

tax return is necessary as a result of an incorrect credit rate claimed pursuant to § 24.278, that person must make the adjustment on the Excise Tax Return, TTB F 5000.24, no later than the return period in which production (or the production of the controlled group of which the person is a member) exceeds the amount used in computation of the credit. If the adjustment is due to failure to produce, the person must make the adjustment no later than the last return period of the calendar year. The adjustment is the difference between the credit taken for prior return periods in that year and the appropriate credit for those return periods. The person must make tax adjustments for all bonded wine premises where excess credits were taken against tax that year, and must include interest payable. In the case of a person who continued to deduct credit after reaching the 100,000 gallon maximum during the calendar year, that person must make an adjustment in the full amount of excess credit taken and must include interest payable under 26 U.S.C. 6601 from the date on which the excess credit was taken. In addition, the person must include the penalty payable under 26 U.S.C. 6662 if the appropriate TTB officer determines that the underpayment was due to negligence or disregard of rules or regulations and advises the person to include the penalty as part of the adjustment. The appropriate TTB officer will provide information, when requested, regarding interest rates applicable to specific time periods and regarding any applicable penalties. In the case of a controlled group of bonded wine premises that took excess credits, all member proprietors who took incorrect credits must make tax adjustments as determined in this section. In the case of a small producer who instructed a transferee in bond to take credit as authorized by § 24.278(b)(2), and subsequently determines that the credit was less or not applicable, that producer must immediately inform the transferee in bond, in writing, of the correct credit information. The transferee must make any increasing adjustment on its next tax return based on revised credit information given by the producer or a TTB officer.

(b) *Decreasing adjustments.* Where a person fails to deduct the credit or deducts less than the appropriate credit provided for by § 24.278 during the calendar year, the person may file a claim for refund of excess tax paid. The claim must be filed in accordance with § 24.69. In the case of wine removed on behalf of a small producer by a

transferee in bond, if the transferee in bond was instructed to deduct credit and failed to deduct credit or deducted less than the appropriate credit and was later reimbursed for the tax by that producer, the transferee may file the claim. The provisions of 26 U.S.C. 6423 and 27 CFR part 70, subpart F, will apply, and the producer and transferee in bond must show that the conditions of § 24.278(b)(2) were met. (26 U.S.C. 5041(c))

(Approved by the Office of Management and Budget under control number 1513-0088)

Signed: August 24, 2007.

**John J. Manfreda,**  
*Administrator.*

Approved: November 5, 2007.

**Timothy E. Skud,**  
*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 45

[T.D. TTB-63; Re: T.D. TTB-26]

RIN 1513-AA99

#### Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, for United States Use in Law Enforcement Activities (2003R-268P)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision adopts as a final rule, without change, a temporary rule that allows manufacturers of tobacco products and cigarette papers and tubes to remove these articles without payment of tax for use by Federal agencies in law enforcement activities, and without inclusion of the otherwise required tax-exempt label.

**DATES:** *Effective Date:* November 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Amy Greenberg, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, 1310 G Street, NW., Suite 200-E, Washington, DC 20220; telephone 202-927-8210; or e-mail [Amy.Greenberg@ttb.gov](mailto:Amy.Greenberg@ttb.gov).

**SUPPLEMENTARY INFORMATION:**

## Statutory and Regulatory Provisions

Section 5704(b) of the Internal Revenue Code of 1986 (26 U.S.C. 5704(b)) provides that a manufacturer may, among other things, remove tobacco products and cigarette papers and tubes without payment of tax for use of the United States, in accordance with regulations prescribed by the Secretary of the Treasury. The regulations administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB) include, in part 45 (27 CFR part 45), provisions that implement this aspect of section 5704(b). Section 45.31 of those regulations (27 CFR 45.31) previously set forth two circumstances in which manufacturers of tobacco products and cigarette papers and tubes were permitted to remove those articles without payment of Federal excise tax for gratuitous distribution under the supervision of a Federal agency. Neither of those circumstances included the removal of articles for use by Federal agencies in law enforcement activities.

In addition, Section 45.46 of the TTB regulations (27 CFR 45.46) provided that every package of tobacco products and cigarette papers and tubes removed under part 45 must have the words "Tax-Exempt. For Use of U.S. Not To Be Sold." adequately imprinted on the package or on a label securely affixed to the package.

### Publication of Temporary Rule

On April 15, 2005, TTB published in the **Federal Register** at 70 FR 19888, as T.D. TTB-26, a temporary rule that amended the TTB regulations to eliminate the need for manufacturers of tobacco products and cigarette papers and tubes to obtain a variance to remove their products without payment of tax for use by a Federal Agency in an investigation or other law enforcement activity. Under the temporary rule, the supplying of tobacco products and cigarette papers and tubes by manufacturers to Federal agencies continued to be voluntary. The changes to the regulations did not impose additional cost, compliance, or reporting burdens on manufacturers. The temporary rule revised § 45.31 by dividing that section into paragraphs (a) and (b) in order to include the substantive change and improve the readability of the section.

