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Packages

§ 40.441 General.

All cigarette papers and tubes shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the papers or tubes therein. No package of cigarette papers or tubes shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon:

(a) Any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery,

(b) Any indecent or immoral picture, print, or representation, or

(c) Any statement or indication that United States tax has been paid.

(72 Stat. 1422; 26 U.S.C. 5723)

Miscellaneous Operations

§ 40.451 Transfer in bond.

A manufacturer of cigarette papers and tubes may transfer such papers and tubes, under bond, without payment of tax, to the bonded premises of any manufacturer of cigarette papers and tubes, or to the bonded premises of a manufacturer of tobacco products solely for use in the manufacture of cigarettes. The transfer of cigarette papers and tubes, without payment of tax, to the bonded premises of an export warehouse proprietor shall be in accordance with the provisions of part 44 of this chapter.

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

§ 40.452 Release from customs custody.

Cigarette papers and tubes which were made in the United States, exported, and subsequently returned to the United States, may be removed from customs custody for transfer to the premises of a manufacturer without payment of the internal revenue tax, upon compliance with part 41 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

[T.D. ATF–384, 61 FR 54085, Oct. 17, 1996, as amended by T.D. TTB–16, 69 FR 52423, Aug. 26, 2004]

§ 40.453 Use of the United States.

A manufacturer of cigarette papers and tubes may remove cigarette papers and tubes covered under bond, without payment of tax, for use of the United States. Such removal shall be in accordance with the provisions of part 45 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

[26 FR 8174, Aug. 31, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated at 54 FR 48839, Nov. 27, 1989, and further redesignated by T.D. ATF–460, 66 FR 39093, July 27, 2001, as amended by T.D. ATF–469, 66 FR 56758, Nov. 13, 2001]

§ 40.454 Removal for export purposes.

The removal of cigarette papers and tubes, without payment of tax, for 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, shall be in accordance with the provisions of part 44 of this chapter.

(72 Stat. 1418; 26 U.S.C. 5704)

Permanent Discontinuance of Business

§ 40.461 Discontinuance of operations.

Every manufacturer of cigarette papers and tubes who desires to discontinue operations and close out a factory shall dispose of all cigarette papers and tubes on hand, in accordance with this subpart, and make a closing inventory and closing report, in accordance with the provisions of §§ 40.434 and 40.426, respectively.

(72 Stat. 1422; 26 U.S.C. 5721, 5722)

CLAIMS BY MANUFACTURERS

General

§ 40.471 Abatement.

A claim for abatement of the unpaid portion of the assessment of any tax on cigarette papers and tubes, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after the expiration of the applicable period of limitation, or is erroneously or illegally assessed. Any claim under this section shall be prepared on TTB F 5620.8, in duplicate,

and shall set forth the particulars under which the claim is filed. The original of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the appropriate TTB officer that the claim is valid, shall be filed with the appropriate TTB officer.

(68A Stat. 792, 6404)

§ 40.472 Allowance.

Relief from the payment of tax on cigarette papers and tubes may be extended to a manufacturer by allowance of the tax where the cigarette papers and tubes, after removal from the factory upon determination of tax and prior to the payment of such tax, are lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by the manufacturer from the market. Any claim for allowance under this section shall be filed on TTB F 5620.8 with the appropriate TTB officer, shall be executed under penalties and perjury and shall show the date the cigarette papers and tubes were removed from the factory. A claim relating to articles lost or destroyed shall be supported as prescribed in § 40.475. In the case of a claim relating to cigarette papers or tubes withdrawn from the market the schedule prescribed in § 40.476 shall be filed with the appropriate TTB officer. The manufacturer may not anticipate allowance of a claim by making the adjusting entry in a tax return pending consideration and action on the claim. Cigarette papers and tubes to which such a claim relates must be shown as removed on determination of tax in the return covering the period during which such articles were so removed. Upon action on the claim by the appropriate TTB officer a copy of TTB F 5620.8 will be returned to the manufacturer as notice of such action. This copy of TTB F 5620.8, with the copy of any verified supporting schedules, shall be retained by the manufacturer. When such notification of allowance of the claim or any part thereof is received prior to the time the return covering the tax on the cigarette papers or tubes to which the claim relates is to be filed, the manufacturer may make an adjusting entry and explanatory statement in that tax return. Where the notice of allowance is received after the filing of the return and taxpayment of the cigarette papers or tubes to which the claim relates, the manufacturer may make an adjusting entry and explanatory statement in the next tax return(s) to the extent necessary to take credit in the amount of the allowance.

(72 Stat. 1419, as amended, 26 U.S.C. 5705)

§ 40.473 Credit or refund.

The taxes paid on cigarette papers and tubes may be credited or refunded (without interest) to a manufacturer on proof satisfactory to the appropriate TTB officer that the claimant manufacturer paid the tax on cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer, or withdrawn by the manufacturer from the market. Any claim for credit or refund under this section shall be prepared on TTB F 5620.8, in duplicate. Claims shall include a statement that the tax imposed on cigarette papers and tubes by 26 U.S.C. 7652 or Chapter 52, was paid in respect to the cigarette papers or tubes covered by the claim, and that the articles were lost, destroyed, or withdrawn from the market within 6 months preceding the date the claim is filed. A claim for credit or refund relating to articles lost or destroyed shall be supported as prescribed in § 40.475, and a claim relating to articles withdrawn from the market shall be accompanied by a schedule prepared and verified as prescribed in §§ 40.476, and 40.477. The original and one copy of TTB F 5620.8, shall be filed with the appropriate TTB officer. Upon action by the appropriate TTB officer on a claim for credit, a copy of TTB F 5620.8 will be returned to the manufacturer as notification of allowance or disallowance of the claim or any part thereof. This copy, with the copy of any verified supporting schedules, shall be retained by the manufacturer. When the manufacturer is notified of allowance of the claim for credit or any part thereof, the manufacturer shall make an adjusting entry and explanatory statement in the next tax return(s) to the extent necessary to take