#### 2009 TTB Expo Presentation

# The Technical Side of Exporting Tobacco Products

Presented by
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National Revenue Center



## Objectives

- Define what an export is
- Identify applicable laws and regulations
- Requirements for untaxed exports
- Requirements for taxed exports
- Proof of exportation
- TTB Information <u>www.ttb.gov</u>
- Summary What we learned today
- Practical Exercise

#### 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

#### Laws

#### Title 26 United States Code —

- Section 5704:
  - Export "without payment of tax"
  - Products <u>must bear marks</u>, <u>labels</u>, <u>or notices to</u>
     <u>be eligible for untaxed export</u>

#### Laws (Continued)

- Section 5706:
  - Allowance of drawback on products exported
  - Bond is required
  - Export marks required

## Regulations

#### **Title 27 Code of Federal Regulations:**

- Part 40 Tobacco (Manufacture of Tobacco Products and Cigarette Papers and Tubes)
- Part 41 Importation of Tobacco Products and Cigarette Papers and Tubes
- Part 44 Exportation of Tobacco Products and Cigarette Papers and Tubes

# Exports Without Payment of Tax

- By Manufacturer
- By Export Warehouse Proprietor

#### **Untaxed Exports**

- Tobacco products and cigarette papers and tubes may be exported without payment of tax when shipped from a manufacturer's premises or an export warehouse proprietor's premises.
- Exportation is covered by bond pending receipt of proof of exportation.

## Export To?

- To a contiguous (Canada or Mexico) country
- To a non-contiguous country
- To a Foreign Trade Zone (FTZ)
- To a Customs Bonded Warehouse (CBW)
- For use as supplies on vessels and aircraft
- For use of U.S. Armed Forces, overseas

#### **Forms**

#### TTB F 5200.14:

- Required to be completed
- Notice copy to TTB
- Supported by commercial records

# Restrictions — Supplies to Vessels and Aircraft

#### Restrictions — Supplies to Vessels and Aircraft

 27 CFR 44.62 – Presents specific restrictions for delivery of tobacco products to vessels and aircraft for use as supplies for consumption beyond the internal revenue laws of the United States, engaged in foreign, intercoastal, or noncontiguous territorial trade carrying passengers or cargo

#### **Deliveries allowed to:**

Vessels clearing customs for port beyond jurisdiction of US internal revenue laws

Vessels of war or other governmental activity

#### Vessels operating between:

- U.S. port and foreign port
- Atlantic and Pacific ports of the US
- U.S. mainland port and AK, HI, PR, VI or other possessions or among them

#### **Deliveries allowed to:**

 Vessels of the United States engaged in the fishing business and foreign fishing vessels of 5 tons or over

#### **Deliveries allowed to:**

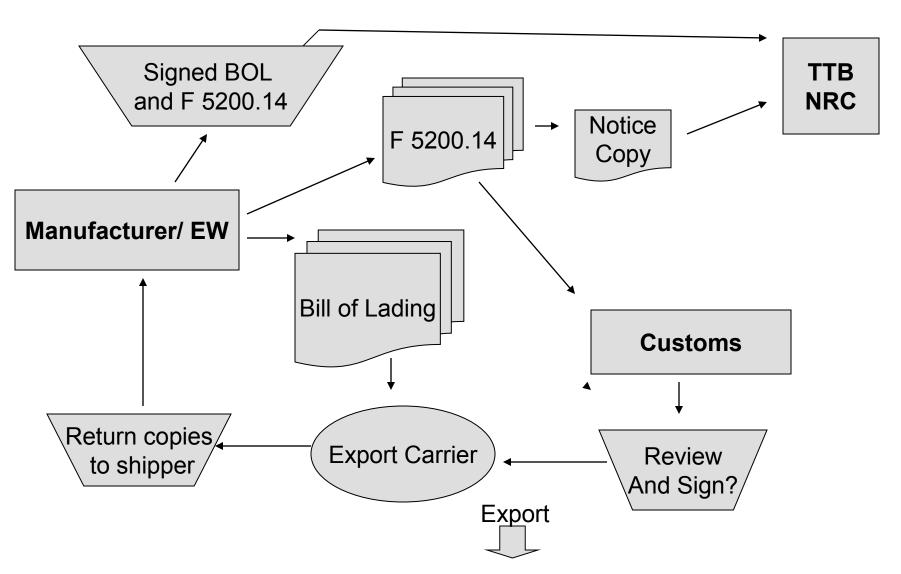
- Aircraft clearing customs en route to places beyond jurisdiction of U.S. internal revenue laws
- Aircraft operating on a regular schedule between US customs areas defined in 19 CFR Part 122

