

5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. “Controlled group” means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words “at least 80 percent” shall be replaced by the words “more than 50 percent” in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a “controlled group of corporations” apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

#### § 44.33 Cross reference.

For additional rules pertaining to liability for special (occupational) tax, filing special tax returns, issuance and examination of special tax stamps, and notification of changes to special tax stamps, see subpart D of part 46 of this chapter.

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37419, July 28, 2009, § 44.33 was revised, effective July 28, 2009 through July 30, 2012.

#### §§ 44.34-44.36 [Reserved]

### Subpart C—General

#### § 44.61 Removals, withdrawals, and shipments authorized.

(a) Tobacco products, and cigarette papers and tubes may be removed from

a factory or an export warehouse, and cigars may be withdrawn from a customs warehouse, without payment of tax, for direct exportation or for delivery for subsequent exportation, in accordance with the provisions of this part.

(b) Tobacco products and cigarette papers and tubes are not eligible for removal or transfer in bond under this part unless they bear the marks, labels or notices required by this part.

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

[T.D. ATF-421, 64 FR 71925, Dec. 22, 1999]

#### § 44.61a Deliveries to foreign-trade zones—export status.

Tobacco products, and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs warehouse, without payment of tax, for delivery to a foreign-trade zone for exportation or storage pending exportation in accordance with the provisions of this part. Such articles delivered to a foreign-trade zone under this part shall be considered exported for the purpose of the statutes and bonds under which removed and for the purposes of the internal revenue laws generally and the regulations thereunder. However, export status is not acquired until an application for admission of the articles into the zone with zone restricted status has been approved by the district director of customs pursuant to the appropriate provisions of 19 CFR chapter I and the required certificate of receipt of the articles in the zone has been made on Form 5200.14 as prescribed in this part.

(48 Stat. 999, as amended, 72 Stat. 1418, as amended; 19 U.S.C. 81c; 26 U.S.C. 5704)

[T.D. 6961, 33 FR 9491, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-421, 64 FR 71925, Dec. 22, 1999]

#### § 44.62 Restrictions on deliveries of tobacco products, and cigarette papers and tubes to vessels and aircraft, as supplies.

Tobacco products, and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs