

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 44.11

44.265 For export by parcel post.

### RETURN OF SHIPMENT

44.266 Return of cigars from export warehouses.

44.267 Return of cigars from other sources.

AUTHORITY: 26 U.S.C. 448, 5701, 5703-5705, 5711-5713, 5721-5723, 5731-5734, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

SOURCE: Redesignated by T.D. ATF-464, 66 FR 43480, Aug. 20, 2001.

EDITORIAL NOTE: Nomenclature changes to part 44 appear by T.D. ATF-464, 66 FR 43480, Aug. 20, 2001, and T.D. ATF-480, 67 FR 30801-30803, May 8, 2002.

### Subpart A—Scope of Regulations

#### § 44.1 Exportation of tobacco products, and cigarette papers and tubes, without payment of tax, or with drawback of tax.

This part contains the regulations relating to the exportation (including supplies for vessels and aircraft) of tobacco products and cigarette papers and tubes, without payment of tax; the qualification of, and operations by, export warehouse proprietors; and the allowance of drawback of tax paid on tobacco products, and cigarette papers and tubes exported.

[T.D. 6871, 31 FR 48, Jan. 4, 1966. 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]

#### § 44.2 Forms prescribed.

(a) The appropriate TTB officer 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. The form will be filed in accordance with the instructions for the form.

(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 28087, 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. ATF-480, 67 FR 30801, May 8, 2002; T.D. TTB-44, 71 FR 16952, Apr. 4, 2006; T.D. TTB-91, 76 FR 5480, Feb. 1, 2011]

### § 44.3 Delegations of the Administrator.

Most of the regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.44, Delegation of the Administrator's Authorities in 27 CFR Part 44, Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax. You may obtain a copy of this order by accessing 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.

[T.D. TTB-44, 71 FR 16952, Apr. 4, 2006]

### Subpart B—Definitions

#### § 44.11 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 1135.44, Delegation of the Administrator's Authorities in 27 CFR Part 44, Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax.

*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 definition of "cigarette" given in this section).

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

(b) 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 (a) of this definition.

*Cigarette paper.* Paper, or 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.

*Customs warehouse.* A customs bonded manufacturing warehouse, class 6, where cigars are manufactured of imported tobacco.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

*Exportation or export.* A severance of tobacco products or cigarette papers or tubes from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country. For the purposes of this part, shipment from the United States to Puerto Rico, the Virgin Islands, or a possession of the United States, shall be deemed exportation, as will the clearance from the United States of tobacco products and cigarette papers and tubes for consumption beyond the jurisdiction of the internal revenue laws of the United States, i.e., beyond the 3-

mile limit or international boundary, as the case may be.

*Export warehouse.* A bonded internal revenue warehouse for the storage of tobacco products or cigarette papers or tubes or any processed tobacco, upon which the internal revenue tax has not been paid, 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 or cigarette papers and tubes in which he carries on such business.

*Foreign-trade zone.* A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

*In bond.* The status of tobacco products and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by 26 U.S.C. 5701 or 7652, and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory or an export warehouse, (b) such articles removed, transferred, or released, pursuant to 26 U.S.C. 5704, and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

*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 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 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.

*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.

*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.

*Removal or remove.* The removal of tobacco products or cigarette papers or tubes from either the factory or the export warehouse covered by the bond of the manufacturer or proprietor.

*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.

*Sale price.* The price for which large cigars are sold by the manufacturer, determined in accordance with §§ 40.22 or 41.39.

*Smokeless tobacco.* Any snuff or chewing tobacco.

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

*Special tax.* The special (occupational) tax on manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors, imposed by 26 U.S.C. 5731.

*State.* “State” shall, for the purposes of this part, be construed to include the District of Columbia.

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

*United States.* “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.

*Zone operator.* The person to whom the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

*Zone restricted status.* Tobacco products, cigarette papers and cigarette tubes which have been taken into a foreign trade zone from the United States Customs territory for the sole purpose of exportation or storage until exported.

[T.D. ATF-48, 43 FR 13556, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 44.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### Subpart Ba—Special (Occupational) Taxes

SOURCE: T.D. ATF-271, 53 FR 17563, May 17, 1988, unless otherwise noted.

#### § 44.31 Liability for special tax.

(a) *Export warehouse proprietor.* Every export warehouse proprietor shall pay a special (occupational) tax at a rate specified by § 44.32. The tax shall be paid on or before the date of commencing the business of an export warehouseman, and thereafter every