

## § 44.153

close of the calendar year in which the claim is filed.

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

[T.D. 6961, 33 FR 9492, June 28, 1968. 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 30802, May 8, 2002]

### § 44.153 Claim for abatement of assessment.

A claim for abatement of the unpaid portion of the assessment of any tax on tobacco products, and cigarette papers and tubes, or any liability in respect of such tax, alleged to be excessive in amount, assessed after the expiration of the period of limitation applicable thereto, or erroneously or illegally assessed, shall be filed on Form 5620.8. Such claim shall set forth the reasons relied upon for the allowance of the claim and shall be supported by such evidence as is necessary to establish to the satisfaction of the appropriate ATF officer that the claim is valid.

(68A Stat. 792; 26 U.S.C. 6404)

[T.D. 6871, 31 FR 51, 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-251, 52 FR 19341, May 22, 1987; T.D. ATF-421, 64 FR 71925, Dec. 22, 1999; T.D. ATF-480, 67 FR 30802, May 8, 2002]

### § 44.154 Claim for refund of tax.

The taxes paid on tobacco products, and cigarette papers and tubes may be refunded (without interest) to an export warehouse proprietor on proof satisfactory to the appropriate ATF officer that the claimant proprietor paid the tax on such articles which were after taxpayment lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such export warehouse proprietor, or withdrawn by him from the market. Any claim for refund under this section shall be prepared on Form 5620.8, in duplicate, and shall include a statement that the tax imposed by 26 U.S.C. 7652 or chapter 52, was paid in respect to the articles covered by the claim, and that the articles were lost, destroyed, or withdrawn from the market within 6 months pre-

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ceding the date the claim is filed. The claim must be filed on ATF Form 5620.8 and supported by such evidence as is necessary to establish to the satisfaction of the appropriate ATF officer that the claim is valid. The duplicate of the claim shall be retained by the export warehouse proprietor for 3 years following the close of the calendar year in which the claim is filed. Where an export warehouse proprietor has paid the tax on tobacco products, or cigarette papers or tubes, he may file claim for refund of an overpayment of tax under subpart A of part 46 of this chapter if, at the time the tax was paid, these articles had been exported, destroyed, or otherwise disposed of in such a manner that tax was not due and payable.

(68A Stat. 791, 72 Stat. 9, 1419, as amended; 26 U.S.C. 6402, 6423, 5705)

[T.D. 6961, 33 FR 9492, June 28, 1968. 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; T.D. ATF-251, 52 FR 19341, May 22, 1987; T.D. ATF-421, 64 FR 71925, Dec. 22, 1999; T.D. ATF-457, 66 FR 32220, June 14, 2001; T.D. ATF-480, 67 FR 30802, May 8, 2002]

## Subpart H—Suspension and Discontinuance of Operations

### § 44.161 Discontinuance of operations.

Every export warehouse proprietor who desires to discontinue operations and close out his warehouse shall dispose of all cigars, cigarettes, and cigarette papers and tubes on hand, in accordance with this part, making a closing inventory and closing report, in accordance with the provisions of §§ 44.146 and 44.151, respectively, and surrender, with such inventory and report, his permit to the appropriate ATF officer as notice of such discontinuance, in order that the appropriate ATF officer may terminate the liability of the surety on the bond of the export warehouse proprietor.

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

[T.D. 6871, 31 FR 51, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]