calendar quarters because they were not engaged in any activity with respect to which tax is reportable on the return in the course of a trade or business, is considered to have complied with the requirement for deposit of taxes for the current calendar quarter if--

(i) The deposit of taxes for each semimonthly period in the calendar quarter is not less than 95 percent of the tax liability incurred with respect to those taxes during the semimonthly period;

(ii) Each deposit is made on time; and

(iii) The amount of any underpayment of taxes for the current calendar quarter is paid by the due date of the return.

(d) Failure to comply with deposit requirements. (1) If a person fails to make deposits as required under this part, the appropriate TTB officer may withdraw the person's right to use the safe harbor rule provided by paragraph (c)(3) of this section.

(2) Cross reference. The appropriate TTB officer may also require a

taxpayer who fails to make deposits of tax to file a monthly or semimonthly return, see Sec. 53.151(b)(1).

(e) Time for making deposit. Except for deposits for the period September 16-25, each deposit required to be made by this section shall be made not later than the 9th day of the semimonthly period following the close of the period for which it is made. The deposit for the period September 16-25 shall be made not later than September 28. The deposit for the period September 26-30, is due not later than October 9.

(f) Last day for filing. (1) Except as provided by paragraph (f)(2) of this section, if the due date of the deposit falls on a Saturday, Sunday, or legal holiday, the deposit and remittance shall be due on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this section, "legal holiday" is defined by section 7503 of the Code and 27 CFR 70.306(b) of this chapter.

(2) If the required due date of the deposit for the period September 16-25 falls on a Saturday, the deposit and remittance shall be due on the preceding day. If such required due date falls on a Sunday, the return and remittance shall be due on the following day.

(g) Forms and procedures. Each remittance of amounts required to be deposited shall be accompanied by Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposit form, or Form 5300.26, Federal Firearms and Ammunition Excise Tax Return, which shall be prepared in accordance with the applicable instructions. Taxpayers electing to remit deposits by EFT pursuant to Sec. 53.158 shall prepare and submit Form 5300.26 or Form 5300.27 in accordance with the instructions contained in Procedure 92-1, Publication 5000.11. The timeliness of the deposit will be determined by the date it is received by the lockbox financial institution, or the TTB officer designated on the form accompanying the deposit, or the Treasury Account, when made by EFT. In order for deposits of less than \$20,000 made by U.S. Mail to be considered received timely, the date of mailing must be on or before the second day preceding the due date of the deposit as evidenced by the official postmark of the U.S. Postal Service stamped on the cover in which the deposit was mailed. When the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the taxpayer. When the taxpayer sends the deposit by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the deposit. Any deposit of \$20,000 or more must be received by the last day prescribed for making such deposit, regardless of when mailed. Amounts deposited pursuant to this paragraph shall be considered to be paid on the last day prescribed for filing the return in respect of the tax (determined without regard to any extension of time for filing the returns), or at the time deposited, whichever is later.

(h) Number of remittances. A person required by this section to make

deposits shall make one deposit for a semimonthly period.

(i) Procurement of prescribed forms. Copies of the Federal Firearms and Ammunition Excise Tax Deposit form will be furnished, so far as possible, to persons required to make deposits under this section. Such a person will not be excused from making a deposit however, by the fact that no form has been furnished. A person not supplied with the form is required to obtain the form in ample time to make the required deposits within the time prescribed. Copies of the Federal Firearms and Ammunition Excise Tax Deposit form are available as provided in Sec. 53.21(b).

(j) Taxpayers required to file monthly or semimonthly returns. This section does not apply to taxes for:

(1) Any month or semimonthly period in which the taxpayer receives notice pursuant to section 53.151(b) to file TTB Form 5300.26; or

(2) Any subsequent month or semimonthly period for which a return on TTB Form 5300.26 is required.

(3) Taxpayers required to file monthly returns shall make semimonthly deposits of 100 percent of the liability incurred during each semimonthly period by the 9th day of the month following the last day of the semimonthly period. Taxpayers required to file semimonthly returns shall pay any tax due for the semimonthly period with each return.

(k) Examples.

Example 1. One-time filing or occasional filing--(1) Facts. On October 18, 1995, A, an individual who lives in the United States purchases a custom made rifle outside the United States and imports it into the United States. A uses the rifle on October 20, 1995. A is liable for the firearms excise tax imposed by sections 4181 and 4218(a). Since A does not regularly sell rifles in arm's length transactions, a constructive sale price of \$20,000 is determined (Sec. 53.115(b)). The amount of A's tax liability is \$2200, 11 percent of the constructive sale price of the rifle. The liability is incurred during the fourth calendar quarter of 1995, the quarter during which the rifle is used (Sec. 53.111(d)). A did not import the rifle in the course of its trade or business and does not engage in any activities with respect to which tax is reportable on TTB Form 5300.26 in the course of a trade or business.