#### **General Restrictions:**

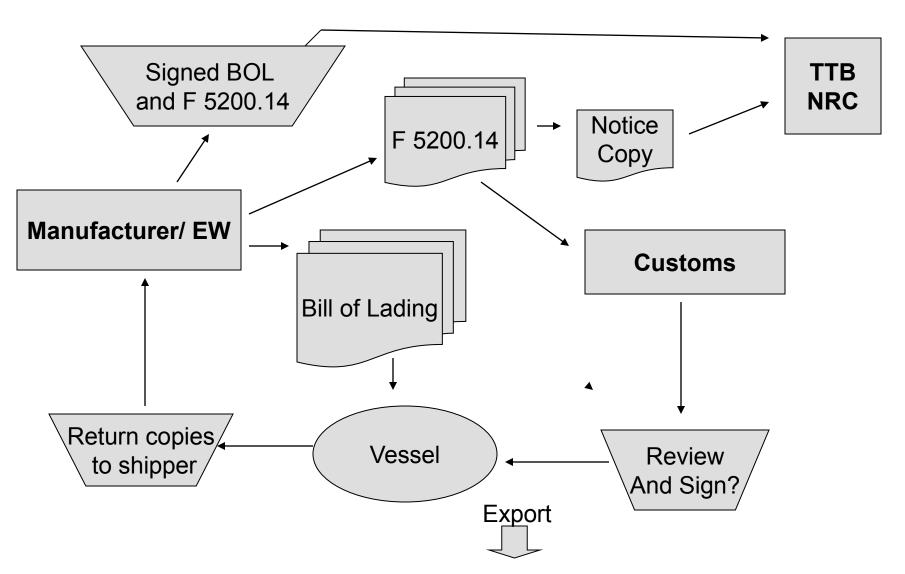
- Lading on vessel or aircraft is subject to Customs lading and supervision (see also 27 CFR 44.207 and 44.263)
- Customs authority to restrict quantity based on number of persons and duration of voyage
- Deliveries not permitted to vessel or aircraft stationed in the U.S. where scheduled operations are not outside U.S. jurisdiction

 The next slides illustrate the basic process for exporting a shipment of tobacco products, cigarette papers, or cigarette tubes from the U.S.

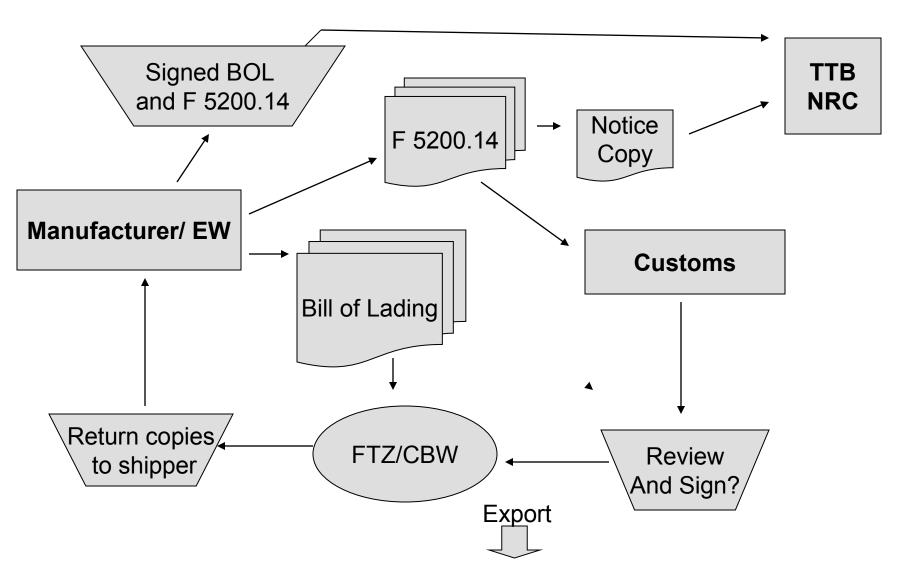
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## Export Process — Summary

- Export process, though documentation may vary somewhat, is essentially the same for each type of destination:
  - TTB Form prepared and sent to NRC
  - BOL/other commercial documents prepared
  - Carrier or vessel operator accepts goods
  - Present documents to Customs
  - Proof of exportation (signed TTB F 5200.14 or BOL) sent to NRC

#### Export Process – Summary (Continued)

- What happens when a third party gets involved?
- Who is responsible for ensuring documents trace product out of U.S.?
- What happens when you cannot prove the product left the United States?
- What happens when products are not marked for export?

