

§ 46.242

(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.

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§ 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.

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§ 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

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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 procedures 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.

§ 46.264 Withdrawal of an approval.

The approval will be withdrawn if revenue is jeopardized or administration of this subpart is hindered. The appropriate TTB officer will give the

dealer a written notice of the withdrawal.

TTB AUTHORITIES

§ 46.270 [Reserved]

§ 46.271 Entry, examination and testimony.

Appropriate TTB officers, in performing official duties, may enter any premises to examine articles subject to floor stocks tax. They may enter the premises during the day or may also enter at night if the premises are open. Appropriate TTB officers may audit and examine all articles, inventory records, books, papers, or other resource data for the purpose of ascertaining, determining, or collecting floor stocks tax. They may take testimony, under oath, of any person when inquiring as to proper payment of floor stocks taxes.

§ 46.272 Issuance of summons.

Appropriate TTB officers can issue summonses when there is no referral to the Justice Department under the authority stated in § 70.22 of this chapter. The summons will state a place and time for such items or person to appear. TTB will issue a summons to require:

- (a) Any books of account or other data pertaining to liability for floor stocks tax;
- (b) Any person liable for the floor stocks tax or having possession of books of account or other data; and
- (c) Any other appropriate person in connection with the books or tax liability.

§ 46.273 Refusing entry or examination.

If the dealer or another person in charge of the premises refuses to admit any appropriate TTB officer or prevents any appropriate TTB officer from examining the records or articles, the dealer may be liable for the penalties described in 26 U.S.C. 7342 or 7212.

§ 46.274 Penalties for failure to comply.

If the dealer fails to follow the regulations set forth in this subpart, TTB