

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 40.355

Product	Tax rate for each 50 papers* for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Cigarette papers over 6½" long.	Use rates above, but count each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.	

* Tax rate for less than 50 papers is the same. The tax is not prorated.

(72 Stat. 1414; 26 U.S.C. 5701)

[T.D. TTB-75, 74 FR 14483, Mar. 31, 2009]

§ 40.352 Cigarette tubes.

Cigarette tubes are taxed at the following rates under 26 U.S.C. 5701(d):

Product	Tax rate for each 50 tubes* for removals during the years:	
	2002 to March 31, 2009	April 1, 2009 and after
Cigarette tubes up to 6½" long.	\$ 0.0244	\$ 0.0630
Cigarette tubes over 6½" long.	Use rates above, but count each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.	

* Tax rate for less than 50 tubes is the same. The tax is not prorated.

(72 Stat. 1414; 26 U.S.C. 5701)

[T.D. TTB-75, 74 FR 14483, Mar. 31, 2009]

§ 40.353 Persons liable for tax.

The manufacturer of cigarette papers and tubes shall be liable for the taxes imposed on such articles by 26 U.S.C. 5701. When a manufacturer of cigarette papers and tubes transfers such papers and tubes without payment of tax, pursuant to 26 U.S.C. 5704 to the bonded premises of another such manufacturer, a manufacturer of tobacco products, or an export warehouse proprietor, the transferee shall become liable for the tax upon receipt of such papers and tubes and the transferor shall thereupon be relieved of liability for the tax. When cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of such papers and tubes or a manufacturer of tobacco products, the transferee shall become liable for the tax on the papers and tubes upon release from customs custody. Any person who possesses cigarette papers and tubes in violation of 26 U.S.C. 5751(a) (1) or (2), shall be lia-

ble for a tax equal to the rate of tax applicable to such articles.

(72 Stat. 1417, 1424; 26 U.S.C. 5703, 5751)

§ 40.354 Determination of tax and method of payment.

Except for removals without payment of tax and transfers in bond, as authorized by law, no cigarette papers and tubes shall be removed until the taxes imposed by section 5701, I.R.C., have been determined. The payment of taxes on cigarette papers and tubes which are removed on determination of tax shall be made by return in accordance with the provisions of this subpart.

(72 Stat. 1417; 26 U.S.C. 5703)

§ 40.355 Return of manufacturer.

(a) *Requirement for filing.* A manufacturer of cigarette papers and tubes shall file, for each factory, a semi-monthly tax return on TTB Form 5000.24. A return shall be filed for each semimonthly return period regardless of whether cigarette papers and tubes were removed subject to tax or whether tax is due for that particular return period.

(b) *Waiver from filing.* The manufacturer need not file a return for each semimonthly return period if cigarette papers and tubes were not removed subject to tax during the period and the appropriate TTB officer has granted a waiver from filing in response to a written request from the manufacturer.

(c) *Semimonthly return periods.* Except as otherwise provided in paragraph (g) of this section, semimonthly return periods run from the 1st day of the month through the 15th day of that month, and from the 16th day of the month through the last day of that month.

(d) *Preparation and filing.* The return shall be executed and filed with TTB in accordance with the instructions on the form.

(e) *Remittance of tax.* Except as provided in §40.357, remittance of the tax, if any, shall accompany the return.

(f) *Time for filing.* Except as otherwise provided in paragraph (g) of this section, for each semimonthly return period, the return shall be filed not later than the 14th day after the last day of

§ 40.356

27 CFR Ch. I (4-1-14 Edition)

the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance are due on the immediately preceding day that is not a Saturday, Sunday or legal holiday.

(g) *Special rule for taxes due for the month of September.* (1) *Division of second semimonthly period.* (i) *General.* Except as otherwise provided in paragraph (g)(1)(ii) of this section, the second semimonthly period for the month of September is divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 16-26, no later than September 29. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 27-30, no later than October 14.

(ii) *Taxpayment not by electronic fund transfer.* In the case of taxes for which remittance by electronic fund transfer (EFT) is not required by § 40.357, the second semimonthly period of September is divided into two payment periods, from the 16th day through the 25th day, and from the 26th day through the 30th day. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 16-25, no later than September 28. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 26-30, no later than October 14.

(2) *Amount of payment—Safe harbor rule.* (i) *General.* Taxpayers are considered to have met the requirements of paragraph (g)(1)(i) of this section if the amount paid no later than September 29 is not less than 11/15ths (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15th, and if any underpayment of tax is paid by October 14th.

(ii) *Taxpayment not by EFT.* Taxpayers are considered to have met the requirements of paragraph (g)(1)(ii) of this section if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending

on September 15, and if any underpayment of tax is paid by October 14.

(3) *Weekends and holidays.* If the required taxpayment due date for the period September 16-25 or September 16-26, as applicable, falls on a Saturday, or legal holiday, the return and remittance are due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance are due on the immediately following day.

(Approved by the Office of Management and Budget under Control Number 1512-0467)

[T.D. ATF-384, 61 FR 54085, Oct. 17, 1996, as amended by T.D. TTB-89, 76 FR 3514, Jan. 20, 2011]

§ 40.356 Adjustments in the return of manufacturer.

Adjustments may be made in Schedules A and B of the manufacturer's semimonthly tax return, TTB Form 5000.24, as provided in this section. Schedule A of the return will be used where an unintentional error in a previous return resulted in an underpayment of tax. Schedule B of the return will be used where an unintentional error in a previous return resulted in an overpayment of tax, or where notice has been received from the appropriate TTB officer that a claim for allowance of tax has been approved. In the case of an overpayment, the manufacturer shall have the option of filing a claim on TTB TTB F 5620.8 for refund or taking credit in Schedule B of the return, both subject to the period of limitations prescribed in 26 U.S.C. 6511. Any adjustment made in a return must be fully explained in the appropriate schedule or in a statement attached to and made a part of the return in which such adjustment is made.

(72 Stat. 1417, 68A Stat. 791; 26 U.S.C. 5703, 6402)

§ 40.357 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 41 of this chapter, shall use a commercial