



# The Technical Side of Exporting Tobacco Products

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## Objectives

- Define an “export”
- Identify applicable laws and regulations
- Requirements for untaxed exports
- Requirements for taxed exports
- Proof of Exportation
- Alternate Records Variances
- TTB Information – [www.ttb.gov](http://www.ttb.gov)
- Summary – What we learned today!

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## Concepts and Definitions

- Not sold in U.S. – Tax Liability?
  - “Free of Tax”
  - “Without Payment of Tax”
  - “Benefit of Drawback of Tax”
- Exportation – defined as “Separation from the U.S.”
- When does separation occur?
- Kinds of export transactions

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## Exportation

- A severance of goods 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 and shall include shipments to any possession of the United States.
- The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country or in a possession of the U.S.
- For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa and Guam, and to the Panama Canal Zone shall also be treated as exportations.

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## Laws and Regulations

- **Law:** Title 26, United States Code, Chapter 52
  - § 5704, Withdrawal of tobacco products without payment of tax
  - § 5706, Drawback of Tax – Tobacco Products
- **Regulations:** Title 27, Code of Federal Regulations (CFR), Part 44 – Exportation of Tobacco Products

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# Untaxed Exports



## Untaxed Exports

- Bonds – Operations coverage
  - 27 CFR 44.123, Sufficient to cover tax liability but not less than \$1,000 nor more than \$200,000.
- Bond can be through an approved surety company (<http://www.fms.treas.gov/c570/c570.html>), *cash, or collateral.*

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## Restrictions

- Packaging – must be labeled “Tax-exempt. For use outside U.S.” (27 CFR 44.185)
- Shipping containers – must bear a distinguishing number (27 CFR 44.187)
- Notice of Removal – must have TTB Form 5200.14 (or other supporting documents under variance per Industry Circular 2004-2)
- Examples in Tobacco Exports packet

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## Types of Exports

- To a Contiguous Country
- To a Non-contiguous Country
- To an Export Warehouse
- To a Foreign-Trade Zone
- To a Class 9 Bonded Warehouse
- For Use as Supplies on Vessels (Cruise Ships or Fishing Boats)
- For Use of the Armed Forces, Overseas



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## Proof of Exportation

- § 44.200, Transfers between factories and export warehouses.
- § 44.202, To officers of the armed forces for subsequent exportation.
- § 44.203, To non-contiguous foreign countries and possessions of the U.S.
- § 44.204, To a Federal department or agency.

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## Proof of Exportation (Cont'd)

- § 44.205, To contiguous foreign countries.
- § 44.206, To Government vessels and aircraft for consumption as supplies.
- § 44.207, To commercial vessels and aircraft for consumption as supplies.
- § 44.207a, To a foreign-trade zone.
- § 44.208, For export by parcel post.

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## Proof of Exportation (Cont'd)

- § 44.209, Diversion of shipment to another consignee.
- § 44.210, Return of shipment to factory or export warehouse.
- § 44.212, Delay in lading at port of exportation.
- § 44.213, Destruction of tobacco products, and cigarette papers and tubes.

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## Proof of Exportation – Cigars

- § 44.258, To officers of the armed forces for subsequent exportation.
- § 44.259, To non-contiguous foreign countries and possessions of the U.S.
- § 44.260, To a Federal department or agency.
- § 44.261, To contiguous foreign countries.

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## Proof of Exportation – Cigars (Cont'd)

- § 44.262, To Government vessels and aircraft for consumption as supplies.
- § 44.263, To commercial vessels and aircraft for consumption as supplies.
- § 44.264, To export warehouses.
- § 44.264a, To a foreign-trade zone.
- § 44.265, For export by parcel post.

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## Proof of Exportation – Cigars (Cont'd)

- § 44.266, Return of cigars from export warehouses.
- § 44.267, Return of cigars from other sources.

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## Alternate Procedure for Exports

- See Industry Circular 2004-3
- A copy of I.C. 2004-3 is in your Tobacco Exports Handout

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## Label Requirements for Exported Products

- **§ 44.185, Label or notice.**
  - Every package of tobacco products shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the words “**Tax-exempt. For use outside U.S.**” or the words “**U.S. Tax-exempt. For use outside U.S.**” except where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed. (26 U.S.C. 5704, 5723)

[T.D. 6871, 31 FR 52, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28088, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-465, 66 FR 45618, Aug. 29, 2001]

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## Reports

- **Opening**
  - 27 CFR 44.148
- **Monthly** (*Example in Tobacco Exports Handout*)
  - 27 CFR 44.149
  - Due 20<sup>th</sup> Day of the Next Month!
- **Special**
  - 27 CFR 44.150
- **Closing**
  - 27 CFR 44.151

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## Inventory

- TTB Form 5220.3
- Required for Export Warehouses
  - Opening (27 CFR 44.144)
  - Special (27 CFR 44.145)
  - Closing (27 CFR 44.146)
- Suggested every quarter to disclose any problems before a tax liability becomes excessive

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## Taxed Exports

- **Subpart K—Drawback of Tax**
  - § 44.221, Application of drawback of tax.
  - § 44.222, Claim.
  - § 44.223, Drawback bond.
  - § 44.224, Inspection by an appropriate TTB officer.
  - § 44.225, Delivery of tobacco products, or cigarette papers or tubes for export other than by parcel post.
  - § 44.226, Delivery of tobacco products, and cigarette papers and tubes for export by parcel post.
  - § 44.227, Customs procedure.
  - § 44.228, Landing certificate.
  - § 44.229, Collateral evidence as to landing.

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## Drawback of Tax (Cont'd)

- Forms
  - Claim (TTB Form 5620.7)
  - Bond (TTB Form 5200.17)
- Examples in Tobacco Exports Handout

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## Contact Information

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