

## § 44.63

in trade or actually transporting passengers and/or cargo (a) between a port in the United States and a foreign port; (b) between the Atlantic and Pacific ports of the United States; or (c) between a port on the mainland of the United States and a port in Alaska, Hawaii, Puerto Rico, the Virgin Islands, or a possession of the United States; between a port in Alaska and a port in Hawaii; or between a port in Alaska or Hawaii and a port in Puerto Rico, the Virgin Islands, or a possession of the United States); to vessels clearing through customs for a port beyond the jurisdiction of the internal revenue laws of the United States; to vessels of war or other governmental activity; or to vessels of the United States documented to engage in the fishing business (including the whaling business), and foreign fishing (including whaling) vessels of 5 net tons or over. Such deliveries to vessels shall be subject to lading under customs supervision as provided in §§ 44.207 and 44.263. As a condition to the lading of the tobacco products, and cigarette papers and tubes, the customs authorities at the port of lading may, if they deem it necessary in order to protect the revenue, require assurances, satisfactory to them, from the master of the receiving vessel that the quantities to be laden are reasonable, considering the number of persons to be carried, the vessel's itinerary, the duration of its intended voyage, etc., and that such articles are to be used exclusively as supplies on the voyage. For this purpose, the customs authorities may require the master of the receiving vessel to submit for customs approval, prior to lading, customs documentation for permission to lade the articles. Where the customs authorities allow only a portion of a shipment to be laden, the remainder of the shipment shall be returned to the bonded premises of the manufacturer, export warehouse proprietor, or customs warehouse proprietor making the shipment, or otherwise disposed of as approved by the appropriate ATF officer. Deliveries may be made to aircraft clearing through customs en route to a place or places beyond the jurisdiction of the internal revenue laws of the United States, and to aircraft operating on a regular schedule between

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U.S. customs areas as defined in the Air Commerce Regulations (19 CFR part 122). Deliveries may not be made to a vessel or aircraft stationed in the United States for an indefinite period and where its schedule does not include operations outside such jurisdiction.

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

[T.D. 6871, 31 FR 48, 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-421, 64 FR 71925, Dec. 22, 1999; T.D. ATF-480, 67 FR 30801, May 8, 2002]

### § 44.63 Restrictions on disposal of tobacco products, and cigarette papers and tubes on vessels and aircraft.

Tobacco products, and cigarette papers and tubes delivered to a vessel or aircraft, without payment of tax, pursuant to § 44.62, shall not be sold, offered for sale, or otherwise disposed of until the vessel or aircraft is outside the jurisdiction of the internal revenue laws of the United States, i.e., outside the 3-mile limit or international boundary, as the case may be, of the United States. Where the vessel or aircraft returns within the jurisdiction of the internal revenue laws with such articles on board, the articles shall be subject to treatment under the tariff laws of the United States.

(72 Stat. 1418, as amended; 26 U.S.C. 5704; 19 U.S.C. 1317)

[T.D. 6871, 31 FR 49, 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]

### § 44.64 Responsibility for delivery or exportation of tobacco products, and cigarette papers and tubes.

Responsibility for compliance with the provisions of this part with respect to the removal under bond of tobacco products, and cigarette papers and tubes, without payment of tax, for export, and for the proper delivery or exportation of such articles, and with respect to the exportation of tobacco products, and cigarette papers and tubes with benefit of drawback of tax, shall rest upon the manufacturer of such articles or the proprietor of an export warehouse or customs warehouse

from whose premises such articles are removed for export, and upon the exporter who exports tobacco products, and cigarette papers and tubes with benefit of drawback of tax.

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

[T.D. 6871, 31 FR 49, 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]

**§ 44.65 Liability for tax on tobacco products, and cigarette papers and tubes.**

The manufacturer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by 26 U.S.C. 5701: *Provided*, That when tobacco products, and cigarette papers and tubes are transferred, without payment of tax, pursuant to 26 U.S.C. 5704, between the bonded premises of manufacturers and/or export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles. Any person who possesses tobacco products, or cigarette papers or tubes in violation of 26 U.S.C. 5751(a)(1) or (2), shall be liable for a tax equal to the tax on such articles.

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

[T.D. 6871, 31 FR 49, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55856, Sept. 28, 1979; T.D. ATF-232, 51 FR 28088, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

**§ 44.66 Relief from liability for tax.**

A manufacturer of tobacco products or cigarette papers and tubes or an export warehouse proprietor is relieved of the liability for tax on tobacco products, or cigarette papers or tubes upon providing evidence satisfactory to the appropriate ATF officer of exportation or proper delivery. The evidence must comply with this part. Such evidence shall be furnished within 90 days of the date of removal of the tobacco products, or cigarette papers or tubes: *Pro-*

*vided*, That this period may be extended for good cause shown.

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

[T.D. 6871, 31 FR 49, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-232, 51 FR 28088, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-480, 67 FR 30801, May 8, 2002]

**§ 44.67 Payment of tax.**

(a) *General*. The taxes on tobacco products, and cigarette papers and tubes with respect to which the evidence described in § 44.66 is not timely furnished shall become immediately due and payable. The taxes shall be paid to ATF, with sufficient information to identify the taxpayer, the nature and purpose of the payment, and the articles covered by the payment. (ATF Form 5000.24 may be used for this purpose.)

(b) *Large cigars*. The amount of tax liability on large cigars shall be based on the maximum tax rate prescribed in § 40.21 of this part, unless the person liable for the tax establishes that a lower tax rate is applicable.

(All recordkeeping requirements have been approved under OMB Control No. 1512-0180)

[T.D. ATF-80, 46 FR 18311, Mar. 24, 1981, as 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-251, 52 FR 19341, May 22, 1987; T.D. ATF-307, 55 FR 52745, Dec. 21, 1990; T.D. ATF-460, 66 FR 39093, July 27, 2001]

**§ 44.68 [Reserved]**

**§ 44.69 Assessment.**

Whenever any person required by law to pay tax on tobacco products, and cigarette papers and tubes fails to pay such tax, the tax shall be ascertained and assessed against such person, subject to the limitations prescribed in 26 U.S.C. 6501. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after notice has been afforded such