In addition, we amended § 45.46 by adding an exception to the tax exempt labeling requirements.

The Bureau received three comments on the temporary rule. One commenter specifically endorsed the temporary changes, recognizing that they would significantly help law enforcement

efforts. The second commenter, a cigarette importer, supported the temporary rule for purposes of facilitating law enforcement. The third commenter supported the principle of tax-free removals for certain purposes.

Based on the reasons set forth above and on comments received, we believe it is appropriate to adopt the temporary rule as a final rule without change.

#### Inapplicability of Delayed Effective Date Requirement

Because these regulations recognize an exemption to tax payment, relieve manufacturers of the requirement to file a variance, and are identical to temporary regulations currently in effect, it has been determined pursuant to 5 U.S.C. 553(d)(1) and (3) that good cause exists to issue these regulations without a delayed effective date.

#### Regulatory Flexibility Act

We certify that this regulation will not have a significant impact on a substantial number of small entities. This regulation provides greater flexibility for manufacturers of tobacco products and cigarette papers and tubes to remove these products without being subject to tax and imposes no new reporting, recordkeeping, or other administrative requirement. Therefore, no regulatory flexibility analysis is required.

#### Executive Order 12866

We have determined that this notice of final rulemaking is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

#### Drafting Information

Maria Mahone of the Knowledge Management Staff drafted this final rule.

#### List of Subjects in 27 CFR Part 45

Authority delegations (Government agencies), Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

#### The Regulatory Amendment

■ For the reasons discussed in the preamble, the temporary rule amending 27 CFR part 45 published in the **Federal Register** at 70 FR 19888 on April 15, 2005, is adopted as a final rule without change.

Signed: September 18, 2007.

**John J. Manfreda**,  
*Administrator.*

Approved: November 5, 2007.

**Timothy E. Skud**,  
*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

[FR Doc. E7-22703 Filed 11-20-07; 8:45 am]

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 0

#### [Tax Division Directive No. 135]

#### Redelegation of Authority To Compromise and Close Civil Claims

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This Tax Division directive increases the settlement authority of the Chiefs of the Civil Trial Sections, the Court of Federal Claims Section, the Appellate Section, the Office of Review, and the Deputy Assistant Attorneys General, to compromise and close civil claims. In addition, this directive increases the discretionary redelegation of limited authority by a section chief to his or her assistant chiefs and reviewers. This directive supersedes Directive No. 105.

**EFFECTIVE DATE:** November 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Deborah Meland, Tax Division, Department of Justice, Washington, DC 20530, (202) 307-6567.

**SUPPLEMENTARY INFORMATION:** This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This regulation is not a significant rule within the meaning of Executive Order 13866, as amended, and therefore was not reviewed by the Office of Management and Budget. Finally, this regulation does not have an impact on small entities and, therefore, is not subject to the Regulatory Flexibility Act. This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

## List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies).

■ Accordingly, 28 CFR part 0 is amended as follows:

### PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-19.

■ 2. The Appendix to Subpart Y of Part 0 is amended by removing Tax Division Directive No. 105 and adding in its place Tax Division Directive No. 135, to read as follows:

#### Appendix to Subpart Y of Part 0—Redelegations of Authority To Compromise and Close Civil Claims

\* \* \* \* \*

[Directive No. 135]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly Sections 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is hereby ordered as follows:

Section 1. The Chiefs of the Civil Trial Sections, the Court of Federal Claims Section, and the Appellate Section are authorized to reject offers in compromise, regardless of amount, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 10 hereof, the Chiefs of the Civil Trial Sections and the Court of Federal Claims Section are authorized to:

(A) Accept offers in compromise in, settle administratively, and close (other than by compromise or by entry of judgment), all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$500,000;

(B) Accept offers in compromise in injunction or declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed \$500,000; and

(C) Accept offers in compromise in all other nonmonetary cases; provided that such action is not opposed by the agency or agencies involved, and provided further that the proposed compromise or concession is not subject to reference to the Joint Committee on Taxation.

Section 3. The Chiefs of the Civil Trial Sections and the Court of Federal Claims Section are authorized on a case-by-case basis to redelegate in writing to their respective Assistant Section Chiefs or Reviewers the authority delegated to them in Section 1 hereof to reject offers, and in Section 2 hereof, to accept offers in compromise in, settle administratively, and close (other than by compromise or by entry of judgment), all civil cases in which the