

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

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§ 40.0-1 Introduction.

(a) *In general.* The regulations in this part 40 are designated “Excise Tax Procedural Regulations.” The regulations set forth administrative provisions relating to the excise taxes imposed by chapters 31, 32, 33, 34, 36, 38, and 39 (except for the chapter 32 tax imposed by section 4181 (firearms tax) and the chapter 36 taxes imposed by sections 4461 (harbor maintenance tax) and 4481 (heavy vehicle use tax)), and to floor stocks taxes imposed on articles subject to any of these taxes. Chapter 31 relates to retail excise taxes; chapter 32 to manufacturers’ excise taxes; chapter 33 to taxes imposed on communications services and air transportation; chapter 34 to taxes imposed on policies issued by foreign insurers; chapter 36 to taxes imposed on transportation by water; chapter 38 to environmental taxes; and chapter 39 to taxes imposed on registration-required obligations. See parts 43, 46, 48, 49, and 52 of this chapter for regulations relating to the imposition of tax.

(b) *References to forms.* Any reference to a form in this part is also a reference to any other form designated for the same use by the Commissioner after October 22, 1992.

(c) *Definition of semimonthly period.* The term “semimonthly period” means the first 15 days of a calendar month (the “first semimonthly period”) or the portion of a calendar month following

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the 15th day of the month (the “second semimonthly period”).

(d) *Effective date.* Except as otherwise provided, this part is effective April 1, 1991, for returns that relate to calendar quarters beginning after December 31, 1990, and are filed after March 31, 1991, and for deposits that relate to calendar quarters beginning after March 31, 1991. In the case of taxes for which rules are provided in this part, the administrative provisions that apply to such taxes before the effective date of this part are contained in 26 CFR parts 43, 46, 48, 49 and 52 (each revised as of April 1, 1992).

[T.D. 8442, 57 FR 48177, Oct. 22, 1992; 58 FR 6575, Jan. 29, 1993, as amended by T.D. 8887, 65 FR 36326, June 8, 2000; T.D. 8963, 66 FR 41776, Aug. 9, 2001]

§ 40.6011(a)-1 Returns.

(a) *In general*—(1) *Return required.* The return of any tax to which this part 40 applies must be made on Form 720, *Quarterly Federal Excise Tax Return*, according to the instructions applicable to the form. The requirement for filing a return under this part 40 applies separately to each tax listed by IRS Number on Form 720. Except as provided in this paragraph (a)(1), an entry must be made on the line for the IRS Number in order to file a return of the tax corresponding to that number. The entry on an IRS Number line of the word “none,” “zero,” or comparable entry clearly indicating a denial of liability constitutes a return of that tax. The entry of the word “none” across the return or in the summary portion, provided it clearly indicates a denial of liability for all taxes, constitutes a return of all taxes listed on Form 720.

(2) *Period covered by return*—(i) *In general.* Except as provided in paragraph (b) of this section, the return must be made for a period of one calendar quarter. A return must be filed for the first calendar quarter in which liability for tax is incurred (or in which tax must be collected and paid over) and for each subsequent calendar quarter, whether or not liability is incurred (or tax must be collected and paid over) during that subsequent quarter, until a final return under § 40.6011(a)-2 is filed. In the case of one-time filings (as defined in § 40.6011(a)-2(b)) and returns of floor

stocks taxes under § 40.6011(a)-2(c), a first return is also a final return.

(ii) *First return.* A person's return is a first return if the person was not required under this part 40 to file a return (other than a final return) for the preceding period.

(iii) *Floor stocks tax return.* A return reporting liability for a floor stocks tax described in § 40.0-1(a) is a return for the calendar quarter in which the tax payment is due and not the calendar quarter in which the liability for tax is incurred.

(3) *Person required to file the return.* Except in the case of a tax required to be collected and paid over, the person incurring liability for tax must file the return. In the case of a tax required to be collected and paid over, the person required to collect the tax (and not the person incurring liability) must file the return.

(b) *Monthly and semimonthly returns*—(1) *In general.* If the district director determines that any person that is required under this section to file returns has failed to comply in a timely manner with the requirements of this part 40 relating to returns, payments, and deposits of tax, that person will be required, if so notified in writing by the district director, to make a return for a monthly or semimonthly period (as defined in § 40.0-1(c)). Each person so notified by the district director must make a return for the calendar month or semimonthly period in which the notice is received and for each calendar month or semimonthly period thereafter until the person has filed a final return or until the person is notified by the district director to resume making quarterly returns.

(2) *Certain persons liable for tax on taxable fuel.* The district director may require a person to make a return of tax for a monthly or semimonthly period in the manner prescribed in paragraph (b)(1) of this section if the person—

(i) Is a bonded registrant (as defined in § 48.4101-1(b) of this chapter) at any time during the period;

(ii) Has been registered under section 4101 for less than one year at the beginning of the period;

(iii) Meets the acceptable risk test of § 48.4101-1(f)(3) of this chapter by reason