# Tax Paid Exports — Allowance of Drawback of Tax

By Manufacturer

#### Allowance of Drawback of Tax

- 26 U.S.C. 5706 allows drawback of tax on exported tobacco products or cigarette papers and tubes
- 27 CFR Part 44 Subpart K:
  - Requires notice to TTB and inspection of shipment
     <u>before</u> products are exported
  - Requires a bond to be submitted with claim for drawback

- 27 CFR 44.224 requires shipping containers to bear notice – "Drawback of tax claimed on contents. Sale, consumption, or use in U.S. prohibited."
- Other package marks, labels, and notices required – 27 CFR part 44

- Allowed only to the person who paid the tax on such articles and who files claim on TTB F 5620.7, Claim for Drawback of Tax on Tobacco Products, Cigarette Papers and Cigarette Tubes.
- Claim filed in triplicate and within 6 years from date product was exported.
- Otherwise, must comply with the provisions of 27 CFR part 44, subpart K.

- Claim shall be filed in sufficient time to permit TTB to inspect the articles.
- Claim shall be accompanied by a bond, TTB F 5200.17, Bond – Drawback of Tax on Tobacco Products, Cigarette Papers, or Tubes, in duplicate.
- Bond shall be in an amount equal to or greater than the amount of tax for which drawback is claimed.

- TTB officer will inspect the articles, supervise attachment of the required label and packing shipping containers, and release the containers to the claimant.
- Upon completion of inspection, claimant will execute Part II on all copies of claim.
- TTB officer will then execute Part III on all copies of claim.

- TTB officer will retain one copy and furnish two copies to the claimant.
- Part IV (Section A or B), or Part V will then be executed on both claimant's copies.

- TTB will retain one copy and return two copies to the claimant.
- Claimant executes Part II on both copies and presents them with shipment to the Customs officer or Foreign Trade Zone.
- Part IV (Section A or B), or Part V will then be executed on both claimant's copies upon exportation.

- The claimant or Customs officer will forward the completed TTB F 5620.7 to the TTB National Revenue Center.
- Claimant also submits a landing certificate or other evidence.
  - Refer to 27 CFR 44.228 and 44. 229.
- Claim is paid and bond is terminated if export evidence is sufficient.

#### TTB F 5620.7

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Totacoo, Snuff, etc.)  (a) (b) (c) (d) (e) (f) (g) (h) (l)  ROLL-YOUR-OWN TOBACCO  PIPE TOBACCO  CIGARS  CIGARETTES  CHEWING TOBACCO  SNUFF  complete only for large cigars. Enter the taxable sale price per thousand.  der penaltiles of perjury, T declare that this claim for drawback of internal Revenue tax is, to the best of my knowledge and belief, true and accurate; I le paid the tax on the tobacco products, cigarette papers, or cigarette tubes, to be shipped to a foreign country. Puerto Rico, the U.S. Virgin Islands, a possession of the United States, or to a foreign-trade zone; no other allowance of drawback has been made or claimed on the tobacco products, arette papers, or cigarette tubes, or any part thereof; and I am justity entitled to a drawback for fax.  SIGNATURE OF CLAIMANT  10. TITLE OR STATUS (State whether Individual owner, member)  11. DATE		CONTAINENS		PER 1,000				by	CEAIMIED
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of firm, or if officer of corporation, and give title)	SIGNATURE	OF CLAIMANT	Г					er, member	11. DATE
					of firm, or if offic	er of corporation	, and give title)		

#### TTB F 5620.7 (Continued)

PART III - TTB OFFICE	R'S REPORT OF INSPECTION (Continued)										
12. SIGNATURE OF TTB OFFICER	13. TITLE	14. DATE									
PART IV - CUSTOMS CERTIFICATE											
SECTION A - CUSTOMS CERTIFICATE OF RECEIPT IN FOREIGN-TRADE ZONE											
SECTION A - CUSTOMS CERTIFICATE OF RECEIPT IN FOREIGN-TRADE ZONE											
Except as indicated below all the containers of articles described in Part II, Item 8, were received intact in a foreign-trade zone for storage pending subsequent shipment to a foreign country, Puerto Rico, the U.S. Virgin Islands, or a possession of the United States.											
15. FOREIGN-TRADE ZONE LOCATION		16. DATE RECEIVED									
17. DISCREPANCIES (if none, so state)		<u> </u>									
18. SIGNATURE OF CUSTOMS OFFICER	19. TITLE										
SECTION B - CUSTOMS	S CERTIFICATE OF LADING AND EXPORT										
The articles described in Part II, Item 8, except as indicated in Iter	m 22, were laden and the vessel cleared or departed the										
20. IDENTITY OF CARRIER ON WHICH LADEN		21. DATE OF LADING									
DO DICORFOLLICIFO (Second of Asia)	OS CIONATURE OF CHIOTOMO OFFICER	24 71715									
22. DISCREPANCIES (if none, so state)	23. SIGNATURE OF CUSTOMS OFFICER	24. TITLE									
25. DATE CLEARED OR DEPARTED	26. SIGNATURE OF CUSTOMS OFFICER	27. TITLE									
25. DATE CLEARED OR DEPARTED	26. SIGNATURE OF CUSTOMS OFFICER	27. IIILE									
DARTY	POOT OFFICE OFFITIEIOATE										
PART V - POST OFFICE CERTIFICATE  The chipping centriners described in Part II, items 8, was pleased in the applitundes you.    28, U.S. POSTAL SERVICE ENDORSEMENT (Include date of											
The shipping containers described in Part II, item 8, were placed it	n the mail under my	ORSEMENT (Include date of									
supervision, addressed as indicated in Part I, item 2, and there we on each shipping container a waiver signed by the exporter of his/	as stamped or written										
such container from the mail.	not right to walliaw										
	INSTRUCTIONS										

