

tax shall be made by return in accordance with the provisions of this subpart.

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

§ 40.355 Return of manufacturer.

(a) *Requirement for filing.* A manufacturer of cigarette papers and tubes shall file, for each factory, a semi-monthly tax return on ATF Form 5000.24. A return shall be filed for each semimonthly return period regardless of whether cigarette papers and tubes were removed subject to tax or whether tax is due for that particular return period.

(b) *Waiver from filing.* The manufacturer need not file a return for each semimonthly return period if:

(1) Cigarette papers and tubes were not removed subject to tax during the period, and

(2) The regional director (compliance) has granted a waiver from filing in response to a written request from the manufacturer.

(c) *Semimonthly return periods.* Except as provided by paragraph (g) of this section, semimonthly return periods shall run from the first day of the month through the 15th day of the month, and from the 16th day of the month through the last day of the month.

(d) *Preparation and filing.* The return shall be executed and filed with ATF in accordance with the instructions on the form.

(e) *Remittance of tax.* Except as provided in § 40.357, remittance of the tax, if any, shall accompany the return.

(f) *Time for filing.* Except as provided by paragraph (g) of this section, for each semimonthly return period, the return shall be filed not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday or legal holiday.

(g) *Special rule for taxes due for the month of September (effective after December 31, 1994).* (1) Except as provided in paragraph (g)(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 § 40.357, 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 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.

(3) *Amount of payment: Safe harbor rule.* (i) Taxpayers are considered to have met the requirements of paragraph (g)(1) of this section, if the amount paid no later than September 29 is not less than $\frac{11}{15}$ (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.

(ii) Taxpayers are considered to have met the requirements of paragraph (g)(2) of this section, if the amount paid no later than September 28 is not less than two-thirds (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.

(4) *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, 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.

(Approved by the Office of Management and Budget under Control Number 1512-0467)