

## § 40.163

## 27 CFR Ch. I (4-1-04 Edition)

The return shall be filed with ATF in accordance with the instructions on the form. The manufacturer shall file the return at the time specified in § 40.165 regardless of whether tobacco products are removed or whether tax is due for that particular return period. However, when the manufacturer requests by letter and the regional director (compliance) grants specific authorization, the manufacturer need not during the term of such authorization file a tax return for which tax is not due or payable.

[T.D. ATF-232, 51 FR 35353, Oct. 3, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-251, 52 FR 19339, May 22, 1987]

### § 40.163 Semimonthly tax return periods.

Except as provided in section 40.164, the periods to be covered by semimonthly tax returns shall be from the 1st day of each month through the 15th day of that month and from the 16th day of each month through the last day of that month.

[T.D. ATF-365, 60 FR 33675, June 28, 1995]

### § 40.164 Special rule for taxes due for the month of September (effective after December 31, 1994).

(a)(1) Except as provided in paragraph (a)(2) of this section, the second semimonthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The manufacturer shall file a return on Form 5000.24, and make remittance, for the period September 16-26, no later than September 29. The manufacturer shall file a return on Form 5000.24, and make remittance, for the period September 27-30, no later than October 14.

(2) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 40.165a, the second semimonthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The manufacturer shall file a return on Form 5000.24, and make remittance, for the period September 16-25, no later than September 28. The manufacturer shall

file a return on Form 5000.24, and make remittance, for the period September 26-30, no later than October 14.

(b) *Amount of payment: Safe harbor rule.* (1) Taxpayers are considered to have met the requirements of paragraph (a)(1) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(2) Taxpayers are considered to have met the requirements of paragraph (a)(2) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(c) *Last day for payment.* If the required due date for taxpayment for the periods September 16-25 or September 16-26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance shall be due on the immediately following day.

(d) *Example. Payment of tax for the month of September—(1) Facts.* X, a manufacturer of tobacco products required to pay taxes by electronic fund transfer, incurred tax liability in the amount of \$30,000 for the first semimonthly period of September. For the period September 16-26, X incurred tax liability in the amount of \$45,000, and for the period September 27-30, X incurred tax liability in the amount of \$2,000.

(2) *Payment requirement.* X's payment of tax in the amount of \$30,000 for the first semimonthly period of September is due no later than September 29 (§ 40.165(a)). X's payment of tax for the period September 16-26 is also due no later than September 29 (§ 40.164(a)(1)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16-26 (§ 40.164(b)). Under the safe harbor rule, X's payment of tax must equal \$21,990.00, 11/15ths of the tax liability