#### INSTRUCTIONS

CLAIMANT - The claimant must prepare Part I in connection with each claim for drawback of tax paid on tobacco products, cigarette papers, or cigarette tubes, and forward three copies of the executed forms to the Director, National Revenue Center, Alcohol and Tobacco Tax and Trade Bureau, 550 Main St, Ste 8002, Cincinnati, OH 45202-5215. This form must be accompanied by a bond on TTB F 5200.17.

A TTB officer will inspect the articles, supervise the attachment of the required label on the packages, supervise the packing in shipping containers, and release the shipping containers to the claimant. The claimant must then execute Part II on all copies of the form and return them to the TTB officer who will execute Part III on all copies, retain one copy, and furnish two copies to the claimant.

#### TTB F 5620.7 (Continued)

	5. LOCATION OF PRODUCTS (Number, Street, City, State, ZIP Code)										
KNOW ALL MEN BY THESE PRESENTS, That we, the above-named principal and surety, are held and firmly bound unto the Unite States of America in the above-named amount, lawful money of the United States, for the payment of which we bind ourselves, our becounters, administrators, successors, and assigns, jointly and severally, firmly by these presents.  Whereas, the said principal makes claim, as identified below, for allowance of drawback of Internal Revenue tax paid on tobacco procigarette papers, or cigarette tubes, subject to drawback of tax under Title 26 United States Code.	neirs,										
IDENTIFICATION OF CLAIM											
AMOUNT DATE AND TOBACCO TAX AND TRADE KIND OF ARTICLES TO BE SHIPPED TO BUREAU, WITH WHOM FILED (Name and Address)											
NOW, THEREFORE, if the said articles or any part thereof, be not relanded at any port or place within the United States, and if the c											
or his legal representative must produce, as required by the applicable regulations, evidence satisfactory to the Director, National Re Center that the said articles have been landed at some port without the jurisdiction of the Internal Revenue laws of the United States, after clearance from the United States the same were lost (otherwise than by theft), then this obligation must be void; otherwise, it m remain in full force and effect.	venue , or that										
Witness our hands and seals this day of, 20	(SEAL)										
	(SEAL)										
	(SEAL)										

# **Proof of Exportation**

# **Proof of Exportation**

- Tracking of shipment to port
- Handling before lading
- Consolidation issues
- Forwarder issues

- Export Bill of Lading:
  - Ocean BOL
  - Through BOL

# Proof of Exportation 27 CFR Part 44

- Customs Certifications
- Bills of Lading
- Certificate of Receipt
- Certificate by Exporting Carrier
- Receipt by Armed Forces
- Alternative combinations see Industry Circulars

# Other Requirements

# Markings

- 26 U.S.C. 5704 Ineligible for tax exemption if not marked as required for export
- 27 CFR 44.181 44.187 (both untaxed and taxpaid exports):
  - Package
  - Mark
  - Label or notice
  - Tax class cigars
  - Shipping containers

#### Records

- 27 CFR 40.181, 40.182, and 44.142:
  - General requirements for manufacturers and export warehouse proprietors
- 27 CFR 40.183(f) Tobacco products removed in bond for export

## Reporting

- Each operational report submitted to TTB has lines for reporting exports:
  - TTB F 5210.5 Tobacco Manufacturer
  - TTB F 5220.4 Export Warehouse Proprietor
- Total on export lines must equal amounts shown on transaction forms for report period

## What We Learned Today

- Defined an "export"
- Identified applicable laws and regulations
- Reviewed untaxed exports
- Reviewed taxed exports
- Discussed "Proof of Exportation"
- Reviewed other requirements

#### **Contact Information**

- NRC Contacts:
  - exports@ttb.gov
  - Your Tax Services Specialist call us at 1-877-882-3277
  - Jim McCoy (513) 684-7132 or

#### **Practical Exercise**

**Exporting Tobacco Products**