(2) Filing requirement. A must file a return on Form 5300.26 (Sec. 53.151(a)) for the fourth calendar quarter of 1995 reporting A's \$2200 firearms excise tax liability. The Form 5300.26 is due by January 31, 1996, the last day of the first month following the calendar quarter (Sec. 53.153(a)). Because A did not import the firearm in the course of its trade or business and does not engage in any activities with respect to which tax is reportable in the course of a trade or business, the return is a one-time filing or occasional filing.

(3) Payment requirement. Because A's Form 5300.26 is a one-time filing, A is not required to make deposits of tax (Sec. 53.159(b)(2)). Instead, A pays the \$2200 of tax with the return.

Example 2. Deposit requirement; based on look-back quarter liability--(1) Facts. B is a manufacturer of firearms. B sells 75 pistols which have a taxable sale price of \$500 each during the second calendar quarter of 1996. B sold 50 of the pistols in the first semimonthly period of May, 1996, and the other 25 pistols in the second semimonthly period of April, 1996. B did not incur tax liability in any other semimonthly period in the second quarter. The amount of B's tax liability for the second calendar quarter is \$3,750, 10 percent of the taxable sale price of the pistols. B filed Form 5300.26 for the second preceding calendar quarter, the look-back quarter, on January 31, 1996 reporting tax liability in the amount of \$2,700.

(2) Deposit requirement. B is required to make deposits of tax for each semimonthly period in the calendar quarter because B has incurred more than \$2,000 in liability for the current quarter. B may use the safe harbor rule based on look-back quarter liability to determine the amount of the required deposits (Sec. 53.159(c)(3)). Under this safe harbor rule, B's deposit for each semimonthly period must equal at least \$450.00, 1/6 (16.67 percent) of the tax liability incurred for the look-back quarter. B's deposit must be timely and B must pay the amount of any underpayment by the due date of the return. Accordingly, B meets the deposit requirement if B makes the following deposits:

| Semimonthly period | Amount of Deposit due by | deposit |
|--------------------|--------------------------|----------|
| April 1-15..... | April 24, 1996..... | \$450.00 |
| April 16-31..... | May 9, 1996..... | 450.00 |
| May 1-15..... | May 24, 1996..... | 450.00 |
| May 16-30..... | June 10, 1996..... | 450.00 |
| June 1-15..... | June 24, 1996..... | 450.00 |
| June 16-30..... | July 9, 1996..... | 450.00 |

The deposit due on June 10, 1996, would ordinarily be due on June 9, 1996. However, because June 9, 1996 is a Sunday, under section 7503, B has an additional day to make the required deposit.

(3) Filing requirement. B must file a return on Form 5300.26 for the second calendar quarter of 1996 reporting B's \$3750 tax liability (Sec. 53.151(a)). The form 5300.26 is due by July 31, 1996, the last day of the first month following the calendar quarter (Sec. 53.153(a)). B must also pay \$1050.00, the underpayment amount by which the total tax liability for the second calendar quarter exceeds the total tax liability for the look-back quarter, by the due date of the return.

Example 3. Deposit amount; no liability in look-back quarter--(1) Facts. C, a manufacturer of ammunition, filed returns for the first, second and third quarters of 1995 reporting C's tax liability. During the fourth quarter of 1995, C did not make any taxable sales of shells or cartridges, thereby incurring no tax liability for that return period. C did not file Form 5300.26 for the fourth calendar quarter since no tax liability was incurred (Sec. 53.151(a)(2)). C made taxable sales in the second quarter of 1996 amounting to \$25,500.00, incurring a tax liability of \$2805.

(2) Deposit requirement. Ordinarily, C would be required to make deposits of tax for each semimonthly period in the calendar quarter because C's total liability for the current calendar quarter exceeds \$2,000. However, since C incurred a tax liability of \$0 in the second preceding calendar quarter (the look-back quarter) (Sec. 53.159(c)(3)), under the safe harbor rule, C is not required to make deposits of tax.

(3) Filing requirement. C is required to file a return on Form 5300.26 reporting C's \$2805 ammunition excise tax liability. The form 5300.26 is due by July 31, 1996.

(4) Payment requirement. C must pay the \$2805 tax with the return.

Example 4. Deposit requirement; First time Filer--(1) Facts. D, a manufacturer of firearms, began business on 2/16/96. D sold 300 shotguns which had a taxable sales price of \$210 each during the first quarter of 1996. D sold 70 shotguns in the second semimonthly period of February, 1996, 130 shotguns in the first semimonthly period of March, 1996 and 100 shotguns in the second semimonthly period of March, 1996. The amount of D's tax liability for the first quarter of 1996 is \$6,930, 11 percent of the taxable sale price of the shotguns.

