

**§ 46.234**

**27 CFR Ch. I (4-1-10 Edition)**

Other dealers may voluntarily elect to pay the floor stocks tax by electronic funds transfer. Electronic funds transfers of floor stocks tax must be received on or before July 31, 2009.

(b) *Check or money order.* Dealers not paying floor stocks tax by electronic fund transfer must pay by a check or money order sent with Form 5000.28T09.

**§ 46.234 Tax payment deadline.**

Section 701 of Public Law 111-3 specifies a tax payment deadline of August 1, 2009. However, section 5703(b)(2)(E) of the Internal Revenue Code requires that when a due date falls on a Saturday, Sunday or a legal holiday, the preceding day that is not a Saturday, Sunday or legal holiday will be the due date. Therefore, the floor stocks tax is due on July 31, 2009, since August 1, 2009, falls on a Saturday.

**§ 46.235 Filing requirements for multiple locations.**

The dealer may file a consolidated return if all locations or places of business have the same employer identification number. The dealer also has the option of filing a separate return for each place of business or location.

**§ 46.236 Articles in a warehouse.**

(a) Articles warehoused at one or more locations must be reported on the tax return representing the location where the articles will be offered for sale.

(b) Articles offered for sale at several locations must be reported on a tax return filed by one or more of the locations. The articles can be reported by a single location or apportioned among several locations.

**§ 46.237 Controlled group member.**

If the dealer is a member of a controlled group, but has its own employer identification number, the dealer must file a separate floor stocks tax return. The dealer may take the tax credit referred to in § 46.223 if it is apportioned to the dealer as a member of the controlled group.

**RECORDS**

**§ 46.241 Required records.**

The dealer must maintain:

- (a) Inventory records;
- (b) Tax computation records;
- (c) Names, addresses and employer identification numbers of all controlled group members, if applicable;
- (d) A copy of the tax return, if the dealer filed one;
- (e) A list of locations covered by the tax return; and
- (f) A copy of any alternate method or procedure approval issued under § 46.263.

(Approved by the Office of Management and Budget under control number 1513-0129)

**§ 46.242 Period for maintaining records.**

The dealer must maintain the required records for a period of three years from the due date of the tax return or the date the return was filed, whichever is later. However, the appropriate TTB officer may require, in writing, that the dealer keep these records for an additional period of not more than 3 years.

(Approved by the Office of Management and Budget under control number 1513-0129)

**§ 46.243 Articles at multiple locations.**

The dealer must maintain a list of all places where the dealer holds articles subject to the floor stocks tax. This list must include:

- (a) Address;
- (b) Name of the proprietor (if different);
- (c) The employer identification number (if different); and
- (d) Types and quantities of articles held at each location.

(Approved by the Office of Management and Budget under control number 1513-0129)

**§ 46.244 Location of records.**

The dealer must keep the inventory records at the principal place of business. All records must be made available to an appropriate TTB officer upon demand.

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**§ 46.245 Errors in records.**

If the inventory records or tax computation records contain an error that resulted in an overpayment of tax, the dealer may file a claim for refund. If

the inventory or tax computation records contain an error that resulted in an underpayment of tax, the dealer must file an additional tax return on which the dealer shows and pays the additional tax, interest and any applicable penalties.

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## CLAIMS

**§ 46.251 Payment of tax required.**

Before the dealer can file a claim for refund, the dealer must have paid the floor stocks tax and subsequently determined that there was an overpayment of the tax.

**§ 46.252 Claim based on error on return.**

If the dealer overpaid tax due to an error on the return, the dealer may file a claim for refund. The claim must be filed within 3 years from the date the tax return was filed or 2 years from the time the tax was paid, whichever is later. The dealer's claim must be filed on TTB Form 2635 (5620.8). The claim must include detailed and sufficient evidence explaining why the dealer believes the tax was overpaid. The claim and supporting documentation must be mailed or delivered to the address shown on the form.

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**§ 46.253 Destruction of articles by a Presidentially-declared major disaster.**

After the dealer has paid the floor stocks tax, the dealer may file a claim for refund of tax on articles lost, rendered unmarketable, or condemned because of a Presidentially-declared major disaster. Subpart C of this part prescribes the time, evidence, and procedures for filing such a claim.

**§ 46.254 Additional reasons for filing a claim.**

(a) *Manufacturer.* Subparts I and K of part 40 of this chapter prescribe the times, reasons and procedures for filing other claims for refunds.

(b) *Export warehouse proprietor.* Subpart G of part 44 of this chapter prescribes the time, evidence, and proce-

dures for filing other claims for refunds.

(c) *Exported taxpaid.* If taxpaid articles are shipped from the United States, the dealer may file a claim for drawback of taxes under subpart K of part 44 of this chapter.

(d) *Importer.* An importer may follow the procedures for filing a claim as set forth in subpart I of part 41 of this chapter.

## ALTERNATE METHODS OR PROCEDURES

**§ 46.261 Purpose of an alternate method or procedure.**

For purposes of this subpart, an alternate method or procedure is a different way of meeting a requirement imposed by this subpart. An alternate method or procedure must be approved in writing by TTB.

**§ 46.262 Application.**

The dealer seeking approval of an alternate method or procedure under this subpart must apply in writing to the National Revenue Center, 550 Main Street, Room 8002, Cincinnati, Ohio 45202-5215. The dealer must describe the alternate method or procedure and reasons the dealer wishes to use it. The dealer cannot use the alternate method until the dealer receives written approval from the appropriate TTB officer.

**§ 46.263 Conditions for approval.**

The alternate method or procedure may be approved if it meets all of the following conditions:

- (a) There is good cause for its use;
- (b) It is consistent with the purpose and effect intended by the prescribed method or procedure;
- (c) It affords equivalent security to the revenue;
- (d) It is not contrary to any provision of law;
- (e) It will not result in an increase in cost to the Government;
- (f) It will not hinder the effective administration of this subpart such as delaying timely payment of taxes; and
- (g) It is not a method or procedure that relates to the payment or collection of tax.