

Subpart A—Scope of Regulations**§41.11 Importation of tobacco products, cigarette papers and tubes, and processed tobacco.**

This part contains regulations relating to tobacco products, cigarette papers and tubes, and processed tobacco imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States; the removal of tobacco products from a customs bonded manufacturing warehouse, class 6; restrictions on the importation of previously exported tobacco products and cigarette papers and tubes; and the release of tobacco products and cigarette papers and tubes from customs custody, without payment of internal revenue tax or customs duty attributable to the internal revenue tax.

[T.D. ATF-421, 64 FR 71924, Dec. 22, 1999]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29414, June 22, 2009, §41.11 was amended by removing the words “and cigarette papers and tubes” where they first appear in the text and adding in their place, the words “, cigarette papers and tubes, and processed tobacco”, effective June 22, 2009 through June 22, 2012.

Subpart B—Definitions**§41.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude things not listed which are in the same general class.

Administrator. The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

Appropriate TTB officer. An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.41, Delegation of the Administrator’s Authori-

ties in 27 CFR Part 41, Importation of Tobacco Products and Cigarette Papers and Tubes.

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and, in the case of bonded manufacturers in Puerto Rico, all legal holidays in the Commonwealth of Puerto Rico.)

Bonded manufacturer. A manufacturer of tobacco products in Puerto Rico who has an approved bond, in accordance with the provisions of this part, authorizing him to defer the payment in Puerto Rico on the internal revenue tax imposed on such products by 26 U.S.C. 7652(a) as provided in this part.

CFR. The Code of Federal Regulations.

Chewing Tobacco. Any leaf tobacco that is not intended to be smoked.

Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (2) of the definition for cigarette).

Cigarette. (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this definition.

Cigarette paper. Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

Cigarette tube. Cigarette paper made into a hollow cylinder for use in making cigarettes.

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The “FRCS” or “Fedwire” is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other

commercial banks) to the Treasury Account at the Federal Reserve Bank in New York.

Computation or computed. When used with respect to the tax on tobacco products of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes, chewing tobacco, snuff, pipe tobacco, or roll-your-own tobacco) of tobacco products and the sale price of large cigars being shipped to the United States; that adequate bond has been posted to cover the payment, in Puerto Rico, of the tax on such products to be deferred under subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated; that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that a TTB officer has verified and executed a certification of such calculation.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Determine. To establish enough information about taxable products at the time of removal to calculate the tax, specifically the quantity (pounds or number) and kind (for example, cigarettes, snuff, paper tubes). Where the tax rate depends on additional information (such as number of cigarette papers to a set before 1/1/2000 or sale price of large cigars), that information must also be established as part of tax determination.

Electronic fund transfer or EFT. Any transfer of funds effected by a bonded manufacturer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Export warehouse. A bonded internal revenue warehouse for the storage of

tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid or for the storage of processed tobacco, for subsequent 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.

Export warehouse proprietor. Any person who operates an export warehouse.

Factory. The premises of a manufacturer of tobacco products, cigarette papers or tubes, or processed tobacco in which he carries on such business.

Fiscal year. The period which begins October 1 and ends on the following September 30.

HTS. The Harmonized Tariff Schedule of the United States, as published by the United States International Trade Commission.

Importer. Any person in the United States to whom non-taxpaid tobacco products or cigarette papers or tubes, or any processed tobacco manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars for sale or consumption in the United States from a Customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings tobacco products or cigarette papers or tubes, or any processed tobacco into the United States.

Large cigarettes. Cigarettes weighing more than three pounds per thousand.

Large cigars. Cigars weighing more than three pounds per thousand.

Manufacturer of cigarette papers and tubes. Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

Manufacturer of processed tobacco. Any person who processes any tobacco other than tobacco products.

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Package. The immediate container in which tobacco products, processed tobacco, or cigarette papers or tubes are put up by the manufacturer or the importer (prior to release from customs custody) and offered for sale or delivery to the ultimate consumer. For purposes of this definition, a container of processed tobacco, the contents of which weigh 10 pounds or less (including any added non-tobacco ingredients or constituents), that is removed within the meaning of this part is deemed to be a package offered for sale or delivery to the ultimate consumer.

Packaging. The act of placing processed tobacco or a tobacco product in a package.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Pipe tobacco. Any tobacco which because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

Port Director of Customs. The director of any port or port of entry as defined in 19 CFR 101.1. A list of ports is set forth in 19 CFR 101.3.

