

## § 40.168

form. At the same time, the manufacturer shall direct his bank to effect an EFT.

(Sec. 202, Pub. L. 85-859, 68A Stat. 1417 (26 U.S.C. 5703); sec. 202, Pub. L. 85-859, 72 Stat. 1423, as amended (26 U.S.C. 5741); (Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302)); 26 U.S.C. 7805 (68A Stat. 917, as amended))

[T.D. 6871, 31 FR 34, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-77, 46 FR 3008, Jan. 13, 1981; T.D. ATF-219, 50 FR 51390, Dec. 17, 1985; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987]

### § 40.168 Remittance with return.

Except when an electronic fund transfer has been made under § 40.165a for the full amount of tax due, the tax on tobacco products shown to be due and payable on any return shall be paid by remittance in full with the tax return. The remittance may be in the form which the appropriate TTB officer is authorized to accept under § 70.61 of this chapter (Payment by check or money order) and which is acceptable to him, except as otherwise specified in § 40.166. Checks and money orders shall be made payable to the "Alcohol and Tobacco Tax and Trade Bureau". 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.

(68A Stat. 778, 72 Stat. 1417; 26 U.S.C. 6313, 5703; Aug. 16, 1954, ch. 736, 68A Stat. 707, as amended (26 U.S.C. 5703))

[T.D. 6871, 31 FR 35, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979; T.D. ATF-77, 46 FR 3009, Jan. 13, 1981; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-301, 55 FR 47658, Nov. 14, 1990]

### § 40.169 Employer identification number.

The employer identification number (defined at 26 CFR 301.7701-12) of a manufacturer of tobacco products who has been assigned such a number shall be shown on each tax return, Form 5000.24. Failure of the manufacturer to include his employer identification number on Form 5000.24 may result in

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assertion and collection of the penalty specified in § 70.113 of this chapter.

[T.D. ATF-219, 50 FR 51390, Dec. 17, 1985, as amended by T.D. ATF-301, 55 FR 47658, Nov. 14, 1990]

### § 40.170 Application for employer identification number.

Every manufacturer of tobacco products who has neither secured an employer identification number nor made application therefor shall file an application on Form SS-4. Form SS-4 may be obtained from any service center director or from any district director. Such application shall be filed on or before the seventh day after the date on which any tax return under this part is filed. Each manufacturer shall make application for and shall be assigned only one employer identification number for all internal revenue tax purposes.

(75 Stat. 828; 26 U.S.C. 6109)

[T.D. 7055, 35 FR 13515, Aug. 25, 1970. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 40.171 Execution and filing of Form SS-4.

The application on Form SS-4, together with any supplementary statement, shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. The application shall be filed with the service center director serving any internal revenue district where the applicant is required to file returns under this part, except that hand-carried applications may be filed with the district director of any such district as provided for in 26 CFR 301.6091-1. The application shall be signed by (a) the individual if the person is an individual; (b) the president, vice president, or other principal officer if the person is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs if the person is a partnership or other unincorporated organization; or

(d) the fiduciary if the person is a trust or estate.

(75 Stat. 828; 26 U.S.C. 6109)

[T.D. 7055, 35 FR 13515, Aug. 25, 1970. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979]

#### RECORDS

##### § 40.181 General.

Every manufacturer of tobacco products must keep records of his operations and transactions which shall reflect, for each day, the information specified in §§ 40.182 and 40.183. For this purpose *day* shall mean calendar day, except that the appropriate TTB officer may, upon application of the manufacturer by letter, in duplicate, authorize as such day for a factory a 24-hour cycle of operation other than the calendar day. A day once so established as other than the calendar day may be changed only by another application approved by the appropriate TTB officer. No specific form is required. The manufacturer may use commercial records from which the required information may be readily ascertained for this purpose. The manufacturer shall keep the auxiliary and supplemental records from which such records are compiled and shall keep supporting records, as specified in §§ 40.184 and 40.186, of tobacco products removed subject to tax and transferred in bond. Except as provided in §§ 40.184 and 40.186, the entries in the commercial records so maintained or kept shall be made not later than the close of the next business day following the day on which the transaction(s) occurred. As used in this section the term *business day* shall mean any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the factory to which the records relate is located.

(72 Stat. 1423, as amended; 26 U.S.C. 5741)

[T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

##### § 40.182 Record of tobacco and processed tobacco.

(a) Except as provided in paragraph (b) of this section, a manufacturer of tobacco products must maintain a

record that shows the total quantity in pounds of all:

(1) Processed tobacco on hand at the beginning of each month;

(2) Processed tobacco received, together with the name and address of the person from whom received and the date of receipt;

(3) Processed tobacco used in the manufacture of tobacco products, together with the date of use;

(4) Processed tobacco lost, together with the date and other circumstances of the loss;

(5) Processed tobacco destroyed, together with the date and other circumstances of the destruction;

(6) Processed tobacco removed, together with the date of the removal and reason for the removal; and

(7) Tobacco (unprocessed) on hand at the beginning of each month and used in the manufacture of tobacco products, lost, destroyed, or removed during each month.

(b) A manufacturer of tobacco products that is required to obtain authorization to engage in another business within the factory under §§ 40.47(b) and 40.72(b) must keep records as prescribed in § 40.521, in addition to those required elsewhere in this part.

(Approved by the Office of Management and Budget under control number 1513-0068)

[T.D. TTB-104, 77 FR 37302, June 21, 2012]

##### § 40.183 Record of tobacco products.

The record of a manufacturer of tobacco products must show the date and total quantities of all tobacco products by kind (small cigars; large cigars; small cigarettes; large cigarettes; chewing tobacco; snuff; pipe tobacco; roll-your-own tobacco) that are:

(a) Manufactured;

(b) Received in bond by—

(1) Transfer from other factories,

(2) Release from customs custody,

(3) Transfer from export warehouses,

and

(4) Transfer from foreign trade zones;

(c) Received by return to bond;

(d) Disclosed as an overage by inventory;

(e) Removed subject to tax (itemize large cigars by sale price in accordance with § 40.22, except that before April 1, 2009, cigars that cost more than \$235.294 may optionally be shown as if the price