

**§ 275.35**

**§ 275.35 Cigarette tubes.**

Cigarette tubes are taxed at the following rates under 26 U.S.C. 5701(d):

Product	Tax rate for each 50 tubes <sup>1</sup> for removals during the years		
	1993 to 1999	2000 and 2001	2002 and after
Cigarette tubes up to 6½" long .....	\$0.015	\$0.0213	\$0.0244
Cigarette tubes over 6½" long .....	Use rates above, but count each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.		

<sup>1</sup> Tax rate for less than 50 tubes is the same. The tax is not prorated.

[T.D. ATF-420, 64 FR 71943, Dec. 22, 1999]

CLASSIFICATION OF LARGE CIGARS AND CIGARETTES

**§ 275.37 [Reserved]**

**§ 275.38 Cigarettes.**

For internal revenue tax purposes, small cigarettes are designated Class A and large cigarettes are designated Class B.

(72 Stat. 1414; 26 U.S.C. 5701)

[26 FR 8191, Aug. 31, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975]

**§ 275.39 Determination of sale price of large cigars.**

The tax imposed on large cigars is computed based on the sale price (the price for which the large cigars are sold by the importer or manufacturer). In addition to money, goods or services exchanged for cigars may be considered as part of the sale price. See § 40.22(b) of this chapter for information on determining the sale price in special cases.

[T.D. ATF-420, 64 FR 71944, Dec. 22, 1999; T.D. ATF-422, 64 FR 71948, Dec. 22, 1999; T.D. ATF-422a, 65 FR 15058, Mar. 31, 2000; T.D. ATF-460, 66 FR 39093, July 27, 2001]

LIABILITY FOR AND PAYMENT OF TAXES

**§ 275.40 Persons liable for tax.**

The importer of tobacco products or cigarette papers and tubes will be liable for the internal revenue taxes imposed thereon by 26 U.S.C. 5701 or 7652: *Provided*, That tobacco products or cigarette papers or tubes (other than those previously exported and returned) imported or brought into the United States, may be released from

customs custody without payment of tax, for delivery to the proprietor of an export warehouse, to a manufacturer of tobacco products, or to a manufacturer of cigarette papers or tubes (except for tobacco products), if such articles are not put up in packages (see § 275.11). Under these circumstances the transferee will become liable for the internal revenue tax on such articles upon release from customs custody and the importer will thereupon be relieved of the liability for such tax. If the transferee is also the importer, then the importer will not be relieved of the liability for such tax.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652); sec. 201, Pub. L. 85-859, Stat. 1417, as amended (26 U.S.C. 5703))

[T.D. ATF-422, 64 FR 71948, Dec. 22, 1999]

**§ 275.41 Determination and payment of tax.**

Tobacco products and cigarette papers and tubes, imported or brought into the United States, on which internal revenue taxes are due and payable, must not be released from customs custody until such taxes have been determined and paid.

(68A Stat. 907, as amended, 72 Stat. 1417; 26 U.S.C. 7652, 5703)

[T.D. ATF-422, 64 FR 71949, Dec. 22, 1999]

EXEMPTIONS FROM TAXES AND PERMITS

**§ 275.50 Exemptions.**

The Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) and Customs Regulations, 19 CFR, chapter I, provide for certain exemptions from

internal revenue taxes with respect to tobacco products and cigarette papers and tubes imported into the United States. These exemptions include, but are not limited to, certain importations in passengers' baggage, for use of crew members, and by foreign officials. Those persons importing tobacco products and cigarette papers or tubes as described in this section are not required to obtain a permit.

[T.D. 6871, 31 FR 41, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28084, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986; T.D. ATF-284, 54 FR 12190, Mar. 24, 1989; T.D. ATF-422, 64 FR 71949, Dec. 22, 1999]

#### ASSESSMENT OF TAXES

##### § 275.60 Assessment.

Whenever any person required by law to pay internal revenue tax on tobacco products or cigarette papers or 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 person to show cause against assessment. The person will be allowed 45 days from the date of such notice to show cause, in writing, against such assessment.

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

[T.D. 6871, 31 FR 41, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979; T.D. ATF-232, 51 FR 28084, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

#### CUSTOMS' COLLECTION OF TAXES

##### § 275.62 Customs' collection of internal revenue taxes on tobacco products and cigarette papers and tubes, imported or brought into the United States.

Internal revenue taxes on tobacco products and cigarette papers and tubes, imported or brought into the United States, which are to be paid to the Port Director of Customs or other

authorized customs employee, in accordance with this part, must be collected, accounted for, and deposited as internal revenue collections by the Port Director of Customs, in accordance with customs procedures and regulations.

[T.D. ATF-422, 64 FR 71949, Dec. 22, 1999]

##### § 275.63 Payment of tax by electronic fund transfer.

(a) Each importer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in taxes on cigars, cigarettes, cigarette papers, and cigarette tubes combining tax liabilities incurred under this part and part 40 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT) of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for an importer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including similar products brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer.

(b) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.