Processed tobacco. Processed tobacco is any tobacco that has undergone processing, but does not include tobacco products. For purposes of this definition, the processing of tobacco does not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco, nor does the processing of tobacco include curing, baling, or packaging activities. For purposes of this definition, the processing of tobacco includes, but is not limited to, stemming (that is, removing the stem from the tobacco leaf), fermenting, threshing, cutting, or flavoring the tobacco, or otherwise combining the tobacco with non-tobacco ingredients.

Records. Statements, declarations, books, papers, correspondence, accounts, technical data, automated record storage devices (e.g., magnetic discs and tapes), computer programs

necessary to retrieve information in a usable form, and other documents that:

(1) Pertain to any importation of tobacco products or cigarette papers or tubes, or to the information contained in the documents required by law or regulation under the Tariff Act of 1930, as amended, in connection with the importation or shipment into the United States from Puerto Rico of merchandise; and

(2) Are of the type normally kept in the ordinary course of business; and

(3) Are sufficiently detailed to:

(i) Establish the right to make the importation or shipment into the United States from Puerto Rico;

(ii) Establish the correctness of any importation or shipment into the United States from Puerto Rico;

(iii) Determine the liability of any person for duties and taxes due, or which may be due, to the United States;

(iv) Determine the liability of any person for fines, penalties, and forfeitures; and

(v) Determine whether the person has complied with the laws and regulations administered by TTB and the Customs Service, and any other documents required under laws or regulations administered by TTB and the Customs Service.

Relanding. Any tobacco products, cigarette papers or tubes, which have been labeled or shipped for exportation (including to Puerto Rico) as prescribed in this chapter, previously exported and returned within the jurisdiction of the United States.

Removal or Remove. The removal of tobacco products or cigarette papers or tubes, or any processed tobacco from the factory or release from internal revenue bond under 26 U.S.C. 5704, or release from customs custody, including conditional release in accordance with 19 CFR 141.0a(i), and shall also include the smuggling or other unlawful importation of such articles into the United States.

Roll-your-own tobacco. Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars, or for use as wrappers thereof.

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Sale price. The price for which large cigars are sold by the importer or United States manufacturer, determined in accordance with §41.39 and used for computation of the excise tax.

Small cigarettes. Cigarettes weighing not more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

Smokeless tobacco. Any chewing tobacco or snuff.

Snuff. Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

This chapter. Chapter I, title 27, Code of Federal Regulations.

Tobacco products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

United States. When used in a geographical sense shall include only the States and the District of Columbia.

U.S.C. The United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13554, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §41.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29414, June 22, 2009, §41.11 was amended as follows, effective June 22, 2009 through June 22, 2012.

a. The definition of "Export warehouse" is amended by adding the words "or for the storage of processed tobacco," after "paid,";

b. The definition of "Factory" is amended by removing the words "tobacco products or cigarette papers or tubes" and adding, in their place, the words "tobacco products, cigarette papers or tubes, or processed tobacco";

c. The definition of "Importer" is amended by adding, after the words "tobacco products or cigarette papers or tubes", each time they appear, the words ", or any processed tobacco,"

d. The definition of "Removal or remove" is amended by adding after the words "tobacco products or cigarette papers or tubes" the words ", or any processed tobacco";

e. The definition of "Roll-your-own tobacco" is amended by adding at the end before the period the words "or cigars, or for use as wrappers thereof."

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f. New definitions of "Manufacturer of processed tobacco", "Processed tobacco" and "Packaging" are added in appropriate alphabetical order;

g. The definition of "Package" is revised; and

h. The definition of "Sale price" is amended by adding, after the words "importer or", the word "United States".

Subpart C—General

§41.21 Forms prescribed.

(a) The Administrator is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. When a return, form, claim, or other document called for under this part is required by this part, or by the document itself, to be executed under penalties of perjury, it shall be executed under penalties of perjury.

(b) Forms prescribed by this part are available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(5 U.S.C. 552(a) (80 Stat. 383, as amended)

[T.D. ATF-92, 46 FR 46922, Sept. 23, 1981, as amended by T.D. ATF-232, 51 FR 28084, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-372, 61 FR 20725, May 8, 1996; T.D. TTB-16, 69 FR 52424, Aug. 26, 2004]

§41.22 Retention of records.

All records required to be kept under this part, including copies of claims and schedules, authorizations, notices of release, reports, and returns, shall be retained for three years following the close of the year in which filed or made, or in the case of an authorization, for three years following the close of the calendar year in which the operation under such authorization is concluded. Such records shall be made