

MISCELLANEOUS PROVISIONS

§ 44.209 Diversion of shipment to another consignee.

If, after removal of a shipment from a factory or an export warehouse, the manufacturer or export warehouse proprietor desires to divert the shipment to another consignee, he shall so notify the appropriate ATF officer. The manufacturer or export warehouse proprietor shall describe the shipment, set forth the serial number and date of the notice of removal under which the shipment was removed from his factory or export warehouse, and furnish the name and address of the new consignee, who shall comply with all applicable provisions of this part.

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

[25 FR 4723, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 44.210 Return of shipment to factory or export warehouse.

A manufacturer or export warehouse proprietor may return to his factory or export warehouse, without internal revenue supervision when so authorized by the appropriate ATF officer, tobacco products, and cigarette papers and tubes previously removed therefrom, under this part, but not yet exported. The manufacturer or export warehouse proprietor shall, prior to returning the articles to his factory or export warehouse, make application to the appropriate ATF officer for permission so to do, which application shall be accompanied by two copies of the notice of removal, Form 5200.14, under which the articles were originally removed. If less than the entire shipment is intended to be returned to the factory or export warehouse, the application shall set forth accurately the articles to be returned and shall show what disposition was made of the remainder of the original shipment and any other facts pertinent to such shipment. Where the appropriate ATF officer approves the application, he shall so indicate by endorsement to that effect on each of the copies of the notice of removal, set forth the articles for which return is approved, and return both copies of the notice of removal to the manufacturer or export warehouse proprietor concerned. Upon receipt of the

copies of the notice of removal bearing the endorsement of the appropriate ATF officer, the manufacturer or export warehouse proprietor shall return the articles to his factory or export warehouse, properly modify and execute the certificate of receipt on each copy of the notice of removal, return one such copy to the appropriate ATF officer, and retain the other copy as a part of his records.

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

[T.D. 6871, 31 FR 54, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28089, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-421, 64 FR 71926, Dec. 22, 1999]

§ 44.211 [Reserved]**§ 44.212 Delay in lading at port of exportation.**

If, on arrival of tobacco products, and cigarette papers and tubes at the port of exportation, the vessel or aircraft for which they are intended is not prepared to receive the articles, they may be properly stored at the port for not more than 30 days. In the event of any further delay, the facts shall be reported by the manufacturer or export warehouse proprietor to the appropriate ATF officer and unless such officer approves an extension of time in which to effect lading and clearance of the shipment it must be returned to the factory or export warehouse.

[T.D. 6871, 31 FR 55, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28089, Aug. 5, 1987; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-480, 67 FR 30802, May 8, 2002]

§ 44.213 Destruction of tobacco products, and cigarette papers and tubes.

Where an export warehouse proprietor desires to destroy any of the tobacco products, or cigarette papers or tubes stored in his warehouse, he shall notify the appropriate ATF officer of the kind and quantity of such articles to be destroyed and the date on which he desires the destruction to take place in order that the appropriate ATF officer may assign an appropriate ATF officer to inspect the articles and supervise their destruction. The export warehouse proprietor shall prepare a

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notice of removal, Form 5200.14, describing the articles to be destroyed. After witnessing the destruction of the articles, the appropriate ATF officer shall certify to their destruction on two copies of the notice of removal and return them to the export warehouse proprietor, who shall retain one copy for his records and file the other copy with the appropriate ATF officer.

[T.D. 6871, 31 FR 55, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28089, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-421, 64 FR 71926, Dec. 22, 1999]

Subpart K—Drawback of Tax

§ 44.221 Application of drawback of tax.

Allowance of drawback of tax shall apply only to tobacco products, and cigarette papers and tubes, on which tax has been paid, when such articles are shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States. Such drawback shall be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions of this subpart.

(72 Stat. 1419, 68A Stat. 908; 26 U.S.C. 5706, 7653)

[T.D. 6871, 31 FR 55, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28089, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 44.222 Claim.

Claim for allowance of drawback of tax, under this subpart, must be filed on Form 5620.7. Such claim must be filed in sufficient time to permit the appropriate ATF officer to detail an appropriate ATF officer to inspect the articles and supervise the affixture of a label or notice bearing the legend "For Export With Drawback of Tax." Upon receipt of a claim supported by satisfactory bond, as required by this subpart, an appropriate ATF officer will proceed to the place where the articles involved are held and there perform the functions required in § 44.224.

[T.D. ATF-480, 67 FR 30803, May 8, 2002]

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§ 44.223 Drawback bond.

Each claim for allowance of drawback of tax, under this subpart, shall be accompanied by a bond, Form 2148 (5200.17), satisfactory to the appropriate ATF officer with whom the claim is filed. Such bond shall be in an amount not less than the amount of tax for which drawback is claimed, conditioned that the claimant shall furnish, within a reasonable time, evidence satisfactory to the appropriate ATF officer that the tobacco products, and cigarette papers and tubes have been landed at some port beyond the jurisdiction of the internal revenue laws of the United States, or that after clearance from the United States, the articles were lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, and have not been re-landed within the limits of the United States. The provisions of §§ 44.121 and 44.122 are applicable with respect to any drawback bond required under this section.

(72 Stat. 1419; 26 U.S.C. 5706)

[T.D. 6871, 31 FR 55, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28089, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-480, 67 FR 30803, May 8, 2002]

§ 44.224 Inspection by an appropriate ATF officer.

(a) *Examination.* An appropriate ATF officer will examine the tobacco products, and cigarette papers and tubes listed on ATF Form 5620.7. Such officer will verify the accuracy of the schedule of such articles on ATF Form 5620.7.

(b) *Label or notice.* If the tax on such articles has been paid by return, the appropriate ATF officer must be satisfied that the articles have in fact been taxpaid and each package bears the label or notice required by § 44.222.

(c) *Shipping containers.* The appropriate officer will supervise the packing of such articles in shipping containers. Each container must be numbered and have affixed to it the notice:

Drawback of tax claimed on contents.

Sale, consumption, or use in U.S. prohibited.

(d) *Disposition of ATF Form 5620.7.* After the appropriate ATF officer completes the report of inspection on ATF