

§ 45.23

§ 45.23 Authority of appropriate ATF officers to enter premises.

Any appropriate ATF officer may enter in the daytime any premises where tobacco products, or cigarette papers or tubes removed under this part are kept, so far as it may be necessary for the purpose of examining such articles. When such premises are open at night, any appropriate ATF officer may enter them, while so open, in the performance of his official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit any appropriate ATF officer or permit him to examine the articles removed under this part shall be liable to the penalties prescribed by law for the offense.

(68A Stat. 872, 903; 26 U.S.C. 7342, 7606)

[T.D. 6871, 31 FR 57, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

§ 45.24 Interference with administration.

Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this part, or endeavors to intimidate or impede any appropriate ATF officer acting in his official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United States in connection with a violation of the internal revenue laws, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U.S.C. 7212)

[27 FR 4476, May 10, 1962. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

§ 45.25 Unlawful purchase, receipt, possession, or sale of tobacco products, or cigarette papers or tubes, after removal.

Any person who, with intent to defraud the United States, purchases, receives, possesses, offers for sale, or sells or otherwise disposes of tobacco products, or cigarette papers or tubes which, after removal under this part, without payment of tax, have been diverted from the purpose or use speci-

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fied in this part, shall be subject to the criminal penalties and provisions for forfeiture prescribed by law.

(72 Stat. 1424, 1425, as amended, 1426; 26 U.S.C. 5751, 5762, 5763)

[T.D. 6871, 31 FR 57, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 45.26 Delegations of the Director.

The regulatory authorities of the Director contained in this part are delegated to appropriate ATF officers. These ATF officers are specified in ATF O 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46. ATF delegation orders, such as ATF O 1130.28, are available to any interested party by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, VA 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

§ 45.27 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part. You must furnish all of the information required by each form as indicated by the headings on the form and the instructions for the form, and as required by this part. You must file each form in accordance with its instructions.

(b) You may request forms from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

Subpart D—Removals

SOURCE: T.D. 6871, 31 FR 57, Jan. 14, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 45.31 Restrictions.

Tobacco products, and cigarette papers and tubes purchased by a Federal agency with funds appropriated by the Congress of the United States may be removed, without payment of tax, in accordance with this part, for delivery to such Federal agency for gratuitous

distribution under the supervision of such agency. Such articles purchased by a donor from a manufacturer, or donated directly by a manufacturer, may also be removed, without payment of tax, in accordance with this part, for delivery to a Federal agency for gratuitous distribution under the supervision of such agency to (a) charges of the United States or (b) patients in a hospital or institution operated by the Government of a State or the District of Columbia where the Federal agency maintains a program for such distribution to members or veterans of the armed forces of the United States in such hospital or institution. Tobacco products, and cigarette papers and tubes removed under the provisions of this part may not be sold subsequent to removal.

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

[T.D. 6871, 31 FR 57, as amended by T.D. ATF-243, 51 FR 28090, Aug. 5, 1986; 51 FR 43194, Dec. 1, 1986]

§ 45.32 Under manufacturer's bond.

Removals of tobacco products, and cigarette papers and tubes under this part shall be made under the bond filed by the manufacturer of such articles to cover the operations of his factory as required by section 5711, I.R.C., and regulations issued thereunder.

(72 Stat. 1418, as amended, 1421, as amended; 26 U.S.C. 5704, 5711)

[T.D. 6871, 31 FR 57, as amended by T.D. ATF-243, 51 FR 28090, Aug. 5, 1986; 51 FR 43194, Dec. 1, 1986]

§ 45.33 Return of shipment to factory.

Tobacco products, and cigarette papers and tubes which have been removed, under this part, may be returned to the factory without internal revenue supervision.

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

[T.D. 6871, 31 FR 57, as amended by T.D. ATF-243, 51 FR 28090, Aug. 5, 1986; 51 FR 43194, Dec. 1, 1986]

§ 45.34 Loss or shortage in shipment.

Immediately upon receipt of information of a loss of all or part of a shipment, or of a shortage therein, of tobacco products, or cigarette papers or tubes removed under this part, the

manufacturer shall notify the appropriate ATF officer, furnish all pertinent details with respect to the loss or shortage, and either pay the tax due thereon in accordance with the provisions of § 45.36, or file claim for remission of the tax liability under the provisions of part 40 of this chapter, as the case may be.

(72 Stat. 1417, 1419, as amended; 26 U.S.C. 5703, 5705)

[T.D. 6871, 31 FR 57, as amended by T.D. ATF-243, 51 FR 28090, Aug. 5, 1986; 51 FR 43194, Dec. 1, 1986; T.D. ATF-384, 61 FR 54096, Oct. 17, 1996; T.D. ATF-469, 66 FR 56758, Nov. 13, 2001; T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

§ 45.35 Liability for tax.

The manufacturer who removes tobacco products, or cigarette papers or tubes under this part shall be liable for the taxes imposed thereon by 26 U.S.C. 5701, until such tobacco products, or cigarette papers or tubes are received by the Federal agency. Any person who possesses tobacco products, or cigarette papers or tubes in violation of 26 U.S.C. 5751(a)(1) or (2), shall be liable for a tax equal to the tax on such articles.

(72 Stat. 1417, 1424; 26 U.S.C. 5703, 5751)

[T.D. 6871, 31 FR 57, Jan. 14, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55856, Sept. 28, 1979; T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 45.36 Payment of tax.

Any tax which becomes due and payable on tobacco products, and cigarette papers and tubes removed under this part shall be paid to appropriate ATF officer, with sufficient information to identify the taxpayer, the nature and purpose of the payment, and the articles covered by the payment: *Provided*, That a manufacturer of tobacco products or cigarette papers or tubes may pay any tax for which he becomes liable under this part by an appropriate adjustment in his current tax return Form 5000.24. In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-half