

§ 46.208

those articles. Likewise, if the dealer holds articles in a customs bonded warehouse on which tax has not been paid or determined, the floor stocks tax does not apply on those articles. However, if the dealer on April 1, 2009, holds articles in a customs bonded warehouse or foreign trade zone on which tax has been paid or determined pursuant to 26 U.S.C. 5703(b)(2)(B), the floor stocks tax applies to those articles.

§ 46.208 Unmerchtable articles.

Articles that the dealer holds for return to a supplier because of some defect are not subject to the floor stocks tax. However, the dealer must segregate any such unmerchtable articles and include them in a separate section of the inventory record. The dealer cannot include as unmerchtable any items that may be held because of poor market demand or to reduce the dealer's inventory. If, for any reason, the tobacco products or cigarette papers or tubes that were determined to be unmerchtable are not subsequently returned or destroyed, the dealer must file an additional floor stocks tax return and pay tax on such products plus any applicable penalties and interest.

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

§ 46.209 Articles in vending machines.

There is no exemption for articles in vending machines. They are subject to the floor stocks tax and must be included in the dealer's inventory record.

§ 46.210 Articles marked "not for sale" or "complimentary".

Articles marked "not for sale" or "complimentary" that are part of a sale (for example, buy two packs and get one pack free) are subject to the floor stocks tax and must be included in the physical or record (book) inventory as provided in §§ 46.202 or § 46.203.

TAX LIABILITY CALCULATION

§ 46.221 Floor stocks tax rates.

Product	Floor stocks tax rate
Small cigars	\$48.502 per thousand.
Small cigarettes	30.83 per thousand.

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Product	Floor stocks tax rate
Large cigarettes 6½ inch or less in length.	64.74 per thousand.
Large cigarettes more than 6½ inch in length.	30.83 per thousand units of length.
Snuff	0.925 per pound.
Chewing tobacco	0.3083 per pound.
Pipe tobacco	1.7342 per pound.
Roll-your-own	23.6831 per pound.
Cigarette papers	0.0193 per 50 papers or fraction thereof
Cigarette tubes	0.0386 per 50 tubes or fraction thereof.

§ 46.222 Determination of amount of tax due.

After the dealer has taken the inventory, the dealer must convert the inventory quantities to taxable units using the table below. For tobacco products, round the quantities to two decimal places. The dealer must then apply the applicable tax rate for each type of taxable article using the table in § 46.221 to determine the amount of tax due.

Product	Computation
Small cigars weighing not more than 3 pounds thousand.	Divide number of cigars by 1,000 and multiply by the small cigar tax rate.
Small cigarettes weighing not more than 3 pounds thousand.	Divide number of cigarettes by 1,000 and multiply by the small cigarette tax rate.
Large cigarettes weighing more than 3 pounds thousand, measuring 6½" or less in length.	Divide number of cigarettes by 1,000 and multiply by the large cigarette tax rate.
Large cigarettes weighing more than 3 pounds thousand, measuring more than 6½" in length.	Mathematically adjust the number of large cigarettes using the instructions below.* Divide the adjusted number of large cigarettes by 1,000 and multiply by the small cigarette tax rate.
Snuff	Multiply the total in pounds by the snuff tax rate.
Chewing tobacco ...	Multiply the total in pounds by the chewing tobacco tax rate.
Pipe tobacco	Multiply the total in pounds by the pipe tobacco tax rate.
Roll-your-own	Multiply the total in pounds by the roll-your-own tax rate.
Cigarette papers 6½" or less in length.	Divide the number of cigarette papers by 50, add 1 if there is a remainder, and multiply that number by the cigarette paper tax rate.
Cigarette papers more than 6½" in length.	Mathematically adjust the number of cigarette papers using the instructions below.* Divide the adjusted number of cigarette papers by 50, add 1 if there is a remainder, and multiply that number by the cigarette paper tax rate.