manufacturers operating under original or superseding bonds executed after September 1, 1973, are automatically qualified for the extended deferral permitted by §41.114 (unless found in default as provided in §41.116). Such bonds must be executed in an amount sufficient to cover an extended deferral period, according to the requirements of §41.121.

(c) Commencement of extended deferral. Bonded manufacturers may file returns with benefit of extended deferral only after the applicable bonds and extensions of coverage required by this section have been filed with and approved by the appropriate TTB officer.

§ 41.115 Remittance with return.

Remittance of the full amount of internal revenue tax computed during the return period shall accompany the return, except as prescribed in §41.115a. Such remittance may be in any form the appropriate TTB officer is authorized to accept under the provisions of §70.61 of this chapter (Payment by check or money order) and which is acceptable to that officer. In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

§ 41.115a Payment of tax by electronic fund transfer.

(a) General. (1) Each taxpayer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in taxes on tobacco products, cigarette papers, and cigarette tubes combining tax liabilities incurred under this part and part 40 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT) of taxes on tobacco products, cigarette papers, and cigarette tubes during the succeeding calendar year. Payment of taxes on tobacco products, cigarette papers, and cigarette tubes by cash, check, or money order, as described in §41.115, is not authorized for a taxpayer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is defined as the gross tax liability of all taxes which are paid in accordance with this subpart, taxable withdrawals from premises in the United States, and importations during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer. Overpayments are not taken into account in summarizing the gross tax liability.

(2) For the purposes of this section, a taxpayer includes 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 it appears 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 determining who is required to make remittances by EFT.

(3) A taxpayer who is required by this section to make remittances by EFT, shall make a separate EFT remittance and file a separate tax return for each factory which tobacco products, or cigarette papers, or cigarette tubes are withdrawn upon determination of tax.
(b) Requirements. (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable for a gross amount equal to or exceeding five million dollars in taxes on tobacco products, cigarette papers, and cigarette tubes combining tax liabilities incurred under this part and part 40 of this chapter during the previous calendar year, shall notify, in writing, the appropriate TTB officer. The notice shall be an agreement to make remittances by EFT.

(2) For each return filed in accordance with this part, the taxpayer shall direct the taxpayer’s bank to make an electronic fund transfer in the amount of the tax payment to the Treasury Account as provided in paragraph (e) of this section. The request shall be made to the bank early enough for the transfer to be made to the Treasury Account by no later than the close of business on the last day for filing the return, prescribed in §41.105 or §41.114. The request shall take into account any time limit established by the bank.

(3) If a taxpayer was liable for less than five million dollars in taxes on tobacco products, cigarette papers, and cigarette tubes during the preceding calendar year, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by §41.115. The request shall take into account any time limit established by the bank.

(d) Failure to make a tax payment by EFT. The taxpayer is subject to a penalty imposed by 26 U.S.C. 5761, 6651, or 6656, as applicable, for failure to make a tax payment by EFT on or before the close of business on the prescribed last day for filing.

(e) Procedure. Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the taxpayer a TTB procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer is to follow when preparing returns and EFT remittances in accordance with this part.

§41.116 Default.

Where a check or money order tendered with a semimonthly return for payment of internal revenue tax under the provisions of this subpart is not paid on presentment, where a bonded manufacturer fails to remit with the semimonthly return the full amount of tax due thereunder, or where a bonded manufacturer is otherwise in default in payment of tax under the provisions of this subpart, he shall not ship tobacco products to the United States on computation of tax, until the appropriate TTB officer finds that the revenue will not be jeopardized by deferred payment.