(2) Deposit requirement. D is required to make a deposit of tax when D's tax liability exceeds \$2,000 (Sec. 53.159(c)(2)). Therefore, D must make a deposit of tax beginning with the first semimonthly period in March, the semimonthly period in which D's unpaid tax liability exceeded \$2,000. Because D, a first time filer, does not have an established look-back quarter, D's deposit of tax must be at least 95 percent of the incurred tax liability. D is required to make deposits of at least 95 percent of incurred tax liability for every semimonthly period in the quarter thereafter. D's deposits must be timely and any underpayment of tax must be paid by the due date of the return. Accordingly, D meets the deposit requirement if D makes the following deposits:

| Semimonthly period | Amount of Deposit due by | deposit |
|--------------------|--------------------------|----------|
| Feb. 16-29..... | March 11, 1996..... | \$0 |
| March 1-15..... | March 25, 1996..... | 4,389 |
| March 16-31..... | April 9, 1996..... | 2,194.50 |

The deposits due on March 11, 1996, and March 25, 1996, would ordinarily be due on March 9, 1996, and March 24, 1996, respectively. However, because March 9, 1996, is a Saturday, and March 24, 1996, is a Sunday, under section 7503, D has until March 11, 1996, to make the deposit due on March 9, 1996, and until March 25, 1996, to make the deposit due on March 24, 1996.

(3) Filing requirement. D must file a return on Form 5300.26 for the first calendar quarter of 1996 reporting D's \$6,930 tax liability (Sec. 53.151(a)). The form 5300.26 is due by April 30, 1996, the last day of the first month following the calendar quarter (Sec. 53.153(a)). D must also pay \$346.50, the amount by which the tax liability for the quarter was underpaid, by the due date of the return.

Example 5. Deposit amount; third calendar quarter--(1) Facts. E, a manufacturer of firearms, is a semimonthly depositor who makes deposits of tax using the safe harbor rule based on the look-back quarter to determine the amount of tax required to be deposited for the third calendar quarter of 1995. E incurred a tax liability amounting to \$38,000 for the third quarter. E filed Form 5300.26 for the second preceding calendar quarter, the look-back quarter on May 1, 1995, reporting tax liability in the amount of \$30,000.

(2) Deposit requirement. Because E has incurred more than \$2,000 in liability and has chosen to make deposits of tax based on the look-back quarter, E is required to make deposits of tax equal to \$5,000, 1/6 (16.67 percent) of the tax liability incurred in the look-back quarter, for each semimonthly period in the calendar quarter. However, because of the special rule which modifies the safe harbor rule for deposits of tax for the month of September (Sec. 53.159(c)(4)), E must make deposits equal to \$2500.00 each, 1/12th (8.34 percent) of the tax liability incurred in the look-back quarter for the periods September 16-25 and September 26-30. E's deposits must be timely and E must pay the amount of any underpayment by the due date of the return. Accordingly, E meets the deposit requirement if E makes the following deposits:

| Semimonthly period | Amount of Deposit due by | deposit |
|--------------------|-----------------------------|-----------|
| July 1-15..... | July 24, 1995..... | \$5000.00 |
| July 16-31..... | August 9, 1995..... | 5000.00 |
| Aug. 1-15..... | August 24, 1995..... | 5000.00 |
| Aug. 16-31..... | Sept. 11, 1995..... | 5000.00 |
| Sept. 1-15..... | Sept. 25, 1995..... | 5000.00 |
| Sept. 16-25..... | Sept. 28, 1995..... | 2500.00 |
| Sept. 26-30..... | October 9, 1995..... | 2500.00 |

The deposits due on September 11, 1995, and September 25, 1995, would ordinarily be due on September 9, 1995, and September 24, 1995, respectively. However, because September 9, 1995, is a Saturday, and September 24, 1995, is a Sunday, under section 7503, D has until September 11, 1995, to make the deposit due on September 9, 1995, and until September 25, 1995, to make the deposit due on September 24, 1995.

(3) Filing requirement. E must file a return on Form 5300.26 for the third calendar quarter of 1995 reporting E's \$38,000 tax liability (Sec. 53.153(a)). E must also pay \$8,000, the underpayment amount by which the total tax liability for the third calendar quarter exceeds the total tax liability for the look-back quarter, by the due date of the return.

[T.D. ATF-365, 60 FR 33671, June 28, 1995, as amended by T.D. ATF-447, 66 FR 19089, Apr. 13, 2001; T.D. TTB-44, 71 FR 16958, Apr. 4, 2006]