

§ 53.158

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(2) Any subsequent month or semi-monthly period for which a return on ATF Form 5300.26 is required.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991, as amended by T.D. ATF-312, 56 FR 31084, July 9, 1991; T.D. ATF-330, 57 FR 40325, Sept. 3, 1992; T.D. ATF-365, 60 FR 33671, June 28, 1995; T.D. ATF-447, 66 FR 19088, Apr. 13, 2001]

§ 53.158 Payment of tax by electronic fund transfer.

(a) *In general.* For return periods after September 30, 1992, any taxpayer liable for firearms and ammunition excise taxes incurred under this part may elect to remit payments and deposits of the taxes (taxpayments) by electronic fund transfer (EFT). A taxpayer who elects to make remittance by EFT must use that method of remitting excise taxes on firearms and ammunition for a minimum of four consecutive calendar quarters. A taxpayer who makes remittance by EFT for a calendar quarter may not use any other method of remitting and ammunition excise taxes for that quarter.

(b) *Requirements.* (1) On or before the 10th day of the calendar quarter preceding the calendar quarter in which the taxpayer will begin remitting taxes by EFT, each taxpayer who elects to make remittances by EFT of firearms and ammunition excise taxes incurred under this part shall give written notice to the appropriate ATF officer, indicating that remittances will be paid by EFT. Taxpayers who gave written notification in a previous calendar quarter electing to make remittances of tax by EFT are not required to give additional written notifications to continue remitting tax by EFT for succeeding calendar quarters.

(2) For each deposit made or return filed in accordance with this subpart, the taxpayer shall direct the taxpayer's financial institution to make an EFT in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request will be made to the financial institution early enough for the transfer of funds to be made to the Treasury Account no later than the close of business on the last day for making the deposit or filing the return as prescribed in §§ 53.157 or 53.159, and

53.153. The request will take into account any time limit established by the financial institution.

(3) Taxpayers who elect to discontinue making remittances by EFT of firearms and ammunition excise taxes may make such election at any time following four consecutive calendar quarters in which tax is remitted by EFT. Taxpayers electing to discontinue making remittances by EFT shall remit the tax with the next deposit or return as prescribed in §§ 53.157 or 53.159, and 53.151 for remittances not made by EFT and notify the appropriate ATF officer by attaching a written notification to the tax deposit form or return stating that remittance of firearms and ammunition excise taxes will no longer be made by EFT.

(c) *Remittance.* (1) Taxpayers who elect to make firearms and ammunition excise taxpayments by EFT shall file the deposit form and/or return with ATF in accordance with the applicable instructions on the forms.

(2) Remittances will be considered as made when the taxpayment by EFT is received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the taxpayer directs the financial institution to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, the transfer data record furnished to the taxpayer through normal banking procedures will serve as the record of payment and will be retained as part of the required records.

(d) *Failure to make a taxpayment by EFT.* The taxpayer is subject to penalties imposed by 26 U.S.C. 6651 and 6656, as applicable, for failure to make a payment or deposit of tax by EFT on or before the close of business on the prescribed last day for making such payment or deposit.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate ATF officer will issue to the taxpayer an ATF Procedure entitled Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer follows when preparing deposits,

returns and EFT remittances in accordance with this subpart.

[T.D. ATF-330, 57 FR 40326, Sept. 3, 1992, as amended by T.D. ATF-365, 60 FR 33671, June 28, 1995; T.D. ATF-447, 66 FR 19088, Apr. 13, 2001]

§ 53.159 Deposit requirement for deposits made for calendar quarters beginning on or after July 1, 1995.

(a) *Definitions*—(1) *Definition of tax liability.* For purposes of this section, the term “tax liability” means the total tax liability for the specified period plus or minus any allowable adjustments made in accordance with the instructions applicable to the form on which the return is made.

(2) *Semimonthly period.* Except as provided in paragraph (c)(4)(ii) of this section, the term “semimonthly period” means the first 15 days of a calendar month or the remaining portion of a calendar month following the 15th day of that month.

(b) *In general*—(1) *Semimonthly deposits.* Except as provided in paragraphs (b)(2), (c)(2), and (j) of this section, any person required to file a quarterly excise tax return on ATF Form 5300.26 must make a deposit of tax for each semimonthly period as prescribed in paragraph (c) of this section.

(2) *One-time or occasional filings.* No deposit is required in the case of any taxes reportable on a one-time or occasional filing (as defined in § 53.151(a)(5)).

(c) *Amount of deposit*—(1) *In general.* Except as provided in paragraphs (c)(2), (c)(3) and (c)(6) of this section, the deposit of tax for each semimonthly period must be equal to the amount of tax liability incurred during that semimonthly period. Except as provided in paragraph (c)(3) of this section, no deposit is required for any semimonthly period in which no tax liability is incurred.

(2) *De minimis exception.* Except as provided in paragraph (c)(3) of this section, any person who has a tax liability for the current calendar quarter of \$2,000 or less is not required to make deposits for that quarter. However, semimonthly deposits of tax are required beginning with the semimonthly period in which unpaid tax liability exceeds \$2,000 and for every semimonthly period thereafter in which tax liability

is incurred. The first deposit for the current quarter shall be equal to the unpaid tax liability; thereafter, deposits shall be equal to the amount of tax liability incurred during that semimonthly period.

(3) *Amount of deposit; safe harbor rule based on look-back quarter liability; In general.* Except as provided in paragraph (c)(6) of this section, any person who made a return of tax on ATF Form 5300.26 reporting taxes for the second preceding calendar quarter (the “look-back quarter”), or who did not file a return for the look-back quarter because of the provisions of § 53.151(a)(2), is considered to have complied with the requirement for deposit of taxes for the current calendar quarter if—

(i) The deposit of taxes for each semimonthly period in the current calendar quarter is an amount equal to not less than 1/6 (16.67 percent) of the total tax liability incurred for the look-back quarter;

(ii) Each deposit is made on time; and

(iii) The amount of any underpayment of taxes for the current calendar quarter is paid by the due date of the return.

(4) *Modification for third calendar quarter.* The safe harbor rule in paragraph (c)(3) of this section does not apply for the third calendar quarter unless—

(i) The deposit of taxes for the semimonthly period July 1–September 15 meets the requirements of paragraph (c)(3) of this section; and

(ii) Each deposit of taxes for the periods September 16–25 and September 26–30 is not less than 1/12th (8.34 percent) of the total tax liability incurred for the look-back quarter.

(5) *Modification for tax rate increase*—

(i) *Application.* The safe harbor rule as prescribed in paragraph (c)(3) is modified for the first and second calendar quarters beginning on or after the effective date of an increase in the rate of any tax prescribed by 26 U.S.C. 4181 to which this part 53 applies.

(ii) *Modification.* The amount of deposit for calendar quarters referred to in paragraph (c)(3) of this section must be adjusted so that the deposit of taxes for each semimonthly period in the calendar quarter is not less than 1/6 (16.67 percent) of the tax liability the person